

Montana Code Annotated 2017

TITLE 20. EDUCATION

CHAPTER 20. SCHOOL ELECTIONS

- Part 1. General Provisions
- Part 2. Calling of and Preparation for School Elections
- Part 3. Qualification and Registration of Electors
- Part 4. Election Procedure

Part 1. General Provisions

- 20-20-101 Repealed
- 20-20-102 Precedence of school election provisions
- 20-20-103 Election by ballot
- 20-20-104 Forms
- 20-20-105 Regular school election day and special school elections -- limitation -- exception
- 20-20-106 Poll hours
- 20-20-107 Election expenses
- 20-20-108 Rescheduling of school election canceled due to declaration of state of emergency or disaster
- 20-20-109 Election judges -- qualifications -- training

Precedence Of School Election Provisions

20-20-102. **Precedence of school election provisions.** Except as otherwise provided in this title, school elections shall be conducted and canvassed and the results shall be returned in the same manner as provided for general elections in Title 13. Should there be a conflict between the requirements of Title 13 and the provisions of this title regulating school elections, the provisions of this title shall govern. The superintendent of public instruction may make any necessary rules to clarify Title 13 provisions for use in school elections.

History: En. 75-6402 by Sec. 138, Ch. 5, L. 1971; R.C.M. 1947, 75-6402; amd. Sec. 355, Ch. 571, L. 1979.

Election By Ballot

20-20-103. **Election by ballot.** All school elections shall be by ballot.

History: En. 75-6403 by Sec. 139, Ch. 5, L. 1971; R.C.M. 1947, 75-6403.

Forms

20-20-104. **Forms.** The forms necessary for school district elections shall be the same as those prescribed by law or the secretary of state. The superintendent of public instruction may issue prescribed forms for school elections with any necessary revisions of prescribed or statutory forms.

History: En. Sec. 120, Ch. 368, L. 1969; R.C.M. 1947, 23-3702; amd. Sec. 356, Ch. 571, L. 1979.

Regular School Election Day And Special School Elections -- Limitation -- Exception

20-20-105. **Regular school election day and special school elections -- limitation -- exception.** (1) Except as provided in subsection (5), the first Tuesday after the first Monday in May of each year is the regular school election day.

(2) Except as provided in subsections (4) and (5), a proposition requesting additional funding under 20-9-353 may be submitted to the electors only once each calendar year on the regular school election day.

(3) Subject to the provisions of subsection (2), other school elections may be conducted at times determined by the trustees.

(4) In the event of an unforeseen emergency occurring on the date scheduled for the funding election pursuant to subsection (2), the district will be allowed to reschedule the election for a different day of the calendar year. As used in this section, "unforeseen emergency" has the meaning provided in 20-3-322(5).

(5) In years when the legislature meets in regular session or in a special session that affects school funding, the trustees may order an election on a date other than the regular school election day in order for the electors to consider a proposition requesting additional funding under 20-9-353.

History: En. 75-6404 by Sec. 140, Ch. 5, L. 1971; amd. Sec. 1, Ch. 109, L. 1974; R.C.M. 1947, 75-6404; amd. Sec. 8, Ch. 644, L. 1987; amd. Sec. 8, Ch. 514, L. 1999; amd. Sec. 1, Ch. 192, L. 2007; amd. Sec. 224, Ch. 49, L. 2015.

Poll Hours

20-20-106. **Poll hours.** (1) The polls for any school election in any district shall open not later than noon. The trustees may order the polls to open earlier, but no earlier than 7 a.m.

(2) If the school election is held on the same day as an election held by a political subdivision and at the same polling place pursuant to 13-1-305, the polls must be opened and closed at the times required for the school election.

(3) If the school election is held on the same day as a general or primary election, the polls must be opened and closed at the times required for the general or primary election under 13-1-106.

(4) Once opened, the polls must be kept open continuously until 8 p.m., except that whenever all the registered electors at any poll have voted, the poll must be closed immediately.

History: En. 75-6405 by Sec. 141, Ch. 5, L. 1971; R.C.M. 1947, 75-6405; amd. Sec. 357, Ch. 571, L. 1979; amd. Sec. 2, Ch. 57, L. 1985; amd. Sec. 2, Ch. 372, L. 1987; amd. Sec. 225, Ch. 49, L. 2015.

