



# **Guide to Reorganization by Dissolution Method**

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The Guide to Reorganization by Dissolution Method document is prepared to provide guidance to members of school boards, citizens, superintendents, AEA administrators, and other parties interested in school district dissolution and boundary changes.

Unless otherwise indicated, the citations noted refer to sections of the Code of Iowa. This publication is not intended to take the place of a thorough review of the cited sections of the Code nor substitute for the advice of an attorney. Many aspects of a dissolution require the assistance of an attorney.

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## Part I: Role of the Area Education Agency in District Reorganization

The Code of Iowa gives a large amount of authority and responsibility to area education agencies (AEAs) for local school district reorganization. Although in most instances the final authority is up to the electorate, the AEAs have authority for specific decisions during the reorganization process and the responsibility for developing reorganization plans.

Iowa Code section 273.4 states it is a duty of the AEA administrator to cooperate with the boards of local school districts of the AEA in considering and developing plans for the improvement of the educational programs and services in the AEA, and when requested, to provide such other assistance as possible to school districts of the AEA for general improvement of their educational programs and operations.

The stated intent of the reorganization chapter of the Code of Iowa, Chapter 275, is that the AEA board "...shall carry on the program of reorganization progressively and shall, insofar as it is possible, authorize submission of proposals to the electors as they are developed and approved." (§ 275.6) "It is the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state." (§ 275.1(2)) These two quotations set the overall tone for the AEA's leadership and regulatory functions in reorganization. Additionally, section 275.7 requires the AEA board to include in its annual submitted budget "sums as necessary to carry on its reorganization work."

### AEA Reorganization Plans and Surveys

#### Requirement

Sections 275.1 through 275.9 of the Iowa Code require each AEA to develop a reorganization plan and file the plan with the director of the Department. An AEA must review its plan whenever it receives a reorganization petition, and revise its plan periodically in order to reflect reorganizations that have taken place.

The AEA boards shall develop detailed studies and surveys of the school districts within the AEA and all adjacent territory for the purpose of providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in the schools. The plans shall be revised periodically to reflect reorganizations which have taken place in the AEA and adjacent territory. (§ 275.1(3)) In developing studies and surveys, the AEA board shall consult with district officials in the area and other citizens, shall from time to time hold public hearings, and may employ research and other assistance as reasonably necessary in order to properly carry on its survey and prepare definite plans of reorganization. Additionally, the AEA board shall consult with and transmit completed plans to the director of the department of education (Department). (§ 275.4)

#### Scope of AEA Studies and Surveys

According to chapter 275.2 of Iowa Code, the scope of the studies and surveys must include the following information for the various districts within the AEA and all districts adjacent to the AEA.

1. The adequacy of the educational program
2. Pupil enrollment
3. Property valuations
4. Existing buildings and equipment
5. Natural community areas
6. Road conditions

7. Transportation
8. Economic factors
9. Individual attention given to needs of students
10. The opportunity of students to participate in a wide variety of activities related to the total development of the student
11. Other matters that may bear upon educational programs meeting minimum standards required by law
12. Suggested alternatives that incorporate the districts in the AEA into reorganized districts with a minimum enrollment of 300 students, as established in Iowa Code section 275.3

The importance of an AEA's reorganization plan is emphasized in Iowa Code by the requirement that, upon receiving a reorganization petition, the AEA board review its plans and determine whether the petition complies with the plans which had been adopted by the board. If the petition does not comply with the adopted plans, the board must conduct further surveys prior to the date set for the hearing upon the petition. If further surveys have been conducted by the board, the board shall present the results of those surveys at the hearing. **(§ 275.5)** The importance of the plans is additionally highlighted in that the plans "shall constitute a mandatory prerequisite to the effectuation of any proposal for district boundary change. The area education agency board is mandated to dismiss the petition if the above provisions are not complied with fully." **(§ 275.9)**

A sample outline for a reorganization plan is provided in [Appendix A](#). The material contained in Appendix A is designed to provide guidance and suggestions to AEAs as they prepare their reorganization plans and is not intended to replace direct reference to the Code of Iowa.

### **School Size - Minimum Standards**

No new school district shall be planned by an AEA nor shall any proposal for creation or enlargement of any school district be approved by an AEA or submitted to electors unless within the proposed limits of the proposed district there are at least three hundred (300) residents of school age who were enrolled in public schools in the preceding school year. However, the director of the Department has authority to approve a school district with a lesser enrollment if the AEA board provides a written request accompanied by evidence showing that sparsity of population, natural barriers, or other good reason makes it impracticable to meet the school enrollment requirement. **(§ 275.3)**

### **Joint Districts - Between Two AEAs**

Joint districts are districts located in two or more adjacent AEAs. Planning for joint districts shall be conducted in the same manner as planning for single districts except as noted in Iowa Code section 275.8. Studies and surveys relating to planning of joint districts shall be filed with the AEA in which the district that has the greatest taxable property base is located. **(§ 275.8(3))**

Planning for a joint district will include:

1. Preparing a written joint plan regarding the contiguous territory. The plan shall include the following evidence:
  - A plat of the entire area in the proposed district. **(§ 275.8(2)(a))**
  - A statement of the number of resident students in the proposed district who were enrolled in public schools in the preceding school year. **(§ 275.8(2)(b))**
  - A statement of the assessed valuation of taxable property located in the proposed district. **(§ 275.8(2)(c))**

- An affidavit signed by each affected AEA board stating the boundaries as shown on the plat have been agreed upon by the respective boards as part of the overall plan for school district reorganization. (**§ 275.8(2)(d)**)
2. Adopting the written joint plan at a joint session of all AEA boards in whose areas the proposed district territory is located. (**§ 275.8(1)(b)**)
  3. Filing the plan with the Department. (**§ 275.8(1)(c), § 275.8(2)**)

