



JANET BARRESI
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF OKLAHOMA

MEMORANDUM

TO: The Honorable Members of the State Board of Education
FROM: Janet Barresi, State Superintendent *gcb-*
DATE: December 15, 2011
SUBJECT: Report and Recommendation on the Award of Employment Assistance Benefit in the form of Severance

State Board approval is being requested by the Capital Improvement Section and the Financial Services Division of the Oklahoma State Department of Education to pay a one-time severance allowance to qualifying applicants for former employees of the following annexed school districts: Boynton-Moton, Wakita, and Pickett-Center. Pursuant to 70 O.S. §7-203, district employees who have lost their employment due to annexation or consolidation of their school district are eligible to make application to the State Department of Education, Financial Services Division, for employment assistance in the form of a one-time severance allowance. To qualify for severance, the employee must not be employed by the annexing or consolidated school district and must have been denied either unemployment compensation or severance from the annexing or consolidated school district. The State Board may approve a severance up to 80% of one year of the applicant's gross wages not including fringe benefits. Attached is the statutory Authority for severance 70 O.S. §7-203(B)(c).

The attached report to the State Board includes a Summary of Severance Applications and Recommended Award Amounts, as well as the applications for each individual who applied and the data worksheet used to calculate severance based upon the criteria and formula for adjusting severance set forth in OAC 210:1-3-2. (See Attached Rule).

The total number of severance applications received by the State Department of Education by the September 1, 2011, deadline was thirty-four (34). The total number of qualifying severance applications is thirty-three (33). The total number of withdrawn applications is one (1). The total amount of severance being recommended to these applicants from the Consolidation Assistance Fund is \$331,972.00.

JB/vb



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Title 70. Schools

Oklahoma Statutes Citationized

Title 70. Schools

Chapter 1 - School Code of 1971

Oklahoma School Consolidation and Annexation Act

Article Article VII - Annexation and Consolidation

Section 7-203 - School Consolidation Assistance Fund - Budget - Allocations and Expenditures

Cite as: O.S. §, ___ __

A. There is hereby created in the State Treasury a fund to be designated the "School Consolidation Assistance Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall 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.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education for the purposes established by this section, the Legislature and in accordance with rules promulgated by the State Board of Education. The purposes shall be to provide:

1. Voluntarily or mandatorily 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 one-year allocation of funds needed for:

a. purchase of uniform textbooks in cases where the several districts were not using the same textbooks prior to consolidation or annexation,

b. 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,

c. employment assistance for personnel of the several districts who are not employed by the consolidated or annexing district. Employment assistance may include provision of a severance allowance for administrators, teachers and support personnel not to exceed eighty percent (80%) of the individual's salary or wages, exclusive of fringe benefits, for the school year preceding the consolidation or annexation. Personnel receiving such severance pay may accumulate one (1) year of creditable service for retirement purposes. Employment assistance may also include the payment of unemployment compensation benefits. 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. Application for a severance allowance shall be made to the Finance Division of the State Department of Education by the dismissed employee no later than September 1 of the fiscal year immediately following the fiscal year in which the annexation or consolidation occurred,

d. furnishing and equipping classrooms and laboratories,

e. purchase of additional transportation equipment, and

f. 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; and

2. Assistance to school districts which have entered into a mutual contract with a superintendent as authorized pursuant to Section 5-106A of this title in paying the salary or wages of the superintendent. The assistance shall equal not more than fifty percent (50%) of the salary or wages of the superintendent for not more than three (3) consecutive years. In no case shall the total amount of assistance paid over the three-year period be more than One Hundred Fifty Thousand Dollars (\$150,000.00) nor shall any school district be eligible to receive assistance pursuant to this paragraph for more than one three-year time period.

C. 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. The boards of education which have entered into a mutual contract with a superintendent shall notify the Board on or before June 30 of the year preceding the school year the mutual contract will become effective.

D. Allocations will be made to school districts formed by voluntary or mandatory consolidation on the basis of combined average daily membership (ADM) of the school year preceding the first year of operation of the school district resulting from the consolidation; provided, not more than two hundred (200) ADM of any one school district shall be counted in determining the combined ADM of any district formed by consolidation. The ADM of any one school district shall not be considered more than once for allocations from the fund when the school district consolidates with two or more school districts. Allocations from the fund pursuant to this subsection shall be calculated by multiplying the combined ADM by Two Thousand Five Hundred Dollars (\$2,500.00).

