

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

COLORADO STATE CAPITOL
200 EAST COLFAX AVENUE SUITE 091
DENVER, COLORADO 80203-1716

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

MEMORANDUM

TO: Interested Persons

FROM: Office of Legislative Legal Services

DATE: January 27, 2017

SUBJECT: Overview of statutory process for reorganizing school district boundaries¹

This memorandum provides a brief overview of the process by which one or more school districts may change their geographical boundaries. The process is found in the "School District Organization Act of 1992", article 30 of title 22, C.R.S.

1. Triggers to activate a school district organization planning process - § 22-30-105, C.R.S.

If one or more school districts want to change their geographic boundaries, the process must begin with the appointment of a school organization planning committee (SOPC). There are three circumstances that will trigger appointment of an SOPC:

- One or more Colorado school district boards of education request the appointment of an SOPC. The board of education of each affected district must submit a separate resolution to the Colorado Commissioner of Education (Commissioner).
- A petition committee² submits to the Commissioner and the county clerk and recorder of each county in which the headquarters of an affected school district

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² A petition committee is a group of at least three but not more than five persons who are not members of the same family and who represent the signors of a petition for the study of school organization in a school district. See § 22-30-103 (10), C.R.S.

is located a petition that requests appointment of an SOPC. If only one school district is involved, the petition must be signed by 15% of the district's eligible electors. If the petition involves multiple school districts, the petition must be signed by 15% of the eligible electors in each involved school district, with two exceptions:

- If a petition requests consideration of a detachment and annexation (taking area away from one district and attaching it to another district), the petition must be signed by at least 25% of the eligible electors who reside in the area to be detached and annexed; and
- If an affected school district enrolls more than 30,000 students, the petition must be signed by at least five percent of the eligible electors in the school district.
- The Colorado State Board of Education declares that a school district is no longer accredited or directs a school board to reorganize the school district. The declaration or direction must state which school districts are involved in the organization study.

2. Appointment of SOPC - § 22-30-106, C.R.S.

Once one of the triggering events occurs, the Commissioner notifies the school district boards of education and the school district accountability committees of the affected school districts that they are required to appoint an SOPC.

If a single school district is affected, the school district board of education appoints four members and the school district accountability committee appoints three members. If multiple school districts are affected, each board of education appoints two members, and each school district accountability committee appoints one member.

In either case, each member appointed by a school district accountability committee must be a parent of a child who attends a public school in the affected area. If there are multiple school districts involved, the persons appointed by the school district accountability committee must also be members of school accountability committees. If there are no schools in the affected area, the parent members must reside in the affected area, and their children must attend schools in the affected districts. If there aren't enough parents residing in the affected area to fill the district accountability committee appointments, the appointed persons must own land in the affected area.

In addition, if the school organization planning process was triggered by a petition, the SOPC must include two persons appointed by the petition committee.

There is one exception to the appointment process just described: If the reorganization involves a detachment and annexation and the portion to be detached and annexed has

five or fewer eligible electors, the school district boards of education of the affected school districts serve as the SOPC.

3. Operation of the SOPC

The main duties of the SOPC are to study the proposed reorganization of the affected school districts, including studying the public school systems within the affected districts; create and hold at least one public meeting on a plan of organization; and call for elections to vote on the final approved plan of organization. If the voters approve the final plan, then the SOPC calls for an election to address fiscal matters and, if the plan created a new school district, an election of new board members. The SOPC can combine the election for approval of the final plan and the election to address fiscal matters into a single election.

The SOPC must file with the Commissioner and the county clerk and recorders of the affected counties a map and legal description that describes the new school district or the changes to the school districts that participate in the detachment and annexation of territory.

In studying and creating the plan of organization, the SOPC must cooperate with the affected school district boards of education, the Colorado State Board of Education, and the Commissioner. The SOPC must give public notice of the place and time of its meetings, and all of the meetings must be open to the public. The SOPC is also required to provide information to the public concerning the purpose and benefits of the plan of organization.

4. Plan of organization

4.1. Contents of the plan of organization - § 22-30-114, C.R.S.

A plan of organization must:

Consider the educational needs of pupils in the affected school districts;

Provide diverse education opportunities for students;

Equalize the educational opportunities provided to students in the affected school districts;

For a school district that loses its accreditation, implement any actions required by the Colorado State Board of Education to improve performance and take into account the reasons for which the district was previously unable to improve performance;

Address the use of facilities;

Establish by legal description the geographic boundaries for all existing or new school districts included in the plan;

Provide for the equitable adjustment and distribution of the properties and cash assets of the affected school districts. The SOPC may also include in the plan the equitable adjustment of district liabilities, other than bonded indebtedness.

