

RULE IMPACT STATEMENT

STATE DEPARTMENT OF EDUCATION

Chapter 1. State Board of Education Subchapter 3. Departmental Precepts 210:1-3-2

a. **What is the purpose of the proposed rule change?**

The purpose of the rule change is to amend the existing annexation, consolidation, and dispensation rules to also include a written procedure for severance determination that will apply to school district employees who were dismissed from their employment due to annexation or consolidation. The implementation of severance determination rules by the State Board of Education is necessary in order for the State Board of Education to properly fulfill its duty to manage, budget, and expend monies paid out to districts from the Oklahoma School Consolidation Assistance Fund. 70 O.S. §7-203. This Fund is used not only to fund severance requests, but is also used by consolidating or annexing districts to purchase textbooks, employ personnel, furnish and equip classrooms, purchase additional transportation equipment, and renovate and acquire school buildings. Additionally, the Fund is used to provide wage assistance to districts that contract to share a superintendent. See 70 O.S. §7-203(B)(1) & (2). The creation of rules to assist the Board in budgeting and managing this Fund is contemplated and called for by statute at 70 O.S. §7-203(B). Currently, there are no State Department of Education rules regarding the determination and award of severance and no formal internal policy or standard procedure for making severance award determinations. In the past, district employees simply made application to the State Department of Education and typically all qualifying applicants received the maximum severance allowance in spite of the State Board of Education's ability to make severance awards on an individual applicant basis by using a 0% to 80% sliding scale as set forth by statute.

The proposed rule change will clarify the severance application process by outlining the procedure and steps applicants need to take to qualify and apply for severance. The proposed rule change will clarify the language of the statute that also allows for annexing or consolidating districts who receive School Consolidation Assistance Funds to use that money to pay severance to employees, and will require the procedure of obtaining severance to be utilized by the districts and employees first before resorting to making application to the State Board of Education. This rule change will provide for a true application process that allows for each application for severance to be evaluated upon a standard set of criteria on a case by case basis and will implement a fair method of calculating severance. This rule change will assist the State Board of Education in establishing a decision making process for awarding severance in an amount from a 0% to 80% of the individual's base salary or wage as contemplated by the statute. This proposed rule change will also reduce the occurrences where the School Consolidation Assistance Fund is used to pay severance the districts should have paid with the funds provided.

The lack of clarity and rules in this area needs to be resolved so that the State Department of Education, the State Board of Education, local districts, and district employees all know the criteria and process for applying for severance. Due to the current lack of formalized procedure and the recent increase in the number of schools that are going through the annexation or consolidation process, it is imperative that a rule be created that will provide a proper application procedure that also meets required due process requirements for severance applicants as required under the Oklahoma School

Consolidation and Annexation Act. See 70 O.S. §7-203(B)(3). Additionally, this proposed rule will also assist the State Board of Education in its task of managing and budgeting the School Consolidation Assistance Fund, which is a fund that serves several different school consolidation needs other than just severance and .

b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**

The persons or classes of persons affected are the State Department of Education staff, the State Board of Education Members, the local school districts affected by annexation or consolidation, and all district employees affected by annexation or consolidation and Oklahoma school children affected by annexation or consolidation. See 70 O.S. §7-203(B)(3).

c. **What classes of persons will benefit from the proposed rule change?**

The persons benefiting from the proposed rule changes will be the State Board of Education Members and the employees of districts affected by annexation or consolidation and all districts and school children who rely upon receiving funds from the Oklahoma School Consolidation Assistance Fund.

d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**

The proposed severance determination rule will allow the State Board of Education to better manage and budget the Oklahoma School Consolidation Assistance Fund by implementing and enforcing the severance allocation restrictions and requirements of the statute. This proposed rule change will also require school districts to consider and budget for severance requests with Oklahoma School Consolidation Assistance Funds as required by statute, which should alleviate the number of applications for severance that the State Board of Education will get and process. The rule change will give employees dismissed due to annexation or consolidation more than one opportunity to be awarded severance. The proposed rule change will have an economic impact on school district employees who are dismissed due to annexation and consolidation by outlining a clear step by step procedure and establishing a written policy for due process considerations that have not been consistently implemented in the past. It will eliminate the misconception that every employee, regardless of need or circumstance, will get 80% of their base salary as a severance by merely submitting an application to the State Department of Education. It will better prevent abuse of the employment assistance process, which currently allows some applicants to obtain new employment and 80% of a year's wages, which results in financial windfall rather than serving the purpose of economic assistance contemplated by statute. It will improve the management of the School Consolidation Assistance Fund by supplying a criteria for severance that will make available employment assistance to applicants in the manner provided by statute, and will eliminate unnecessary awards from this limited Fund.

e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**

Both printing and distribution costs will be incurred by the State Department of Education regarding the development and implementation of the proposed rules.

- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
School districts who receive School Consolidation Assistance Funds will have to update their policies and will have to consider and make severance pay determinations at the district level with School Consolidation Assistance Funds. The rule change will make the severance application to the State Department of Education a process that is one of last rather than first or an only resort for severance. It will assist the State Board of Education in managing the School Consolidation Assistance Fund by making sure severance awards are made based on a verifiable need, thus preserving Fund monies to be properly used to pay for all needs the fund was created to provide for. It will provide a needed due process procedure for severance determination appeals and procedures, thereby eliminating potential or costly litigation.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
Not Applicable
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**
No, these rule changes are necessary to enforce and clarify the severance application process that is currently in the statutes. At this time, there is no regulation or formal process for the State Board of Education to award or make severance determinations. There needs to be regulation and clarification in this area because the uncertainty that presently exists has created a precedent or default position of awarding a full 80% of wages to each applicant. This precedent has created an unnecessary and preventable drain and abuse of the School Consolidation Assistance Fund.
- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**
No risk to public health, safety, or environment is implied by the proposed rule changes.
- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**
No risk to public health, safety, or environment is implied by the proposed rule changes.
- k. The Rule Impact Statement was originally prepared August 15, 2011.

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