

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING CONSOLIDATION AND
ANNEXATION OF SCHOOL DISTRICTS
Effective _____

CHAPTER 1: AUTHORITY AND DEFINITIONS

1.00 PURPOSE

- 1.01 The purpose of these rules is to establish the requirements and procedures concerning the consolidation and annexation of school districts; the administrative consolidation and annexation of school districts; ~~and the distribution of consolidation/annexation incentive funding; and petitions to the State Board of Education for a change in a district boundary.~~

2.00 AUTHORITY

- 2.01 The State Board of Education (State Board) enacts these rules pursuant to the authority granted by Ark. Code Ann. §§ 6-13-1401 et seq. and 6-13-1601 et seq.

3.00 DEFINITIONS

- 3.01 “Administrative annexation” means the joining of an affected school district or a part of the school district in which the affected district as a whole has fewer than three hundred fifty (350) students with a one or more receiving school districts through a voluntary process set out in Ark. Code Ann. §6-13-1601 et seq.;
- 3.02 “Administrative consolidation” means the joining of two (2) or more school districts, one of which has fewer than three hundred fifty (350) students, to create a new single school district with one (1) administrative unit and one (1) board of directors that is not required to close school facilities through a voluntary process set out in Ark. Code Ann. §6-13-1601 et seq.;
- 3.03 “Affected district” means a school district that:
- 3.03.1 Loses territory or students as a result of annexation or administrative annexation; or
- 3.03.2 Is involved in a consolidation or administrative consolidation.
- 3.04 “Aggrieved district” means the lawfully constituted and existing board of directors of a school district that gains or loses territory or students as a result of an annexation, administrative annexation, consolidation, or administrative consolidation;

- 3.05 “Annexation” means the joining of an affected school district or part thereof with a receiving district;
- 3.06 “Average daily membership (ADM)” has the same meaning as defined by the Arkansas General Assembly in Ark. Code Ann. § 6-20-2303.
- 3.07 “Boundary change” means the process by which the territory of two or more school districts is modified based on the petition of a single school district to the State Board of Education seeking modification to its geographic territory under to Ark. Code Ann. § 6-13-1414.
- ~~3.07~~ 3.08 “Consolidation” means the joining of two (2) or more affected school districts or parts thereof to create a new single school district;
- ~~3.08~~ 3.09 “Debt” means a legal liability, encumbrance or contract, including employment contracts, to be paid out of future revenues or current reserves of the school district.
- ~~3.09~~ 3.10 “Receiving district” means a school district or districts that receive territory or students, or both, from an affected district as a result of annexation or administrative annexation;
- ~~3.10~~ 3.11 “Resulting district” means the new school district created from affected districts as a result of consolidation or administrative consolidation.
- 3.12 “School district with fewer than three hundred fifty (350) students” means a school district with an average daily membership of fewer than three hundred fifty (350) students in the school year immediately preceding the current school year.
- 3.13 “Voluntary transfer” means a student has transferred to a district other than the student’s resident district through a school choice transfer under Arkansas Code §§ 6-18-1901 et seq. or § 6-18-227, or a student transfer under Arkansas Code § 6-18-316.

Source: ~~Ark. Code Ann. §§ 6-13-1401 and 6-13-1601~~

4.00 CONSOLIDATION AND ANNEXATION AUTHORITY OF THE STATE BOARD

- 4.01 There shall not be any consolidation or annexation of any public school district with any other school district in the state without the prior consent and approval of the State Board.

Source: ~~Ark. Code Ann. § 6-13-1402~~

CHAPTER 2: CONSOLIDATION AND ANNEXATION OF SCHOOL DISTRICTS

5.00 CONDITIONS UNDER WHICH THE STATE BOARD OF EDUCATION MAY ANNEX SCHOOL DISTRICTS

- 5.01 The State Board shall consider the annexation of an affected school district or districts to a receiving district or districts under any of the following conditions:
- 5.01.1 The State Board, after providing thirty (30) days' written notice to the affected school districts, determines that annexation is in the best interest of the affected district or districts and the receiving district based upon failure to meet standards for accreditation or failure to meet academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.;
 - 5.01.2 The affected district or districts file a petition with the State Board requesting annexation to a particular receiving district or districts, and a copy of the petition is filed with the county clerk's office of each county where the affected district or districts are located;
 - 5.01.2.1 The county clerk's office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the affected district or districts; and
 - 5.01.2.2 The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in Ark. Code Ann. § 6-14-122;
 - 5.01.3 A majority of the qualified electors in the affected district or districts vote to approve the annexation of an affected school district or districts to a receiving district or districts as provided for in Ark. Code Ann. § 6-14-122; and
 - 5.01.3.1 The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to

approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided in Ark. Code Ann. § 6-14-122; or

5.01.4 The local board of education of the affected district or districts votes to approve by resolution the annexation of the affected district or districts to a receiving district or districts by a majority of the members of the local board of education of the affected district or districts; and

5.01.4.1 The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving districts as provided for in Ark. Code Ann. § 6-14-122.

5.02 The State Board may vote to approve, by a majority of a quorum present of the members of the State Board, the annexation of the affected districts into a receiving district:

5.02.1 The State Board, after providing thirty (30) days written notice to the affected districts, may on its own motion based on a school district's failure to meet standards for accreditation or failure to meet academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.; or

5.02.2 Upon receipt of a valid petition for annexation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in Ark. Code Ann. § 6-13-1403(a) and Section 5.01 of these rules, and upon receipt of proof of the issuance of public notice of the intent to annex affected districts into a receiving district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than one (1) time a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the State Board.

5.03 In order for the petition for annexation to be valid, it shall be filed with the State Board at least thirty (30) days prior to the next regularly scheduled State Board meeting, at which time the petition will be presented for hearing before the State

Board. However, no petition is required for the State Board to annex a school district or districts upon a motion of the State Board as allowed in Ark. Code Ann. § 6-13-1403(b) and Section 5.02 of these rules.

- 5.04 Upon determination by the State Board to annex a school district or approval of a petition requesting annexation, the State Board shall issue an order dissolving the affected district or districts and establishing the receiving district or districts.

5.04.1 The State Board shall issue an order establishing the boundary lines of the receiving district or districts.

5.04.2 It is the duty of the Arkansas Geographic Information Systems Office to make changes in the maps of the school districts to properly show the boundary lines of the receiving district or districts.

- 5.05 The State Board shall:

5.05.1 Issue an order establishing the changed boundaries; and

5.05.2 File the order with the:

5.05.2.1 County clerk of each county that contains school district territory of each affected or receiving district;

5.05.2.2 Assessor of each county that contains school district territory of each affected or receiving district;

5.05.2.2 3 Secretary of State; and

5.05.2.3 4 Arkansas Geographic Information Systems Office.

5.05.3 The county clerk shall make a permanent record of the order.

5.05.4 A consolidation or annexation order filed with the Secretary of State and the Arkansas Geographic Information Systems Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Systems Office.

5.05.5 The boundaries established by the State Board pursuant to Ark. Code Ann. § 6-13-1403(e) and Section 5.05 of these rules shall be the boundaries of the receiving district or districts until changes are made according to the provisions of law.

5.06 The State Board shall not annex affected districts into a receiving district or districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for annexation:

5.06.1 The annexation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

5.06.2 The annexation will provide a significant advantage in transportation costs or service to all the school districts involved.

Source: ~~Ark. Code Ann. §§ 6-13-1403, 6-13-1415, & 6-13-1416~~

6.00 CONDITIONS UNDER WHICH THE STATE BOARD OF EDUCATION MAY CONSOLIDATE SCHOOL DISTRICTS

6.01 The State Board shall consider the consolidation of affected districts into a new resulting district or districts under the following conditions:

6.01.1 The State Board, after providing thirty (30) days' written notice to the affected school districts, determines consolidation is in the best interest of the affected districts based upon failure to meet standards for accreditation or academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.; or

6.01.2 The affected districts file a petition with the State Board requesting that the affected districts be consolidated into a resulting district or districts;

6.01.2.1 A copy of the petition has been filed with the county clerk's office of each county where the affected districts are located;

6.01.2.2 The county clerk's office certifies in writing to the State Board that the petition has been signed by a majority of the qualified electors of the affected districts;

6.01.2.3 A majority of the qualified electors in the affected districts votes to approve consolidation of the affected districts into a resulting district or districts pursuant to a valid election as provided in Ark. Code Ann. § 6-14-122; and

- 6.01.2.4 The local board of directors votes to approve by resolution of a majority of the members of each local board of education the consolidation of the affected districts into a resulting district or districts.

6.02 The State Board:

- 6.02.1 After providing thirty (30) days written notice to the affected districts, may consolidate school districts upon its own motion based upon a school district's failure to meet standards for accreditation or academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.; or
- 6.02.2 May vote to approve by a majority of a quorum present of the members of the State Board the consolidation of the affected districts into a resulting district or districts upon receipt of a valid petition for consolidation after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in Ark. Code Ann. § 6-13-1404(a) and Section 6.01 of these rules, and upon receipt of proof of the issuance of public notice of the intent to consolidate affected districts into a resulting district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than one (1) time a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the State Board.

- 6.03 In order for the petition for consolidation to be valid, it shall be filed with the State Board at least thirty (30) days prior to the next regularly scheduled State Board meeting, at which time the petition will be presented for hearing before the State Board. However, no petition is required for the State Board to consolidate a school district or districts on a motion of the State Board as allowed under Ark. Code Ann. § 6-13-1404(b) and Section 6.02 of these rules.

- 6.04 Upon consolidation of a school district by the State Board or approval of a petition requesting consolidation, the State Board shall issue an order dissolving the affected districts and establishing the resulting district or districts.

- 6.04.1 The State Board shall issue an order establishing the boundary lines of the resulting district or districts.

- 6.04.2 It is the duty of the Arkansas Geographic Information Systems Office to make changes in the maps of the school districts to properly show the boundary lines of the resulting district or districts.