Provide a specific plan of representation for the members of the board of education for a new school district;

Specify dates for special school district elections to address adoption of the final plan of organization, election of the board of directors if the plan creates a new school district, and financial issues, if necessary, which may include an increase in the mill levy;

Specify the estimated maximum increase in the mill levy if the plan creates a new school district. If the plan results in a detachment and annexation, the plan must specify the mill levy of the annexing district that will apply to the affected territory.

If the plan of organization creates a new school district, identify a source of operating funds that the new district can use before it begins receiving the state share of total program funding on July 1 of the new district's first budget year;

If the plan of organization dissolves a school district that has outstanding bonded indebtedness, identify a new school district, which must include at least a portion of the dissolved district, as a successor for paying the bonded indebtedness obligations; and

Ensure that the newly established school district boundaries do not create any portion of a district that is not contiguous to the remainder of the district.

In addition, if the plan of organization creates one or more new school districts within the boundaries of an existing school district, the plan may authorize the existing school district and the new districts to enter into a revenue-sharing agreement or may allow for creation of a joint taxation district.

4.2. Approval of the plan of organization - §§ 22-30-115 through 22-30-120, C.R.S.

Once the SOPC tentatively agrees on the plan of organization, it must file with the Commissioner and each affected school district board of education a copy of the plan with an attached map and legal description of the affected districts. The SOPC must hold at least one public meeting, and more if necessary, to provide residents of the

affected area information and details of the plan being considered. Interested persons may appear and comment on the plan at the meetings.

After the hearings, the SOPC may make changes to the plan before formally approving the plan within 60 days after the last public hearing. After formal approval, the SOPC must submit the plan, with the map, to the Commissioner. The Commissioner must either approve the plan as submitted or return the plan with suggested changes. The SOPC and the Commissioner must work together to finalize a mutually acceptable final plan of organization within 120 days after the last public meeting.

Next, the SOPC must call for a special school district organization election for eligible electors in each affected school district to vote on adopting or rejecting the final plan. The affected school districts split the cost of the election based on population. If the final plan requires an increase in the mill levy for any property that's affected by the final plan, the question of whether to raise the mill levy must be submitted to the voters in the affected territory before or at the election on the final plan. Implementing the final plan is conditional upon approval of the increased mill levy.

Before the election, the SOPC must meet with the voters in each area affected by the final plan to explain the plan's provisions. If the majority vote in each affected school district is to adopt the final plan and any required increases in the mill levy, the county clerk and recorder in each county in which the election was held will send to the Commissioner a map and legal description of either the new school district, with the new name and number, or the boundary changes of the existing school districts. The new school district becomes a body corporate with the full powers of a school district, or the boundary changes take effect, on the date specified in the final plan, but not before the vote is certified.

4.3. Rejection of the plan of organization - § 22-30-121, C.R.S.

A final plan of organization is considered to be rejected if:

- The majority vote in any affected school district is to reject the plan; or
- A majority of the voters who live in an area that would be subject to a mill levy increase do not approve the increase.

If the final plan involves fewer than three existing school districts, and the final plan is rejected, the SOPC is dissolved. If the final plan involves three or more existing school districts, and the final plan is rejected, the SOPC members who were appointed by the school districts that approved the final plan may continue as a committee and prepare a new plan that involves only those districts that approved the final plan.

5. After the final plan of organization is adopted

The "School District Organization Act of 1992" also addresses the election of a school district board of education for a newly created school district,³ the manner in which the assets of an old school district are apportioned to a new school district or divided among school districts,⁴ and the process for apportioning the liability for existing bonded indebtedness and incurring new bonded indebtedness.⁵

If you have questions or would like more information on the process for reorganizing school districts, please contact Brita Darling at (303) 866-2241 (Brita.Darling@state.co.us) or Julie Pelegrin at (303) 866-2700 (Julie.Pelegrin@state.co.us)

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³ See § 22-30-122, C.R.S.

⁴ See § 22-30-123, C.R.S.

⁵ See §§ 22-30-124 through 22-30-127, C.R.S.