

SUPERINTENDENT OF PUBLIC INSTRUCTION

CHAPTER 6

RULES OF PROCEDURE FOR ALL SCHOOL CONTROVERSY
CONTESTED CASES BEFORE THE COUNTY SUPERINTENDENTS
OF THE STATE OF MONTANA

Subchapter 1

Rules of Procedure for All School Controversy
Contested Cases Before the County Superintendents
Of the State of Montana

- Rule 10.6.101 Scope of Rules
- 10.6.102 School controversy Means Contested Case
- 10.6.103 Initiating School Controversy Procedure
Process
- 10.6.103A Special Education Due Process Hearing
Procedures (REPEALED)
- 10.6.103B Policy Statement (REPEALED)
- 10.6.104 Jurisdiction
- 10.6.105 Commencement of Action/Requirements of the
Notice of Appeal
- 10.6.106 Notice of Hearing (REPEALED)
- 10.6.107 Conference and Informal Disposition
- 10.6.108 County Superintendent's Prehearing
Proceudre - formulating Issues
- 10.6.109 Discovery
- 10.6.110 Discovery methods
- 10.6.111 Scope of Discovery
- 10.6.112 Limitations on Discovery by the County
Superintendent
- 10.6.113 Sequence and Timing of Discovery
- 10.6.114 Ex-Parte Consultations
- 10.6.115 Powers of the County Superintendent

SUPERINTENDENT OF PUBLIC INSTRUCTION

Rule	10.6.116	Hearing
	10.6.117	Ability of Cross-Examination or Participation in the Hearing (IS HEREBY REPEALED)
	10.6.118	Record
	10.6.119	Final Order
	10.6.119A	Final Order on Special Education Due Process Hearing Decisions (IS HEREBY REPEALED)
	10.6.120	County Attorney Rule (REPEALED)
	10.6.121	Appellate Procedure - Scope of Rules
	10.6.122	Appellate Procedure - Notice of Appeal - Filing
	10.6.123	Appellate Procedure - Contents of the Notice of Appeal
	10.6.124	Appellate Procedure - Transmission of Record
	10.6.125	Appellate Procedure - Standard of Review
	10.6.126	Appellate Procedure - Commencement of Action (REPEALED)
	10.6.127	Appellate Procedure - Time
	10.6.128	Appellate Procedure - Decision
	10.6.129	Appellate procedure - Failure to Comply with These Rules
	10.6.130	Appellate Procedure

Subchapter 1

Rules of Procedure for All School Controversy
Contested Cases Before the County Superintendents
of the State of Montana

10.6.101 SCOPE OF RULES (1) These rules govern the procedure for conducting all hearings on school controversy cases arising under the provisions of Title 20, MCA, before the county superintendent or the county transportation committee, and all appeals to the state superintendent of public instruction. These rules shall be construed to secure the just, speedy and inexpensive determination of every action. All rules promulgated by former state superintendents with regard to school controversies are hereby repealed.

(a) All matters appealed to the county transportation committee shall be governed by these rules of controversy. It shall be the duty of the county superintendent, as chairperson of the county transportation committee, to ensure compliance. All references made in this chapter to the county superintendent as to the procedure on these school rules shall also include the county transportation committee where appropriate.

(b) All controversies arising under any other provision of Title 20, MCA for which a procedure for resolving controversies is not expressly prescribed shall be governed by these rules. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.102 SCHOOL CONTROVERSY MEANS CONTESTED CASE

(1) Contested case means any proceeding in which a determination of legal rights, duties or privileges of a party is required by law to be made after an opportunity for hearing. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.103 INITIATING SCHOOL CONTROVERSY PROCEDURE PROCESS

(1) A person who has been aggrieved by a final decision of the board of trustees of a school district in a contested case is entitled to commence an appeal before the county superintendent.

(2) A school controversy contested case shall be commenced by filing a notice of appeal with the county superintendent and the parties within 30 days after the final decision of the board of trustees of the school district is made. The date of filing shall be determined to be the date the notice is delivered to the county superintendent or, if mailed, the date the notice is deposited in the U.S. mail as evidenced by the postmark date. Notice of appeal shall be served on the parties by certified mail or personal delivery. Respondent shall file a written reply to the notice of appeal within 10 business days of receipt.

(3) A party to a controversy may make and file with the county superintendent an affidavit disqualifying the county superintendent pursuant to section 20-3-211, MCA. The affidavit must be filed not less than 10 days before the original date set for the hearing. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1985 MAR p. 246, Eff. 3/15/85; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.103A SPECIAL EDUCATION DUE PROCESS HEARING PROCEDURES (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, 20-3-211, MCA; NEW, 1988 MAR p. 1251, Eff. 6/24/88; REP, 1990 MAR p. 933, Eff. 5/18/90.)