When two or more AEA boards meet in a joint session to adopt the plan, the president of the board of the AEA in which the petition was filed, or a member designated by the president, shall preside. The vote of each member of an AEA board in attendance shall be weighted so that the total number of votes eligible to be cast by members of each board in attendance is equal. (**§ 275.16(2)**) For example, if two AEAs meet in joint session, each board is entitled to 50 percent of the total vote. Therefore, if one board has nine members present, each member is entitled to a 5.555% weighted vote. If the other board has seven members present, each member is entitled to 7.143% weighted vote. The weighting is based upon the number of members present at the joint meeting. A majority of each board is required to be present to constitute a quorum. (**§ 275.16(1)**) A quorum of each of the AEA boards is necessary to transact business. (**§ 275.8(1)(b)**)

If the joint boards cannot agree upon a plan, the matter shall be submitted to the director of the Department. Judicial review of the director's decision may be sought in accordance with the terms of Iowa Code chapter 17A. Petitions for judicial review must be filed within 30 days after the director's decision. (**§ 275.8(3), § 275.16(4)**)

### **AEA Reorganization Plan Expenditures**

Expenditures for surveys and studies shall be included in the annual budget submitted by the AEA board. (**§ 275.7**) The expenditures are General Fund expenditures.

### **The Dissolution Method of Reorganization**

Dissolution is discussed in Iowa Code sections 275.51 through 275.57. The AEA is required to receive the certification from a local school board that a dissolution commission has been formed, the names and addresses of commission members, and that the commission members represent the various geographic areas and socioeconomic factors present in the district. (**§ 275.51**) The Code also grants to the dissolution commission the authority to seek assistance from the AEA and department of education. (**§ 275.52**)

### **Dissolution by Involuntary Merger**

The AEA has the same responsibilities for an involuntary merger that it has in a voluntary dissolution, as applicable. In addition, the AEA, if requested by the Department, will be responsible for preparing and certifying the final certified annual financial report (CAR) for the district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (**25 D.o.E. App. Dec. 139**)

## Part II: Reorganization by Dissolution Method

The dissolution process is one method of reorganization. The major differences between the petition method of reorganization and the dissolution method are that dissolution:

1. originates with the school board - unless a petition is presented to the local board,
2. does not give significant authority or responsibility to the area education agencies,
3. assigns authority and responsibility to a board-appointed commission,
4. places limited responsibility and authority in the hands of the school board to adopt or amend and adopt the dissolution proposal, and
5. provides for an election to be held in the dissolving district only, not the contiguous districts.

For a more thorough understanding of dissolution, refer to sections 275.51 through 275.57. Other Code sections pertain to dissolution; however, the basis for the process is included in the above named sections.

If a dissolution proposal adopted by the board contains provisions that 95 percent or more of the taxable valuation of the dissolving district would be attached to a single district, the dissolving district shall cease further proceedings to dissolve and shall comply with reorganization procedures.

### Dissolution Sequence

Following is a time frame of sequential steps to follow for implementing dissolution.

1. The board of directors may establish a dissolution commission to prepare a proposal of dissolution; however, it shall establish a dissolution commission if a dissolution proposal has been prepared by eligible electors who live in the district. The proposal must contain the names of the proposed commission members and be accompanied by a petition signed by eligible electors residing in the district equal in number to at least 20 percent of the registered voters in the district. **(§ 275.51)** Refer to the “Guidelines for Dissolution Commission” section of this guide for additional details.
2. The board certifies to the AEA board that a dissolution commission has been formed, the names and addresses of the members, and that the members represent the various geographic areas and socioeconomic factors in the district. **(§ 275.51)**
3. The commission holds an organizational meeting within 15 days of appointment and elects a chairperson and vice-chairperson from its membership. **(§ 275.52)**
4. The commission has one year from the date of its organizational meeting to:
  - a. request statements from each board of contiguous districts outlining its willingness to accept territory under what conditions,
  - b. meet with boards of contiguous districts,
  - c. meet with residents of the affected school district to the extent possible,
  - d. seek assistance from the AEA and department of education, if desired,
  - e. develop a proposal and present a copy to the board or notify the board that it cannot agree upon a proposal,
  - f. send a copy of the proposal to the boards of contiguous districts to which territory is to be attached,
  - g. receive objections in writing from boards of contiguous districts within 10 days of receipt of the proposal, and
  - h. if the commission modifies the proposal due to filed objections, notify all boards again. **(§ 275.52, § 275.53(1))**



- i. Notifications required under 275.53(1) shall be delivered using one of the following methods: a) mail bearing a United States postal service postmark, b) hand delivery, c) facsimile transmission, or d) electronic delivery. (**§ 275.53(2)**)
5. Within 10 days following filing of the dissolution proposal, the board sets a date for a hearing, which shall not be more than 60 days following filing of the dissolution proposal. (**§ 275.54(1)**)
6. The board will publish notice of the time, date, and location of the hearing at least 10 days prior to hearing. The notice shall include the content of the dissolution proposal. (**§ 275.54(1)**)
7. The board conducts a hearing, at which its president presides. A person residing or owning land in the district may present evidence at the hearing. (**§ 275.54(1)**)
8. The board reviews testimony from the hearing and adopts or amends and adopts the proposal. (**§ 275.54(1)**)
9. The board notifies the boards of contiguous districts to which territory is to be attached and the director of the Department of the contents of the dissolution proposal adopted by the board. The notification shall be delivered by one of the following methods: a) mail bearing a United States postal service postmark, b) hand delivery, c) facsimile transmission, or c) electronic delivery. (**§ 275.54(2)**)
10. Contiguous districts may object to the attachment of territory, in which case that portion of the dissolution proposal will not be included in the proposal voted upon. The director of the Department shall attach the territory to a contiguous school district. (**§ 275.54(3)**) The director has the authority to attach the territory to the district that had objected to the attachment.
11. Contiguous districts may object to the division of assets and liabilities. If so, the matter will be decided by a panel of disinterested arbitrators. The decision of the arbitrators shall be made in writing and filed with the secretary of the new corporation. The district may appeal the decision of the panel to district court by serving notice on the board secretary of the new corporation within 20 days after the decision is filed. (**§ 275.54(4)**)
12. If the dissolution proposal adopted provides that 95 percent or more of the taxable valuation of the dissolving district would be assumed and attached to one district, the dissolving school district shall stop further dissolution proceedings and shall comply with reorganization procedures. (**§ 275.54(5)**)
13. If not, the board will submit the proposition to the voters at the next election to be held on a date specified in section 39.2(4)(c). However, the date of the final hearing on the dissolution proposal must be not less than 30 nor more than 60 days before the election. The board shall give written notice of the election to the county commissioner of elections. (**§ 275.55(1) & (2)**)
14. County commissioner publishes notice of the election not less than four nor more than 20 days prior to the election. (**§ 275.55(2)**)
15. Proposition is adopted if approved by a majority of the electors voting. (**§275.55(3)**)
16. Attachment of the area is effective July 1 following approval. (**§275.55(4)**) *Since the election date could come after the deadline for terminating certified employees and the deadline for notifying the department of education in order to participate in reorganization incentives, and the deadline for certifying the budget, conditions caused by surpassing these deadlines must be taken into consideration.* The petition method of reorganization specifies the election must be held on or prior to the last allowable date for an election in the calendar year in order to be effective the following July 1. Otherwise, the reorganization is effecting one year later on July 1. (**§ 275.24**) This time frame eliminates problems caused by the two above mentioned deadlines.
17. The director of the Department attaches remaining land, if any. (**§275.54(3)**)
18. If the certified enrollment of the dissolving district is less than 600 students, the territory is eligible for a reduction in the foundation property tax levy, if approved by the director of the Department. If approved, the director of the Department will notify the director of the department of management. (**§ 275.55(4)**)