6.05 The State Board shall:

6.05.1 Issue an order establishing the changed boundaries; and

6.05.2 File the order with the:

6.05.2.1 County clerk of each county that contains school district territory of each affected or resulting district;

6.05.2.2 Assessor of each county that contains school district territory of each affected or resulting district;

6.05.2.2 3 Secretary of State; and

6.05.2.3 4 Arkansas Geographic Information Systems Office.

6.05.3 The county clerk shall make a permanent record of the order.

6.05.4 A consolidation or annexation order filed with the Secretary of State and the Arkansas Geographic Information Systems Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Systems Office.

6.05.5 The boundaries established under this subsection shall be the boundaries of the resulting district or districts until changes are made according to the provisions of law.

6.06 The State Board shall not consolidate affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for consolidation:

6.06.1 The consolidation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

6.06.2 The consolidation will provide a significant advantage in transportation costs or service to all the school districts involved.

~~Source: Ark. Code Ann. §§ 6-13-1404, 6-13-1415, & 6-13-1416~~

7.00 RESULTING DISTRICT SUCCESSOR IN INTEREST – WHEN PART OF DISTRICT TAKEN

7.01 Any receiving or resulting district created under Ark. Code Ann. § 6-13-1407 and Section 7.00 of these rules shall become the successor in interest to the property

of the school district dissolved, shall become liable for the contracts and debts of such a school district, and may sue and be sued therefor.

- 7.02 When territory less than the entire school district is annexed or consolidated to a school district, the receiving or resulting district shall take the property of the school district from which the territory was taken, as the State Board shall deem proper, and shall be liable for that part of all indebtedness of the school district from which the territory was taken as shall be assigned to it by the State Board unless otherwise approved by a majority vote of the affected school district's or districts' board or boards of directors.

Source: ~~Ark. Code Ann. § 6-13-1407~~

8.00 ANNEXATION OR CONSOLIDATION NOT TO NEGATIVELY IMPACT STATE-ASSISTED DESEGREGATION

- 8.01 The State Board shall not order any annexation, ~~or consolidation, or boundary change~~ pursuant to Title 6, Chapter 13, Subchapter 14, or any other act or any combination of acts which hampers, delays, or in any manner negatively affects the desegregation efforts of a school district or districts in this state.
- 8.02 Prior to the entry of any order under Title 6, Chapter 13, Subchapter 14, the State Board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation, ~~or consolidation, or boundary change~~ on the effort of the state to assist a school district or districts in desegregation of the public schools of this state.
- 8.03 Any order of annexation, ~~or consolidation, or boundary change~~ or combination thereof that violates the provisions of Ark. Code Ann. § 6-13-1408 and Section 8.00 of these rules shall be null and void.

Source: ~~Ark. Code Ann. § 6-13-1408~~

9.00 OTHER STATE BOARD OF EDUCATION DUTIES

- 9.01 The State Board shall have the following duties regarding consolidations and annexations:
- 9.01.1 To form local school districts, change boundary lines of school districts, dissolve school districts and annex the territory of those school districts to another school district, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;
- 9.01.2 To transfer funds and attach territory that is in no school district to other school districts as may seem best for the educational welfare of the children; and

9.01.3 To enact rules and regulations regarding the consolidation and annexation of school districts pursuant to Title 6 of the Arkansas Code.

9.02 The millage rate of the electors of an affected district shall remain the same until an election may be held to change the rate of taxation for the resulting or receiving district or districts.

Source: ~~Ark. Code Ann. § 6-13-1409~~

10.00 APPEAL AND ELECTION

10.01 Notwithstanding any other provision of law or rule of the State Board, the decision of the State Board regarding an administrative consolidation, consolidation, administrative annexation, or annexation shall be final with no further right of appeal except that only an aggrieved district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

Source: ~~Ark. Code Ann. § 6-13-1410~~

11.00 USE OF FUND BALANCES

11.01 Unless otherwise approved by a unanimous vote of the board of directors of the resulting district, the fund balances of any school district that is consolidated, annexed, or otherwise reorganized shall be used by the resulting district solely for the construction of facilities or the operation, maintenance, or support of the schools that were located in the affected school district from which the fund balance was derived if any of the facilities of the affected district from which the fund balance was derived remain open.

11.02 The provisions of Ark. Code Ann. § 6-13-1411 and Section 11.00 of these rules shall not apply if the consolidation or annexation is because of the school district's failure to meet standards for accreditation or failure to meet academic, ~~or~~ fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., or the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.

Source: ~~Ark. Code Ann. § 6-13-1411~~

12.00 INVOLUNTARY ANNEXATION OR CONSOLIDATION – EFFECTIVE DATE – INTERIM BOARD OF DIRECTORS

- 12.01 Ark. Code Ann. § 6-13-1415 and Section 12.00 of these rules apply to the involuntary consolidation or involuntary annexation of a school district made by a motion of the State Board.
- 12.02 The effective date of an involuntary consolidation or involuntary annexation of a school district shall be the July 1 after the State Board action unless determined otherwise by the State Board.
- 12.03 The State Board shall establish the terms and conditions of the involuntary consolidation or involuntary annexation that shall govern the affected districts, resulting districts, and receiving districts.
- 12.04 If the State Board determines that a new permanent board of directors is necessary, the State Board shall prescribe:
- 12.04.1 The number of members for the new permanent board of directors of the resulting district or receiving district;
 - 12.04.2 The manner of formation of the new permanent board of directors of the resulting district or receiving district under Ark. Code Ann. § 6-13-1417 and Section 14.00 of these rules; and
 - 12.04.3 Whether the new permanent board of directors will be elected at the first or second school election after the effective date of consolidation or annexation. The election for the new permanent school board of directors may take place during the second school election after the effective date of consolidation or annexation only if the State Board determines that additional time is required to implement single-member zoned elections.
- 12.05 If the State Board determines that an interim board of directors is necessary, the State Board shall prescribe:
- 12.05.1 The number of members for the interim board of directors of the resulting district or receiving district;
 - 12.05.2 The terms of the members of the interim board of directors of the resulting district or receiving district; and
 - 12.05.3 The manner of formation of the interim board of directors of the resulting district or receiving district. The State Board may:
 - 12.05.3.1 Allow the affected districts and receiving districts thirty (30) days to establish an interim board of directors to govern the resulting district or receiving district that consists of either five (5) or seven (7)

members selected from the boards of directors from the affected districts and receiving districts based on the proportion of the student population of each of the affected districts and receiving districts before consolidation or annexation;

12.05.3.2 Appoint an interim board of directors to govern the resulting or receiving district that consists of either five (5) or seven (7) members selected from the boards of directors from the affected districts and receiving districts based on the proportion of the student population of each of the affected districts and receiving districts before consolidation or annexation; or

12.05.3.3 Designate the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation as the interim board to govern the resulting district or receiving district.

12.06 The State Board may determine that an interim board of directors is not necessary and may order the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation to remain as the permanent school board of directors.

12.07 An interim board of directors shall serve until the first school election after the effective date of consolidation or annexation unless:

12.07.1 Any members of the permanent board of directors of the resulting district or receiving district are elected from single-member zones, then the interim board of directors may serve until the second school election after the effective date of consolidation or annexation under Ark. Code Ann. § 6-13-1415(d)(1)(C) and Section 12.04.3 of these rules; or

12.07.2 All the members of the permanent board of directors of the resulting district or receiving district are elected at-large, then the State Board may stagger the terms of the interim board of directors, which shall be determined by lot so that no more than two (2) members' terms expire during any one (1) year.

12.08 If the State Board allows the local school districts time to establish an interim board of directors, the board of directors of each affected district before the consolidation or each affected district and receiving district before the annexation may determine independently how to select members of the existing board of

directors to serve on the interim board of directors, subject to approval by the State Board, by:

- 12.08.1 The voluntary resignation of one (1) or more members of the existing board of directors;
 - 12.08.2 Selecting one (1) or more members of the existing board of directors by a majority vote of the school board; or
 - 12.08.3 Selecting one (1) or more members of the existing board of directors by a random lot drawing.
- 12.09 An interim board of directors shall be established by May 31 of the year preceding the effective date of administrative consolidation or administrative annexation under Ark. Code Ann. § 6-13-1603 if the State Board determines that an interim board of directors is necessary.
- 12.10 A consolidation or annexation order adopted by the State Board shall be filed with the:
- 12.10.1 County clerk of each county that contains school district territory of each affected district, receiving district, or resulting district;
 - 12.10.2 Assessor of each county that contains school district territory of each affected district, receiving district, or resulting district;
 - 12.10.2 3 Secretary of State; and
 - 12.10.3 4 Arkansas Geographic Information Systems Office.
- 12.11 A consolidation or annexation order shall include a map of the boundaries of the resulting district or receiving district.
- 12.12 A consolidation or annexation order filed with the Secretary of State and the Arkansas Geographic Information Systems Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Systems Office.

~~Source: Ark. Code Ann. § 6-13-1415~~

13.00 VOLUNTARY CONSOLIDATION OR ANNEXATION – EFFECTIVE DATE – INTERIM BOARD OF DIRECTORS

- 13.01 Ark. Code Ann. § 6-13-1416 and Section 13.00 of these rules apply to any petition for consolidation or annexation of a school district submitted to the State Board by a school district.