10.6.103B POLICY STATEMENT (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, 20-3-211, MCA; NEW, 1988 MAR p. 1251, Eff. 6/24/88; REP, 1990 MAR p. 933, Eff. 5/18/90.)

10.6.104 JURISDICTION (1) The county superintendent shall upon receipt of the notice of appeal, determine:

- (a) whether the appeal is a contested case; and
- (b) whether he/she has jurisdiction on the matter.

(2) The county superintendent shall, at all times, have jurisdiction to determine the jurisdiction over any particular contested case. In such situations, the rules of procedure shall apply, and questions of jurisdiction may be resolved by rulings and orders based upon the pleadings or after a hearing, as necessary to suit the circumstances of the case.

(3) The county superintendent may determine that he/she does not have jurisdiction or the power to act over a particular matter. In this event, the county superintendent shall enter an order dismissing the appeal for lack of jurisdiction. The county superintendent, after making the determination that the matter is a contested case pursuant to the provisions of this chapter and that he/she has jurisdiction, shall hear the appeal and take testimony in order to determine the facts related to the contested case.

(4) A determination by the county superintendent as to jurisdiction may be immediately appealed to the state superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.105 COMMENCEMENT OF ACTION/REQUIREMENTS OF THE NOTICE OF APPEAL (1) The appealing party shall be known as petitioner, and the responding party shall be known as respondent.

(2) When a party appeals to the county superintendent, the notice of appeal must include:

- (a) a caption setting forth the name and the county of the superintendent;
- (b) the names and addresses of all appropriate parties;
- (c) a clear and concise statement of the matters asserted;

(d) a statement setting forth the basis for the contested case that the county superintendent has proper jurisdiction;

(e) references to the particular sections of the statutes and rules involved.

(3) The notice of appeal shall be signed by the petitioner and/or the petitioner's representative.

(4) Failure of any party to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal but is grounds for such action as the county superintendent deems appropriate, which may include dismissal of the appeal. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.106 NOTICE OF HEARING (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; REP, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.107 CONFERENCE AND INFORMAL DISPOSITION (1) The county superintendent may informally confer with the parties for the purpose of attempting informal disposition of any contested case.

(2) This conference of informal disposition may occur at any time prior to the issuing of the final findings of fact, conclusions of law and order of the county superintendent. The parties may informally confer to resolve the school controversy contested case by stipulation, agreed settlement, consent order, or default. To be effective, any agreement made at such conference must be reduced to writing and signed by all parties. An agreed resolution shall end the proceedings and bar further proceedings. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.108 COUNTY SUPERINTENDENT'S PREHEARING PROCEDURE - FORMULATING ISSUES

(1) In any action, the county superintendent within 10 working days of receipt of the reply to the appeal shall order a prehearing conference, which may be held by telephone conference call, to consider:

- (a) the simplification of the issues;
- (b) the necessity or desirability of amendments to the pleading;
- (c) the possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (d) a limitation of the number of expert witnesses;
- (e) the date for hearing;
- (f) such other matters as may aid in the disposition of the action.

(2) In addition to the matters to be considered, the prehearing conference notice shall include a provision advising the parties of their right to be represented by counsel at their own expense.

(3) The county superintendent shall issue an order which recites the action taken at the conference, the amendments to the notice of appeal and the agreements made by the parties as to any of the matters considered, and which limits the issues for the hearing to those not disposed of by admissions or agreements of the parties. Such order when entered will control the subsequent course of action, unless modified at the hearing to prevent manifest injustice.

(4) County superintendents shall ensure the privacy of matters before them as is required by law. Parents maintain the right to waive their right of confidentiality and privacy in the hearing and may request that the hearing be open to the public. The county superintendent shall also provide or allow an opportunity for the minor to be present at the hearing upon request of the parent or guardian.

(5) The county superintendent shall conduct the hearing in a location stipulated to by all parties and the county superintendent. In the event of disagreement, the county superintendent will make the final determination. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.109 DISCOVERY (1) The county superintendent may compel or limit discovery prior to the hearing and/or prehearing conference pursuant to ARM 10.6.110 through 10.6.113. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.110 DISCOVERY METHODS (1) Parties may obtain discovery by one or more of the following methods:

(a) depositions upon oral examination or written questions;

(b) written questions;

(c) production of documents or things, or permission to enter upon land or property;

(d) request for admissions.

(2) Any evidence to be introduced at the hearing or on file shall be made available for disclosure to all parties at least five days before the hearing. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW; 1982 MAR p. 1689, Eff. 9/17/82.)

10.6.111 SCOPE OF DISCOVERY (1) Unless otherwise limited by order of the county superintendent, the scope of discovery is as follows:

(a) in general, parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party, including the existence, description, nature, custody, condition and location of any books, documents or other tangible items and the identity and location of persons having knowledge of any discoverable material;

(b) a party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for hearing. (History: 20-7-103, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82.)