19. If the commission cannot agree on a dissolution proposal prior to the expiration of its term, the board may appoint a new commission. (**§ 275.53(3)**)

Summary of the maximum time schedule:

- a. Board appoints commission.
- b. Fifteen (15) days to organization meeting.
- c. One year for dissolution proposal.
- d. Sixty (60) days to hearing.
- e. Forty (40) days to election.

## Parties to Dissolution Process

### Board of Directors

- The role of the board of directors is generally limited to the beginning and ending of the process. Initially, the board may establish the commission.
- The board is required to appoint seven members, of which no more than three may be board members. The commission members must be eligible electors who reside in the school district. Further, members must be appointed from throughout the school district and represent the various socio-economic factors present in the school district. Members serve without compensation. The board has the authority and responsibility to fill vacancies that may occur on the commission.
- One final action required of the board in the initial stages of dissolution is that it must certify to the AEA that a commission has been formed. The certification must include the names and addresses of the commission members and a statement that the commission members represent the various geographic areas and socioeconomic factors present in the district. (**§ 275.51**)
- The board of directors, at this point, becomes relatively removed from the process. However, if prior to the expiration of the commission's one year term the commission informs the board that it cannot agree upon a dissolution proposal, the board may appoint a new commission. Members of the old commission may be appointed to the new commission. If the commission does not submit a proposal to the board within one year of its organization meeting, the commission's term is through. (**§ 275.51, § 275.53(3)**)
- The board, within ten days after receiving the dissolution proposal from the commission, shall fix a date for a hearing, which shall be no more than 60 days after the proposal was filed with the board. (**§ 275.54(1)**)
- The board shall publish notice of the hearing at least ten days prior to the date set for the hearing. The notice shall be published in one newspaper in general circulation in the district and must include the date, time, and location of the hearing and the content of the proposal. (**§ 275.54(1)**)
- The board president shall preside at the hearing, and the board shall review testimony from the hearing. The board shall then adopt or amend and adopt the dissolution proposal. (**§ 275.54(1)**) The Code does not provide for the board to dismiss the proposal.
- The board shall notify the boards of all districts to which territory will be attached and notify the director of Department. The notification shall be delivered using one of the following methods: a) mail bearing a United States postal service postmark, b) hand delivery, c) facsimile transmission, or d) electronic delivery. (**§ 275.54(2)**) If a board that was notified of possible attachment objects, that territory shall not be included in the proposal voted upon at the election. The director of the Department will attach the territory to a contiguous school district. (**§ 275.54(3)**) Note, the designation for school district is singular. The director can attach the territory to the district that filed the objection.

- The board shall call a special election to be held on a date specified in section 39.2(4)(c) and shall give written notice of the election to the county commissioner of elections.
- **(§ 275.55(1) & (2))**
- The proposition prepared by the board for submission to the voters shall describe each separate area to be attached to a contiguous school district and name the school district to which it will be attached. In addition, it may include a map in the summary of the ballot question. **(§ 275.55(1))**

In summary, the board's role is limited to setting up a commission and bringing the commission's proposal to the electorate for a vote. The board does not seem to have authority to dismiss a commission prior to one year unless the commission informs the board it cannot agree upon a proposal. A commission that presents a proposal serves until the date of the election on the proposal.

### **District Citizen**

The citizens of a district have authority to present a petition for dissolution to the board of directors. The petition must contain the names of the proposed members and be signed by twenty percent of the registered voters. **(§ 275.51)**

The citizens of a district where the board has appointed a dissolution commission have official access to the process at three points.

- a. The commission shall meet with residents of the affected school district to the extent possible in drawing up the dissolution proposal.
- b. A person residing or owning land in the school district may present evidence and arguments at the hearing. This gives the citizens access to the board prior to the time it adopts or amends and adopts the proposal.
- c. The citizens finally have control over the dissolution process in that at the election, a majority of the electors voting on the proposition must approve its adoption.

The commission is subject to Open Meeting Law (Iowa Code chapter 21) and Open Records Law (Iowa Code chapter 22) requirements.

### **Boards of Contiguous Districts**

The boards of contiguous districts become involved at the following points.

- a. At the beginning of the process the commission shall request statements from each contiguous school district that it is willing to accept attachments of the affected school district and under what conditions, if any, the contiguous school district recommends.
- b. The commission must meet with the boards of contiguous school districts.
- c. The commission shall send a copy of the dissolution proposal by registered mail to the boards of all districts to which territory of the affected school will be attached.
- d. A board mentioned in "c" above, may object in writing within 10 days following receipt of the proposal.
- e. If the commission modifies the proposal as a result of the objections, all districts to which attachments are to be made must be notified again by the commission.
- f. Upon conclusion of the hearing conducted by the board, the boards of districts to which territory will be attached shall be notified by the board of the affected district.
- g. If the board of a contiguous district that will have an attachment objects at this point, the territory in question will not be included in the proposal.

