

2005 Government Practice Seminar



School District Consolidations

11:45 a.m.-12:15 p.m.

Presented by:

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I. REORGANIZATION

A. Board role versus citizen role.

A reorganization petition is a citizens' petition. However, it is not uncommon for school boards as elected representatives of the citizenry to act as leaders and facilitators in the formulation of a reorganization petition or to work in conjunction with a local reorganization committee.

B. Reorganization planning.

Many recent reorganizations were an out-growth of whole grade sharing. In such cases the new school corporation, upon reorganization, could run almost identically to the whole grade sharing enterprise. However, school districts may also reorganize without having whole grade shared in advance. In those situations, long term study through a committee process or through solicitation of a feasibility study or both may prove helpful to study such topics as finance, facilities, transportation and personnel among others.

C. Petition elements.

A reorganization petition is not a particularly complex document. Petition elements include:

1. Name of the district;
2. Legal description of the property to be contained within the district;
3. Initial method of selection or election of directors and number of directors;
4. Number and permanent method of election of directors;
5. Division of assets and liabilities (optional);
6. Request to vote a PPEL simultaneously with the reorganization proposition (optional);
7. Affidavits must accompany the petition setting forth the number of registered voters in each district;
8. Reorganization proposals should be consistent with the AEA area plan or seek modification of it.
9. Petitions are to be signed by resident "eligible electors" equal in number to 20% of the total of registered voters or 400, whichever is smaller.
(Note: Petitions cannot be presented within six months of a successful bond election.)

D. Reorganization as an election issue.

Reorganization is treated the same as any other election issue. Therefore, district resources should not be utilized to campaign for a “yes” vote.

E. AEA procedures.

The AEA which contains the districts proposing reorganization (or two AEA’s with some special rules applying if districts are from different AEA’s), is statutorily charged with receiving and ruling upon reorganization proposals. These procedures include:

1. Fixing a hearing date and an objection deadline and publishing a notice of same.
2. The AEA board holds a hearing at which proponents and objectors are allowed to give evidence and argument. After receiving such evidence, the AEA will rule on any objections filed. AEA’s rule on objections requesting that land be removed from the proposed reorganized district (thereby setting the boundaries) and also rule on objections requesting dismissal of the petition. AEA’s have broad authority to change or amend the plan as set forth in the reorganization petition.
3. After hearing and decision by the AEA, the proposition, if approved (and if amended as amended) goes to popular vote. The AEA’s decision is published.
4. A twenty day appeal period runs from the date of publication of the AEA decision. Only school districts affected (named in the petition) may appeal.
5. A special election is held on the reorganization measure as approved by the AEA. A majority of the electors in each district must approve the reorganization for it to be effective (in a two district reorganization proposition).

F. Reorganization, personnel and board transition.

The reorganization chapter (275 of the Code) sets forth a transition from pre-existing boards to the newly reorganized district board. The reorganized district board is selected and seated prior to the effective date of the reorganization. Reorganizations approved on or before November 30 of any year become effective the following July 1. Therefore, for a limited period of time, three boards will operate simultaneously in a two-district reorganization, the district A board, the district B board and the district A-B board. Employees under continuing contract are not affected by the formation of the new district without affirmative action to modify or terminate such contracts. The authority and responsibility to offer new contracts or to terminate or modify existing contracts for the school year beginning with the effective date of the reorganization is transferred from the existing districts to the board of the new district on the third

Tuesday of January prior to the school year the reorganization is effective. (275.33(1) of the Code).

G. Reorganization and Collective Bargaining.

If both districts to a reorganization have a collective bargaining agreement, the collective bargaining agreement in the district with the largest basic enrollment for the year prior to the reorganization serves as the base agreement and the employees of other districts are accreted to the bargaining unit of that district for purposes of negotiating for following years. If there is only one collective bargaining agreement in effect among districts, then that agreement serves as the base agreement. If the base agreement district and its employees have already agreed on a multi-year contract, commencing before and continuing after the effective date of the reorganization, the base agreement remains in effect as specified in the agreement.