10.6.112 LIMITATIONS ON DISCOVERY BY THE COUNTY SUPERINTENDENT (1) Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the county superintendent before whom the action is pending may make any order which justice required to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(a) that the discovery not be had;

(b) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(c) that the discovery may be had only by a method of discovery other than that selected by the parties seeking discovery;

(d) that certain matters should not be inquired into, or that the scope of the discovery be limited to certain matters;

(e) that discovery be conducted with no one present except persons designated by the county superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82.)

10.6.113 SEQUENCE AND TIMING OF DISCOVERY (1) The county superintendent shall provide reasonable discovery on the relevant issues for the hearing and shall establish a calendar so as not to allow discovery to delay a hearing. A request for discovery directed to the party must be made within 30 days of filing of respondent's reply to the notice of appeal. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.114 EX-PARTE CONSULTATIONS (1) The county superintendent, after receipt of a notice of appeal, shall not communicate with any party in connection with any issue of fact or law in such case except upon notice and opportunity for all parties to participate. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.115 POWERS OF THE COUNTY SUPERINTENDENT (1) The county superintendent may:

- (a) administer oaths;
- (b) issue subpoenas;
- (c) provide for the taking of testimony by depositions;
- (d) set the time and place of the hearing and direct parties to appear and confer to consider simplification of the issues;
- (e) fix the time for filing of briefs and other documents;
- (f) request the submission of proposed findings of fact and conclusions of law at the conclusion of the hearing.

(2) The county superintendent shall be bound by common law and the Montana Rules of Evidence. All evidence and objections to evidence shall be noted in the record:

(a) any part of the evidence may be received in written form;

(b) documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the county superintendent's specialized knowledge. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.116 HEARINGS (1) The hearing will be conducted before the county superintendent in the order set at the prehearing conference and will include:

(a) statement and evidence of the petitioner or other party in support of its action;

(b) statement and evidence of the respondent in support of its action;

(c) rebuttal testimony;

(d) closing arguments.

(2) Each party shall have the right to conduct cross-examinations for a full and true disclosure of the facts, including the right to cross-examine the authority of any document prepared by or on behalf of or for the use of all parties and offered into evidence. All testimony shall be given under oath or affirmation. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.117 ABILITY OF CROSS-EXAMINATION OR PARTICIPATION IN THE HEARING (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; REP, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.118 RECORD (1) The record in the hearing shall include:

- (a) all pleadings, motions, intermediate ruling;
- (b) all evidence received plus a stenographic or tape-recorded record of oral proceeding;
- (c) a statement of matters officially noticed;
- (d) questions and offers or proof, objections and proceedings thereon;
- (e) proposed findings and exceptions;
- (f) findings of fact, conclusions of law and order by the county superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.119 FINAL ORDER (1) The final order by the county superintendent shall be in writing and shall include findings of fact and conclusions of law separately stated and a memorandum opinion as appropriate. Findings of fact, as set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(a) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(b) Each conclusion of law shall be supported by authority or by a reasoned opinion.

(c) The final order shall inform the parties of their right to appeal the order to the state superintendent of public instruction, and when appropriate, shall include a copy of the uniform rules of administrative appellate procedure for the state superintendent of public instruction with the final order, ARM 10.6.120 through 10.6.130.

(2) The county superintendent shall insure for all cases that not later than 90 days after the receipt of the reply to notice of appeal a final order is reached and a copy of the findings of fact, conclusions of law and order is mailed to each party. The time limitation provided here may be waived upon request of the county superintendent or a party of the school controversy contested case, upon stipulation of the parties.

10.6.119A SUPERINTENDENT OF PUBLIC INSTRUCTION

(3) In the case of an appeal to the county transportation committee, after hearing the committee shall meet and vote in open session whether to grant or deny the appeal. The members of the majority shall appoint one member to prepare findings of fact, conclusions of law and order which shall then be adopted at an open meeting of the transportation committee and signed by all members of the majority. Any member of the minority may put the reasons for his/her vote in writing, and this shall be made part of the record. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.119A FINAL ORDER ON SPECIAL EDUCATION DUE PROCESS HEARING DECISIONS (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, 20-3-211, MCA; NEW, 1988 MAR p. 1251, Eff. 6/24/88; REP, 1990 MAR p. 933, Eff. 5/18/90.)

10.6.120 COUNTY ATTORNEY RULE (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; REP, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.121 APPELLATE PROCEDURE - SCOPE OF RULES (1) The superintendent of public instruction shall decide matters of controversy when they are appealed from a decision of a county superintendent.

(2) All references made to the county superintendent shall also include the county transportation committee where appropriate.