Election Expenses

20-20-107. **Election expenses.** (1) All expenses necessarily incurred in the matter of holding school elections must be paid out of the school funds of the district, except when the expenses are by law to be shared by a community college district for which the district is conducting an election.

(2) The trustees shall pay the election judges of a school election at least the state or federal minimum wage, whichever is greater, for each hour of service in connection with the election, including the number of hours required to attend training pursuant to 20-20-109.

(3) Election judges are exempt from unemployment insurance coverage for services performed pursuant to this chapter if the remuneration received by the election judge is less than \$1,000 per calendar year.

History: En. 75-6420 by Sec. 156, Ch. 5, L. 1971; R.C.M. 1947, 75-6420; amd. Sec. 54, Ch. 297, L. 2009.

Rescheduling Of School Election Canceled Due To Declaration Of State Of Emergency Or Disaster

20-20-108. **Rescheduling of school election canceled due to declaration of state of emergency or disaster.** If the governor declares a state of emergency or disaster under Title 10, chapter 3, a school election may be canceled by the county superintendent of schools or, in the absence of the county superintendent, by the state superintendent of public instruction. As soon as convenient after the declaration of a state of emergency or disaster is terminated, the trustees of the district shall set a new date for the election. Notice of such election shall be published for 7 consecutive days in a newspaper of general circulation in the district and posted for 7 days at district polling places. Whenever the best interests of the district would be served, the trustees may give additional notice of the election through appropriate radio and television stations that serve the people of the district.

History: En. Sec. 1, Ch. 153, L. 1981.

Election Judges -- Qualifications -- Training

20-20-109. **Election judges -- qualifications -- training.** (1) Election judges must be qualified registered electors of the school district in which they serve.

(2) An election judge may not be:

(a) the candidate;

(b) an ascendant, descendant, brother, or sister of a candidate; or

(c) the spouse of the candidate or of any of the individuals listed in subsection (2)(b).

(3) School election judges must meet the training and certification requirements of 13-4-203.

History: En. Sec. 55, Ch. 297, L. 2009.

Part 2. Calling of and Preparation for School Elections

- 20-20-201 Calling of school election
- 20-20-202 Repealed
- 20-20-203 Resolution for poll hours, polling places, and judges
- 20-20-204 Election notice

Calling Of School Election

20-20-201. **Calling of school election.** (1) At least 70 days before any school election, the trustees of a district or other entity or official authorized by law to call a school election shall call the school election by resolution, stating the date and purpose of each election and whether, pursuant to 13-19-202, any election is requested to be by mail.

(2) To enable the county election administrator to manage voter registration and prepare the lists of registered electors:

(a) the resolution calling for a school election must be transmitted to the county election administrator no later than 3 days after the resolution is passed; and

(b) if the election is to be conducted by mail, the school clerk must also transmit to the county election administrator a copy of the written plan required under 13-19-205 as soon as the plan has been approved by the secretary of state.

History: En. 75-6406 by Sec. 142, Ch. 5, L. 1971; R.C.M. 1947, 75-6406; amd. Sec. 358, Ch. 571, L. 1979; amd. Sec. 327, Ch. 56, L. 2009; amd. Sec. 226, Ch. 49, L. 2015.

Resolution For Poll Hours, Polling Places, And Judges

20-20-203. **Resolution for poll hours, polling places, and judges.** (1) At the trustee meeting when a school election is called, the trustees shall:

(a) except as provided in 20-20-106(3), establish the time at which the polls are to open if in their discretion they determine that the polls must be open before noon;

(b) establish the polling places for the election, using the established polling places for general elections within the district wherever possible; and

(c) appoint at least three judges for each polling place.

(2) There must be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall define the boundaries for each polling place so that the boundaries for each polling place are coterminous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling place must be included in the notice for the election.

History: En. 75-6408 by Sec. 144, Ch. 5, L. 1971; R.C.M. 1947, 75-6408; amd. Sec. 359, Ch. 571, L. 1979; amd. Sec. 3, Ch. 57, L. 1985; amd. Sec. 56, Ch. 297, L. 2009.

