

Definition of Terms:

Reorganization – the formation, consolidation, or subdivision of school districts. (SDCL 13-6-1)

Consolidation – the combining of two or more districts in which a new district and school board are created. (SDCL 13-6-1)

Dissolution – a district that dissolves and is absorbed by the surrounding districts. A new district is not created. (SDCL 13-6-61.1)

Relevant Statutes:

13-6-13. Contents of reorganization plan--Acceptance or rejection of annexed area by receiving board--Excess tax levy. The plan shall contain:

- (1) A map or maps showing the boundaries of the proposed district or districts, the boundaries of the existing districts involved, the location of existing and proposed attendance centers and a description of the facilities, and the proposed school bus routes, if any;
- (2) A legal description of the boundaries of the proposed district or districts;
- (3) Estimates of the school age population within the proposed district or districts;
- (4) The assessed valuation of all taxable property of each existing district and of the proposed district or districts;
- (5) Outstanding general obligation bonds of any component district, funds in all school accounts and estimated receipts in all accounts in process of collection;
- (6) If a joint district, the designation of the county of jurisdiction;
- (7) The official name of the proposed district;
- (8) A statement with regard to a proposed method of adjustment of assets and liabilities;
- (9) The proposed number of school board members if a new entity is to be created;
- (10) A description of the proposed educational program;
- (11) A reasonably detailed budget showing estimated annual receipts and expenditures for the operation of the proposed district or districts;
- (12) A statement recognizing any requests for minor boundary changes;

- (13) Such additional information as may be necessary to show compliance with the standards for school districts as adopted by the South Dakota Board of Education.

If the plan proposes the dissolution and annexation of a school district to one or more school districts, the school board of the receiving district, or districts, shall by resolution express their acceptance or rejection of all or part of the district to be dissolved as set forth in the proposed plan.

If the school boards of two or more school districts are developing a plan to consolidate, and two-thirds of the members of each affected school board agree, the plan may also include the provisions of an excess tax levy authorized in § 10-12-43 if an excess tax levy currently exists in one or more of the school districts. If the plan is approved by the voters, the proposed excess tax levy may be applied in the new consolidated school district. If a proposed excess tax levy is included in the plan, the plan shall state the amount of the proposed excess tax levy. The proposed excess tax levy may be applied for taxes payable in any of the five years following the date of reorganization. In addition, each school board involved in the development of the plan shall announce the inclusion of the proposed excess tax levy in the plan to the taxpayers in the manner set forth in § 10-12-43.

13-6-77. Valuation by county commissioners of school property and debt-- Adjustments-- Joint county action. The board of county commissioners of the county having jurisdiction over the school district shall have the power and duty to determine the value and the amount of all school owned property, cash assets, and all bonded and other indebtedness of each existing school district affected by a change in district boundaries resulting from any form of school district reorganization. The board of county commissioners of the county having jurisdiction over the school district entity created or to which territory has been annexed shall, after the change takes effect, order any equitable adjustment as deemed necessary. If the adjustment requires a transfer of school district owned property, assets, or liabilities from a school district under the jurisdiction of one county to a school district under the jurisdiction of another county, the order directing the transfer of such property and the adjustment of such assets and liabilities shall be approved by the board of county commissioners of both counties and signed by their respective chairmen.

13-6-78. Transfer of assets and liabilities on reorganization--Copy of directive to secretary. All liabilities and assets shall be transferred according to directives prepared by the board of county commissioners. A copy of such directives shall be mailed to the secretary of the Department of Education and all other parties enumerated in § 13-6-48.

13-6-81. Tax to discharge liabilities of district dissolved in reorganization--Tax limitation-- Bond issue. If the board of county commissioners shall find that a school district, totally dissolved by reorganization, has an excess of total liabilities over its total assets, such board of county commissioners may authorize a tax levy against the property located within the boundary of such former school district necessary to discharge the balance of liabilities. Such tax levy may not exceed six dollars per thousand dollars of taxable valuation in any one year and shall be exclusive of all other tax limitations. The board of county commissioners may at its discretion authorize the issuing of bonds to fund the indebtedness herein mentioned.