E. 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 pursuant to this subsection shall be calculated by multiplying the allowable ADM by Five Thousand Dollars (\$5,000.00). In no case shall allocations payable pursuant to this subsection be greater than One Million Dollars (\$1,000,000.00).

F. If monies in the School Consolidation Assistance Fund are insufficient to make allocations to all qualified combined districts, allocations shall be made based upon the determination of the State Board of Education with preference given to school district consolidation and annexation.

Historical Data

Added by Laws 1989, SB 74, c. 323, § 4, emerg. eff. July 1, 1989; Amended by Laws 1989, 1st Extr. Sess., HB 1017, c. 2, § 10, emerg. eff. July 1, 1990; Amended by Laws 1990, HB 1883, c. 257, § 9, emerg. eff. May 23, 1990; Amended by Laws 1991, HB 1236, c. 280, § 59, emerg. eff. July 1, 1991; Amended by Laws 1992, SB 741, c. 111, § 1, emerg. eff. April 21, 1992; Amended by Laws 1993, HB 1383, c. 361, § 4, emerg. eff. July 1, 1993; Amended by Laws 2003, HB 1153, c. 296, § 3, emerg. eff. July 1, 2003 ([superseded document available](#)); Amended by Laws 2006, SB 1493, c. 278, § 4, emerg. eff. July 1, 2006 ([superseded document available](#)); Amended by Laws 2009, SB 1169, c. 448, § 4, eff. November 1, 2009 ([superseded document available](#)); Amended by Laws 2011, HB 2115, c. 338, § 2, emerg. eff. July 1, 2011 ([superseded document available](#)).

Citationizer® Summary of Documents Citing This Document

Cite Name Level
None Found.

Citationizer: Table of Authority

Cite Name	Level
Title 70. Schools	
Cite Name Level	
70 O.S. 7-203,	School Consolidation Assistance Fund - Budget - Allocations and Expenditures Cited
70 O.S. 7-203,	School Consolidation Assistance Fund - Budget - Allocations and Cited

Expenditures.

SUBCHAPTER 3. DEPARTMENTAL PRECEPTS

210:1-3-2. Annexation, consolidation, and dispensation, and severance determination

(a) **State Board of Education role.** The State Board of Education's role is: to receive and implement an order from the State Superintendent which declares that all or part of a district has been voted to be annexed, following statutory requirements, to adjacent or transporting district(s); to decide on the division of assets and property of a disorganized district in the event the problem cannot be resolved by the boards of annexing districts; and to set standards, promulgate rules and procedures, and conduct studies relating to the consolidation of two or more adjacent school districts. [70:7-105 & 106]

(b) **Mandatory annexation.**

(1) 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].

(2) 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.

(3) 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 Board will notify one or more of the potential receiving 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 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 10 days of the State Board of Education's action to annex. The state superintendent may require the parents to furnish a legal description of their residence at the time the transfer request is made.

(D) Once the state superintendent has received the transfer requests, she/he 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. To the maximum extent possible, the preference of the students and parents shall be acknowledged.

(F) The State Department of Education will present the proposed 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 divided by the State Board of Education.

c) Consolidation of school districts.

(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 signed by the president and clerk of such 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 consolidating 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 districts involved 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 members 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 treasurer, county assessor and the county clerk of each county in which the districts involved are situated, and to the Oklahoma Tax Commission, 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 education of each school district involved.

(7) The local board of education members representing the school district having the largest number of enumerated children shall serve as board members of the newly-formed school district for the remainder of their term.

(8) All liabilities, assets, powers and duties shall become the responsibility of the newly-formed school district.

(d) Dispensing with a school district.

(1) Should residents of a district desire to dispense with all or part of this 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 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]

(e) ~~Guidelines and forms. Copies of corresponding State Department of Education forms and guidelines for the implementation of annexations/consolidation are available from the consolidation officer of the State Department of Education.~~ Severance determination. Pursuant to 70 O.S. §7-203(B), the State Board of Education may

promulgate rules regarding its authority to budget and make expenditures of monies contained in the School Consolidation Fund. School Consolidation Funds can be used by annexing or consolidating districts to provide employment assistance in the form of severance for school district employees who are dismissed due to annexation or consolidation under 70 O.S. §7-203(B)(1)(c). The procedure for employees to make a severance application and receive a severance determination is as follows:

(1) To qualify for severance, district employees (teachers, administrators, and support personnel) must first seek severance allowance from the annexing or consolidating district(s) prior to making application to the State Department of Education.

(A) Any annexing or consolidating school district(s) that receive School Consolidation Funds must accept and consider all requests for severance made by district employees who were dismissed due to annexation or consolidation, but not subsequently employed by the consolidating or annexing district(s).