- 13.02 The effective date of a petition for consolidation or annexation of a school district shall be the July 1 after the State Board approves the consolidation or annexation petition unless the State Board approves an alternative effective date or determines otherwise.
- 13.03 Each board of directors of an affected district and receiving district shall enter into a written agreement approved by the quorum of the members of each board of directors present and executed by the president and secretary of each school district's board of directors.
- 13.03.1 The written agreement may prescribe the effective date of the annexation of the affected district to the receiving district or the effective date of the formation of the resulting district from consolidation of affected districts, subject to approval by the state board.
- 13.03.2 The written agreement may prescribe the number of members of the permanent board of directors of the resulting district or receiving district and the manner of formation of the permanent board of directors of the resulting district or receiving district under Ark. Code Ann. § 6-13-1417 or as allowed by law.
- 13.03.2.1 If the written agreement prescribes the formation of a new permanent board of directors, the written agreement shall specify whether the new permanent board of directors will be elected at the first or second school election after the effective date of consolidation or annexation.
- 13.03.2.2 The election of a new permanent board of directors may take place during the second school election after the effective date of consolidation or annexation only if additional time is necessary to implement single-member zoned elections.
- 13.04 The written agreement may prescribe for the formation of an interim board of directors, including the number of members, the length of member terms, and the manner of formation as follows:
- 13.04.1 Establish an interim board of directors to govern the resulting district or receiving district that consists of either five (5) or seven (7) members selected from the boards of directors from the affected districts and receiving districts based on the proportion of the student population of each of the affected districts and receiving districts before consolidation or annexation;

- 13.04.2 Designate the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation as the interim board of directors; or
- 13.04.3 Determine that an interim board of directors is not necessary and may designate the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation to remain as the permanent school board of directors.
- 13.05 If the written agreement prescribes the formation of an interim board of directors, the interim board of directors shall serve until the first school election after the effective date of consolidation or annexation unless:
 - 13.05.1 Any members of the permanent board of directors of the resulting district or receiving district are elected from single-member zones, then the interim board of directors may serve until the second school election after the effective date of consolidation or annexation under Ark. Code Ann. § 6-13-1416(c)(3)(B) and Sections 13.03.2.1 and 13.03.2.2 of these rules; or
 - 13.05.2 All the members of the permanent board of directors of the resulting district or receiving district are elected at-large, then the written agreement may stagger the terms of the interim board of directors, which shall be determined by lot so that no more than two (2) members' terms expire during any one (1) year.
- 13.06 If the written agreement prescribes formation of an interim board of directors, the board of directors of the affected district before the consolidation or the affected district and receiving district before annexation may determine independently how to select members of the existing board of directors to serve on the interim board of directors by:
 - 13.06.1 The voluntary resignation of one (1) or more members of the existing board of directors;
 - 13.06.2 Selecting one (1) or more members of the existing board of directors by a majority vote of the school board; or
 - 13.06.3 Selecting one (1) or more members of the existing board of directors by a random lot drawing.
- 13.07 If the written agreement in an administrative consolidation or an administrative annexation under Ark. Code Ann. § 6-13-1603 requires the formation of an interim board of directors, the interim board of directors shall be established by

May 31 preceding the effective date of the administrative consolidation or administrative annexation.

- 13.08 An executed copy of the written agreement shall be attached to the petition for consolidation or annexation submitted to the State Board.
 - 13.08.1 If the written agreement is approved by the State Board, the terms of the written agreement shall be binding upon the affected districts, receiving districts, and resulting districts, including the interim and permanent school boards of directors.
 - 13.08.2 A written agreement under Ark. Code Ann. § 6-13-1416 and Section 13.00 of these rules shall not be effective without approval from the State Board.
- 13.09 A consolidation or annexation petition approved by the State Board along with an executed copy of the written agreement shall be filed with the:
 - 13.09.1 County clerk of each county that contains school district territory of each affected district, receiving district, or resulting district;
 - 13.09.2 Assessor of each county that contains school district territory of each affected district, receiving district, or resulting district;
 - 13.09.2 3 Secretary of State; and
 - 13.09.3 4 Arkansas Geographic Information Systems Office.
- 13.10 An approved consolidation or annexation petition shall include a map of the boundaries of the resulting district or receiving district.
- 13.11 An approved consolidation or annexation petition filed with the Secretary of State and the Arkansas Geographic Information Systems Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Systems Office.
- 13.12 A receiving district that received an affected district as a result of a voluntary administrative annexation under § 6-13-1601 *et seq.* shall notify all contiguous public school districts of its intent to close a public school campus that is part of an affected district a minimum of (1) year before the closure of the public school campus.
 - 13.12.1 An affected district under Section 13.12 of these rules shall have been the result of a voluntary administrative annexation under § 6-13-1601 *et seq.* that occurred no more than twenty (20) years ago.

13.13 Upon receiving notice from the receiving district under Section 13.12 of these rules, a contiguous public school district may:

13.13.1 Notify the receiving district of its interest in accepting the affected district for purposes of keeping the public school campus open, and;

13.13.2 Petition the State Board of Education to reverse the previous voluntary administrative annexation under § 6-13-1601 *et seq.* and consolidate the affected district into the contiguous public school district.

13.13.2 A petition under Section 13.13.2 of these rules shall include the following without limitation:

13.13.2.1 How the contiguous public school district intends to serve the students of the affected district;

13.13.2.2 Evidence that the consolidation will not cause fiscal hardship on the contiguous public school district; and

13.13.2.3 Evidence that the consolidation will not cause fiscal hardship on the affected district.

Source: ~~Ark. Code Ann. § 6-13-1416~~

14.00 FORMATION OF A PERMANENT BOARD OF DIRECTORS

14.01 A permanent board of directors shall have either five (5) or seven (7) members unless the school district is allowed to have nine (9) members under Ark. Code Ann. § 6-13-634.

14.02 The length of the terms of the board of directors may be for the time period prescribed by law and:

14.02.1 Prescribed in the written agreement under Ark. Code Ann. § 6-13-1416 and Section 13.00 of these rules; or

14.02.2 Determined by the permanent board of directors.

14.03 At the first meeting of the permanent board of directors, the members shall determine the terms of the board of directors by lot so that not more than two (2) members' terms expire during any one (1) year.

14.04 A vacancy on the board of directors shall be filled as prescribed by law.

- 14.05 If single-member election zones are not necessary to comply with the Voting Rights Act of 1965 or with any other federal or state law, any or all of the members of the permanent board of directors may be elected at large.
- 14.06 A minimum of five (5) members of a permanent board of directors shall be elected from single-member election zones if one (1) or more of the following applies:
- 14.06.1 Single-member election zones are required to comply with the Voting Rights Act of 1965 or other federal law;
 - ~~14.06.2 The resulting district or receiving district after consolidation or annexation is required to be zoned under Ark. Code Ann. § 6-13-631 or other state law; or~~
 - 14.06.3 2 The boards of directors of the affected districts before consolidation or the boards of directors of the affected districts and receiving districts before annexation agree that the permanent board of directors shall be elected from single-member election zones.
- 14.07 If single-member election zones are necessary to comply with the Voting Rights Act of 1965, other federal law, or state law, the resulting district or receiving district shall:
- 14.07.1 Review the demographic makeup and boundaries of the zones based on the latest decennial census data of the resulting district or receiving district after consolidation or annexation and rezone the resulting district or receiving district as necessary to comply with the Voting Rights Act of 1965, other federal law, or state law;
 - 14.07.2 Complete the election rezoning no later than one hundred twenty (120) calendar days before the second school election following the effective date of the consolidation or annexation; and
 - 14.07.3 No later than one hundred twenty (120) calendar days before the second school election following the effective date of the consolidation or annexation, file a digital map, in a format prescribed by the Arkansas Geographic Information Systems Office, detailing the election zone boundaries of the resulting district or receiving district with the:
 - 14.07.3.1 Secretary of State;
 - 14.07.3.2 Arkansas Geographic Information Systems Office; and

- 14.07.3.3 County clerk of each county that contains school district territory of each affected district, receiving district, or resulting district.

Source: ~~Ark. Code Ann. § 6-13-1417~~

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**CHAPTER 3: ~~ADMINISTRATIVE CONSOLIDATION AND~~
ANNEXATION OF SCHOOL DISTRICTS
VOLUNTARY CONSOLIDATIONS AND ANNEXATIONS
INVOLVING SMALL DISTRICTS**

**15.00 ~~ADMINISTRATIVE CONSOLIDATION LIST~~ DEPARTMENT RECORDS
REGARDING SMALL DISTRICTS**

15.01 The Division of Elementary and Secondary Education shall maintain records of all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in the school year immediately preceding the current school year.

~~15.01 By January 1 of each year, the Division of Elementary and Secondary Education shall publish a:~~

~~15.01.1 List of all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in the school year immediately preceding the current school year; and~~

~~15.01.2 Consolidation list that includes all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in each of the two (2) school years immediately preceding the current school year.~~

Source: ~~Ark. Code Ann. § 6-13-1602~~

16.00 ADMINISTRATIVE REORGANIZATION

16.01 Any school district with fewer than three hundred fifty (350) students ~~included in the Division of Elementary and Secondary Education's consolidation list under Ark. Code Ann. § 6-13-1602~~ may voluntarily agree to administratively consolidate with or be annexed to another school district or districts in accordance with the requirements and limitations of Ark. Code Ann. § 6-13-1603 and Section 16.00 of these rules.

16.02 Any school district with fewer than three hundred fifty (350) students ~~on the consolidation list~~ choosing to voluntarily administratively consolidate or annex shall submit a petition for approval to the State Board by March 1 ~~immediately following publication of the list~~ and shall set forth the terms of the administrative consolidation or annexation agreement in the petition. If the petition is approved by the State Board, the administrative consolidation or annexation shall be completed by May 1, to be effective July 1 ~~immediately following the publication~~

of the list required under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules.

~~16.03~~ Any school district on the consolidation list that does not submit a petition under Ark. Code Ann. § 6-13-1603(a)(2)(A) or Section 16.02 of these rules, or that does not receive approval by the State Board for a voluntary consolidation or annexation petition, shall be administratively consolidated by the State Board with or into one (1) or more school districts by May 1, to be effective July 1 immediately following the publication of the list required under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules unless the school district has been granted a waiver under § 6-13-1613 and Section 28.00 of these rules.

16.04 03 The State Board shall promptly consider petitions submitted pursuant to this Rule or move on its own motion to administratively consolidate a school district with fewer than three hundred fifty (350) students on the consolidation list in order to enable the affected school districts to reasonably accomplish any resulting administrative consolidation or annexation by July 1 immediately following the publication of the list required under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules.

16.05 04 The State Board shall not deny the petition for voluntary administrative consolidation or annexation of any two (2) or more school districts unless:

16.0504.1 The provisions contained in the articles of administrative consolidation or annexation would violate state or federal law; or

16.0504.2 The voluntary consolidation or annexation would not contribute to the betterment of the education of students in the school district.

~~16.06~~ Any school district required to be administratively consolidated under Title 6, Chapter 13, Subchapter 16 and Section 16.00 of these rules shall be administratively consolidated in such a manner as to create a resulting district with an average daily membership meeting or exceeding three hundred fifty (350).