(3) A party who is aggrieved by a final decision in a contested case before the county superintendent is entitled to appellate review by administrative appeal to the state superintendent. The superintendent of public instruction shall make his/her decision on the basis of the record established at the county superintendent hearing and upon review of the findings of fact, conclusions of law and order of the county superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1983 MAR p. 850, Eff. 7/15/83; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1990 MAR p. 933, Eff. 5/18/90; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.122 APPELLATE PROCEDURE - NOTICE OF APPEAL - FILING

(1) An appeal shall be taken by filing a notice of appeal with the state superintendent of public instruction. The date of filing shall be the date of actual delivery to the office of the state superintendent. A copy of such notice of appeal shall be served on the parties and the county superintendent. Failure of any party to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal but is grounds for such action as the state superintendent deems appropriate, which may include dismissal of the appeal. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1983 MAR p. 850, Eff. 7/15/83; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.123 APPELLATE PROCEDURE - CONTENTS OF THE NOTICE OF

APPEAL (1) the appealing party shall be known as appellant, and the responding party shall be known as respondent. When a party appeals to the state superintendent of public instruction, the notice of appeal must include:

- (a) a caption setting forth the name of the state superintendent of public instruction;
- (b) the name and addresses of all appropriate parties;
- (c) a clear and concise statement of the matters asserted on appeal;
- (d) a statement indicating that appellant has a contested case, identifying the county superintendent from which the appeal is taken and whether the state superintendent has proper jurisdiction;
- (e) references to the particular sections of the statutes and rules involved;
- (f) the signature of the petitioner and/or his/her representative;
- (g) a copy of the findings of fact, conclusions of law and order of the county superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.124 APPELLATE PROCEDURE - TRANSMISSION OF RECORD

(1) Upon receipt of the notice of appeal to the state superintendent of public instruction, the county superintendent shall transmit the record along with a certified docket listing the contents of the record. The record shall contain all items identified in ARM 10.6.118 including a transcript of the proceedings. Such records shall be transmitted to the state superintendent within 20 days following receipt of the notice of appeal unless otherwise ordered by the state superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.125 APPELLATE PROCEDURE - STANDARD OF REVIEW

(1) The state superintendent of public instruction shall be subject to the standard of review as set forth below and shall be confined to the record established at the factfinding hearing.

(2) In cases of alleged irregularities in procedure before the county superintendent not shown on the record, proof thereof may be taken by the state superintendent.

(3) The state superintendent, at his/her discretion or upon request, may hear oral arguments and receive written briefs.

(4) The state superintendent may not substitute his/her judgment for that of the county superintendent as to the weight of the evidence on questions of fact. The state superintendent may affirm the decision of the county superintendent or remand the case for further proceedings or refuse to accept the appeal on the grounds that the state superintendent fails to retain proper jurisdiction on the matter. The state superintendent may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings of fact, conclusions of law and order are:

- (a) in violation of constitutional or statutory provisions;
 - (b) in excess of the statutory authority;
 - (c) made upon unlawful procedure;
 - (d) affected by other error of law;
 - (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
 - (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion;
 - (g) affected because findings of fact upon issues essential to the decision were not made although requested.
- (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.126 APPELLATE PROCEDURE - COMMENCEMENT OF ACTION (REPEALED) (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; REP, 1993 MAR p. 344, Eff. 3/12/93.)

10.6.127 APPELLATE PROCEDURE - TIME (1) Appellant shall appeal from the order of the county superintendent of schools to the state superintendent of public instruction within 30 days after the rendering of such order unless the time is shortened or extended by an order entered by the state superintendent upon good cause showing. If a party petitions for a re-hearing before they appeal the final decision to the state superintendent, then the 30-day statute of limitations shall be tolled until a final decision has been rendered by the county superintendent.

(2) The decision of the superintendent of public instruction shall be rendered within a reasonable time after the case has been deemed submitted by the state superintendent. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82; AMD, 1988 MAR p. 1251, Eff. 6/24/88; AMD, 2005 MAR p. 2658, Eff. 12/23/05.)

10.6.128 SUPERINTENDENT OF PUBLIC INSTRUCTION

10.6.128 APPELLATE PROCEDURE - DECISION (1) The decision and order of the superintendent of public instruction shall be final, subject to the proper legal remedies in the state/federal courts. Such proceedings shall be commenced no later than 60 days after the date of the decision and order of the state superintendent of public instruction. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82.)

10.6.129 APPELLATE PROCEDURE - FAILURE TO COMPLY WITH THESE RULES (1) Every party to a controversy shall comply with these rules of procedure. Failure of one party to do what is required and which substantially prejudices the proceedings is cause for dismissal or reversal as appropriate. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82.)

10.6.130 APPELLATE PROCEDURE (1) The state superintendent may upon agreement of all parties conduct oral argument by means of telecommunication or teleconferencing methods. (History: 20-3-107, MCA; IMP, 20-3-107, MCA; NEW, 1982 MAR p. 1689, Eff. 9/17/82.)