

SCHOOL ANNEXATION AND CONSOLIDATION

IN OKLAHOMA

2015



State Aid Section 2500 North Lincoln Boulevard Oklahoma City, Oklahoma 73105-4599 (405) 521-3460

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Preface

This technical assistance document has been prepared to assist school districts and local communities in understanding the process of school annexation and consolidation. The purpose of which is to better serve Oklahoma's children and youth.

In 1891, the Oklahoma Territorial Legislature enacted a law organizing the school districts into political subdivisions of four school districts per township. These school districts consisted of approximately nine square miles. The intent for this proximity was to insure that the students live within walking distance of their school. At the time of statehood, the first Oklahoma Legislature also organized Indian Territory into school districts. The school districts in Indian Territory were usually larger than the nine square mile districts of Oklahoma Territory. From this beginning, school districts have made many changes in size and organization.

In 1914, there were 5,880 school districts in the state. As transportation improved and educational demands increased, school districts continued to change in size and organization. In 1989, there were 609 school districts when Senate Bill 74 passed, which established the Voluntary School Consolidation Act. In 1990, House Bill 1017 amended this legislation. Since 1989, there have been 88 school reorganizations, giving us the current number of 521 school districts. The Legislature transferred all the remaining funds out of the Voluntary School Consolidation Act in 1993.

In 2006, Senate Bill 1493 created in the State Treasury a fund designated as the "School Consolidation Assistance Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other source, public or private.

During the 2009 legislative session, Senate Bill 1169 (effective November 1, 2009) amended language for the School Consolidation Assistance Fund. Related funding will be used for voluntary and mandatory annexations or consolidations.

For consolidations, not more than 200 Average Daily Membership (ADM) of any one school district from the preceding school year of the consolidation shall be counted in determining the combined ADM of any district formed by consolidation. The ADM of any one school district shall only be considered once for allocations from the fund when the school district consolidates with two or more school districts. Allocations will be calculated by multiplying the allowable ADM of the combined districts by \$2,500.

For voluntary and mandatory annexations, not more than 200 Average Daily Membership (ADM) of the annexed district from the preceding school year prior to the annexation shall be counted. Allocations will be calculated by multiplying the allowable ADM of only the annexed district by \$5,000.

The 53rd Legislature (2011) passed House Bill 2115, which allow expenditures from the School Consolidation Assistance Fund to school districts that have entered into a mutual contract for a superintendent per 70 O.S. § 5-106A. The total assistance paid over three consecutive years must not exceed 50% of the salary or wages of the superintendent or a total of \$150,000 over a three-year period. No district shall be eligible to apply more than one three-year time period. School Boards that have entered into a mutual contract with a superintendent must notify the State Board of Education on or before June 30 of the year preceding the school year that the contract becomes effective. The State Board of Education will determine allocations from the School Consolidation Fund with preference given to school consolidation/annexation if funds are insufficient.

The purpose shall be to provide consolidated school districts or districts who have received part or all of the territory and part or all of the students of a school district dissolved by voluntary or mandatory annexation, during the first year of consolidation or annexation, with a single oneyear allocation of funds needed for: (1) Purchase of uniform textbooks in cases where several districts were not using the same textbooks prior to consolidation or annexation; (2) Employment of certified personnel required to teach courses of the district for which personnel from the districts consolidated or annexed are not certified and available; (3) Employment assistance for personnel of the several districts who are not employed by the consolidating or annexing district. Personnel receiving such severance pay may accumulate one year of creditable service for retirement purposes. The State Board of Education shall provide a severance allowance to employees dismissed from employment due to annexation or consolidation of a school district in the year of the annexation or consolidation and who were denied a severance allowance or unemployment compensation benefits and the voluntary consolidation funding of the annexing or consolidating district or districts has been paid on or after July 1, 2003, at the maximum allowable amount. If a district employee is not employed by the annexing or consolidating district(s) and is subsequently denied severance or unemployment compensation by the annexing or consolidating district(s), pursuant to 70 O.S. §7-203(B)(1)(c), the district employee will be eligible to make an application for severance to the State Board of Education. Qualifying applicants shall receive a severance allowance from the State Board of Education pursuant to the following procedure: (A) Severance allowance from the State Board of Education (for administrators, teachers, and support personnel) shall be in an amount up to and not to exceed eighty percent (80%) of the individual's salary or wages, exclusive of fringe benefits. An award of severance allowance by the State Board of Education will be made only if: (i) the applicant was not employed by the consolidating or annexing district and (ii) severance or unemployment compensation was denied at the district level. (B) Severance allowance from the State Department of Education can be in any amount from 0% to 80% of the individual's salary or wages, exclusive of fringe benefits, for the school year preceding the consolidation or annexation. (C) Only timely applications for severance received by the State Department of Education, Finance Division, will be considered. Applications for severance allowance to the State Department of Education must be received no later than September 1 of the fiscal year immediately following the fiscal year in which the annexation or consolidation occurred. The application for employment assistance in the form of severance can be found on the State Department of Education website, <www.sde.ok.gov>, or by contacting the State Department of Education, Finance Division; (4) Furnishing and equipping classrooms and laboratories; (5) Purchase of additional transportation equipment; and (6) When deemed essential by the school district board of education to achieve consolidation or combination by annexation, renovation of existing school buildings and construction or other acquisition of school buildings.