Election Notice

20-20-204. **Election notice.** (1) (a) When the trustees of a district call a school election, they shall give notice of the election not less than 10 days or more than 40 days before the election by:

(i) publishing a notice in a newspaper of general circulation if there is one in the district;

(ii) posting notices in three public places in the district; and

(iii) posting notice on the district's website, if the district has an active website, for 10 days prior to the election.

(b) Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication or broadcast of the school election notice by any recognized media organization in the district, the trustees may cause the supplemental notification to be made.

(2) The notice of a school election, unless otherwise required by law, must specify:

(a) the date and polling places of the election;

(b) the hours that the polling places will be open;

(c) each proposition to be considered by the electorate;

(d) if there are trustees to be elected, the number of positions subject to election and the length of term of each position;

(e) where and how absentee ballots may be obtained; and

(f) where and how late registrants may obtain a ballot on election day.

(3) If more than one proposition is to be considered at the same school election, each proposition must be set apart and separately identified in the same notice or published in separate notices.

History: En. 75-6409 by Sec. 145, Ch. 5, L. 1971; R.C.M. 1947, 75-6409; amd. Sec. 360, Ch. 571, L. 1979; amd. Sec. 3, Ch. 372, L. 1987; amd. Sec. 3, Ch. 144, L. 1997; amd. Sec. 227, Ch. 49, L. 2015; amd. Sec. 16, Ch. 242, L. 2017.

Part 3. Qualification and Registration of Electors

- 20-20-301 Qualifications of elector
- 20-20-302 Repealed
- 20-20-303 Elector challenges
- 20-20-304 through 20-20-310 reserved
- 20-20-311 Voter registration
- 20-20-312 Listing of registered electors -- late registration
- 20-20-313 Delivery and charge for lists of registered electors

Qualifications Of Elector

20-20-301. **Qualifications of elector.** An individual is entitled to vote at school elections if the individual has the qualifications set forth in 13-1-111 and is a resident of the school district or, in a school district that has been apportioned into single-member trustee districts according to 20-3-337, a resident of the trustee district.

History: En. 75-6410 by Sec. 146, Ch. 5, L. 1971; amd. Sec. 2, Ch. 83, L. 1971; amd. Sec. 1, Ch. 118, L. 1971; amd. Sec. 4, Ch. 91, L. 1973; amd. Sec. 31, Ch. 100, L. 1973; amd. Sec. 10, Ch.

266, L. 1977; R.C.M. 1947, 75-6410; amd. Sec. 361, Ch. 571, L. 1979; amd. Sec. 6, Ch. 539, L. 1987; amd. Sec. 328, Ch. 56, L. 2009.

Electoral Challenges

20-20-303. **Electoral challenges.** (1) An elector may challenge the qualifications of another elector under the provisions of 13-13-301(1). Any person offering to vote in a school election may be challenged by any elector of the district on any of the grounds for challenge established in 13-13-301(2). The challenge must be determined in the same manner, using the same oath as provided in Title 13, chapter 13, part 3.

(2) Any person who has been challenged under any of the provisions of this section and who swears or affirms falsely before any school election judge is guilty of false swearing and is punishable as provided in 45-7-202.

History: En. 75-6412 by Sec. 148, Ch. 5, L. 1971; amd. Sec. 3, Ch. 83, L. 1971; amd. Sec. 5, Ch. 91, L. 1973; amd. Sec. 11, Ch. 266, L. 1977; R.C.M. 1947, 75-6412; amd. Sec. 32, Ch. 130, L. 2005.

Voter Registration

20-20-311. **Voter registration.** Voter registration for school elections must be as provided in Title 13, chapter 2.

History: En. 75-6413 by Sec. 149, Ch. 5, L. 1971; R.C.M. 1947, 75-6413; amd. Sec. 228, Ch. 49, L. 2015.

Listing Of Registered Electors -- Late Registration

20-20-312. **Listing of registered electors -- late registration.** (1) After closing regular registration, the county election administrator shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place must be prepared in the format of a precinct register book.

(2) An elector may register as provided in 13-2-304 to vote in a school election after the close of regular registration.