- h. The director of the Department has the authority and responsibility to attach any unattached area to a contiguous district. The Code puts no restrictions on the director other than by using the word "contiguous" and referring to district as singular.

### **Citizens of Contiguous Districts**

The Code is silent on the role of citizens of contiguous districts. It can be assumed that they have normal access to their own school boards as their boards are involved in the steps listed above.

### **Employees of Dissolved District**

Section 275.56 of the Code provides that boards of directors of adjacent districts give preference in hiring to both certified and non-certified employees of a dissolved district. This provision ceases if a district has been dissolved for one or more years. Applicants hired by adjacent districts under this section shall maintain their benefits and rights, such as vacation, salary or alternative placement on a salary schedule based on years of experience, sick leave, and completion of probationary status.

### **County Commissioner of Elections**

The county commissioner of elections shall be given written notice of the election by the board. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which the previous notice about the hearing was published, which publication shall not be less than four (4) nor more than twenty (20) days prior to the election. (**§ 275.55(2)**)

### **Area Education Agency**

Other than providing that the dissolution commission may seek assistance from the AEA, the only mention of the AEA in the dissolution process is that the local school board must:

- a. certify to the AEA that a dissolution commission has been formed;
- b. provide the names and addresses of the commission members; and
- c. certify that the commission members represent the various geographic areas and socio-economic factors present in the district.

However, the Code grants authority to the dissolution commission to seek assistance from the AEA. (**§ 275.52**) In addition, the AEA if requested by the Department will have the responsibility for preparing and certifying the final certified annual financial report (CAR) for the district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (**25 D.o.E. App. Dec. 139**)

With the petition method of reorganization, the AEA has a large amount of authority and responsibility expressly assigned by Code; however, this is not true with the dissolution method. If a district is dissolved, the AEA must consider that section 275.1 requires it to revise reorganization plans periodically to reflect reorganizations [and dissolutions or mergers] that have taken place in the AEA and adjacent territory.

## **Department of Education and State Board of Education**

Other than providing that the dissolution commission may seek assistance from the Department, the only mention of the Department in the dissolution process is that:

- a. The board of directors of the local school must notify the director of the Department of the dissolution proposal adopted by the local board.
- b. The director of the Department shall attach any area that was not included in the dissolution proposal to a contiguous school district.

## **Notice of Boundary Change**

After an election to reorganize, to dissolve or concurrent action on any boundary change, the board secretary shall file a written description of the new boundaries with the county auditor in each county in which any portion of the school district lies. (§ 274.4, § 275.22)

## **Challenge to Boundary Change**

No action shall be brought questioning the legality of the reorganization, enlargement, or change in the boundaries of any school district unless brought within six months after the date of the filing of the written description in the office of the county auditor. When the period of limitations (6 months) has passed, it shall be conclusively presumed that all acts and proceedings taken regarding the reorganization, enlargement, or change in boundaries were legally taken for every purpose whatsoever and that a de jure school district exists. (§ 274.5)

## **Changes in Director District Boundaries**

If territory from a dissolved district is attached to a district that is divided into director districts, the district receiving the attachment must draft a proposal to incorporate the attached territory into existing contiguous director districts. A public hearing on the proposal shall be held no later than May 15 following the dissolution. Notice of the public hearing must be published no less than 10 nor more than 20 days before the hearing. The final plan must be adopted by board resolution and a copy filed with the county commissioners of elections in each county in which a portion of the district is located. Also, a copy must be filed with the state commissioner of elections no later than June 15. The boundary changes shall take effect when approved by the state commissioner for the next regular school election, but no later than July 1. (§ 275.57)

## **Guidelines for Dissolution Commission**

A dissolution commission is an official body appointed by a local board of directors in accordance to section 275.51. For a detailed review of the entire dissolution process, refer to sections 275.51 through 275.57.

## **Selection of Commission**

The school board has discretionary authority to appoint a seven-member commission. The legal restrictions concerning the make-up of the commission are as follows.

- The commission shall be representative of the various geographic areas and socioeconomic factors present in the district.
- Members must be eligible electors who reside in the district.
- The commission shall contain no more than three board members, but may contain less.

- The board appoints individuals to fill commission vacancies.
- Members shall serve without compensation. As with school board members, compensation is taken to mean pay for services rendered. This would not seem to preclude the school board from reimbursing commission members for actual expenses incurred.
- The term of office ends with a report to the board that no dissolution proposal can be approved, or on the date of the election on the dissolution proposal. However, the members can be appointed to a subsequent commission.

If a dissolution proposal has been presented by eligible electors residing in the district, the school board must establish a commission; it is not discretionary in this situation. The proposal must include the names of the proposed commission members.

### **Initial Work of Commission**

Section 275.2 of the Code of Iowa provides for procedures that are to be taken by the commission prior to the time it makes a proposal.

1. The commission shall hold an organizational meeting not more than fifteen (15) days after its appointment. This section does not specify who should call the meeting; however, it would seem to be a responsibility of the school board.
2. At the organizational meeting, the commission shall elect a chairperson and vice chairperson from its membership.
3. After the organizational meeting, the commission may meet as often as deemed necessary upon the call of the chairperson or a majority of the commission members.
4. The Code does not require that the following steps have to be done in any specific order, but they appear in the order listed:
  - a. Request statements from contiguous school districts outlining each district's willingness to accept attachments of the affected school district to the contiguous districts and what conditions, if any, the contiguous school district recommends.
  - b. Meet with boards of contiguous districts.
  - c. Meet with residents of the affected district.
  - d. Seek assistance, if needed, from the AEA and the department of education.

### **Contents of Proposal**

The Code requires the following to be contained in the dissolution proposal.

1. The proposal shall provide for the attachment of all territory of the school district to contiguous districts. Although the final version approved by the board may eliminate territory from the proposal, this does not grant the ability to the commission to set aside any area.
2. The description of the proposal as outlined in section 275.51 does not state that the proposal must describe each separate area to be attached; however, section 275.55 does require what would be a legal description of territory to be on the ballot.
3. The proposal must include a provision for the division of assets and liabilities.