16.07 05 All administrative consolidations or annexations under Ark. Code Ann. § 6-13-1603 and Section 16.00 of these rules shall be accomplished so as not to create a school district that hampers, delays, or in any manner negatively affects the desegregation of another school district in this state.

16.08 06 In the administratively consolidated or annexed school districts created under Title 6, Chapter 13, Subchapter 16 and Section 16.00 of these rules, the ad valorem tax rate shall be determined as set forth under Ark. Code Ann. § 6-13-1409 and Section 9.00 of these rules.

~~16.09~~ 07 Nothing in Ark. Code Ann. § 6-13-1603 or Section 16.00 of these rules shall be construed to require the closing of any school or school facility.

~~16.40~~ 08 No administratively consolidated or annexed resulting or receiving school district shall have more than one (1) superintendent.

~~16.44~~ 09 Any school district not designated as being in academic or fiscal distress for the current school year and previous two (2) school years that administratively receives by consolidation or annexation a school district designated by the State Board as being in academic or fiscal distress at the time of consolidation or annexation shall not be subject to academic or fiscal distress sanctions for a period of three (3) years from the effective date of consolidation unless:

~~16.44~~ 09.1 The school district fails to meet minimum teacher salary requirements; or

~~16.44~~ 09.2 The school district fails to comply with the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the Division of Elementary and Secondary Education.

~~16.42~~ 10 Noncontiguous school districts may voluntarily consolidate if the facilities and physical plant of each school district:

~~16.42~~ 10.1 Are within the same county, and the State Board approves the administrative consolidation; or

~~16.42~~ 10.2 Are not within the same county, and the State Board approves the administrative consolidation or administrative annexation and finds that:

~~16.42~~ 10.2.1 The administrative consolidation or administrative annexation will result in the overall improvement in the educational benefit to students in all of the school districts involved; or

~~16.42~~ 10.2.2 The administrative consolidation or administrative annexation will provide a significant advantage in transportation costs or service to all of the school districts involved.

~~16.43~~ 11 Contiguous school districts may administratively consolidate even if they are not in the same county.

~~16.44~~ 12 The provisions of Ark. Code Ann. §§ 6-13-1415 through 6-13-1417, and Sections 12.00 through 14.00 of these rules, shall govern the board of directors of

each resulting district or receiving district created under this Title 6, Chapter 13, Subchapter 16 and Section 16.00 of these rules.

~~Source: Ark. Code Ann. § 6-13-1603~~

17.00 RETENTION OF HISTORICAL RECORDS AND DOCUMENTS

17.01 Following the annexations or consolidations under Ark. Code Ann. § 6-13-1601 et seq. effective prior to December 1, 2004, and prior to any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 31, 2004, a receiving or resulting school district shall obtain and retain all student and historical records and documents from the affected school district, specifically including, but not limited to:

- 17.01.1 Student transcripts;
- 17.01.2 Graduation records;
- 17.01.3 Minutes and other legal documents of the local board of directors;
- 17.01.4 Maps or boundary documents;
- 17.01.5 Sports records, trophies, and awards;
- 17.01.6 Employee records; and
- 17.01.7 Financial records.

~~Source: Ark. Code Ann. § 6-13-1607~~

18.00 AUDIT REQUIRED

18.01 The Arkansas Legislative Audit shall conduct a comprehensive financial review of all the school district's financial matters for any school that is involved in administrative consolidation or administrative annexation or is otherwise reorganized by the State Board.

18.02 The comprehensive financial review shall begin no less than ten (10) days after the earliest of:

18.02.1 ~~The publication of the district's name on the consolidation and annexation list under Ark. Code Ann. § 6-13-1602;~~

~~18.02.2~~ 02.1 The filing of a petition for voluntary administrative consolidation or administrative annexation; or

~~18.02.3~~ 02.2 The adoption of a motion by the State Board to consolidate, annex, or otherwise reorganize a school district designated as being in academic or fiscal distress.

18.03 ~~Beginning on the date of publication of the consolidation list under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules~~ By January 1 of each year, the Division of Elementary and Secondary Education shall have authority to oversee all fiscal and accounting-related matters of all school districts with fewer than three hundred fifty (350) students ~~on the consolidation list~~ and shall require those school districts to have accurate records necessary to close all books within sixty (60) days after the end of the fiscal year.

18.03.1 No contract or other debt obligation incurred by a school district for which the Division has oversight authority under Ark. Code Ann. § 6-13-1608 and Section 18.00 of these rules shall be valid or enforceable against a resulting school district unless the contract or other debt obligation is preapproved in writing by the Commissioner of Education or his or her designee.

18.04 Any school that is involved in an administrative consolidation or administrative annexation shall have an audit started within thirty (30) days of the completion of the closing of the books by the school district.

18.05 The Division of Elementary and Secondary Education and the Arkansas Legislative Audit shall jointly develop the scope and details of the comprehensive fiscal review consistent with the requirements of Ark. Code Ann. § 6-13-1608 and Section 18.00 of these rules.

18.06 A school district may not incur debt without the prior written approval of the Division of Elementary and Secondary Education if the school district is identified by the Division of Elementary and Secondary Education ~~under Ark. Code Ann. § 6-13-1602(1) and Section 15.01.1 of these rules~~ as having fewer than three hundred fifty (350) students according to the school district average daily membership in the school year immediately preceding the current school year.

Source: ~~Ark. Code Ann. § 6-13-1608~~

19.00 PRESERVATION OF HISTORICAL SCHOOL ARTIFACTS

19.01 Following the administrative consolidations or administrative annexations under Ark. Code Ann. §§ 6-13-1601 – 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] effective before December 1, 2004, and before any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 31, 2004, a receiving district or resulting district shall obtain, retain, preserve, and, as

appropriate, display historical artifacts of the affected district in the same manner as if the historical artifacts were those of the receiving district or resulting district.

Source: ~~Ark. Code Ann. § 6-13-1609~~

20.00 FINANCIAL RELIEF FOR DEBTS ACQUIRED AS A RESULT OF INVOLUNTARY CONSOLIDATIONS

20.01 As used in Section 20.00 of these rules:

20.01.1 “Accounts payable” means a debt owed by a school district on June 30 immediately prior to administrative consolidation, excluding bonded indebtedness or other long-term debt;

~~20.01.2 “Act 60 school district” means a school district that was on the consolidation list under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules and was involuntarily consolidated under Ark. Code Ann. § 6-13-1603(a)(3) and Section 16.03 of these rules;~~

20.01.32 “Available funding” means funds that are available to a school district for paying accounts payable or are reasonably expected to be collected and available for payment of accounts payable;

20.01.43 “Excess accounts payable” means accounts payable of an Act 60 school district that exceed available funding; and

20.01.54 “Improper expenditure exceptions” means an erroneous expenditure of federal or state funds that is noted as an audit exception and has been determined by the Division of Elementary and Secondary Education to require an expenditure of funds by the resulting school district to be correct.

~~20.02 If on July 1, 2004, or thereafter, the State Board required an involuntary administrative consolidation under Ark. Code Ann. § 6-13-1603(a)(3) and Section 16.03 of these rules and the resulting district assumed excess accounts payable or improper expenditure exceptions incurred by the Act 60 school district before the July 1 administrative consolidation date that would have caused deficit spending if paid from the funds of the Act 60 district, the Division of Elementary and Secondary Education shall provide supplemental funding to the resulting district.~~

20.03 02 The amount of the supplemental funding provided under Ark. Code Ann. § 6-13-1610(b) and Section 20.02 of these rules shall be equal to the amount of the excess accounts payable and improper expenditure exceptions assumed by the resulting school district.

- 20.-03 02.1 The amount of accounts payable, excess accounts payable, improper expenditure exceptions, and available funding shall be determined by the Division of Elementary and Secondary Education based on information provided in a final audit and other verifiable fiscal information available to the Division of Elementary and Secondary Education.
- 20.-03 02.2 The audit of an Act 60 school district required under Ark. Code Ann. § 6-13-1610 and Section 20.00 of these rules shall be completed within the time under Ark. Code Ann. § 6-20-1801(d) for school districts in fiscal distress.
- 20.-03 02.3 No supplemental funding shall be paid under this section until after completion of a final audit by the Arkansas Legislative Audit or a private certified public accountant that may conduct school district audits under Ark. Code Ann. § 6-20-1801.
- 20.-04 03 Beginning on January 1 ~~the date of the publication of the consolidation list under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules each year,~~ the Division of Elementary and Secondary Education shall have authority to oversee all fiscal and accounting-related matters of all school districts ~~on the consolidation list~~ with fewer than three hundred fifty (350) students and shall require these school districts to have accurate records necessary to close all books within sixty (60) days of the end of the fiscal year.
- 20.-04 03.1 No contract or other debt obligation incurred by a school district for which the Division of Elementary and Secondary Education has oversight authority under Ark. Code Ann. § 6-13-1610 and Section 20.00 of these rules shall be valid or enforceable against a resulting district unless the contract or other debt obligation is preapproved in writing by the Commissioner of Education or his or her designee.

Source: ~~Ark. Code Ann. § 6-13-1610~~

21.00 ANNUAL REPORTS

- 21.01 By October 1 of each year, the resulting district or receiving district of any school district that was administratively consolidated or administratively annexed under Ark. Code Ann. §§ 6-13-1601 – 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] shall file a written report with the House Interim Committee on Education, the Senate Interim Committee on Education, and the Division of Elementary and Secondary Education indicating:
- 21.01.1 What efforts were made and the results of those efforts for inclusion of parents from the affected district in the receiving

district's or the resulting district's activities, including without limitation:

- 21.01.1.1 Parent-teacher associations;
- 21.01.1.2 Booster clubs; and
- 21.01.1.3 Parent involvement committees;
- 21.01.2 The number and percentage of students from the affected districts participating in an extracurricular activity, itemized by each extracurricular activity offered by the school district and, for each activity, which school district the student attended before reorganization; and
- 21.01.3 The employment status of each administrator by name, gender, and race before the administrative annexation or administrative consolidation, which school employed the administrator before administrative consolidation, and his or her employment status in the receiving district or the resulting district.
- 21.02 The Division of Elementary and Secondary Education shall develop or approve a survey to be used by the resulting or receiving districts to capture perceptual data from parents and students regarding their opinions on:
 - 21.02.1 Opportunities for inclusion or participation in the resulting or receiving district; and
 - 21.02.2 The efforts, if any, that were made to include parents from the affected district in the receiving or resulting district's activities, including, but not limited to, parent-teacher associations, booster clubs, and parent involvement committees.