History: En. 75-6414 by Sec. 150, Ch. 5, L. 1971; amd. Sec. 4, Ch. 83, L. 1971; R.C.M. 1947, 75-6414; amd. Sec. 362, Ch. 571, L. 1979; amd. Sec. 229, Ch. 49, L. 2015.

Delivery And Charge For Lists Of Registered Electors

20-20-313. **Delivery and charge for lists of registered electors.** Before the day of the election, the election administrator shall deliver a certified copy of the lists of registered electors for each polling place to the district. The district shall deliver them to the election judges prior to the opening of the polls. The district shall reimburse the county for the actual costs of preparing the lists of registered electors.

History: En. 75-6415 by Sec. 151, Ch. 5, L. 1971; R.C.M. 1947, 75-6415; amd. Sec. 363, Ch. 571, L. 1979.

Part 4. Election Procedure

- 20-20-401 Trustees' election duties -- ballot certification
- 20-20-402 Clerk of election judges and appointment for absent judge
- 20-20-403 through 20-20-409 reserved
- 20-20-410 Oath of judges
- 20-20-411 Conduct of election
- 20-20-412 Repealed
- 20-20-413 Repealed
- 20-20-414 Repealed
- 20-20-415 Trustees to canvass votes
- 20-20-416 Certificate of election
- 20-20-417 Request for county election administrator to conduct election
- 20-20-418 Tie votes
- 20-20-419 reserved
- 20-20-420 School recount board -- duties -- composition
- 20-20-421 Voting systems

Trustees' Election Duties -- Ballot Certification

20-20-401. **Trustees' election duties -- ballot certification.** (1) The trustees are the general supervisors of school elections unless the trustees request and the county election administrator agrees to conduct a school election under 20-20-417.

(2) Not less than 30 days before an election, the clerk of the district shall certify the ballot by preparing a certified list of the names of all candidates entitled to be on the ballot subject to 13-37-126 and certifying the official wording for each ballot issue. The candidates' names must appear on the ballot in accordance with 13-12-203. The clerk shall arrange for printing the ballots. Ballots for absentee voting must be printed and available at least 20 days before the election. Names of candidates on school election ballots need not be rotated.

(3) Before the opening of the polls, the trustees shall cause each polling place to be supplied with the ballots and supplies necessary to conduct the election.

History: En. 75-6418 by Sec. 154, Ch. 5, L. 1971; R.C.M. 1947, 75-6418; amd. Sec. 364, Ch. 571, L. 1979; amd. Sec. 2, Ch. 481, L. 1983; amd. Sec. 4, Ch. 372, L. 1987; amd. Sec. 4, Ch. 144, L. 1997; amd. Sec. 9, Ch. 514, L. 1999; amd. Sec. 230, Ch. 49, L. 2015; amd. Sec. 2, Ch. 214, L. 2015.

Clerk Of Election Judges And Appointment For Absent Judge

20-20-402. **Clerk of election judges and appointment for absent judge.** Before conducting the school election and on the day of the election, the judges shall designate one of their number to act as clerk of such election. If any of the judges appointed by the trustees are not present at the time for the opening of the poll, the electors present at that time may appoint a qualified elector for such election to act in the place of the absent judge.

History: En. 75-6419 by Sec. 155, Ch. 5, L. 1971; R.C.M. 1947, 75-6419.

Oath Of Judges

20-20-410. **Oath of judges.** Before votes are cast, the school election judges shall take and subscribe the official oath prescribed by the constitution. The election judges may administer the oath to each other.

History: En. Sec. 5, Ch. 372, L. 1987.

Conduct Of Election

20-20-411. **Conduct of election.** Election judges shall conduct school elections in a manner that ensures a fair and unbiased determination of the matters put before the electorate and see that each elector has an adequate opportunity to cast the elector's vote.

History: En. 75-6421 by Sec. 157, Ch. 5, L. 1971; R.C.M. 1947, 75-6421; amd. Sec. 365, Ch. 571, L. 1979; amd. Sec. 329, Ch. 56, L. 2009.

Trustees To Canvass Votes

20-20-415. **Trustees to canvass votes.** At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote.