### **Submission of Proposal**

The commission has one year from its organization date to submit the proposal to the school board. **(§ 275.53(1))** If this is not done, the commission's term expires. If prior to one year the commission concludes that it cannot agree upon a proposal, it may so inform the board and its term expires. If the

commission cannot agree upon a dissolution proposal prior to the one year expiration, the board may appoint a new commission. (§ 275.53(3))

Following are steps to be taken when submitting the proposal to the board on or before the one year deadline:

1. Send a copy of the proposal to the board.
2. Send a copy of the proposal to the boards of all schools to which territory will be attached by mail bearing a United States postal service postmark, hand delivery, facsimile transmission, or electronic delivery.
3. These boards of contiguous districts have ten (10) days from receipt of the proposal to object in writing to the commission.
4. If there are objections, the commission may modify the proposal. However, the commission is not required to modify it.
5. If the proposal is modified, the boards to which territory is to be attached must again be notified using one of the methods listed in item 2 above. There are no further provisions for the boards of contiguous districts to object to the commission, although they may at a later date object to the commission's school board.
6. The Code does not specify that the board must be notified if there are modifications; however, it would seem logical for the commission to do so.
7. At this point, responsibility shifts to the school board.

### **Suggestions for the Dissolution Commission**

Although the sections of the Code are reasonably prescriptive, the commission is on its own and will have to make decisions about its own conduct. Included below are a few suggestions that might help to make the process easier.

- Set dates, times, and places for regular meetings (e.g., the first and third Tuesday of each month, or any regular system).
- Keep open the provision for special meetings.
- Appoint members to special jobs in addition to chairperson and vice-chairperson. A recording secretary would be helpful.
- Review and adhere to the Open Meeting Law (Iowa Code chapter 21) and Open Records Law (Iowa Code chapter 22) requirements as they apply to the commission.
- Contact the school board to arrange for the commission's use of the school attorney.
- Commission members are to serve without compensation; however, the commission may make an arrangement with the school board for reimbursement of actual expenses incurred.
- Make an agreement with the school board for use of facilities, use of secretarial employees, access to specified district records, and access to the district mailing system.
- Although it is not necessary, consider using the school appointed attorney to draft communications required by Code, such as notification to contiguous boards. As noted previously, make sure the commission has authorization to use the school attorney.
- Set a time frame for specific activities. For example, specify how often and by when the commission will meet with boards of contiguous districts.
- The Code does not specifically seem to require that the commission hold more than one meeting each with boards of contiguous districts, but it would be prudent to assume that the "to the extent possible" phrase is applicable.
- The Code does require the commission to meet with citizens from its district "to the extent possible". A suggestion is to provide the citizens with:
  - ample opportunity to express opinions at commission meetings;
  - opportunity to speak at the regular and special commission meetings; and

- opportunity to meet with the commission at meetings called for specific purposes.
- Although the Code does not require contact with the school board until the proposal is ready, it would be worth the commission's time to periodically brief the board on its progress.

## **Post-Dissolution Activities**

### **Enrollment of Students from a Dissolved District**

A resident student who was enrolled in grade ninth through eleventh during the school year preceding the effective date of the dissolution may enroll in a school district to which territory of the dissolved school district was attached until that student graduates from high school (unless the student was expelled or suspended and the conditions of that expulsion or suspension have not been met). The district of residence of the student, determined in the dissolution proposal, shall pay tuition to the district selected by the student (not to exceed the district cost per pupil of the district of residence), and the district selected by the student shall accept that tuition payment and enroll the student. (§ 275.55A)

### **Athletic Eligibility/Open Enrollment**

Resident students of a dissolving district are immediately eligible to participate in athletics following the dissolution. The service arrangement (e.g., attending resident district, tuitioned out, open enrolled out) of a resident student in a dissolving district during the year of dissolution will not affect eligibility in the year subsequent to dissolution. Iowa Code section 282.18 defines athletic eligibility due to a student using open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts.

### **Notification of County**

After an election that changes school boundaries, or any action that changes school boundaries, sections 274.4 and 275.22 of the Code require the board secretary of the local district, or newly reorganized school district in the case of a reorganization, to notify the auditor of each county in which any portion of the school corporation lies. These sections specify that the notice shall be a written description of the new boundaries.

### **Challenge to Boundary Change**

No action shall be brought questioning the legality of the organization, reorganization, enlargement or change in the boundaries of any school district unless brought within six months after the date of the filing of the written description in the office of the county auditor. When the period of limitations (6 months) has passed, it shall be conclusively presumed that all acts and proceedings taken regarding the organization, reorganization, enlargement or change in boundaries were legally taken for every purpose whatsoever and that a de jure school district exists. (§ 274.5)

### **Sick Leave**

Cumulation of sick leave under section 279.40 for public school employees shall not be affected or terminated due to organization/reorganization or dissolution of a school district which includes all or the portion of the district which employed the employee for the school year previous to the organization/reorganization or dissolution, if the employee is employed by one of the school districts for the first school year following its organization/reorganization or the dissolution. (§ 279.40(3))



### **Hiring Preference**

If the enrollment of a district increases or is expected to increase because an adjacent district has dissolved or is expected to dissolve, the board of directors of the school district shall determine whether there is a need to hire additional licensed or unlicensed employees. If the board of directors determines that there is a need to hire additional employees, the board shall determine the nature and number of the necessary new positions. Individuals who were employees of the dissolved district may apply for the new positions. The board shall hire those applicants who were employees of the dissolved district whenever the applicant is licensed for the new position or, in the case of unlicensed personnel, is otherwise qualified. If two employees of the dissolved district apply for a single licensed position, the applicant who is the best qualified in the opinion of the board shall be hired.