13-6-82. Bonded indebtedness not transferred by reorganization--Continuation of tax levy and redemption of bonded indebtedness--Trust fund. Nothing in this chapter shall be construed to authorize the transfer of the liabilities of existing bonded indebtedness from the district or territory against which it was originally incurred. Should there be any existing bonded indebtedness outstanding against a district, the county auditor shall continue the annual tax levy that was provided for the redemption of such bond issue. The board of county commissioners shall have the same authority as a school board under the provisions of §§ 13-16-10 to 13-16-14, inclusive. The board of county commissioners shall direct the treasurer of the school board of the said former school district to transfer all money in the bond redemption fund as of the close of the last school fiscal year the district existed, to the county treasurer and the said county treasurer shall place such money so received in a trust fund along with the receipts from the annual tax levy provided in § 13-6-81 and shall be authorized to invest any surplus money in this trust fund in such securities as are authorized by law for school district funds and the income from such investments shall be added to such trust fund. The county treasurer shall apply the money in the said trust fund to the redemption of such bonded indebtedness as the bonds become due and payable and, if sufficient money is available, may negotiate with the bondholders to purchase outstanding bonds ahead of schedule when such action is deemed advisable and so ordered by the board of county commissioners. When the bonds are paid and canceled, the county treasurer shall place the unused balance in the said trust fund, if any, to the credit of the district or districts containing territory of the former school district. (This applies to both general obligation bonds and to issuances of capital outlay certificates).

SDCL 13-6-92 Consolidated district entitled to additional funds.

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If two or more school districts consolidate after July 1, 2007, for the first year after consolidation, each new school district is entitled to one thousand dollars for each sending district student included in the receiving district's fall enrollment for the first year after consolidation, up to a maximum of four hundred sending district students. If two or more school districts consolidate after July 1, 2007, for the second year after consolidation, each new school district is entitled to eight hundred dollars for each sending district student included in the receiving district's fall enrollment for the first year after consolidation, up to a maximum of four hundred sending district students. If two or more school districts consolidate after July 1, 2007, for the third year after consolidation, each new school district is entitled to four hundred dollars for each sending district student included in the receiving district's fall enrollment for the first year after consolidation, up to a maximum of four hundred sending district students.

For the purposes of the entitlement provided in this section, if a receiving district receives fewer than ten sending district students, the receiving district is entitled to payment for ten sending district students.

13-6-92.1. Additional funds for school districts consolidated after July 1, 2007 where reorganization plan effective on or before July 1, 2008. Notwithstanding the provisions of § 13-6-92, if two or more school districts consolidate after July 1, 2007, and the secretary of education has issued an order to give effect to the reorganization plan pursuant to § 13-6-48 no later than July 1, 2008, the new school district is entitled to an additional six hundred dollars per fall enrollment as defined in § 13-13-10.1, up to a maximum of four hundred fall enrollment from each school district or a prorated portion thereof from a partial school district as it existed prior to consolidation for the first year after consolidation. If two or more school districts consolidate after July 1, 2007, and the secretary of education has issued an order to give effect to the reorganization plan pursuant to § 13-6-48 no later than July 1, 2008, the new school district is entitled to an additional four hundred dollars per fall enrollment, up to a maximum of four hundred fall enrollment from each school district or a prorated portion thereof from a partial school district as it existed prior to consolidation for the second year after consolidation. If two or more school districts consolidate after July 1, 2007, and the secretary of education has issued an order to give effect to the reorganization plan pursuant to § 13-6-48 no later than July 1, 2008, the new school district is entitled to an additional two hundred dollars per fall enrollment, up to a maximum of four hundred fall enrollment from each school district or a prorated portion thereof from a partial school district as it existed prior to consolidation for the third year after consolidation.

Any school district that is eligible for and receives consolidation incentive payments pursuant to this section may not receive consolidation incentive payments pursuant to § 13-6-92.

13-6-92.2. Definition of terms in §§ 13-6-92 and 13-6-92.1. For the purposes of §§ 13-6-92 and 13-6-92.1, the following terms mean:

- (1) "New school district," a school district which is formed as the result of a consolidation of two or more school districts;
- (2) "Receiving district," a new school district in which a secondary attendance center was operated prior to consolidation and is operated after consolidation;
- (3) "Sending district," a school district which is not a receiving school district whose land has become part of another school district; and
- (4) "Sending district student," a student who was included in the current fall enrollment as defined in § 13-13-10.1 of a sending school district for the school year prior to the first year the new school district operates.