History: En. 75-6423 by Sec. 159, Ch. 5, L. 1971; R.C.M. 1947, 75-6423(part); amd. Sec. 366, Ch. 571, L. 1979.

Certificate Of Election

20-20-416. **Certificate of election.** After the canvass of the total votes cast, the trustees shall issue a certificate of election. In the case of a trustee election, either by vote or by acclamation, the certificate must be issued to the elected trustee and the county superintendent designating the term of the trustee position to which the trustee has been elected. In the case of an election on a proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate must be issued to the official or public body that ordered the election within 15 days after the election. When the election has been ordered by resolution of the trustees, the canvassed results must be published immediately in a newspaper that will give notice to the largest number of people of the district.

History: En. 75-6423 by Sec. 159, Ch. 5, L. 1971; R.C.M. 1947, 75-6423(part); amd. Sec. 367, Ch. 571, L. 1979; amd. Sec. 4, Ch. 132, L. 1999.

Request For County Election Administrator To Conduct Election

20-20-417. **Request for county election administrator to conduct election.** (1) By June 1 of each year, the trustees of a district may request the county election administrator to conduct certain school elections during the ensuing school fiscal year. The request must be made by a resolution of the board of trustees.

(2) Whenever the county election administrator agrees to conduct a school election, the administrator shall:

(a) perform the duties imposed on the trustees and the clerk of the district for school elections in 20-20-203, 20-20-313, and 20-20-401; and

(b) deliver to the trustees, for the purpose of canvassing the vote, the certified tally sheets and other items as provided in 13-15-301.

(3) Whenever the trustees request and the county election administrator agrees to conduct a school election, the school district shall pay the costs of the election as provided in 13-1-302.

History: En. Sec. 1, Ch. 481, L. 1983; amd. Sec. 330, Ch. 56, L. 2009; amd. Sec. 231, Ch. 49, L. 2015.

Tie Votes

20-20-418. **Tie votes.** If a tie vote occurs among the candidates for a school trustee position, the trustees shall appoint one of the candidates who tied to fill the office as in other cases of vacancy.

History: En. Sec. 57, Ch. 297, L. 2009.

School Recount Board -- Duties -- Composition

20-20-420. **School recount board -- duties -- composition.** (1) There is a school recount board. If a school election requires a recount pursuant to 13-16-201, the school recount board shall perform the recount following the procedures for a recount board as provided in Title 13, chapter 16.

(2) (a) The school recount board must consist of three members of the board of trustees of the school district for which the school election took place.

(b) If there are more than three members of the board of trustees, the presiding officer of the board of trustees shall appoint three trustees to serve as school recount board members. If the presiding officer of the board of trustees is a candidate for an office or nomination for which votes are to be recounted, another trustee chosen by majority vote shall serve as the presiding officer for purposes of appointing the school recount board members.

(c) If one or more of the trustees appointed to the school recount board cannot serve or cannot attend when the school recount board meets, the presiding officer shall appoint one or more remaining trustees to serve. If there is an insufficient number of trustees to serve on the school recount board, the presiding officer may appoint the school district clerk or the clerk's designee or the county superintendent or the superintendent's designee to serve as the remaining member or members.

(d) A candidate for an office or nomination for which votes are to be recounted may not be a member of the school recount board.

(e) The school district clerk is secretary of the school recount board, and the board may appoint school district employees or hire any additional clerks as needed.

History: En. Sec. 1, Ch. 347, L. 2013.

Voting Systems

20-20-421. **Voting systems.** Whenever a voting system, as defined in 13-1-101, is available to a district, the voting system may be used for a school election if the voting system has been approved pursuant to 13-17-101 and if the election administrator complies with the provisions of Title 13, chapter 17. In construing the provisions of that chapter, the "county governing body" and the "election administrator" are, for the purposes of this section, considered to refer to trustees and "county" is considered to refer to district.

History: En. 75-6417 by Sec. 153, Ch. 5, L. 1971; R.C.M. 1947, 75-6417; amd. Sec. 368, Ch. 571, L. 1979; amd. Sec. 77, Ch. 575, L. 1981; amd. Sec. 89, Ch. 414, L. 2003.