

Montana Code Annotated 2019

TITLE 20. EDUCATION

CHAPTER 7. SCHOOL INSTRUCTION AND SPECIAL PROGRAMS

Part 4. Special Education for Exceptional Children

Duties Of Superintendent Of Public Instruction

20-7-403. Duties of superintendent of public instruction. The superintendent of public instruction shall supervise and coordinate the conduct of special education in the state by:

- (1) recommending to the board of public education adoption of those policies necessary to establish a planned and coordinated program of special education in the state;
- (2) administering the policies adopted by the board of public education;
- (3) certifying special education teachers on the basis of the special qualifications for the teachers as prescribed by the board of public education;
- (4) establishing procedures to be used by school district personnel in identifying a child with a disability;
- (5) preparing appropriate technical assistance documents to assist local districts in implementing special education policies and procedures;
- (6) seeking for local districts appropriate interdisciplinary assistance from public and private agencies in identifying the special education needs of children, in planning programs, and in admitting and discharging children from those programs;
- (7) assisting local school districts, institutions, and other agencies in developing full-service programs for a child with a disability;
- (8) providing technical assistance to district superintendents, principals, teachers, and trustees;
- (9) conducting conferences, offering advice, and otherwise cooperating with parents and other interested persons;
- (10) ensuring appropriate training and instructional material for persons appointed as surrogate parents that outlines their duties toward the child, limitations on what they may do for the child, duties in relation to the child's records, sources of assistance available to the surrogate parent, and the need to seek competent legal assistance in implementing hearing or appeal procedures;
- (11) ensuring that the requirements of the Individuals With Disabilities Education Act are met and that each educational program for a child with a disability, including a homeless child with a disability, administered within the state, including each program administered by any other agency, is under the general supervision of the superintendent of public instruction, meets the education standards of the board of public education, and meets the requirements of the superintendent of public instruction, reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education or for providing or paying for some or all of the costs of a free appropriate public education to a child with a disability within the state;
- (12) contracting for the delivery of audiological services to those children allowed by Montana law in accordance with policies of the board of public education; and

(13) except for those children who qualify for residential services under the Montana public mental health program pursuant to Title 53, chapter 6, contracting with a public school district or a private residential facility for the provision of a free appropriate public education for a child placed in an in-state residential facility or children's psychiatric hospital.

History: En. 75-7803 by Sec. 421, Ch. 5, L. 1971; amd. Sec. 1, Ch. 174, L. 1975; amd. Sec. 3, Ch. 539, L. 1977; R.C.M. 1947, 75-7803; amd. Sec. 1, Ch. 204, L. 1979; amd. Sec. 1, Ch. 434, L. 1981; amd. Sec. 3, Ch. 618, L. 1985; amd. Sec. 10, Ch. 249, L. 1991; amd. Sec. 3, Ch. 765, L. 1991; amd. Sec. 2, Ch. 356, L. 1993; amd. Sec. 4, Ch. 529, L. 1997; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 2, Ch. 255, L. 2005.

Funding Of Educational Programs At In-State Children's Psychiatric Hospitals And In-State Residential Treatment Programs For Eligible Children

20-7-435. Funding of educational programs at in-state children's psychiatric hospitals and in-state residential treatment programs for eligible children. (1) It is the intent of the legislature that eligible children in in-state children's psychiatric hospitals and residential treatment facilities be provided with an appropriate educational opportunity in a cost-effective manner, including the provision of a free appropriate public education for an eligible child with a disability that is consistent with state standards for the provision of special education and related services. General education programs for eligible children without disabilities must be provided in accordance with the requirements for a nonpublic school under the provisions of **20-5-109**.

(2) The superintendent of public instruction may contract with an in-state children's psychiatric hospital or residential treatment facility for provision of an educational program for an eligible child in the hospital or treatment facility.

(3) Whenever the superintendent of public instruction contracts with an in-state children's psychiatric hospital or residential treatment facility for provision of an educational program for an eligible child in the children's psychiatric hospital or residential treatment facility, the superintendent of public instruction shall:

(a) ensure the provision of a free appropriate public education and an education that is consistent with the requirements for a nonpublic school in **20-5-109** for children attending the hospital or residential treatment facility;

(b) negotiate the approval of allowable costs under the provisions of **20-7-431** for allowable costs for providing special education, including the costs of retirement benefits, federal social security system contributions, and unemployment compensation insurance;

(c) from appropriations provided for this purpose, fund any approved allowable costs under this section, with the exception of services for which reimbursement is made under any provision of state or federal law or an insurance policy;

(d) provide funding for allowable costs according to a proration based on average daily membership.

(4) A supplemental education fee or tuition may not be charged for an eligible Montana child who receives inpatient treatment and an education under contract with an in-state children's psychiatric hospital or residential treatment facility.

(5) If a children's psychiatric hospital or residential treatment facility fails to provide an education in accordance with **20-5-109** or a free appropriate public education under the provisions of this part for an eligible child at the children's psychiatric hospital or residential treatment facility or fails to negotiate a contract under the provisions of subsection (2), the superintendent of public instruction shall negotiate with the school district in which the children's psychiatric hospital or residential treatment facility is located for the supervision and implementation of an appropriate educational program that is consistent with accreditation standards provided for in **20-7-111** and with the provisions of **20-7-402** for children attending the children's psychiatric hospital or residential treatment facility. The amount negotiated with the school district must include all education and related services costs that may be negotiated under the provisions of subsection (3) and all education and related services costs necessary to fulfill the requirements of providing the child with an education.

(6) Funds provided to a district under this section, including funds received under the provisions of **20-7-420**:

(a) must be deposited in the miscellaneous programs fund of the district that provides the education program for an eligible child, regardless of the age or grade placement of the child who is served under a negotiated contract; and

(b) are not subject to the budget limitations in **20-9-308**.

(7) The superintendent of public instruction may distribute funds appropriated for contracts with in-state children's psychiatric hospitals or residential treatment facilities under subsection (2) to public school districts for the purpose of supporting educational programs for children with significant behavioral or physical needs.

History: En. Sec. 9, Ch. 765, L. 1991; amd. Sec. 4, Ch. 375, L. 1993; amd. Sec. 51, Ch. 633, L. 1993; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 1, Ch. 142, L. 2019.