"The State Board of Education shall only make allocations from the fund to school districts formed from the combination of two or more of the districts whose boards of education notify the State Board of Education on or before June 30 of their intent to annex or consolidate and are subsequently combined by such means by January 1 of the second year following the notification of intent."

"Allocations will be made to the newly formed school district formed by consolidation on the basis of combined average daily membership (ADM) of the school year preceding the first year of operation of the newly formed school district resulting from the consolidation; provided, not more than two hundred (200) ADM of any one consolidated school district shall be counted in determining the combined ADM of any district formed by consolidation. The ADM of any one consolidated school district shall not be considered more than once for allocations from the fund. Allocations from the fund shall be calculated by multiplying the combined ADM by Two Thousand Five Hundred Dollars (\$2,500)."

Allocations will be made to school districts which have received part or all of the territory and students of a school district by voluntary or mandatory annexation on the basis of ADM of the annexed school district for the school year preceding the first year of operation of the school district resulting from the annexation; provided, not more than two hundred (200) ADM of the annexed district shall be counted. Allocations from the fund shall be calculated by multiplying the allowable ADM by Five Thousand Dollars (\$5,000). In no case shall allocations be greater than One Million Dollars (\$1,000,000). If monies in the School Consolidation Assistance Fund are insufficient to make allocations to all qualified combined districts, allocations shall be made based upon earliest date of application.

Voluntary Annexation

- A. A school district or part of a school district may be annexed to another school district adjacent or not.
- B. A school district may annex to two or more districts when approved at an annexation election. Annexation elections are: (1) called by the State Superintendent of Public Instruction or designee of the State Superintendent; (2) conducted by the county election board in pursuance of a resolution for annexation; (3) the resolutions which are submitted to the State Superintendent must be signed by the board of education of the annexing district and school board or boards of the receiving district(s), or by an election called upon the filing of a petition with the State Superintendent of Public Instruction that is signed by a majority of district electors in the affected area.
- C. The State Superintendent or designee shall notify the county election board of the election by delivering a resolution to the secretary of the county election board not less than sixty (60) days preceding the election. (Contact your local county election board for election dates and deadline dates.)
- D. Elections are to be held between the hours of 7:00 a.m. and 7:00 p.m. and are conducted by the county election board.
- E. Annexations shall be approved by a majority of the school district electors either (1) of an entire school district or (2) of the affected area with prior school board approval.
- F. If the annexation is approved, the designee of the State Superintendent shall within five (5) days after such election make an order declaring the annexation; the annexation shall not become effective until time for filing an appeal has expired.
- G. Within ten (10) days after the order of the State Superintendent of Public Instruction or designee is made, twenty-five percent (25%) of the district electors who were eligible to vote at the annexation election may appeal to the district court of the county in which the territory proposed to be annexed, or the largest part thereof, if such territory lies in more than one county is situated. Thereafter, all proceedings shall be stayed until the district court has rendered judgment.
- H. If the territory proposed to be annexed is situated in more than one county, the State Superintendent or designee shall file the resolution in the county in which the largest part of such territory lies. If the area to be annexed constitutes less than two percent (2%) of the total area of the district and no qualified electors reside in the area, no election is required and the area may be annexed by resolution of both the losing and receiving district.
- I. If an independent district annexes to an elementary district not maintaining a high school, both boards of education are abolished. The Governor shall appoint three members of the

newly formed district to the board of education and these members shall appoint the remaining two members.