~~Source: Ark. Code Ann. § 6-13-1611~~

22.00 ACADEMIC SUPPORT CENTERS

- 22.01 The purpose of Ark. Code Ann. § 6-13-1612 and Section 22.00 of these rules is to:
 - 22.01.1 Prevent students who attend administratively consolidated or administratively annexed schools from returning home to communities with little or no opportunities for supplemental academic support;

- 22.01.2 Increase opportunities for access to library materials, academic resource materials, and educational technology for these students within their local communities; and
- 22.01.3 Help advance academic performance for these students by providing opportunities for homework and tutorial assistance based on the Arkansas academic standards.
- 22.02 An academic support center may be established in communities whose schools have been closed by administrative consolidation or administrative annexation under Title 6, Chapter 13, Subchapter 16 of the Arkansas Code to fulfill the objectives identified in Ark. Code Ann. § 6-13-1612(a) and Section 22.00 of these rules.
- 22.03 The Division of Elementary and Secondary Education shall report annually to the House Interim Committee on Education and the Senate Interim Committee on Education regarding the establishment of academic support centers and their effectiveness.

Source: ~~Ark. Code Ann. § 6-13-1612~~

CHAPTER 4: CONSOLIDATION AND ANNEXATION INCENTIVE FUNDING

23.00 DEFINITIONS APPLICABLE TO CONSOLIDATION AND ANNEXATION INCENTIVE FUNDING

For the purposes of Sections 23.00 through 25.00 of these rules, the following definitions apply:

23.01 “Annexation” includes both Annexation and Administrative Annexation as defined in Section 3.00 of these Rules.

23.02 “Consolidation” includes both Consolidation and Administrative Consolidation as defined in Section 3.00 of these Rules.

23.03 “Foundation Funding” means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student.

23.04 “Per Student Foundation Funding Amount” means a dollar amount established by the General Assembly to be multiplied by the ADM of the previous school year for the district foundation funding.

23.05 “Funding Factor” means a factor established by the Division of Elementary and Secondary Education (Division) to ensure that the calculated funding does not exceed the funds available for consolidation/annexation incentive funding.

24.00 GUIDELINES FOR THE DISTRIBUTION OF CONSOLIDATION AND ANNEXATION INCENTIVE FUNDING

24.01 The distribution of consolidation and annexation incentive funding is dependent upon appropriation and funding by the Arkansas General Assembly.

24.02 Consolidation/annexation incentive funding shall be determined as follows:

24.02.1 One hundred percent (100%) of the incentive allowance computed as provided in these rules shall be in addition to the school district's aid the first year of consolidation/annexation. The second year of consolidation/annexation the district shall receive fifty percent (50%) of the consolidation/annexation incentive funding received by the district in the previous year in addition to other state aid. Beginning in the third year and each year thereafter no consolidation/annexation incentive funding shall be provided. The consolidation/annexation incentive is intended to supplement the customary state aid the districts would have received had the consolidation/annexation not occurred.

- 24.02.2 For those school districts not required to be consolidated/annexed in the current school year, if two (2) districts consolidate or one (1) district is annexed to another school district, multiply the prior year ADM of the smaller district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is three hundred (300).
- 24.02.3 For those school districts required to be consolidated/annexed in the current school year, if two (2) districts consolidate or one (1) district is annexed to another school district, multiply the prior year ADM of the smaller district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is three hundred (300).
- 24.02.4 For those school districts not required to be consolidated/annexed in the current school year, if three (3) districts consolidate or two (2) districts are annexed to a third school district, multiply the total prior year ADM of the two (2) smaller districts by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is four hundred (400).
- 24.02.5 For those school districts required to be consolidated/annexed in the current school year, if three (3) districts consolidate or two (2) smaller districts are annexed to another school district, multiply the prior year ADM of the smaller district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable three hundred (300).
- 24.02.6 For those school districts not required to be consolidated/annexed in the current school year, if four (4) or more districts consolidate or three (3) or more districts are annexed to another school district, multiply the total prior year ADM of all except the largest district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is five hundred (500).
- 24.02.7 For those school districts required to be consolidated/annexed in the current school year, if four (4) or more districts consolidate or three (3) or more districts are annexed to another school district, multiply the prior year ADM of the smaller district by per student the foundation funding amount, then by the funding factor, where

the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is three hundred (300).

- 24.02.8 If a district is annexed by multiple school districts, the incentive funding shall be computed as in Sections 24.02.1 through 24.02.7 above. The incentive funding shall then be prorated among the receiving districts based upon the percentage of the annexed district's ADM received by each receiving district.

25.00 GENERAL REQUIREMENTS

- 25.01 Consolidation/annexation incentive funding shall be distributed to either the resulting district(s) established after consolidation or the receiving district(s) after annexation.
- 25.02 Any district that has received consolidation/annexation incentive funds and subsequently dissolves shall be liable to the Division of Elementary and Secondary Education for the full or apportioned amount of incentive funding received if any of the following conditions result due to the dissolution:
- 25.02.1 Districts are formed with substantially the same boundaries as the former districts prior to consolidation or annexation;
- 25.02.2 The ability of any district to desegregate or remain desegregated is inhibited;
- 25.02.3 The ability of the State to ensure that students are provided a quality education in an efficient manner is inhibited.
- 25.03 Any repayment due, as required in Section 25.02 above, shall be paid from the assets of the district prior to dissolution of the district. The Division of Elementary and Secondary Education may withhold, from any state funding due the district, the amount of repayment funds or a portion thereof.
- 25.04 In the event full repayment is not made as required under Section 25.02 above, the Division of Elementary and Secondary Education shall withhold from those districts that are formed as a result of the dissolution, future state funding in the amount of the repayment owed. The repayment shall be apportioned among the districts on a per ADM basis unless the Division determines that such apportionment would be inequitable. In such case, the State Board shall apportion the repayment among the districts upon an equitable basis.

**26.00 STATE BOARD HEARING PROCEDURES – VOLUNTARY
CONSOLIDATIONS AND ANNEXATIONS**

- 26.01 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.
- 26.02 The spokesperson(s) for the petitioning school districts shall have a total of fifteen (15) minutes to present the school districts' remarks. The State Board may allow more than fifteen (15) minutes if necessary.
- 26.03 The spokesperson(s) for any individual or group of citizens that opposes the petition shall have a total of fifteen (15) minutes to present the remarks of the individual or group of citizens. The State Board may allow more than fifteen (15) minutes if necessary.
- 26.04 The spokesperson(s) for the petitioning school districts shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.
- 26.05 The spokesperson(s) for any individual or group of citizens that opposes the petition shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.
- 26.06 The State Board shall then discuss, deliberate and vote upon the matter of approving or denying the school districts' petition.
- 26.07 If it deems necessary, the State Board may take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations and votes upon the matter take place in a public hearing.
- 26.08 The State Board shall issue a written order concerning the matter.

**27.00 STATE BOARD HEARING PROCEDURES – INVOLUNTARY
CONSOLIDATIONS AND ANNEXATIONS**

- 27.01 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.
- 27.02 The spokesperson(s) for the Division of Elementary and Secondary Education shall have a total of fifteen (15) minutes to present the Division's remarks. The State Board may allow more than fifteen (15) minutes if necessary.
- 27.03 The spokesperson(s) for any individual or group of citizens that opposes the annexation or consolidation shall have a total of fifteen (15) minutes to present the remarks of the individual or group of citizens. The State Board may allow more than fifteen (15) minutes if necessary.

- 27.04 The spokesperson(s) for the Division shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.
- 27.05 The spokesperson(s) for any individual or group of citizens that opposes the annexation or consolidation shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.
- 27.06 The State Board shall then discuss, deliberate and vote upon the matter of approving or denying the school districts' petition.
- 27.07 If it deems necessary, the State Board may take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations and votes upon the matter take place in a public hearing.
- 27.08 The State Board shall issue a written order concerning the matter.

CHAPTER 5: WAIVERS

28.00 MINIMUM SCHOOL DISTRICT SIZE WAIVER

- 28.01 A school district with fewer than three hundred fifty (350) students that is placed on the consolidation list published by the Division of Elementary and Secondary Education under § 6-13-1602(2) may annually request a waiver from the average daily membership requirement of three hundred fifty (350) students from the State Board of Education.
- 28.02 A school district shall submit a petition for a waiver to the State Board no later than February 1st prior to the school year in which the waiver will take effect ~~thirty (30) days after the consolidation list is published~~. The petition for waiver shall include:
- 28.02.1 The average daily membership of the school district in the current school year;
 - 28.02.2 A statement that the school district is not in probationary status for any violation of the Standards for Accreditation of Arkansas Public Schools and School Districts;
 - 28.02.3 A copy of the school district's current year budget and any fiscal audit conducted within the previous two years; and
 - 28.02.4 A statement of assurance that the school district is not currently classified in academic distress, fiscal distress, or facilities distress.
- 28.03 The State Board shall render a decision to either grant or reject a petition for waiver that is received by a school district within forty-five (45) days of receipt.
- 28.04 The State Board shall grant a petition for a waiver if it is demonstrated by the school district that:
- 28.04.1 The school district is not currently classified in academic distress, fiscal distress, or facilities distress;
 - 28.04.2 The school district is not in probationary status for a violation of the Standards for Accreditation of Arkansas Public Schools and School Districts;
 - 28.04.3 The academic facilities owned and operated by the school district are adequate as evidenced by the school district's facilities master plan; and

