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Detachment and Annexation Procedures

Article 7 of the School Code of Illinois charges the Regional Board of School Trustees with primary responsibility for deciding issues of school district reorganization. This includes accepting or rejecting proposals for school district boundary changes – annexations and detachments, consolidations, divisions, and dissolutions. The Regional Board is a popularly elected body consisting of seven members, not fewer than two of whom must reside in each county of a bi-county region.

Quarterly meetings are scheduled in January, April, July, and October unless there is no business for the agenda, in which case the meetings may be canceled. Special meetings may be held at the discretion of the Board. The Regional Superintendent of Schools serves as ex-officio secretary for the Regional Board of School Trustees, but the Superintendent is not a voting member of the Board.

How to petition for detachment/annexation:

1. File a petition with the Office of the Regional Superintendent of Education. The petition must state the desired result and must include a complete legal description of all territory involved. The petition must be signed by a majority of all registered voters living within the territory. If there are none, it must be signed by all owners of record.
2. Deposit an anticipated expense fee of \$1,000.00. All expenses are the responsibility of the petitioner(s). Any unused funds will be returned.
3. Although it is not a requirement in the law, petitioners are encouraged to consider securing the services of an attorney to prepare the petition and to present the case at the time of hearing.
4. The Regional Board of School Trustees will decide the petition. The Board meets quarterly in January, April, July, and October.

The Charge to Regional Board of School Trustees in Detachment Proceedings

In regard to the granting of a detachment petition, "Illinois courts have consistently held that the denial of a petition...cannot be based on the fear of setting a precedent. The courts have also held that where there is no great detriment or benefit to either district..., then the determinations should be made upon the welfare of the pupil(s)."



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Regional Boards of Trustees should consider the following factors in making their decisions on a detachment petition.

1. The financial impact on all the districts involved.
2. The relative merits of the educational program such as:
 - a. Curriculum
 - b. Library facilities
 - c. Racial environment
 - d. Social environment
3. Convenience and preference of parents and students living in the area sought to be detached
4. Physical proximity to school districts of the area to be detached.
5. The welfare of the affected districts, and their pupils as a whole.
6. The benefits to the annexing district and affected areas outweighing the detriment resulting to detaching district and surrounding community as a whole.
7. Educational factors including the following:
 - a. The difference between the facilities of the school districts.
 - b. The effects detachment would have upon the ability of either district to meet prescribed standards
 - c. The effects on tax revenues of both districts
 - d. The distances from petitioners' homes to schools in both districts
 - e. The identity of the petitioning territory with the district to which annexation is sought
 - f. Per capita expenditures by both districts.
8. The likelihood of increased participation in school activities by the parents and children in the petitioning territory if detachment were granted.

FILING AND DETACHMENT/ANNEXATION

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The following steps must be taken to petition the Regional Board of School Trustees for the DuPage Regional Office of Education to consider the transfer of territory from one school district to another district:

1. Territory to be transferred **must be contiguous** to territory in the district to which one is requesting attachment.
2. A petition must be prepared and filed calling for the detachment of territory from one district and annexation to another.

Petition must be addressed to and filed with the **Regional Board of School Trustees for the DuPage County Regional Office of Education** (105 ILCS 5/7.6). This Board meets in January, April, July, and October.

- a. Petition must **state the purpose of the petition**.
- b. Petition must **give the legal description of the territory in question** (105 ILCS 5/7.2).
- c. Petition must give **reasons why the request is being made**.
- d. Each page of the **petition must include the full prayer of the petition**.
- e. Each **person's address must be included in the petition**.
- f. Petition **must be signed and dated by petitioners** (2/3 of legal voters residing in the area to be detached – 105 ILCS 5/7.2).
- g. A **simple map** must be attached to the petition. We suggest a marked page from the Plat Book showing location of property described in the petition.
- h. Petition must be filed with the Ex-Officio Secretary of the Regional Board of School Trustees, Amber Quirk (105 ILCS 5/7.6).