The board is not required to hire applicants who were employees of the dissolved district if the district has been dissolved for one or more school years. Applicants who are reemployed under this section shall maintain in the reemploying district vacation, salary or alternatively placement on a salary schedule based on the employee's years of experience, sick leave, and completion of probationary status as defined by section 279.19. (**§ 275.56**)

### **Changes to Director District Boundaries**

If a school district receiving attachments of territory from a dissolved district is divided into director districts, the board shall draft a proposal to incorporate the newly received territory into one or more existing contiguous director districts or shall redraw the boundaries of all director districts. A public hearing on the proposed changes shall be held no later than May 15 following the dissolution. The board shall publish a notice of the time and place of the public hearing no less than 10 nor more than 20 days before the hearing. The final plan shall be adopted by board resolution, and shall be filed with the county commissioners of election in each county in which a portion of the district is located. The resolution shall also be filed with the state commissioner of elections no later than June 15. The boundary changes shall take effect upon the approval by the state commissioner for the next regular school election, but no later than July 1. (**§ 275.57**)

## **Part III: Finance in Reorganization by Dissolution Method**

School district reorganization involves complex financial conditions and presents school officials with difficult decisions. This section summarizes the financial activities concerned with reorganization by dissolution method. This document is designed primarily for use by school officials, and others who have knowledge of school finances. However, considering that others may have need for some of the information, a few of the basic elements of the Iowa school finance law are briefly explained.

This section is not intended to be a full explanation of school finances, but is expected to develop the connections between reorganization and school finance. In order to do this, this section begins with a review of the state foundation formula as it relates to school reorganization, in a general manner. This is followed by sections that are more specific and summarize the finances of whole grade sharing, and of reorganization and dissolution.

### **Finance Formula Basics**

#### **Student Count - Budget Enrollment (Certified Enrollment, from Prior Year)**

The major portion of school district funding is pupil generated. In other words, the number of pupils is multiplied by a legislatively-set per pupil cost. When districts reorganize, the pupils are added together to form a new base.

Pupils residing in territory that is a party to reorganization are financially assigned to the contiguous district to which their territory was assigned. Reorganization does not change the characteristics of the annual headcount. In general, the controlled budgets of school districts are based upon October 1 headcounts.

For this purpose, after the affirmative election for a dissolution, the board must identify those students living in territory attached due to the dissolution. The district must report the distribution of its certified enrollment and county of residence, special education headcount, and supplementary weightings on or before January 1 to the Iowa Department of Management (DOM). Actual enrollment within the territory will be used to allocate budget enrollment, special education weighting, supplementary and limited English proficiency (LEP) weighting.

#### **Student Count – BEDS and Free and Reduced Price Lunch Counts from Prior Year**

The board will also distribute the Basic Educational Data Survey (BEDS) enrollment for kindergarten through third grade, and the October 1 free and reduced count for first through third grade, by district and report to the Department. K-3 BEDS enrollment and 1-3 grade free and reduced price lunch counts will be used to allocate the subsequent year's early intervention block grant allocation to the districts receiving students from the dissolved district's territory.

#### **Balances**

When districts reorganize, the financial balances for each individual and categorical fund from each affected district are combined. However, no fund can be added to another fund, nor can any categorical funding be commingled with other categorical funding. If territory is severed, Iowa Code chapter 275, sections 28-31 provide for the division of assets and liabilities.

In a dissolution, the fund balances are assets which are distributed. The unspent balance is not an asset or liability, so ceases to exist on the effective date of the dissolution. The following items are not distributed in a dissolution:

- Unspent budget authority balance
- Special education excess positive balances
- Special education negative balances
- Budget guarantee

A school board has no authority to distribute to the taxpayers on a pro rata basis [or any other basis] the surplus in the General Fund when the school district goes out of existence (**OAG #59-7-23**).

### **AEA Assigned**

School districts created or enlarged under chapter 275 are community school districts and are part of the AEA in which the greatest number of registered voters of the district reside at the time of the special election called for in section 275.18. (**§ 275.27**)

### **Community College Service Area**

The community colleges have a general agreement that for a newly reorganized district that includes more than one community college's service area, the community college for the district will be the one in which the high school is located.

### **Taxes and Assessed Valuation**

Of the financial elements reviewed in this chapter, taxes have the most impact on reorganization. The pupil counts, controlled budget, and balances are basically combinations of the individual districts. The revenue and expenditure patterns usually assume the more efficient aspects of larger districts. All of these may or may not be important to the citizens. However, tax rates generally are important to the citizens.

#### **Regular portion of General Fund**

This portion of a school tax is a combination of the individual districts. Generally, the two districts move toward the average. However, forces within the legislated formula tend to pull the tax rate lower than the averaged calculations.

#### **Levies optional to the electorate**

1. The bond (debt service) levy may be spread over the new district or may remain with the territory of the original district in which it was voted. (**§ 76.2(1)(a), § 275.29**) Excluded territory that is attached to another school district will pay the levies of the district to which it is attached.
2. The public education and recreation levy (PERL) (playground levy) continues if all former districts have the levy in place. Otherwise, the levy ceases. (**§ 300.2**)
3. The voter-approved physical plant and equipment levy (VPPEL) remains in effect if all districts involved have the levy. If it remains, it is for the least rate authorized and for the least amount of time left. This also applies to the lowest rate of income surtax. (**§ 298.2(5)**) However, VPPEL must continue if there is a debt obligation until the debt is fully paid and is treated in the same way as debt service in determining which territory shall pay the tax. (**§ 297.36**)
4. The instructional support program levy remains in effect if all districts involved have the levy. If it remains, it is for the least rate/amount authorized and for the least amount of time left. (**§ 257.18(3)**) This also applies to the lowest percent of income surtax.

5. Local option tax ballot uses/revenue purpose statement: If the districts reorganize, the revenue purpose statement to apply should be addressed in the reorganization plan or the newly reorganized district should hold a change in use election. In the case of a dissolution, the revenues and balances from the former territory will be expended according to the ballot uses/revenue purpose statement of the district to which the territory is attached. The district to which the territory is attached may hold a change in use election to change its revenue purpose statement.

#### Levies optional to the boards

The cash reserve, management, and regular PPEL levies are all options to the new board as they were to the old boards.

### **Accounting in a Dissolution**

In an agency fund, multiple LEAs have pooled moneys from the dissolved district and one of the affected LEAs administers the funds and coordinates and executes the financial transactions necessary to complete the division of assets and distribution of liabilities.