- 28.04.4 It is in the best interest of the students in the school district to keep the school district open due to the length of potential time spent on the bus by a student traveling to and from school should the school district be administratively reorganized, as assured by the school board of directors of the school district requesting the waiver.
- 28.05 The State Board may revoke a waiver that has been granted to a school district at anytime if it is found that the conditions under § 6-13-1613(b)(2)(A) and Section 28.04 of these rules change. A hearing shall be conducted using the following procedures:
- 28.05.1 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.
- 28.05.2 The spokesperson(s) for the Division of Elementary and Secondary Education shall have a total of fifteen (15) minutes to present the Division's remarks. The State Board may allow more than fifteen (15) minutes if necessary.
- 28.05.3 The spokesperson(s) for the district shall have a total of fifteen (15) minutes to present the district's remarks. The State Board may allow more than fifteen (15) minutes if necessary.
- 28.05.4 The spokesperson(s) for the Division shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.
- 28.05.5 The spokesperson(s) for the district shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.
- 28.05.6 The State Board shall then discuss, deliberate and vote upon the matter of revoking the school districts' waiver.
- 28.05.7 If it deems necessary, the State Board may take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations and votes upon the matter take place in a public hearing.
- 28.05.8 The State Board shall issue a written order concerning the matter.
- ~~28.06 A school district that is granted a waiver shall remain listed on the consolidation list that is published annually by the Division of Elementary and Secondary Education.~~

Source: ~~Ark. Code Ann. § 6-13-1613~~

CHAPTER 6: BOUNDARY CHANGE PETITIONS TO THE STATE BOARD OF EDUCATION

29.00 General Provisions

29.01 A school district may request the State Board modify the boundary between two school districts under the boundary change process established in Ark. Code Ann. § 6-13-1414 by filing a petition with the State Board.

29.01.1 The boundary change process does not allow territory of a district to be added to the territory of another districts if that territory includes real property on which a school facility in active use is located.

29.02 Prior to filing a boundary change petition; the local school district seeking a boundary change shall:

29.02.1 Notify the district or districts which would be affected by the proposed boundary change;

29.02.2 Satisfy the boundary negotiation requirements of Section 30.00; and

29.02.3 Publish notice in the local newspapers of general circulation in each affected district no less than one (1) time a week for two (2) consecutive weeks.

29.02.3.1 The notice shall contain the following information:

29.02.3.1.a The name of the school district asking the State Board for the boundary change;

29.02.3.1.b The name of all other school districts affected by the proposed boundary change;

29.02.3.1.c A map reflecting the proposed boundary change which clearly shows which district will lose territory and which district will gain that territory;

29.02.3.1.d The amount of tax revenue that was collected from the properties affected by the proposed boundary change expressed in dollars;

29.02.3.1.e An estimate of the number of students whose district assignment would be modified by the proposed boundary change;

29.02.3.1.f A statement describing why the proposed boundary change is being requested; and

29.02.3.1.g A venue to submit written public comments regarding the proposed boundary change.

29.03 A petition for a boundary change shall:

29.03.1 Be in writing;

29.03.2 Be adopted by a majority vote of the petitioning board of directors; and

29.03.3 Utilize the form provided by the Division Elementary and Secondary Education.

29.04 Prior to the meeting in which the petition is considered, each district shall submit the following information to the State Board:

29.04.1 The number of students who currently attend that district and who would no longer attend the district if the boundary change requested by the petition was currently in effect;

29.04.2 The total student population of the district;

29.04.3 The amount of tax revenue derived in the prior tax year from property located within the district's territory that would fall outside the district's territory if the petition is granted;

29.04.4 The total property tax revenue received by the district in the prior tax year; and

29.04.5 The text of all written public comments submitted to the district regarding the proposal.

30.00 BOUNDARY NEGOTIATION REQUIREMENTS

30.01 A school district which seeks a boundary change shall be required to meet with all adjoining school districts affected by the proposed boundary change.

30.02 In the meeting required by Section 30.01, the district representatives shall:

30.02.1 Consider the basis of the boundary change petition as presented by the petitioning district;

30.02.2 Discuss the merits of modification to the existing boundaries based on the factors set out in Section 32.03.

30.02.3 Determine whether a mutually agreed boundary can be established which would address the concerns of all affected districts.

30.02.3.1 If an agreement to modify the district boundary is reached, that agreement must be ratified through the adoption of a resolution by the board of directors of each district affected by the boundary change in order to constitute an agreement pursuant to Ark. Code Ann. § 6-13-1414(c) and Section 32.02.

31.00 Procedure for Consideration of a Boundary Change Petition

31.01 A school district shall file its petition with the State Board only upon completion of the requirements provided in Section 29.02.

31.02 If a petition is filed at least thirty (30) days prior to the next regularly scheduled State Board meeting, the petition shall be placed on the agenda for that meeting.

31.02.1 If the petition is filed less than thirty (30) days prior to the next regularly scheduled State Board meeting, the petition shall be considered at the following State Board meeting.

31.03 When a boundary change petition is received, the Department shall give notice to each district affected of the date, time, and location of the State Board meeting in which the petition will be considered and a copy of the petition.

31.04 Prior to considering a boundary change petition, the Department shall seek an advisory opinion from the Attorney General concerning the impact of the proposed or boundary change on the effort of the state to assist a school district or districts in desegregation of the public schools of this state.

31.05 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.

31.06 The spokesperson for the petitioning school districts shall have a total of fifteen (15) minutes to present the school districts' argument in favor of a boundary change. The State Board may allow more than fifteen (15) minutes if necessary.

31.07 The spokesperson for each additional school district affected by the boundary change proposal shall have a total of fifteen (15) minutes to present the school

districts' position on the proposal. The State Board may allow more than fifteen (15) minutes if necessary.

31.08 The spokesperson(s) for the petitioning school districts shall have a total of five (5) minutes to present closing remarks to the State Board. The State Board may allow more than five (5) minutes if necessary.

31.09 The State Board may allow public comment by other interested parties at its discretion and for a time period to be determined by the State Board.

31.10 The State Board shall then discuss, deliberate, and vote upon the matter of proposed boundary change.

31.11 When resolving a boundary change petition, the state board may:

31.11.1 Grant the petition in its entirety;

31.11.2 Deny the petition in its entirety;

31.11.3 Grant the petition to modify the districts boundary creating a new boundary other than the boundary proposed in the petition;

31.11.4 Dismiss the petition for failure to satisfy the procedural requirements in Sections 29.00 and 30.00; and

31.11.5 Take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations and votes upon the matter take place in a public hearing.

31.12 The State Board shall issue a written order concerning the matter.

32.00 Standard of Review for a Boundary Change Petition

32.01 The resolution of a boundary change petition shall be decided by a majority of the members of the quorum present.

32.02 When the petitioner's boundary change proposal is supported by a resolution adopted by a vote of each affected school district board of directors, the State Board shall approve the boundary change proposal unless the State Board determines:

32.02.1 The proposed boundary change will have a substantial adverse effect on the education of students in the affected districts;

32.02.2 The proposed boundary change will significantly increase the time students spend on district provided transportation; or

32.02.3 The proposed boundary change may cause an affected district to enter financial distress.

32.03 When the petitioner's boundary change proposal is opposed by one or more affected school district, the State Board shall consider the following factors when exercising its best judgment regarding whether the petition should be granted:

33.03.1 The impact on the education of students affected by the proposed boundary change.

33.03.2 The number of voluntary transfer students who reside in the territory subject to the proposed boundary change that would become residents of the district if the petition is granted.

33.02.1.1 If more than sixty-seven (67) percent of the students who reside in the territory subject to the proposed boundary change have voluntarily transferred to the district that would become the student's resident district if the petition were granted, there shall be a rebuttable presumption that the petition should be granted.

33.02.3 The effect the petition would have on the distance students must travel in order to access public education provided by the State.

33.02.4 The capacity of the district gaining territory to absorb the increased student population.

33.02.5 The extent to which the change will increase the cohesiveness of municipalities or community groups.

33.02.6 The financial impact of the change on the affected district.

33.04 In all cases, any boundary change proposal that hampers, delays, or in any manner negatively affects the desegregations efforts of any district affected by the petition shall be denied.

33.00 Implementation of a Boundary Change

33.01 When the State Board issues an order altering the boundary of two or more school districts under Section 31.12, the order shall be submitted to the petitioner and each district which was subject to the petition.

33.02 If the order makes a change to an existing school district boundary, the Department shall:

33.02.1 File the order with the Arkansas Geographic Information System Office who shall produce maps reflecting the order of the State Board;

33.02.2 File the order and the maps produced by the Arkansas Geographic Information System Office with;

33.02.2.1 The county clerk of each county in which a school district that had its boundary changed has territory;

33.02.2.1 The assessor of each county in which a school district that had its boundary changed has territory; and

33.02.2.1 The Secretary of State.

CHAPTER 7: FORMS

34.00 FORMS REQUIRED UNDER THIS RULE

34.01 The Division Elementary and Secondary Education shall develop forms required under this rule for non-administrative consolidation or annexations including but are not limited to the following:

34.01.1 Petition for Annexation

34.01.2 Petition for Consolidation

34.01.3 Resolution of the Local School Board of Directors

34.01.4 Affidavit Concerning Desegregation Orders

34.02 The Division Elementary and Secondary Education shall develop forms required under this rule for administrative consolidation or annexations including but are not limited to the following:

34.02.1 Petition for Voluntary Administrative Annexation

34.02.2 Petition for Voluntary Administrative Consolidation

34.02.3 Resolution of the Local School Board of Directors

34.02.4 Affidavit of Average Daily Enrolment

34.02.5 Affidavit of Isolated School Status

34.02.6 Affidavit Concerning Desegregation Orders

34.03 The Division Elementary and Secondary Education shall develop forms required under this rule for a boundary change petition including but are not limited to the following:

34.03.1 Petition for a School District Boundary Change

34.03.2 Resolution of the Local School Board of Directors

34.03.3 Affidavit Concerning Desegregation Orders

34.04 Forms submitted to the State Board pursuant to this rule shall be those forms published on the website of the Division Elementary and Secondary Education.

