

No. 309

SCHOOLS—DISTRICT SCHOOLS—HIGH SCHOOLS, district—PRINCIPAL OF SCHOOLS, term of employment of—SUPERINTENDENT OF SCHOOLS, term of employment of—TRUSTEES, board of school—EMPLOYMENT

1. The board of trustees of any school district may appoint superintendent of schools.
2. Board of trustees of every school district maintaining a district high school has the power and it is the duty of said board to employ a superintendent or a principal for a term of either one, two or three years, but in no event for a longer term than three years.
3. The board of trustees of every county high school has the power and it is the duty of said board to employ a principal of such high school for a term of either one or two years, but in no event for a longer term than two years.

December 6, 1941.

Miss Elizabeth Ireland
State Superintendent of Public Instruction
Capitol Building
Helena, Montana

Dear Miss Ireland:

You have submitted the following question:

"Kindly let me know whether or not a board of trustees of a school district can elect a superintendent for their school for a term of more than one year, at any one time."

Answering your inquiry, we find Section 1262.39, Revised Codes of Montana, 1935, provides:

"The board of trustees of any school district may appoint a superintendent of school his contract shall thereafter be deemed renewed for a further term of one (1) year, and successively thereafter for like terms of one (1) year each, unless the board of trustees shall by a majority vote of its members give written notice to such superintendent on or before the 1st day of February of the last year of his current term that his services will not be required after the expiration of his existing contract." (Emphasis mine.)

Section 1262.83, Revised Codes of Montana, 1935, as amended by Chapter 207, Laws of 1939, Section 1, subsection 3, provides for a principal of a county high school in the following language:

"The board of trustees of every county high school . . . shall have the power, and it shall be its duty: . . .

"3. . . . to employ for a period of not exceeding two (2) years some person as principal of the county high school who shall possess the qualifications required of a district superintendent of schools and who shall have charge of the county high school and whose tenure shall be the same as that of a district superintendent, except that the term shall be two (2) years instead of three (3)."

Section 1262.83, Revised Codes of Montana, 1935, as amended by Chapter 207, Laws of 1939, Section 1, subsection 4, provides as follows:

"The board of trustees of every . . . school district maintaining a district high school shall have the power, and it shall be its duty: . . .

"4. . . . to employ for a period of not exceeding three (3) years some person as district superintendent and/or principal of schools who shall possess the qualifications required by law and who shall have charge of the district high schools."

It is to be noted the foregoing Section 1262.39, Revised Codes of Montana, 1935, expressly provides the board of trustees of **any** district may appoint a superintendent of schools.

Section 1262.83, Revised Codes of Montana, 1935, as amended by Chapter 207, Laws of 1939, Section 1, subsection 4, supra, expressly provides the board of trustees of every school district maintaining a district high school shall have the power, and it shall be its duty to employ for a period of **not exceeding three (3) years** some person as district superintendent and/or principal of schools who shall possess the qualifications required by law and shall have charge of the district high schools.

Section 1262.83, Revised Codes of Montana, 1935, as amended by Chapter 207, Laws of 1939, Section 1, subsection 3, quoted above, expressly provides the board of trustees of every **county** high school shall have the power, and it shall be its duty, to employ for a period of **not to exceed two (2) years** some person as **principal** of the county high school who shall possess the qualifications required of a district superintendent of schools and who shall have charge of the county high school and whose tenure shall be the same as that of a district superintendent, except the term shall be two (2) years instead of three (3).

The language of the statute is definite and certain.

It is therefore my opinion:

1. The board of trustees of any district may appoint a superintendent of schools.
2. The board of trustees of every school district maintaining a district high school has the power and it is the board's duty to employ a superintendent of schools or a principal of schools for a term of either one, two or three years, whichever the board deems to be for the best interests of the school district; but in no event may the board employ a superintendent or a principal for such district for a longer term than three years.
3. The board of trustees of every county high school has the power and it is the board's duty to employ a principal of the county high school for a term of either one or two years, whichever the board deems to be for the best interest of the county high school, but in no event may the board employ a principal for a county high school for a term exceeding two years.

Sincerely yours,

JOHN W. BONNER
Attorney General