

**BEFORE SUSAN HEDALEN,
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION,
STATE OF MONTANA**

<p>HANNAH CAIL and BEAGAN WILSOX VOLZ, APPELLANTS,</p> <p>vs.</p> <p>HELENA ELEMENTARY SCHOOL DISTRICT # 1, RESPONDENT.</p>	<p>OSPI 350-25</p> <p>DECISION AND ORDER</p>
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Having reviewed the record and considered the parties' briefs, the Superintendent of Public Instruction issues the following Decision and Order:

BACKGROUND AND PROCEDURAL HISTORY

1. On February 25, 2025, Helena Elementary School District #1 (Respondent)'s Superintendent Rex Weltz, offered his recommendation to close Hawthorne Elementary School to the staff of the school.
2. On March 11, 2025, Respondent's Board of Trustees was presented with a course of action that included closing Hawthorne Elementary School by June 30, 2025.
3. On March 12, 2025, Superintendent Weltz informed Hawthorne Elementary School's Parent Council of his recommendation to close the school.
4. On March 13, 2025, Superintendent Weltz held a community event to speak to the Hawthorne Elementary School community about the closure.
5. On April 9, 2025, Respondent held a public hearing regarding its decision to close Hawthorne Elementary School, which allegedly did not specifically discuss how the school closure would impact the best interests of the students.

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 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.

ANALYSIS

The Superintendent of Public Instruction agrees with the Lewis and Clark County Superintendent's determination that the underlying appeal did not present a contested case, and that the Lewis and Clark County Superintendent lacked jurisdiction over this matter.

Montana law provides that, "except for disputes arising under the terms of a collective bargaining agreement, or as provided under § 20-3-211 or § 20-4-208, MCA, the county superintendent shall hear all matters of controversy arising in the county as a result of decisions of the trustees of a district in the county." MONT. CODE ANN. § 20-3-210(1) (1997). "The superintendent of public instruction shall decide matters of controversy when they are appealed from . . . a decision of a county superintendent rendered under the provisions of 20-3-210 . . ." MONT. CODE ANN. § 20-3-107(1)(a) (1997).

The first duty of a county superintendent, upon receiving a notice of appeal, is to determine whether the appeal is a contested case and whether the county superintendent has jurisdiction on the matter. MONT. ADMIN. R. 10.6.104(1) (2005). Montana administrative rules provide that a "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 a hearing." MONT. ADMIN. R. 10.6.102 (1993). "[A]bsent a statutory or constitutional right to a hearing, the

county superintendent does not have jurisdiction to hear a matter.” *Roos v Kircher Public School Board*, 2004 MT 48, ¶ 10, 320 Mont. 128, 86 P.3d 39. “Simply because a disagreement occurs in a school does not mean the school district, the county or the state must provide a contested case hearing to resolve it.” *Id.* (quoting *Bland v. Libby School Dist.* OSPI 205–92, 12 Ed. Law 76, 78 (1993)). “The county superintendent shall, at all times, have jurisdiction to determine the jurisdiction over any particular contested case.” MONT. ADMIN. R. 10.6.104(2) (2005).

Respondent adopted the recommendation to close the Hawthorne Elementary School following meetings and hearings during which the Appellants had numerous opportunities to make their voices heard. The Lewis and Clark County Superintendent correctly found Appellants failed to cite a constitutionally protected interest that provided a right to an administrative hearing, which is a threshold determination the county superintendent must make to determine if the issue is a contested case over which the county superintendent would have jurisdiction. The alleged failure of a school district to follow their own policies does not grant a statutory or constitutional right to a hearing, nor does the alleged failure of a board of trustees to show they established in a particular way that the closure of the school was “in the best interests of the pupils affected.” MONT. CODE ANN. § 20-6-509 (1979). The school closure statute does not lay out a specific procedure for district trustees to determine if the closure is in the best interests of the pupils. *See* MONT. CODE ANN. § 20-6-509. As such, Petitioners (or Appellants) do not allege a statutory violation. Similarly, the policies of a school district board of trustees do not create a constitutional right to a hearing. *See Roos v Kircher Public School Board*, 2004 MT 48, ¶ 10, 320 Mont. 128, 86 P.3d 39. Since there is no statutory or constitutional right to a hearing, there was no contested case. *See id.* Since there was no contested case as defined by MONT. ADMIN. R. 10.6.102, and interpreted by relevant caselaw cited above, the County Superintendent lacked jurisdiction over the appeal.

DECISION AND ORDER

The August 4, 2025 Order Dismissing Appeal issued by the Lewis and Clark County Superintendent of Schools is hereby AFFIRMED.

DATED this 22 day of June 2026.

/s/ 
Susan Hedalen
Superintendent of Public Instruction

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 22nd day of June, 2026, I caused a true and exact copy of the foregoing OPINION and the attachment thereto to be delivered electronically via email to the following:

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