J. It is not legally possible to annex territory to a district that has ceased to exist.

Mandatory Annexation

Mandatory annexation will be considered by the State Board of Education upon occurrence of the following situations:

- A. When a school district has been declared "academically at-risk" pursuant to 70 O.S. 1989, § 1210.541.
- B. When a school district is nonaccredited by the State Board of Education.
- C. When a district, without officially dispensing with school, fails to open or maintain a school (except when situations beyond the control of the district cause a normal delay). [Title 70 O.S. § 8-106].

When it comes to the attention of the State Board of Education that a local school district is facing the possibility of mandatory annexation, the State Board of Education shall provide the district with an opportunity to be heard. The State Board of Education shall notify the superintendent and each school board member of the time, date and place of the meeting. At the meeting, representatives of the school district, including patrons, shall have an opportunity to address the State Board of Education and to provide information to the Board. The President of the State Board of Education may set time limits on individual presentations and may require groups to select a representative to speak on behalf of the group.

When the State Board of Education determines that a local school district is to be mandatorily annexed, the following steps will be followed:

- A. The State Board of Education will notify one or more school districts that they are responsible for taking an inventory of property and securing the buildings and other property of the district being mandatorily annexed. In selecting the district(s) responsible for this procedure, the State Board of Education may rely on recommendations from the State Superintendent.
- B. The State Board of Education will immediately notify the district superintendent of the Board's action.
- C. The State Superintendent of Public Instruction or designee of the State Superintendent shall notify the parents or legal guardians of all students in the district being annexed that they must apply for a transfer to the state superintendent within ten (10) days of the State Board of Education's action to annex. The state superintendent may require the parents or legal guardian to provide the legal description of their residence at the time the transfer request is made.
- D. Once the state superintendent has received the transfer requests, he/she shall notify the State Department of Education, in writing, of the breakdown of where students are asking to attend school by transfer and provide the State Department of Education with the legal description of the residence of each student.
- E. The State Department of Education will utilize the transfer requests and legal descriptions submitted to the state superintendent as a guide in plotting the proposed boundary lines for dividing the annexed district. Preference of the students, parents, and guardian's shall be acknowledged to the maximum extent possible.

- F. The State Department of Education will present the propose boundary lines for division of the annexed district to the State Board of Education for approval. The proposal shall be accompanied by the legal description of the property being annexed.
- G. The assets and liabilities of the annexed district shall become part of the annexing districts. When an annexing district assumes a debt incurred by the annexed district prior to July 1, the district assuming the debt should receive a comparable portion of the assets.
- H. When two or more annexing districts are involved in the division of an annexed district, the assets and liabilities are divided by agreement between the boards of education. If the boards of education are unable to agree, the matter shall be decided by the State Board of Education.

School law requires reporting to the State Board of Education on or before the first Monday in July by the Local Education Agency (LEA) if it is suspected that a district cannot financially open and maintain school for the next school year.

Consolidation

Two or more school districts may be consolidated into a single district; adjacencies are not a requirement.

- 1. A petition by the board of education of any school district desiring a study of the consolidation of such school district with another school district or districts, or proposing such consolidation, shall be assigned by the president and clerk of school board of education, and such petition shall be considered by the State Board of Education at its next regular meeting. If a study of the proposed consolidation is deemed proper and advisable, the Secretary of the State Board of Education shall forthwith advise the boards of education of all districts involved that a study of the proposed consolidation is going to be made.
- 2. The State Board of Education reserves the right to make a study of the advisability of consolidation of two or more school districts in any area of the State, on its own initiative, and without any petition from a board of education. When such decision is made, each school district involved shall forthwith be advised that such study is going to be made, and such districts shall be directed to determine, by such procedures as the State Board of Education may prescribe what, if any, consolidation should be carried on in the area under study.
- 3. All studies of the advisability of consolidation shall be under the direction of the President of the State Board of Education who shall utilize the services of appropriate divisions of the State Department of Education.
- 4. If after a study of the population, wealth, terrain, trade areas and other pertinent factors, it is determined that two or more school districts should be consolidated, the board of education of each school district involved shall be so advised.
- 5. No election to determine consolidation shall be called or held unless there shall have been filed with the State Board of Education a petition therefore, signed by a majority of the school district electors of each school district included in the proposed consolidation. When such a petition is received and is determined to be sufficient, the State Board of Education shall call an election for the purpose of affording to the school district electors in the school district sinvolved an opportunity to express their wishes through a majority vote of the school district electors in the entire territory involved. Notice of such election, stating the time and date thereof and the polling places, shall be posted in five (5) public places in each school district involved, not less than ten (10) days before date of such election. Such election shall

