

Superintendent of Schools, Appointment of Deputy by. Deputy Superintendent of Schools, Appointment of. Deputy Superintendent of Schools, Authority of.

Superintendents of schools, under Section 2963, may appoint deputies, but such deputies are entitled to no compensation. Deputies so appointed would have authority to act upon questions of dividing school districts and of conducting teachers' examinations or to renew teachers' certificates.

Helena, Montana, December 1, 1909.

Hon. D. M. Kelly,
County Attorney.
Boulder, Montana.

Dear Sir:

A few days ago you submitted, over the telephone, a request for an opinion upon the following questions:

"1. Has the county superintendent of schools authority to appoint a deputy?

"2. If he has authority to appoint a deputy, has such deputy authority to consider the advisability of dividing a school district or form a new one and make an order in the premises?

"3. May she conduct a teachers examination and mark the papers?

"4. Can he renew first grade or professional certificates?"

And we advised you that the county superintendent of schools had no authority to appoint a deputy. However, such advice was given without fully understanding the facts in the case, and we at that time understood, or assumed, that the question was whether or not the county superintendent could appoint a salaried deputy, and, of course, we advised you upon such assumed statement of facts that she could not, as there is no authority in law authorizing the county superintendent to appoint a salaried deputy. However, under section 2963, revised codes, it is expressly provided that county officers, except county commissioners and justices of the peace, may appoint as many deputies as may be necessary for the faithful and prompt discharge of the duties of their office, but no compensation must be allowed any deputy except as provided in this code. Therefore, under section 2963, the county superintendent would have authority to appoint a deputy, where the appointment provided that no compensation or salary should be received by such deputy.

In answer to the other questions, as to the authority of such deputy, your attention is called to section 350 of the revised codes, which reads as follows:

"In all cases not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of his principal."

This section is a general provision relating to all county and state officers, and therefore a deputy appointed by the county superintendent,

under section 2963, would have the power and authority to act in matters covered by your questions Nos. 2, 3 and 4.

Very truly yours,

ALBERT J. GALEN,

Attorney General.