3. A **deposit of \$1,000** must be made before the petition filing process is considered complete. This is to cover the cost of the court reporter, transcript, cost of legal notice, and other incidental expenditures. A record of expenditures will be given to the petitioner, and any money not required will be returned.



4. Residents of legal voting age who reside in the territory to be detached must be listed in the petition (2/3 of legal voters residing in the area to be detached – 105 ILCS 5/7.2). The **original petition and sufficient copies for Boards of School Districts involved**. Copies need not be signed by petitioner as required on original (105 ILCS 5/7-4.1).

5. The petition **must address the following issues:**

- a. **Are there any bond issues pending in any district in question?** (105 ILCS 5/7-3)
- b. **Will any non-high school territory result?** (105 ILCS 5/7-4)
- c. **Will any district be left with less than 2,000 population?** (105 ILCS 5/7-4)
- d. **Will any district be left with less than \$6,000,000 EAV?** (105 ILCS 5/7-4)

6. **Regional Superintendent as Ex-Officio Secretary to the Board must:**

- a. Notify districts and/or counties involved.
- b. Check description on petition and plat for correctness.
- c. Check that petitioner (s) is/are a legal voter (s).
- d. Prepare financial report – valuation of the property involved, probable effects on school districts involved, report on procedures followed and appropriate maps,
- e. Send these reports to trustees, districts, and counties involved within 5 days of hearing.

7. **Regional Board of School Trustees must:**

- a. Receive the petition.
- b. Set a hearing date.
- c. Employ a court reporter and order transcripts as required.
- d. Order maps made for hearing.
- e. Designate newspapers for publication of notice of hearing.

8. **Legal notice of hearing must be published by the Secretary of the Regional Board of School Trustees in a newspaper of general circulation** once, not less than 10, nor more than 15 days before hearing. Notice of hearing is also sent to all petitioners, school districts, and counties involved.

9. **The hearing is held before the Regional Board of School Trustees.** Petitioners may be represented by an attorney if they so choose, but they may present their own case.



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10. **Regional Board of School Trustees render a decision in open meeting** immediately following the conclusion of statements by all parties concerned, or within ten days following the hearing.

11. Order is prepared when required by law. (Within 30 days of the decision, a notice is sent to all petitioners, school districts, and counties involved.) a. If a second Region is involved, a joint hearing will be held unless one Region has the greatest portion of the territory under their supervision. b. Within 30 days of second Region hearing (if separate hearings are conducted), notice of decision will be sent to all petitioners, school districts, and first Region.

12. **If a petition is denied**, petitioners may petition for a rehearing within 10 days, or may file for Administrative Review (Sec. 7-7) in the Circuit Court of the original county within 35 days.

13. Effective date of changes (105 ILCS 5/7-9)

a. If between Sept.1 and June 30, action becomes effective July 1.

b. If final action is between July 1 and before September 1, it becomes effective immediately.

14. If a petition is granted by both Regions, a copy of the order and map are filed with both County Clerks within 30 days.

The changing of school boundaries is a very serious matter. Petitions for changing of school boundaries are not granted unless there is a preponderance of evidence that the change is in the best interest of schools and/or students.

Detachment/Annexation Questions and Answers Detachment and Annexation – Regional Board of School Trustees Duties (105 ILCS 5/7-1 through 7-8)

Question: With what body is a detachment or annexation petition filed?

Answer: A detachment or annexation petition is filed with the appropriate regional board(s) of school trustees.

Question: When a petition seeks to detach territory in two educational service regions, is approval of both Regional Boards of School Trustees necessary?

Answer: It depends. If the territory being detached is located within more than one region then the petition shall be filed with the regional board of school trustees of the region in which the regional superintendent has supervision over the greatest portion of such territory. If the territory being



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detached is in one region and the petition prays for it to be attached to different region, a joint hearing is held, but approval of both regional boards is required.

Question: What happens following the filing of a detachment and annexation petition?