Where the LEA serves as a cash conduit (fiscal agent), the assets and liabilities should be reported in an agency fund with only the fiscal agent's own portion of the assets and liabilities reported in the appropriate fund of the district.

In the case of a dissolution, fund balances received from the former district are recorded as revenues in the correct fund, and with the correct categorical project code, if applicable.

#### **Accounting by the fiscal agent**

- The entire amount of remaining assets and liabilities are receipted into the agency fund, keeping each distinct original fund or categorical funding separate using project coding.
- That school district's own portion is disbursed from the agency fund to the fund that is the same fund as in the original district. The fiscal agent will use the source and project codes as defined in [Uniform Financial Accounting](#).
- The fiscal agent's own district share of expenditures is recorded in the same fund where the revenue was deposited. The fiscal agent will use the project code as defined in Uniform Financial Accounting for that transaction.
- As disbursements are made, the disbursements on behalf of the other districts are accounted for in the agency fund. These disbursements should be recorded using some additional coding to indicate each district's share so that each district can record its share in its own accounting records.

#### **Accounting by the other affected districts**

In the case of a district that is receiving territory from a dissolved or reorganizing district, it is customary to not estimate changes for the budget for that attachment or division of assets and liabilities, other than for the payment of bonded indebtedness if any. After the division and distribution is known after the effective date of the reorganization or dissolution, the district receiving a distribution may amend its certified budget.

- The district will record as revenue in the same fund as the money was in the original district, its share of the assets and liabilities when received by the fiscal agent. The district will use the project code as defined in Uniform Financial Accounting for any categorical funding.

- The cash account used will be “Cash Held by Fiscal Agent” since the district did not receive the cash for this account.
- If the district pays any of its own share of the expenditures and then is reimbursed from the fiscal agent, the district will record its expenditures in the appropriate fund as they occur.
- If the fiscal agent handles all of the disbursements to vendors and employees directly, then prepares an accounting to each affected district, the affected district will record its share of these expenditures monthly.
- If at the end of the fiscal year, the entire amount of the assets and liabilities have not been distributed, the balance remaining with the fiscal agent will be reported in the cash account “Cash Held by Fiscal Agent” and as “Deferred Revenue” by the affected districts.
- The agency fund is not a budgeted fund, but will be included in the audit of the fiscal agent school district.

### **Use of Public Funds**

The board shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue. This law shall not be construed to limit the freedom of speech of the board officials or to prohibit the board from expressing an opinion on a ballot issue through the passage of a resolution or proclamation. (**§ 68A.505**)

### **Final Filings**

The district that is dissolved will file its final CAR, final annual audit, and final transportation report. It will also file all claims pertaining to the school year just ended such as foster care claims, nonpublic transportation claims, and special education claims for foster care or district court placed. It is customary to retain the board secretary of the former district to close the summer activity, such as filing the reports, paying summer payroll and payroll deposits and reports,. However, the AEA if requested by the Department will be responsible for preparing and certifying the final CAR for the district that was merged at no charge to the merged district or to districts receiving territory and to ensure that a final audit is conducted. (**25 D.o.E. App. Dec. 139**)

An audit is required of a district that is merged; however, it need not be a full audit. The Auditor of the State of Iowa agreed that the agency, pursuant to Iowa Code section 11.6, is the appropriate entity to review the finances of the merged district and to prepare a final reconciliation of all funds of the former district in lieu of a full audit. While it is necessary that the exact status of all school funds of the merged district be known, the auditor need not make statements about irregularities or other matters generally covered in a traditional audit. (**25 D.o.E. App. Dec. 139**)

### **Unemployment Claims**

When a district ceases to exist as a school corporation in the case of an involuntary merger, its status as an employer also ceases to exist. Unlike a reorganization action pursuant to Iowa Code chapter 275, there is no successor school corporation to an involuntarily merged district. While the territory of the dissolved district will be attached to one or more contiguous districts, none of those districts has a statutory obligation to employ any of the former employees of the dissolved district and the outstanding unemployment claims are not the responsibility of any of these districts. Because no educational agency is responsible for these outstanding unemployment claims, Iowa Workforce Development (IWD) shall determine how these claims are to be honored. (**25 D.o.E. App. Dec. 139**)

## **COBRA**

When a district ceases to exist as a school corporation in the case of a dissolution, its group plan also ceases to exist. Therefore, there is no group plan that former employees may continue under COBRA.

## **Permanent Records**

The student permanent records will follow the students. In the case of a dissolution, the dissolved district's permanent records will become a part of the permanent records of the district receiving the largest territory.

## **Disposition of Property**

Property is an asset that is included in the distribution of assets and the division of liabilities. Boards should not dispose of any property prior to the reorganization or dissolution unless that property is unused for school purposes.

Proceeds from the sale or disposition of real or other property shall be deposited into the fund which was used to account for the acquisition of the property. If the district is unable to determine which fund was used to account for the acquisition of the property or if the fund no longer exists in the district, the proceeds from the sale or disposition of real property shall be placed in the physical plant and equipment levy fund, and the proceeds from the sale or disposition of property other than real property shall be placed in the general fund. **(§ 297.22)**

If the real property contains less than two acres, is located outside of a city, is not adjacent to a city, and was previously used as a schoolhouse site, the property shall revert to the then owner of the tract from which the same was taken, provided that the owner of the tract shall pay the value of the tract to the district. **(§ 297.15)** If the owner of the tract from which the site was taken fails to pay the amount to the district, the district may sell the site to any other person at the appraised value or may sell the site at public sale to the highest bidder. **(§ 297.19)**

Before the board can sell or dispose of any property belonging to the district, the board shall hold a public hearing on the proposal. The board shall set forth its proposal in a resolution and shall publish notice of the public hearing. However, property having a value of not more than \$5,000, other than real property, may be sold or disposed of by any procedures adopted by the board. Each such sale shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the district and any other disposition shall be published by at least one insertion in a newspaper having general distribution in the district. **(§ 297.22(1)(c) & (d), as amended by 2014 Iowa Acts, Chapter 1013 (SF2230))**

The board may sell, exchange, give, or grant any interest in real property to a county, municipal corporation, township, or AEA if the real property is within the jurisdiction of both the grantor and grantee. This option is only available for real property. **(§297.22(2))** The board shall not give any boot (cash) or district assets with any real property.