(B) The annexing or consolidating district(s) may elect to award qualifying employees a severance in an amount up to and not to exceed eighty percent (80%) of the individual's salary or wages, exclusive of fringe benefits.

(C) Severance allowance from the annexing or consolidating district(s) is permissive 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.

(D) For the purposes of calculation, the district(s) shall include only the salary or wages actually paid to the employee for the school year preceding the consolidation or annexation.

(E) Applications for severance shall be considered on an individual case by case basis.

(F) Each district shall promulgate their own rules and procedures for accepting, reviewing, and awarding severance. The criteria used for awarding severance must be measurable, objective, non-discriminatory, and uniformly applied.

(2) If the annexing or consolidating district makes an award of employment assistance in the form of severance, the district employee will not be eligible to make application to the State Department of Education for severance allowance unless the employee has also been denied unemployment compensation.

(3) Unemployment benefits received by any district employee dismissed due to annexation or consolidation may be counted as a form of employment benefit under 70 O.S. §7-203(B)(1)(c). Unemployment compensation may be considered as part of the total employment assistance received and may be taken into account or offset when severance allowance determinations are made.

(4) 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 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 a 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) For the purposes of calculation, the State Department of Education shall include only the salary or wages actually paid to the employee by the district for the school year preceding the consolidation or annexation.

(D) Only timely applications for severance received by the State Department of Education, Finance Division, will be considered. All applications for severance 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 SDE website, www.sde.ok.gov, or by contacting the State Department of Education, Finance Division.

(5) Severance allowance by the State Department of Education can be denied only for good cause with supporting documentation of the following:

(A) The applicant was hired by the consolidating or annexing district(s), regardless of the number of hours, part time or full time status, or rate of pay.

(B) The applicant was dismissed or non-reemployed by the local school district board for reasons other than consolidation or annexation (i.e. reduction in force or inability to pay due to financial exigency).

- (C) The applicant received severance from the consolidating or annexing district(s) and in addition to unemployment compensation.
- (5) Severance allowance by the State Department of Education can be reduced or adjusted below eighty (80%) percent of the applicant's salary or wages, excluding fringe benefits, for good cause with supporting documentation. Good cause to reduce or adjust severance can include, but is not limited to, consideration of the following:
- (A) The annexation or consolidation was mandatory rather than voluntary.
- (B) The applicant's length of service to the district.
- (C) The applicant's service record, job performance, or conduct warrants consideration of a reduction or adjustment in severance. The application of this criteria must be supported by verifiable documentation and evidence that is made available for the Board's review.
- (D) The applicant was hired by the local school board after the annexation or consolidation election results are called by the State Superintendent of Public Instruction.
- (E) The applicant was hired by the local school board after the State Board of Education voted to non-accredit the district.
- (F) The applicant failed to apply for or make an attempt to gain employment with the consolidating or annexing district(s).
- (G) The applicant failed to apply for or attempt to obtain a severance allowance from the consolidating or annexing district(s).
- (H) The applicant received unemployment compensation. The amount of unemployment compensation received can be considered an offset when determining severance.
- (6) Severance Determinations. Upon receiving the application for severance the State Department of Education, Finance Division staff shall review the applications for severance and make a written recommendation to the State Board of Education regarding each severance application. Each severance application will be considered on an individual case by case basis and a recommendation for severance allowance or denial will be made by the SDE staff to the State Board of Education in writing during a regularly scheduled Board of Education meeting.
- (A) The applicant will be notified of the SDE staff recommendation and will be given written notice of the time, place, and date of the regularly scheduled State Board of Education meeting that the Board will consider and voting upon the SDE staff recommendation for severance.
- (B) The State Board of Education will vote on all SDE staff recommendations for severance in open meeting. All votes of the State Board of Education approving or denying a severance application will be considered a final order of the Board.
- (6) The applicant will be notified in writing of the State Board of Education's final determination regarding severance allowance. The applicant will have ten (10) days from the date the notification of severance determination is received within which time to file a petition for appeal or reconsideration of the Board's determination.
- (7) Any petition, reconsideration, or hearing on the Board's final order regarding severance shall be made pursuant to, and governed by, the Due Process Procedures of the State Board of Education as outlined in 210:1-5-1 of the Oklahoma Administrative Code.
- (f) Guidelines and forms. Copies of corresponding State Department of Education forms and guidelines for the implementation of annexations/consolidation and severance are available from the consolidation officer of the State Department of Education.