Answer: The secretary of the regional board of school trustees:

- a. Sends the petition to the school board of each school district involved.
- b. Publishes a notice in a local newspaper pursuant statutory requirements.
- c. Schedules a hearing before the regional board of school trustees; the hearing must be held between 10 and 15 days after the publication of the notice.

Question: Who bears the burden of proof in a detachment or annexation proceeding?

Answer: The petitioners bear the burden of proof in a detachment or annexation proceeding.

Question: What factors must regional boards consider in ruling on detachment petitions?

Answer: The regional board of school trustees must consider:

- a. School needs and conditions of the territory in the area within and adjacent thereto.
- b. The ability of districts affected to meet the standards of recognition as prescribed by the State Board of Education.
- c. The division of funds and assets which will result from the change of boundaries.
- d. Whether such a change is to the best interest of the schools of the area and the educational welfare of the pupils.
 - a. The overall benefit to the annexing district and detachment area must clearly outweigh the detriment to the losing district and surrounding community as a whole.
 - b. There must not be serious harm done to the financial or educational resources of either district.

Question: May a regional board of school trustees amend a detachment or annexation petition?

Answer: No. In ruling on a detachment or annexation petition, a regional board of school Trustees may allow or deny a petition, but cannot modify it.

Question: May a detachment petition be granted solely based on expanded educational opportunities for a student?



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Answer: When there are no countervailing factors, and when the best interests of the children involved are served by the detachment, the courts usually apply the “whole child” and “community of interest” tests.

a. The “whole child” test considers whether or not there will be increased participation in school activities by the students and their families and how the educational, social, and extracurricular needs of the student can best be satisfied.

b. The “community of interest” test considers whether the detachment area is identified with the school district and community to which annexation is sought.

Question: What is the benefit-detriment analysis?

Answer: The benefit-detriment analysis is used to determine whether the benefit derived from the annexation of the affected territory will outweigh the detriment to the losing district, the territory, and the community as a whole.

Question: May the regional board of school trustees consider parental preference and convenience in deciding a petition for detachment and annexation?

Answer: While they may be treated as one factor in ruling on the detachment petition, parental preference and convenience alone are usually insufficient to support a detachment and annexation petition.

Question: What considerations apply to detachment and annexation petitions involving territory where no students reside?

Answer: In detachment and annexation hearings concerning property that is either uninhabited and/or in which no students reside, it is the duty of the regional board of school trustees to determine whether the annexation would be beneficial to the educational welfare of any pupils who might later reside in that area. Educational welfare is to be determined by considering whether or not the territory involved is part of an integral or main activity of the community served by the receiving school district, the residential potential of the tract of land involved, and the distance students would travel along and across any heavily traveled roads in order to attend school.

Question: Who may appeal an annexation, detachment, or dissolution decision of a regional board of school trustees?

Answer: Any resident who appears at the hearing or any petitioner may file a complaint for judicial review within 35 days of service of the decision by registered mail in detachment/annexation cases and



within 10 days of service of the decision by registered mail in dissolution/annexation cases. A board of education of a district affected by an annexation or detachment may appeal, but a board of education lacks standing to appeal a dissolution.

Question: What happens if an annexation, detachment, or dissolution decision of a regional board of school trustees is appealed?

Answer: If a decision of a regional board of school trustees is appealed, the complaint for judicial review operates as a stay of enforcement, and there is no enforcement of the decision until there is final disposition of the review. This means the entire matter of the dissolution, detachment, or annexation is in limbo until all appeals have been exhausted.

Question: What happens if the regional board of school trustees fails to act on a detachment, annexation, division, or dissolution petition?

Answer: If within nine months after a petition is submitted under Section 7-1 of the School Code the regional board of school trustees fails to approve or deny the petition, the school boards or registered voters of the districts affected that submitted the petition (or the committee of ten) may submit a copy of the petition directly to the State Superintendent of Education for approval or denial.