13-6-95. Section 13-16-26.2 not applicable. The restriction on transfers imposed by § 13-16-26.2 does not apply to any money received by a school district under the provisions of §§ 13-6-92 to 13-6-96, inclusive.

13-6-97. Required reorganization of school district with low enrollment-- Exceptions. Any school district that has a fall enrollment, as defined in § 13-13-10.1, of less than one hundred and is not a sparse school district, as defined in § 13-13-78, shall reorganize with another school district or school districts to create a newly reorganized school district with a fall enrollment of one hundred or greater. Any school district that is not sparse and has a fall enrollment of one hundred or less on July 1, 2007, shall

prepare a plan for reorganization by June 30, 2009. After July 1, 2007, if the fall enrollment of any school district that is not sparse falls to one hundred or below, that school district shall prepare a plan for reorganization within two years. If any such district fails to prepare a plan for reorganization by the deadline, the Board of Education shall prepare a reorganization plan for the district. However, the provisions of this section do not apply to any school district that contracts with a school district in another state pursuant to § 13-15-11 to provide for the education of children in grades seven through twelve who reside within the district, that receives no foundation program state aid distributed pursuant to chapter 13-13, and that is located at least twenty-five miles from the nearest high school in an adjoining school district in the state.

13-16-26. Transfers between school district funds. All or any part of a surplus of any school district fund, except the capital outlay fund provided by §§ 13-16-6 to 13-16-9, inclusive, and the special education fund provided by § 13-37-16 may be transferred to any other school district fund. Only a school district with a plan for reorganization that has been approved by the voters pursuant to § 13-6-47 after July 1, 2007 may transfer within twelve months of the reorganization all or any part of a surplus in the capital outlay fund to the general fund. ...

13-13-1.6. Options for state aid, average daily membership, and local effort calculations for certain consolidated school districts--Notification--Limitations. If two or more school districts consolidate, for a period of four years after consolidation, the newly formed district may opt to have its state aid calculated based on the school districts as they existed prior to consolidation. In years two to four, inclusive, after the consolidation of two or more school districts, all factors relevant to the calculation of state aid pursuant to chapter 13-13 of the former districts may be based upon a pro-rata share of the relevant factors of the newly formed district as compared to the relevant factors of the former districts in the first year. Any district that opts to benefit from this section shall notify the secretary of the Department of Education of its intent to do so as part of its reorganization plan. A district that benefits from this section may not benefit from § 13-13-10.1 or 13-13-1.5 simultaneously, or in future years.

13-13-1.7. State aid calculation for consolidated school districts--Years five to eight. In years five to eight, inclusive, after the consolidation of two or more school districts that opted to benefit from § 13-13-1.6, state aid shall be calculated as follows:

- (1) Calculate state aid pursuant to § 13-13-73;
- (2) Notwithstanding the four-year time limit, calculate state aid pursuant to § 13-13-1.6;
- (3) Subtract the results of subdivision (1) from the results of subdivision (2);
- (4) Multiply the results of subdivision (3) by eighty percent in the fifth year, sixty percent in the sixth year, forty percent in the seventh year, and twenty percent in the eighth year;
- (5) Add the results of subdivision (1) and the results of subdivision (4).

Timeline:

The school board may by resolution, or shall, if presented by a petition signed by fifteen percent of the registered voters, develop a plan for reorganization. Within 180 days after the petition was filed, the school board shall file the reorganization plan with the county commissioners and the Department of Education. (SDCL 13-6-10)

An election on the plan shall be held within 90 days after the reorganization plan is approved by the Department of Education. (SDCL 13-6-41,41.2)

All school district reorganization shall take effect and the new school district shall become operative on the first day of July following the date of the order by the secretary of the Department of Education, except that when such order is issued after the first day of March the new school district shall not become operative until the first day of July of the next subsequent calendar year. (SDCL 13-6-61) See also, SDCL 13-6-61.1, for the operative date of a district that dissolves.

If a new school district entity is created, the county auditor shall conduct an election of a new school board on or before the first Monday in May. (SDCL 13-6-62)

Financial Aspects:

Social Security Administration – contact the Social Security Administration on-line to obtain an ID # for the new district.

OASI – Contact the OASI division of the state auditor's office to let them know that a new entity has been created. OASI regulations require that a staff presentation and a vote of the employees to have occurred in order to continue participation in the social security plan.

Bank Accounts – Establish new bank accounts and order new check stock.

Credit Cards – Cancel old credit cards and apply for new ones.