G. Reorganization Follow-Up.

Numerous tasks follow a successful reorganization vote. Some of those tasks are:

1. 275.41 appointments (if utilized);
2. 275.25 special election (if utilized);
3. Filing legal descriptions and director district descriptions;
4. Real property transfers to aid title;
5. 274.37 concurrent action (if property was excluded to be attached to a contiguous district);
6. Appointment of an acting superintendent and board secretary.
7. Miscellaneous planning matters to potentially include but not be limited to:
 - a. Levies and special elections;
 - b. Policies;
 - c. Transportation;
 - d. Designation of attendance centers;
 - e. Building closings;
 - f. Real property sales;
 - g. Curriculum;
 - h. Other matters directly related to change of corporate name, i.e. bank accounts, tax I.D. numbers, vehicle titles;
 - i. Asset and liabilities division (if not settled by petition and action at the reorganization hearing).

II. SHARING

A. Personnel or Programmatic Sharing

1. 280.15, Code of Iowa, provides that: “Two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities...”.
2. Under this authority, school districts share superintendents, principals, curriculum directors, teachers, etc. and programs.
3. Some past financial incentives to share personnel have been discontinued.
4. The financial incentive for student count relating to students “sent to another district, taught by a teacher who is jointly employed under section 280.15, or attending classes taught by a teacher who is employed by another district” remains. Section 257.11, Code of Iowa.
5. Personnel sharing agreements may include the following provisions.
 - a. Term of agreement;
 - b. Identification of individuals;
 - c. Designation of a contracting entity (employer) and definition of supervisory responsibility;
 - d. Contingency clause relating to departure of individual named;
 - e. Notification date re continuation or non-continuation;
 - f. Time allocation;
 - g. Fiscal allocation regarding wages and benefits;
 - h. Possible “fall back” provision to one district employment if there is augmented salary under the sharing agreement (example administrator contracts);
 - i. Statement of obligations to non-contracting district.

B. Whole Grade Sharing

1. This method of contractual cooperation among districts to share whole grades has been quite popular in the past. Some attendant conceptual difficulties accompany it which do not accompany reorganization.
2. Districts remain separate and distinct corporate entities as opposed to reorganization where a new corporate entity is formed.
3. Quite a number of reorganizations have occurred involving districts that have previously whole grade shared.
4. Past financial incentives to whole grade share were discontinued. Now new incentives have been established for whole grade sharing leading to reorganization.
5. Entering into or extending or renewing whole grade sharing agreements requires following a particular procedure spelled out in Sections 282.10 - .12 of the Code. This includes:
 - a. Notice of intent to pursue negotiation greater than 90 days prior to signing.

- b. Within 30 days of notice, a petition can request the DE to do a feasibility study.
 - c. Not less than thirty days prior to signing, a public hearing is held at which the proposed agreement is described.
 - d. Within 30 days prior to signing, affected pupil's parents can request a board to send their student to a contiguous district. The board must rule on such requests before signing or they are deemed approved.
 - e. Whole grade sharing agreements must be signed by February 1 to be effective the following year.

- 6. Whole grade sharing can be one way or two way.

- 7. Costs under whole grade sharing can be as mutually determined in two way agreements and the sending district shall pay not less than one-half of the district cost per pupil of the sending district in one way whole grade sharing agreements.

- 8. Common provisions of whole grade sharing agreements include:
 - a. Term of agreement;
 - b. Definition of students and services involved and where students will be served and by whom;
 - c. Definition of financial arrangements – tuition approach, cost sharing formulas, negotiation-arbitration approach, etc.;
 - d. Transportation arrangements;
 - e. Student jurisdiction and discipline;
 - f. Staffing;
 - g. Study committees;
 - h. Conflict resolution – example, liaison committee and arbitration;
 - i. Joint meetings;
 - j. Curriculum;
 - k. Purchasing coordination;
 - l. Coordination of use of existing personal property;
 - m. Provisions for amendment;
 - n. Separability clause;
 - o. Statement of intention, notification deadline.

- 9. Historical problem areas in whole grade sharing.
 - a. Effect on collective bargaining;
 - b. Effect on collective bargaining agreements.
 - c. Section 280.15.