To the extent that liabilities may exceed assets of a district that was merged, outstanding debts become the shared responsibilities of the districts receiving territory. Absent unanimous agreement of those districts to the contrary, the allocation of the debts shall be identical to the allocation of the net taxable value of the territory each received. The district receiving the largest share of the allocation, unless the

districts unanimously agree to the contrary, shall act as fiscal agent for purposes of billing the other districts receiving territory for their shares of outstanding debts and making payments to the merged district's creditors. Outstanding income surtaxes receivable shall be allocated in the same manner. **(25 D.o.E. App. Dec. 139)**

### **Requests to School Budget Review Committee**

The School Budget Review Committee (SBRC) may authorize a district to spend a reasonable and specified amount of its General Fund balance (called the unexpended fund balance) for costs associated with the demolition of an unused school building, or conversion of an unused school building for community use, in a district involved in a dissolution or reorganization if the costs are incurred within 3 years of the dissolution or reorganization.

**(§ 257.31(7)(a))**

In addition, the SBRC may approve modified allowable growth for removal, management, or abatement of environmental hazards due to a state or federal requirement. Environmental hazards shall include but are not limited to the presence of asbestos, radon, or the presence of any other hazardous material dangerous to health and safety. **(§ 257.31(6))**

In the case of a district receiving an unused school building from a merged district, if the receiving board deems it advisable to demolish one or more buildings formerly owned by the merged district, the costs of demolition and related expenses such as asbestos removal can be recovered by use of an equalization levy. Demolition and related expenses reasonably may be contemplated at the time of acquisition of the buildings in question, and therefore costs could reasonably be included in the equalization levy.

**(25 D.o.E. App. Dec. 139)**

In the event that the former district, in the case of a dissolution, did not have sufficient assets to cover all of its liabilities in the general fund, the districts receiving territory may make a request for modified allowable growth of the SBRC under unusual or unique circumstances. **(§ 257.31(5)(I))**

### **Dissolution versus Reorganization**

Dissolution proposals must contain a provision for the division of assets and liabilities. Other than that, the territories of the dissolving district assume the financial characteristics of the receiving districts.

### **Use of Public Funds**

The board shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue. This law shall not be construed to limit the freedom of speech of the board officials or to prohibit the board from expressing an opinion on a ballot issue through the passage of a resolution or proclamation. **(§ 68A.505)**

In the case of a dissolution, fund balances received from the former district are recorded as revenues in the correct fund, and with the correct categorical project code, if applicable. In the case of a reorganization, fund balances from all of the former districts are entered as adjustments to beginning fund balance at the end of the year in the first year of the reorganization.

In the case of a district that is not a party to a reorganization, but is receiving territory from a dissolved or reorganizing district, it is customary to not estimate changes for the budget for that attachment or division of assets and liabilities, other than for the payment of bonded indebtedness if any. After the division and

distribution is known after the effective date of the reorganization or dissolution, the district receiving a distribution may amend its certified budget.

### **Equalization Levy**

If necessary to equalize the division and distribution, the board or boards may provide for the levy of additional taxes. The Department of Management shall notify the county auditor of each applicable county of the amount of the property tax levy in each portion of each applicable newly formed school district in the county for the amount estimated and certified, and the boundaries of the portions within the newly formed district for which the levy shall be made. The county auditor shall spread the applicable property tax levy for each portion of a school district over all taxable property in that portion of the district.

**(§ 275.31)** The equalization levy may be implemented following a dissolution, reorganization, or merger (involuntary dissolution). There are two possible situations that justify use of the equalization levy: (a) when assets cannot otherwise be equitably distributed among recipient districts (e.g., districts receiving buildings, cash, and/or other assets of a dissolving district), or (b) when a dissolving district's liabilities exceed its assets, and a mechanism is needed to collect revenue from the dissolved district to balance assets and liabilities. To utilize the equalization levy, the board shall include the levy in its budget certified April 15 following the effective date of the dissolution or merger. **(OAG, July 21, 1955)**

Any district that receives liabilities or assets of the merged district may take advantage of the equalization levy to achieve equalized division and distribution, but the levy may be imposed solely against the property of the historical dissolved district located within the levying board's district. A levying board may take action to implement the equalization levy for just one school year at a time, but the board may vote to re-impose the levy more than once. That is, if the initial year of implementation of an equalization levy does not provide sufficient relief from the imbalance, the levying board may vote to impose the levy for the following school year also, etc. The district board that votes to implement the equalization levy, regardless of the number of times deemed necessary by that board to do so, defends any taxpayer protest. The expenses of defending against any protest, including legal fees, are not a liability attributable to the merger. These expenses do not constitute a liability attributable to the merger because a determination to implement the equalization levy cannot be known with any degree of reasonable certainty at the time of the merger, and certainly whether a taxpayer will file a protest is not knowable. **(25 D.o.E. App. Dec. 139)** If one or more of the contiguous school districts receiving assets and liabilities of the deaccredited school district utilizes the equalization levy, only that territory in the school district imposing the equalization levy that comprises territory of the deaccredited school district shall be taxed. **(§ 256.11(12)(a)(1))**

In the case of a district receiving an unused school building from a merged district, if the receiving board deems it advisable to demolish one or more buildings formerly owned by the merged district, the costs of demolition and related expenses such as asbestos removal can be recovered by use of an equalization levy. Demolition and related expenses reasonably may be contemplated at the time of acquisition of the buildings in question, and therefore costs could reasonably be included in the equalization levy. **(25 D.o.E. App. Dec. 139)**

If a district levies for the equalization levy, the district shall deposit the tax revenues into the equalization levy fund. Once the levy has been received, the district shall transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied. The equalization levy fund is limited to transfers to other funds, in the same proportion, for which equalization was necessary and for which the taxes were levied. Any other use or any other transfer would be inappropriate. **(281 IAC 98.112)**