be conducted by one or more member of the State Department of Education, as designated by the President of the State Board of Education.

- 6. If a majority vote at such election is in favor of consolidation, the State Board of Education shall issue a written order to such effect, declaring the participating school districts dissolved and the new school district established. Copies of such order shall be sent to the county treasure, county assessor, county assessor, county clerk and county election board of each county in which the districts involved are situated, the Oklahoma Tax Commission, the State Election Board, and to the board of education of each school district involved. If a majority vote at such election is not in favor of consolidation, the State Board of Education shall make a written order to such effect, and shall send a copy thereof to the board of each school district involved.
- 7. The local board of education members representing the school district having the largest number of children shall serve as board members of the newly formed school district for the remainder of their term. (On the effective date of consolidation, the districts are dissolved and a new district is formed with a new district number.)
- 8. All liabilities, debts, assets, powers and duties shall become the responsibility of the newly formed school district.

Teacher Status Because of Annexation or Consolidation

State law provides that "No district shall be liable for the payment of compensation to a teacher or administrator under the provisions of any contract for the ensuing year, if it becomes necessary to close the school because of annexation or consolidation...provided such cause is known or action is taken prior to July 1 of the ensuing year."

The term "school" refers to a high school, middle school, junior high school, or elementary school, not a district, unless all the schools of a district were closed. (Example: If district "A" annexed district "B" and decided to leave the elementary school in district "B" open and to close the high school, the teachers of high school district "B" would not necessarily be given employment in the new district, but the elementary teachers would).

Another variable in this situation is "action prior to July 1." If a consolidation or annexation occurs at midyear, the new district must use its reduction in force policy or employ all the teachers. If the new board of education elects to utilize any part of a "school," then all teachers in that "school" must be retained.

Dispensing with a School or a School District

A high school, an elementary school, or both may be dispensed with by a majority vote of the qualified electors.

1. Should residents of a school district desire to dispense with all or part of a school district, it is the duty of the State Superintendent to notify the State Board of Education of a majority vote of eligible electors at an annual or special election or by a petition signed by sixty (60) percent of eligible school district electors to dispense with either grades 1 thru 8 or grades 9 thru 12, or both, and such procedure shall be accomplished prior to June 30. Subsequently, parents of such children in the dispensed grades should file an application for transfer for the ensuing year with the State Superintendent. Any district which dispenses with its entire school district for the ensuing year shall be mandatorily annexed on July 1 by the State Board of Education to an adjacent school district(s) to which pupils have been transferred.

2. Provided that if a school district does not officially dispense with its school following the preceding procedure and fails to open and maintain a school during such ensuing year, the State Board of Education, except as otherwise provided, shall at its next regular meeting annex such district, as provided by law. [70-8-106]

Petitions for Annexation or Consolidation

The State Department of Education, in accordance with state law, will specify what is needed on any petition requesting an election for annexation or consolidation.

The following information should be included on any petition for consolidation or annexation filed with the State Department of Education:

- 1) Petitioner's Request;
- 2) General statement that all signers are legal voters in the school district;
- 3) Voter's name, printed;
- 4) Voter's address;
- 5) Voter's signature; and
- 6) Signature and statement of circulator attesting every voter did sign the petition in his presence.

To calculate sufficiency of the number of signatures on a petition, the given percentage figure shall be applied to the highest number of voters voting in a regular school election in the district or in the case of a partial annexation, in the preceding five years as determined by the county election board, who shall certify the adequacy of the number of the signatures on the petition. Once the county election board has certified the adequacy of the number of signatures on a petition, it is delivered to the State Superintendent of Public Instruction or the designee of the State Superintendent.