10. Athletic/Extracurricular sharing – authority is section 280.13A, Code of Iowa.
 - a. These logically accompany whole grade sharing agreements of secondary grades. They can also be independent of whole grade sharing.
 - b. Agreements must be filed with the appropriate governing organization by April 30 preceding the effective year.
 - c. Such agreements may include the following provisions:
 - i. Term
 - ii. Definition of students and services involved, by whom and where served (game/event sites)
 - iii. Staffing
 - iv. Financial arrangements
 - v. Study committees
 - vi. Uniforms
 - vii. Purchasing
 - viii. Activity tickets
 - ix. Conference affiliation
 - x. Concessions and setup
 - xi. Eligibility and student jurisdiction
 - xii. Conflict resolution – example, liaison committee and arbitration
 - xiii. Provisions for amendment
 - xiv. Separability clause
 - xv. Notification of continuation

III. DISSOLUTION

- A. Iowa Code Sections 275.51 - .55 describe the dissolution process. Dissolution of a school district, as the name suggests, ends the corporate existence of the school district by breaking it up and attaching it to neighboring districts.
- B. The Dissolution Commission.
 1. A school district may establish a dissolution commission by voluntary action of its own board of directors. A school district must also establish a dissolution commission if a petition signed by eligible electors equal in number to at least 20% of the registered voters of the district requests same. The dissolution commission shall consist of:
 - a. Seven members appointed by the board;
 - b. Members are appointed until they report to the Board that no proposal can be approved or until the date of the election on the proposal;
 - c. A member must be an eligible elector who resides within the school district;

- d. Not greater than three members can be current school board members.
 - e. Appointees shall be appointed from throughout the district geographically and represent the various socio-economic factors present in the school district;
 - f. Members serve without compensation;
 - g. The school board shall certify appointees names, addresses, and geographical and socio-economic representation to the AEA.
2. Meetings of the dissolution commission.
- a. Hold organizational meeting within 15 days of appointment, elect chair and vice-chair;
 - b. Meet thereafter as often as necessary upon the call of the chair or a majority of the members.
3. Dissolution process.
- a. Organize commission.
 - b. Develop a plan of action to address geographical division and asset and liabilities division. In doing so, the Code says the commission shall meet with the boards of contiguous school districts and with residents of the local district in drawing up a plan.
 - c. The commission should request statements from contiguous districts regarding willingness to accept attachments and any recommended conditions regarding such attachments.
 - d. The commission may seek assistance from the local AEA or the Department of Education.
4. Dissolution proposal.
- a. The commission (within one year) shall develop a proposal and send it to the local board or report to the local board that it cannot agree upon a proposal.
 - b. Send any developed proposal to contiguous districts by registered mail.
 - c. Contiguous districts can file a written objection to the proposal with the commission within ten days.
 - d. The commission can consider objections and modify the proposal.
 - e. If the proposal is modified, the contiguous districts shall be re-notified by registered mail.
5. Dissolution hearing.

- a. Within ten days of filing a proposal with the local board, the local board fixes a date for hearing on the proposal.
- b. The date of hearing shall not be greater than 60 days from the date of filing.
- c. The local board publishes notice of date, time and location of the hearing in a newspaper of general circulation in the district at least ten days prior to the hearing.
- d. Published notice includes the content of the proposal.
- e. The district residents and landowners may present evidence and argument at hearing.
- f. The president of the local board presides at hearing.
- g. The local board receives evidence and adopts or amends and adopts a proposal.
- h. The board notifies all recipient districts by registered mail and the Director of the Department of Education of its decision regarding the dissolution proposal.
- i. A recipient district may object regarding land attachment and if so, that portion shall not be included in a vote (and the Director of the Department of Education shall attach the land).
- j. A recipient district may object regarding asset and liabilities division and if so, arbitration per section 275.30 of the Code is used to determine the division of assets and liabilities.
- k. If 95% or more of the assessed valuation of the district is to go to a single district, the dissolution process shall be dropped and the district must comply with reorganization procedures.

6. Dissolution election.

- a. The school board calls a special election.
- b. The special election is to be held not greater than forty days after the final hearing on the dissolution proposal.
- c. The proposition shall describe the specifics of geographic division (and asset and liability division).
- d. The vote passes if a majority approve.
- e. Only registered voters within the potentially dissolving district vote.
- f. A dissolution is effective on July 1 following the election.

Note: All dissolution commission meetings should be held in compliance with Chapter 21, the Iowa Open Meetings Law.

[NOTE: This outline is intended to provide general information to help you understand certain basic concepts of Iowa law and is not intended to constitute legal advice. This outline is also of necessity very abbreviated and is not intended to be comprehensive. It is not unusual for statutes to change periodically. When dealing with matters of school law, it is always suggested that you consult with your school district's attorney if specific legal advice or information is desired 2/2003]