~~APPENDIX A~~

**~~ATTACHMENTS PERTAINING TO ANNEXATIONS AND CONSOLIDATIONS OF
SCHOOL DISTRICTS (NON-ADMINISTRATIVE)~~**

Markup Draft

~~BEFORE THE ARKANSAS STATE BOARD OF EDUCATION~~
~~IN THE MATTER OF THE ANNEXATION OF _____ SCHOOL~~
~~DISTRICT(S) OF _____ COUNTY INTO THE _____ SCHOOL~~
~~DISTRICT OF _____ COUNTY:~~

~~PETITION FOR ANNEXATION~~

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the
annexation of the petitioning affected school district(s) into the petitioning receiving
_____ School District, and hereby would submit to the Board as follows:

_____ 1. _____ Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to annex the _____ School District(s) into the receiving _____ School
District as approved by a majority of the members of the local boards of education of the
respective Petitioners.

_____ 2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, proof of public notice of intent to petition this Board to annex the Petitioners
into the receiving _____ School District. Said public notice of intent to annex
(was)(was not) published in the local newspaper(s) of general circulation (or in a state newspaper
of daily circulation if local newspaper does not exist on weekly basis) of the affected districts for
a time period of no less than once a week for two (2) consecutive weeks immediately prior to the
filing of this petition with this Board.

~~3. The Petitioners submit that at the proper school election following the petitioned annexation, the receiving _____ School District shall elect _____ local board members in compliance with Ark Code Ann. §§ 6-13-1416 and 6-13-1417.~~

~~4. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous annexation because the annexation will result in (a) the overall improvement in the educational benefit to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:~~

~~5. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.~~

~~6. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, and that there shall be only one local school board and one local superintendent of the receiving~~

~~_____ School District.~~

~~7. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit D, concerning the relevant status of~~

any federal court ordered supervision or jurisdiction of desegregation cases involving the affected districts.

8. ~~The Petitioners hereby submit and incorporate in this petition as Exhibit E attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.~~

WHEREFORE, Petitioners request that the Board approve the annexation of the _____ School District(s) of _____ County into the receiving _____ School District of _____ County; that it issue an Order dissolving the affected school district(s) and establishing the receiving _____ School District; that it issue an Order establishing the boundary lines of the receiving school district; and that it file its Order with the County Clerks of _____ and _____ Counties, Arkansas, with the Secretary of State and with the Arkansas Geographic Information Systems Office.

_____ Respectfully submitted,

 _____ School District
 _____ County

By: _____
 _____ Superintendent _____ Date

 _____ President, School Board _____ Date

 _____ School District
 _____ County

By: _____
 _____ Superintendent _____ Date

 _____ President, School Board _____ Date

~~BEFORE THE ARKANSAS STATE BOARD OF EDUCATION~~

**~~IN THE MATTER OF THE CONSOLIDATION OF _____ SCHOOL
DISTRICT(S) OF _____ COUNTY AND THE _____ SCHOOL
DISTRICT OF _____ COUNTY:~~**

~~PETITION FOR CONSOLIDATION~~

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the
consolidation of the Petitioners into the resulting _____ School District, and hereby
would submit to the Board as follows:

_____ 1. _____ Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to consolidate the _____ and _____ School District(s) into the
resulting _____ School District as approved by a majority of the members of the local
boards of education of the respective Petitioners.

_____ 2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, proof of public notice of intent to petition this Board to consolidate the
Petitioners into the resulting _____ School District. Said public notice of intent to
consolidate (was)(was not) published in the local newspaper(s) of general circulation (or in state
newspaper of local daily circulation if local newspaper does not exist on weekly basis) of the
affected districts for a time period of no less than once a week for two (2) consecutive weeks
immediately prior to the filing of this petition with this Board.

3. The Petitioners submit that at the proper school election following the petitioned consolidation, the resulting _____ School District shall elect _____ local board members in compliance with Ark. Code Ann. §§ 6-13-1416 and 6-13-1417.

4. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous consolidation because the consolidation will result in (a) the overall improvement in the educational benefits to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

5. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned consolidation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.

6. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned consolidation shall be July 1, and that there shall be only one local school board and one local superintendent of the resulting _____ School District.

~~7. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school districts, which is incorporated as Exhibit D, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.~~

8. The Petitioners hereby submit and incorporate in this petition as Exhibit E attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.

WHEREFORE, Petitioners request that the Board approve the consolidation of the _____ School District(s) of _____ County and the _____ School District of _____ County into the resulting _____ School District; that it issue an Order dissolving the affected school districts and establishing the resulting school district; that it issue an Order establishing the boundary lines of the resulting school district; and that it file its Order with the County Clerks of the _____ and _____ Counties, Arkansas, with the Secretary of State and with the Arkansas Geographic Information Systems Office.

Respectfully submitted,

_____ School District

_____ County

By: _____
 _____ Superintendent _____ Date _____

_____ President, School Board _____ Date

_____ School District

_____ County

By: _____

_____ Superintendent _____ Date

_____ President, School Board _____ Date

Markup Draft

Exhibit A**SCHOOL BOARD RESOLUTION**

____ COMES NOW the _____ School District Board acting by and through its
 Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on _____, 20____,
 wherein a quorum was present and a majority of the board membership voted to approve the
 consolidation/annexation of the _____ School District with the
 _____ School District, and the minutes of said meeting reflect such.

Therefore, this document is to serve as the formal resolution of the _____ School
 District Board of Directors, pursuant to Arkansas law, that said consolidation/annexation is
 hereby approved.

 _____ School District

 _____ of _____ County

By: _____
 _____ Superintendent _____ Date

By: _____
 _____ President, School Board _____ Date

EXHIBIT D**AFFIDAVIT CONCERNING DESEGREGATION ORDERS**

COMES NOW the _____ School District, acting by and through its Superintendent, and hereby states and represents to the State Board of Education that, to the best of my knowledge, the _____ School District currently (circle one) ~~(is)~~(is not) involved in desegregation litigation in a United States Federal Court or is under the continuing jurisdiction of a United States Federal Court Order regarding desegregation of a public school or schools (see "*" at bottom of affidavit).

Further the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of _____, 20____.

Superintendent

COUNTY of _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day of _____, 20____.

Notary Public

My Commission expires:

* = If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.

~~APPENDIX B~~

**~~ATTACHMENTS PERTAINING TO ADMINISTRATIVE ANNEXATIONS AND
CONSOLIDATIONS OF SCHOOL DISTRICTS~~**

~~BEFORE THE ARKANSAS STATE BOARD OF EDUCATION~~

**~~IN THE MATTER OF THE ANNEXATION OF _____ SCHOOL
DISTRICT(S) OF _____ COUNTY INTO THE _____ SCHOOL
DISTRICT OF _____ COUNTY:~~**

~~PETITION FOR VOLUNTARY ADMINISTRATIVE ANNEXATION~~

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1601 et seq., and petition the Arkansas State Board of Education (Board) to approve the
voluntary administrative annexation of the petitioning affected school district(s) into the
petitioning receiving _____ School District, and hereby would submit to the Board as
follows:

_____ 1. _____ Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to annex the _____ School District(s) into the receiving _____ School
District as approved by a majority of the members of the local boards of education of the
respective Petitioners.

_____ 2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, (submit only if public notice was published in the newspaper) proof of public
notice of intent to petition this Board to annex the Petitioners into the receiving _____
School District. Said public notice of intent to annex (was)(was not) published in the local
newspaper(s) of general circulation (or in a state newspaper of daily circulation if local
newspaper does not exist on weekly basis) of the affected districts for a time period of no less

than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. The Petitioners submit that the average daily membership in each of the two (2) school years immediately preceding the _____ school year were _____ and _____ for the _____ School District and _____ and _____ for the _____ School District.

4. Pursuant to Ark. Code Ann. § 6-13-1603(b), the Petitioners submit and incorporate an affidavit of proof as Exhibit C that the previous average daily membership of the affected school districts was a combined average daily membership of _____ for the _____ school year, which is an average daily membership meeting or exceeding three hundred fifty (350) total students.

5. The Petitioners submit that at the proper school election following the petitioned annexation, the receiving _____ School District shall elect _____ local board members in compliance with Ark. Code Ann. §§ 6-13-1416 and 6-13-1417.

6. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous annexation because the annexation will result in (a) the overall improvement in the educational benefit to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

7. — The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit D.

8. — Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, _____, and that there shall be only one local school board and one local superintendent of the receiving _____ School District.

9. — If Petitioners are claiming Isolated School status, Petitioners hereby submit that the _____ School District(s) qualify as an isolated school as certified by the attached affidavit of Isolated School Status incorporated in this petition as Exhibit E attached hereto.

10. — The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit F, concerning the relevant status of any federal court ordered supervision or jurisdiction of desegregation cases involving the affected districts.

11. — The Petitioners hereby submit and incorporate in this petition as Exhibit G attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.

WHEREFORE, Petitioners request that the Board approve the annexation of the _____ School District(s) of _____ County into the receiving _____ School District of _____ County; that it issue an Order dissolving the affected school district(s) and establishing the receiving _____ School District; that it issue an Order establishing the boundary lines of the receiving school district; and that it file its

Order with the County Clerks of _____ and _____ Counties, Arkansas, with the
 Secretary of State and with the Geographic Information Systems Office.

_____ Respectfully submitted,

_____ School District

_____ County

By: _____
 _____ Superintendent _____ Date

 _____ President, School Board _____ Date

_____ School District

_____ County

By: _____
 _____ Superintendent _____ Date

 _____ President, School Board _____ Date

~~BEFORE THE ARKANSAS STATE BOARD OF EDUCATION~~

~~IN THE MATTER OF THE CONSOLIDATION OF _____ SCHOOL DISTRICT(S) OF _____ COUNTY AND THE _____ SCHOOL DISTRICT OF _____ COUNTY:~~

~~PETITION FOR VOLUNTARY ADMINISTRATIVE CONSOLIDATION~~

COMES NOW the _____ School District(s) of _____ County and the _____ School District of _____ County (Petitioners), acting by and through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-1601 et seq., and petition the Arkansas State Board of Education (Board) to approve the voluntary administrative consolidation of the Petitioners into the resulting _____ School District, and hereby would submit to the Board as follows:

_____ 1. _____ Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions to consolidate the _____ and _____ School District(s) into the resulting _____ School District as approved by a majority of the members of the local boards of education of the respective Petitioners.