Requirements of Election Laws

Special elections for all school annexations, consolidations, or dispensing of grades are to be called by the State Superintendent of Public Instruction or designee of the State Department of Education. The entity calling the elections shall notify the county election board by delivering a resolution to the secretary of the county election board at least sixty (60) days preceding the election.

The resolution shall contain information necessary for the county election board to conduct the election:

- 1) Date of election;
- 2) Ballot titles of the question to be voted upon;
- 3) Effective date of the annexation, consolidation, or grade change;
- 4) Description of persons eligible to vote in the election; and
- 5) Legal description if the annexing district is to be divided among two or more districts.

The annexation shall be approved by a majority of the school district electors voting at such election:

- 1) Of the entire school district, or
- 2) If a majority of the members of a board of education of a school district losing the territory concur with the petitioners, or resolution, only the legal voters of the area so affected shall be eligible to vote at such election.

Legal Election Days

A schedule of legal election dates and deadlines may be obtained by contacting the local county election board, the State Election Board, or the Oklahoma State Department of Education.

Cost of Elections

The board of education of the school district, for which the election is being called, shall pay the county election board for any costs of the election. The school district shall pay these costs even if the election is called by a petition of the voters of the district.

Guidelines and Forms

Copies of corresponding State Department of Education forms and guidelines for the implementation of annexation/consolidation and severance are available from the State Aid Section of the State Department of Education by calling (405) 521-3460, or can be found on the State Department of Education Website at <<u>http://ok.gov/sde/annexations-and-consolidations</u>>.

Quick Reference Annexation and Consolidation Checklist

□ Notify State Aid Section of Intent to Annex or Consolidate

□ School Superintendent notifies State Department of Education of Intent

□ School Board Resolutions

- \Box Legal description of territory to be annexed or consolidated
- □ Describe the division of assets and liabilities
- □ Effective Date Earliest effective date is the Monday following the election

Official School Board Resolutions

- □ Provided by each district involved in the annexation or consolidation
- Signed by the Board President and Board Clerk
 Submit with the Official School Board Meeting Minutes to State Aid Section

□ Official School Board Meeting Minutes in which the Annexation/Consolidation was approved, Minutes must be approved and signed

- □ Approved minutes from the meeting in which the annexation/consolidation was approved
- □ Signed by the Board President and Board Clerk
- □ Submit with the Official School Board Resolutions to the State Aid Section

□ If by Petition

- □ Petitioners must get concurrence of receiving school district
- □ Petitioners present the County Election Board with boundaries of the area affected (area to be annexed)
- □ County Election Board determines the number of electors in the affected area
- □ Petition is circulated by petitioners
- Validation of Petition by County Election Board majority of electors in affected area
- □ Petitioners present validated Petition to local school board who determines whether the whole district votes or only the electors in affected area
- □ Once this decision is made by the local school board Petition is forwarded to the State Superintendent of Public Instruction to set election

Quick Reference Checklist to Dispense with High School, Grade School or Both

School District Responsibilities

□ Notify State Aid Section of Intent to Dispense

□ School Superintendent notifies State Superintendent of Intent

□ Assemble Required Documents for State Department of Education

- □ School Board Resolution
 - Original Document Signed by Board President and Board Clerk
- □ School Board Minutes
 - □ Approved and signed Board Minutes from the board meeting in which the resolution was approved
 - Signed by the Board President and Board Clerk

Submit Required Documents to the State Aid Section

- Deliver to the State Department of Education, State Aid Section, 2500 North Lincoln Boulevard, Suite 427, Oklahoma City, Oklahoma 73105-4599
- □ Must be received in the State Aid office (10) business days prior to the "Resolution Due Date" deadline published by the Election Board

State Department of Education Responsibilities

After receiving the required information the SDE will

- □ Assemble Required Documents for County Election Board
 - □ Prepare Resolution Calling for an Election
 - □ Prepare Ballot Proposed Question

□ Send Required Documents for Signature

- □ Send to State Superintendent for signature
- □ Include a signed copy of the School District Board's resolution and minutes

□ Send Required Documents to the County Election Board requesting Election

- □ Include Original School District Board's Resolution, Original SDE Resolution, and ballot question
- □ Send via Certified Mail to County Election Board
- □ Send via Certified Mail to School Districts

