

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 39

OPINION NO. 49

COUNTY SUPERINTENDENT OF SCHOOLS - Deputy county superintendent not required to meet qualifications imposed on county superintendent;

SCHOOLS AND SCHOOL DISTRICTS - Deputy county superintendent of schools need not meet statutory requirements imposed on county superintendent;

MONTANA CODE ANNOTATED - Sections 20-3-201, 20-3-202;

REVISED CODES OF MONTANA, 1947 - Sections 75-1528, 75-5804.

HELD: A chief deputy or deputy county superintendent of schools is not required to have the same qualifications as those required by law for the county superintendent of schools.

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5 February 1982

J. Fred Bourdeau, Esq.
Cascade County Attorney
Cascade County Courthouse
Great Falls, Montana 59401

Dear Mr. Bourdeau:

You have requested my opinion on the following question:

Must a chief deputy or deputy county superintendent of schools:

- (a) be a qualified elector;
- (b) hold a valid teacher certificate issued by the superintendent of public instruction and;
- (c) have not less than three years of successful teaching experience.

Section 20-3-201, MCA, sets out the above requirements as qualifications for the position of county superintendent of schools. Your question is whether a deputy superintendent must meet the same qualifications as the county superintendent. No specific statutory requirements exist for the deputy's position. Section 20-3-203, MCA, allows the county commissioners, on the superintendent's recommendation, to appoint deputy superintendents but gives no further guidance.

This question has been the subject of a previous Attorney General's Opinion, which stated that a deputy county superintendent of schools did not have to meet the statutory requirements imposed on a county superintendent. 24 Op. Att'y Gen. No. 51 (1951). The opinion was based on an interpretation of section 75-1528, R.C.M. 1947, which authorized the appointment of deputies but set up no qualifications. The section had previously required an applicant to have a valid teaching certificate but was amended to delete this prerequisite. The deletion of this requirement from the statute evidenced the legislative intent to open up the deputy position to any individual the superintendent deemed qualified. Section 75-1528, R.C.M. 1947, was repealed in 1971, 1971 Mont. Laws, ch. 5, § 496. It was, however, reenacted in substantially the same form in section 75-5804, R.C.M. 1947, 1971 Mont. Laws, ch. 5, § 22. That section was recodified and is now section

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20-3-203, MCA. The statute has not been substantively changed since the 1951 opinion was issued and the rationale behind that opinion is still valid today.

THEREFORE, IT IS MY OPINION:

A chief deputy or deputy county superintendent of schools is not required to have the same qualifications as those required by law for the county superintendent of schools.

Very truly yours,

MIKE GREELY
Attorney General