

Overview of School District Detachment & Annexation

Franklin, Johnson, Massac, Williamson Counties

What is Detachment?

Detachment is a form of reorganization where a portion of one school district is incorporated into one or more other school districts. This may consist of one or more families or an area within a district wanting to attend another school district.

- Governed by State Statute: 105 ILCS 5/7-1, et. Seq.
- Petitions for Detachment and Annexation are decided by the Regional Board of School Trustees for an education service region.

Steps to Detachment

- Petition
- Public Hearing
- Regional Board of School Trustees Decision

Who May Petition for Detachment?

- The board of education of affected district
- A majority of registered voters in each affected district
- 2/3rds of registered voters in any territory proposed to be detached (105 ILCS 5/7-1)

The Petition

- The petition shall include the full prayer of the petition; each signature shall match the official signature of the registered voter; each signature must be dated, and each page must be signed by a circulator who has witnessed the signatures. Signatures are valid for 6 months. 105 ILCS 5/7-1
- The petition is filed with the secretary of the Regional Board of School Trustees of the region in which the territory to be detached is located. 105 ILCS 5/7-6(a)

After a Petition is Filed

The secretary of the Regional Board:

1. Sends the petition to the school board of each school district involved
2. Publishes a notice in a local newspaper which must include the date the petition was filed, a description of the territory, prayer of petition and the day on which the hearing shall be held.
3. Schedules a hearing before the Regional Board; the hearing must be held between 10 and 15 days after the publication of the notice 105 ILCS 5/7-6.

Miscellaneous Matters

- A Regional Board may grant or deny a petition, but cannot modify it once it has been filed
- The petitioners are responsible for the costs of publishing the hearing notice and the costs of the transcript of the hearing 105 ILCS 5/7-6(e)
- Any resident of any district affected may appear and present evidence in support of or in opposition to the petition (105 ILCS 5/7-6(j))
- A joint hearing may be necessary if the territory to be detached is located in more than one region, and approval by both Regional Boards is required 105 ILCS 5/7-2

Regional Superintendent's Impact Report

At least 5 days before the hearing, the Regional Superintendent is required by law to submit to the Regional Board of School Trustees:

1. Maps showing the districts involved;
2. A written report of financial and educational conditions of the districts involved; and
3. The probable effects of the proposed changes

The reports and maps submitted shall be part of the record of the proceedings 105 ILCS 5/7-6(h)

Statutory Factors Considered When Ruling on Petitions

The Regional Board of School Trustees shall hear evidence as to:

1. School needs and conditions of the territory in the area within and adjacent thereto and the effect detachment will have on those needs and conditions;
2. The ability of the districts affected to meet the standards of recognition as prescribed by the State Board of Education;
3. The division of funds and assets which will result from the change of boundaries;
4. Whether such a change is to the best interests of the schools of the area and the direct educational welfare of the pupils 105 ILCS 5/7-6(i)

Additional Statutory Considerations

- When considering the effect, the detachment will have on the direct educational welfare of the students, the Board shall only consider a comparison of school report cards/school district report cards for the schools of the affected districts **only** if there is no more than a 3% difference in the minority, low-income and English learner student populations of the relevant schools of the districts 105ILCS 5/7-6(i)(1)
- The Board must first determine that there would be a significant direct education benefit to the petitioners' children if the boundary change is allowed before it considers the community of interest of petitioners and their children and the effect detachment will have on the whole child 105 ILCS 5/7-6(i)(2)
- When petitioners cite an annexing district attendance center, the Regional Board may consider the distances from the detaching area to the current attendance center only if the difference is no less than 10 miles shorter to one of the cited annexing district attendance centers than it is to the current attendance center 105 ILCS 5/7-6(i)(3)
- The Regional Board may not grant a petition if doing so will increase the percentage of minority or low-income students or English learners by more than 3% at the detaching territory, provided that if the percentage of any one of those groups also decreases at that attendance center, the Board may grant the petition upon consideration of other factors under this Section and this Article 105 ILCS 5/7-6(i)(4)
- The Regional Board may not consider whether changing the boundaries will increase the property values of the petitioners' property 105 ILCS 5/7-6(i)(5)
- These additional factors are applicable whether or not there are children residing in the petitioning area at the time the hearing is conducted

The Carver Factors

“Petitions for detachment and annexation should be granted only where the overall benefit to the annexing district and the detachment area clearly outweighs the resulting detriment to the losing district and the surrounding community as a whole.” Carver, 146 Ill.2d at 356