Direct Deposit – Money that is received by direct deposit (from the federal and state governments) should be updated to flow to the new bank accounts.

Sales Tax – the Department of Revenue and Regulation should be contacted to receive a new sales tax exemption certificate number. www.state.sd.us/DRR select Tax Exempt Status Application Form

DUNS Number – acquire a new DUNS number on-line by going to www.dnb.com/US/duns_update/

Agency Funds – Each club should be planning the outcome of their money in the final year. They may either spend their cash resources on allowable club expenses or instruct the district to transfer their residual balance to a similar club in the new district(s). It is paramount that this action be taken by each club before the students leave in the final year.

Closing Books – When a district closes, the remaining cash should be paid as indicated in the “directives” passed by the county commission. Such money may flow either directly to the new district or may be temporarily held by the parent county. Any district receiving this money should record the revenue as an “extraordinary item” (5160)

Audit – Districts that reorganize are generally transitioning from a going concern basis to a liquidation basis of accounting. Consideration should be given during the final audit of a district to address the guidance offered in AU 9508.33 relating to reports issued in relation to a liquidation basis of accounting.

Indirect Cost Rate – A new district should contact the Office of Grants Management, Department of Education (773-3248) to establish a new indirect cost rate.

To prepare the details encompassed in the “plan” a district will have to pull together the following information:

Mapping – this may be facilitated by accessing the Department of Education web site, Statistical Digest, mapping site.

Legal Description – contact the county auditor(s) to ascertain the legal descriptions of the land in all impacted districts.

Enrollment – acquire the current and subsequent year’s enrollment from each impacted district.

Valuations – obtain from the county auditor the valuations of the current districts and the proposed district.

Financial – from the business manager of each district obtain the bonds and CO certificates outstanding, cash balances of each fund and the receivables of each fund. (these should be your estimated balances at the end of your last year)

Budget – Prepare a budget for the proposed district for its first year of operation.

South Dakota Retirement System – Several resolutions will need to be passed by the new district as follows:

- To create a new entity
- To acknowledge a tax efficient purchase unit
- To establish a special pay plan

Also, all employees of the former district(s) will need to complete a B-1 termination form and all employees of the new district(s) will need to complete an E-1 enrollment form.

E-Rate – Each new district should coordinate with their tech coordinator so that the district is signed up with its new identity.

Accounting Software – Contact your software provider to ensure that they are carrying your new district with the appropriate name/number. They may also provide other

services such as rolling accounts/amounts forward from the former districts as well as background shading to readily identify with respective entities.

Stamp – A new deposit stamp may need to be made to identify with your new entity name and account.

License Plates – License plates and titles will need to be updated by contacting the Department of Revenue and Regulation.

Medicaid – The Department of Social Services will need to be contacted to update the Medicaid provider agreement.

Multi-Year Contracts – Review and update multiple year lease contracts for such items as laptop computers, copiers and auditorium rent.

SDHSAA – The South Dakota High School Activities Association should be contacted to apprise them of the new school name and mascot.

Press – A designated newspaper should be established for the new district and the press should be contacted to apprise them of the new school's name.

W-2's – Because the reorganization takes place in the middle of a calendar year, separate batches of W-2's need to be prepared for the former district and the new district. Each district correlates to their respective tax ID #.

Labor – An "Application for Transfer of Liability" should be completed for the South Dakota Department of Labor office in Aberdeen. (Unemployment)

Opt-outs – If your existing district has passed an opt-out and you are going to participate in a consolidation, then the existing opt-out is terminated. The consolidation will form a new district. The new district would review its finances and determine if it would need to pursue a new opt-out.

Personnel Files – Since each employee of a newly consolidated district will be working for a new entity, personnel files will need to be updated for each employee with regards to W-4's, I-9's and New Hire Reporting Forms.

County Procedures:

Property Taxes – Second half and back year property taxes remaining from the former district should be apportioned and remitted in accordance with the directives passed by the county commissioners.

Bank Franchise – The apportionment of bank franchise dollars should be adjusted to account for the new/dissolved districts.

Fines – Fines are distributed based upon ADM totals provided each January by the Department of Education. However, because of the time lag evident in ADM, an alternative procedure is suggested. Fines that would have went to a dissolved district will need to be allocated for a period of 18 months to neighboring districts based on the percentage of assessed valuation absorbed.