County Election Board notifies SDE of official election results three days after election

- □ State Department of Education- State Aid Section Prepares Order to Dispense with Grades (if passed)
 - □ Send to State Superintendent for signature

- □ The State Department of Education will Notify Various County, State, and Federal Offices, and School District(s) of all of the above by
 - □ Sending signed Order via certified mail to County Election Board
 - □ Sending copy of signed Order to School District(s)
 - \Box Sending copy of signed Order to Petitioner if by petition
 - □ Sending copy of signed Order to Various County, and State Agencies
 - □ Sending copy of signed Order to the US Department of Education
 - □ Sending copy of signed Order to GIS Mapping Specialist to update school district boundary and/or grade change

VOLUNTARY ANNEXATION FLOW CHART

Decision by Board of Education

Community meeting(s) to inform school patrons

Final decision by Board of Education to annex and with what school district(s)

Board resolutions to State Department of Education (SDE) requesting SDE call for an annexation election

Resolution from each school district with total legal description must be attached to all resolutions if the annexing district is to be split among two or more districts

State Superintendent or designee prepares and files a Resolution and Ballot Question with the county election board calling for an election

Election cannot be called any earlier than sixty-days (60)

Election

County election board certifies the election result

State Superintendent or designee signs Annexation Order (or denies)

SDE notifies various county and state agencies if election passes

If election fails - State Superintendent or designee prepares and files Order

Annexation becomes Effective on specified day or after ten-day (10) protest period

MANDATORY ANNEXATION FLOW CHART

SDE determines that a school district is to be mandatorily annexed (typically because of lack of students and/or finances).

SDE inventories all assets and secures property.

SDE notifies parents or guardians of all students in the district being annexed that they must apply for a transfer to the school of their choice. Legal description of the student's residence must be given to the SDE within ten-days (10).

Boundary lines, if needed, are drawn to divide the school district with preference given to the wishes of the parents/students to the district of their choice.

The assets and liabilities of the annexed district become part of the annexing district(s). Assets and liabilities should equal each other if more than one annexing district is involved.

SDE notifies various county and state agencies of the mandatory annexation.

Districts are required to report to the SDE on or before the first Monday in July if it is suspected that a district cannot financially open and maintain school for the next year.

PETITION FOR ANNEXATION

Board	To the of Edu			fmeister, State	, State Superintendent			t of Public Instruction and the School District No.			
of				County,	Oklaho	oma,	also	known	as	the	
]	Public School	District.						
	We,	the	undersigned	Petitioners Pub				Annexation the describ			

We, the undersigned, individually certify that we are school district electors registered to vote within the territory described above and petition the State Superintendent to call for an annexation election in the manner provided by law and for the Boards of Education of the ______ Public School District and the ______

Public School District to adopt resolutions concurring with our petition for the calling of an election for the annexation petitioned herein.

We, the un	ndersigned, petition	for the a	annexation	of the	territory	described	above to be
annexed to the					-	_ School	District No.
of						_ County	, Oklahoma,
also known as the					Pub	lic School	district.

SIGNATURE	ADDRESS	PRINTED NAME

PETITION FOR ANNEXATION CONTINUED

SIGNATURE	ADDRESS	PRINTED NAME

PETITION FOR ANNEXATION CONTINUED

SIGNATURE		ADDRESS		PRINTED NAME
		Affidavit		
State of Oklahoma)	ss:		
County of)			
I,	· · · ·	, resid	ing at	,
being first duly sworn, do and that the persons who s certify that I believe such registered voters within the	igned this h persons	petition, and each have correctly st	of them, did so ir ated their names	n my presence. I further and addresses and are
			Signa	ture
Subscribed and swo	orn to befo	re me this da	-	, 20
My commission expires: _				
My commission number: _			Notary Public	2

VERIFICATION OF PETITION FOR ANNEXATION

The _____ County Election Board does hereby certify that a majority of qualified electors, as determined by the highest number of voters voting in a regular school district election in the district in the preceding five (5) years is _____.

I further certify that the attached petition consisting of _____ pages and submitted to the Election Board by _____ on the ___ day of _____, 20__ has been signed by a majority of the school district electors in the territory proposed to be annexed and contains a sufficient number of valid signatures of qualified electors of the school district.

County Election Board Secretary

(Seal)