1. Benefit-Detriment Test: Courts are to consider:
 - The differences between school facilities and curricula;
 - The distances from the petitioners’ homes to the respective schools;
 - The effect that detachment would have on the ability of either district to meet state standards of recognition (and whether a detaching district will remain financially healthy and able to meet the standards);
 - The impact of the proposed boundary change on the tax revenues of both districts (Carver v. Bond/Fayette/Effingham Regional Board of School Trustees, 146 Ill 2d 347, 586 N.E.2d 1273, 2377, 1992)
2. Whole Child and Community Interest
 - When there are no countervailing factors, and when the best interest of the children involved are served by the detachment, the courts usually apply the ‘whole child’ and the ‘community of interest’ test
 - The ‘whole child’ factor is based on the concept that extracurricular participation in social, religious, and commercial activities is important in a child’s development and supplements his or her academic involvement
 - The ‘community of interest’ factor considers whether the detaching area is identified with the annexing school district and community
3. Other Factors
 - Parental Preference - While they may be treated as one factor in ruling on the detachment petition, parental preference and convenience alone are usually insufficient to grant a detachment and annexation petition
 - Increased Property Values - May not be considered (see 105 ILCS 5/7-6(i)(5))
 - Length of Bus Rides for Students - Courts have found it to be acceptable if granting a petition results in longer bus rides for older students, but shorter bus rides for younger students
4. When No Children Reside in the Area
When considering property that is either uninhabited and/or in which no students reside, the Regional Board must determine whether:
 - The annexation would be beneficial to the ‘educational welfare’ of any pupils who might later reside in that area
 - ‘Educational welfare’ is broadly interpreted
 - Whether or not the territory involved is part of an integral or main activity of the community served by the receiving school district;
 - The residential potential of the tract of land involved;
 - The distance students would travel along and across any heavily traveled roads in order to attend school
5. Petition Decision
 - At the conclusion of the hearing, the Regional Board will deliberate and decide whether to grant or deny the petition by a simple majority vote
 - The petitioner must prove their case by a preponderance of the evidence. ‘A prima facie case is established by evidence that would enable the trier of fact to find each element of the cause of action more probably true than not.’
 - Within 30 days of the vote, the Regional Superintendent shall enter the order of the

Regional Board of School Trustees either granting or denying the petition and deliver to the committee of petitioners a certified copy of order 105 ILCS 5/7-6(k)

6. Rehearing and Effective Date

- Within 10 days after service of a copy of the order granting or denying the petition, any person so served may petition for a rehearing, upon a showing of sufficient cause, a rehearing may be granted 105 ILCS 5/7-6(n)
- If there is no appeal of the decision within 35 days of the Regional Superintendent issuing the order, the change in boundaries becomes effective July 1st following the date the petition is granted 105 ILCS 5/7-9

7. Appealing the Decision

- The following parties may appeal the Regional Board's decision by filing a complaint for judicial review within 35 days of service of the decision by registered mail:
- Any resident who appear at the hearing; or
- Any petitioner (registered voter(s), Committee of Ten or board of education); or
- A board of education of a district affected by a petition for detachment and annexation 105 ILCS 5/7-7

8. Role of the Regional Board of School Trustees During Appeal

- The Regional Board is represented by the State's Attorney's Office in court and may elect to defend the decision of the Board on appeal
- The Regional Board does not represent or advocate for the petitioners, respondents or any of the effected districts
- The Regional Board may elect to only argue procedural or jurisdictional matters affecting the petition on appeal

9. Effect on Appeal

- If a decision of a Regional Board of School Trustees is appealed, the complaint for judicial review operates as a stay of enforcement, and no further proceedings shall be had until there is a final disposition of the review 105 ILCS 5/7-7

10. Failure to Act

- If within 9 months after a petition is submitted under Section 7-1 of the School Code the Regional Board of School Trustees fails to approve or deny the petition, the school boards or registered voters of the districts affected that submitted the petition (or the committee of ten) may submit a copy of the petition directly to the State Superintendent of Education for approval or denial
- Only the petitioners may invoke the '9 Month Rule' 105 ILCS 5/7-6(l)

11. Limitation of Successive Petitions

- No territory that has been involved in any proceeding to change school boundaries can again be involved in another proceeding unless:
 - At least 2 years have passed after a final determination of the first proceeding to change the boundaries;
 - A petition involving the same territory is 'substantially different' from any other previously filed petition during the previous years; or
 - A school district involved is placed on academic watch status or on the financial watch list by the State Board of Education 104 ILCS 5/7-8