_____ 2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B attached hereto, (submit only if public notice was published in the newspaper) proof of public notice of intent to petition this Board to consolidate the Petitioners into the resulting _____ School District. Said public notice of intent to consolidate (was)(was not) published in the local newspaper(s) of general circulation (or in state newspaper of local daily circulation if local newspaper does not exist on weekly basis) of the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. The Petitioners submit that the average daily membership in each of the two (2) school years immediately preceding the _____ school year were _____ and _____ for the _____ School District and _____ and _____ for the _____ School District.

4. Pursuant to Ark. Code Ann. § 6-13-1603(b), the Petitioners submit and incorporate an affidavit of proof as Exhibit C that the previous average daily membership of the affected school districts was a combined average daily membership of _____ for the _____ school year, which is an average daily membership meeting or exceeding three hundred fifty (350) total students.

5. Pursuant to Ark. Code Ann. § 6-13-1416, the Petitioners submit that this petitioned consolidation is pursuant to Ark. Code Ann. § 6-13-1602 and that an interim local board of seven (7) board members in accord with Ark. Code Ann. § 6-13-1416 shall be established by _____, and the interim board shall be made up of board members of the affected former districts in proportion to the student's population in the former affected districts.

6. The Petitioners submit that at the first regular school election following the petitioned consolidation, the resulting _____ School District shall elect _____ local board members by zoned elections in compliance with Ark. Code Ann. §§ 6-13-1416 and 6-13-1417.

7. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous consolidation because the consolidation will result in (a) the overall improvement in the educational benefits to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

8. ~~The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned consolidation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit D.~~

9. ~~Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned consolidation shall be July 1, _____, and that there shall be only one local school board and one local superintendent of the resulting _____ School District.~~

10. ~~If Petitioners are claiming Isolated School status, Petitioners hereby submit that the _____ School District(s) qualify as isolated schools as certified by the attached affidavit of Isolated School Status incorporated in this petition as Exhibit E attached hereto.~~

11. ~~The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district, which is incorporated as Exhibit F, concerning the relevant status of any federal court ordered supervision or jurisdiction of desegregation cases involving the affected districts.~~

12. ~~The Petitioners hereby submit and incorporate in this petition as Exhibit G attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.~~

Exhibit A**SCHOOL BOARD RESOLUTION**

____ COMES NOW the _____ School District Board acting by and through its
 Superintendent duly authorized and do herein declare:

____ A special or regular school board meeting was held on _____,
 _____, wherein a quorum was present and a majority of the membership voted to approve
 the consolidation/annexation of the _____ School District with the
 _____ School District, and the minutes of said meeting reflect such.

Therefore, this document is to serve as the formal resolution of the _____ School
 District Board of Directors, pursuant to Arkansas law, that said consolidation/annexation is
 hereby approved.

____ School District

 of _____ County

By: _____
 _____ Superintendent _____ Date

By: _____
 _____ President, School Board _____ Date

Exhibit C**AFFIDAVIT OF AVERAGE DAILY MEMBERSHIP**

____ COMES NOW the affiant, _____, Superintendent of the
 _____ School District, and having been duly sworn, states under oath as
 follows:

____ 1. ____ The average daily membership (ADM) of the _____ School
 District, as that term is defined in Ark. Code Ann. § 6-13-1601(4), was _____ students
 for the _____ school year and _____ students for the _____ school year.

____ 2. ____ The combined average daily membership of the affected school districts was
 _____ for the _____ school year, an average daily membership meeting or exceeding
 three hundred fifty (350) total students.

____ FURTHER, affiant says not.

____ IN WITNESS WHEREOF, I hereunto set my hand this _____ day of

_____, _____.

 Superintendent

County of _____
State of Arkansas

____ Sworn and subscribed before me, Notary Public, this _____ day of
_____, _____.

Notary Public

My Commission expires:

Markup Draft

Exhibit E

AFFIDAVIT OF ISOLATED SCHOOL STATUS

____ Comes the affiant, _____, Superintendent of the _____

School District, and having been duly sworn, states under oath as follows:

1. _____ My name is _____. I am the Superintendent of the _____ School District.

2. _____ My business address is _____.

3. _____ I am aware that pursuant to Ark. Code Ann. § 6-20-601 a school district must meet four (4) of five (5) criteria to qualify as an isolated school.

4. _____ I am aware that pursuant to Ark. Code Ann. § 6-20-602 an isolated school must qualify as an isolated school district under Ark. Code Ann. § 6-20-601 prior to the administrative consolidation or annexation petitioned for herein.

5. _____ I hereby submit that prior to the effective date of the administrative consolidation or annexation, the _____ School District qualified as an isolated school district and, therefore, is entitled to the rights and privileges conferred on an isolated school pursuant to Ark. Code Ann. § 6-20-602.

6. _____ I hereby declare that the _____ School District qualifies for isolated status because the school district meets the following list of at least four (4) of the five (5) criteria of being an isolated school district: (circle appropriate responses and provide relevant data in the blanks)

a. _____ There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district. The distance is _____.

b. ~~—The density ratio of transported students is less than three (3)~~
~~students per square mile of area. The density ratio is _____.~~

c. ~~—The total area of the district is ninety five (95) square miles or~~
~~greater. The total area is _____ square miles.~~

d. ~~—Less than fifty percent (50%) of bus route miles are on hard-~~
~~surfaced roads. The percent of bus route miles on hard surface roads is~~
~~_____.~~

e. ~~—There are geographic barriers such as lakes, rivers, and mountain~~
~~ranges which would impede travel to schools that otherwise would be appropriate~~
~~for consolidation, cooperative programs, and shared services. The geographic~~
~~barriers are _____.~~

7. ~~—Further the affiant sayeth not.~~

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of
_____, _____.

Superintendent

COUNTY OF _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day
of _____, _____.

Notary Public

My Commission expires:

~~EXHIBIT F~~

~~AFFIDAVIT CONCERNING DESEGREGATION ORDERS~~

COMES NOW the _____ School District, acting
by and through its Superintendent, and hereby states and represents to the State Board of
Education that, to the best of my knowledge, the _____
School District currently (circle one) (is)(is not) involved in desegregation litigation in a
United States Federal Court or is under the continuing jurisdiction of a United States
Federal Court Order regarding desegregation of a public school or schools (see "*" at
bottom of affidavit).

Further the affiant sayeth not.

~~IN WITNESS WHEREOF~~, I hereunto set my hand this _____ day of _____,

Superintendent

COUNTY of _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day of _____,

Notary Public

My Commission expires:

* = If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



Division of Elementary and Secondary Education

Transforming Arkansas to lead the nation in student-focused education

Jacob Oliva
Secretary

February 6, 2024

Stacy Smith
Deputy
Commissioner

Proposed Rule Governing Annexation and Consolidation of School Districts

**State Board of
Education**

Dr. Sarah Moore
Stuttgart
Chair

PURPOSE

Act 461 of 2023 removed the authority of the State Board to involuntarily consolidate a school district with less than 350 students. This amendment is necessary to bring the rule in compliance with statutory law. The amendment also provides procedures to implement for a third modification mechanism, boundary changes under A.C.A. § 6-13-1414, which up until now were not provided for in rule.

Kathy Rollins
Springdale
Vice-Chair

BACKGROUND

In addition to the amendments necessary to update the rule to the current state of the law, the new provisions set out a process for how the State Board will fulfill its obligations if a bound change request is presented to the board.

Adrienne Woods
Rogers

KEY POINTS

Randy Henderson
Blytheville

- Update's Rule to conform to statutory changes regarding the removal of the State Board's authority to involuntarily consolidate a school district with less than 350 students.
- Establishes a process in rule to implement an existing statutory procedure known as boundary changes that may be initiated by a single school district.
- Requires final changes to district lines to be filed with the County Auditor at the Request of GIS.
- Deletes forms currently codified consistent with the current policy of the Administrative Procedures Act.

Lisa Hunter
White Hall

Jeff Wood
Little Rock

Ken Bragg
Sheridan

DISCUSSION

This rule is promulgated to bring annexation and consolidation guidelines into alignment with recent legislation, most notably 461 of 2023.

Leigh Keener
Little Rock

RECOMMENDATION

The Division of Elementary and Secondary Education recommends Governor's Office approval of this rule.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Division of Elementary and Secondary Education is considering the following new administrative rules or amendments to administrative rules: the DESE Rule Governing Consolidation and Annexation of School Districts. Public comment hearings will be held for the forgoing rules on August 20, 2024 at 10:00am at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201 in the ADE Auditorium. The public comment period for these rules ends on September 13, 2024. Written comments regarding these proposed rules may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, Little Rock, AR, 72201. Comments also may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found on the Division of Elementary and Secondary Education's website at: <https://dese.ade.arkansas.gov/Offices/legal/rules/pending>. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address or via phone at (501) 683-1390.

From: [Legal Ads](#)
To: [Daniel Shults \(ADE\)](#)
Subject: Re: Notice of Rulemaking - Arkansas Department of Education
Date: Monday, August 12, 2024 12:59:30 PM
Attachments: [image001.png](#)

Caution: This is an external email and may contain a suspicious subject or content. Please take care when clicking links or opening attachments. When in doubt, contact [ADE IT Services](#).

Daniel,

Thanks for taking my call earlier. As per that call, this will run Wed 8/14, Thurs 8/15, and Fri 8/16, and you are aware this will not run statewide on those days.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Daniel Shults, ADE" <Daniel.Shults@ade.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Stephen Reynolds, ADE" <Stephen.Reynolds@ade.arkansas.gov>
Sent: Monday, August 12, 2024 11:08:56 AM
Subject: Notice of Rulemaking - Arkansas Department of Education

To whom it may concern;

Please find the attached notice of rulemaking.

We would like the notice to run on Wednesday, August 14, 2024, Thursday August 15, 2024, and Friday August 16, 2024.

I appreciate your assistance in this matter.

Best,



ARKANSAS
DEPARTMENT OF EDUCATION

Daniel Shults

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