

**NEBRASKA DEPARTMENT
OF EDUCATION**

RULE 83

**PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS**

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 83**

**EFFECTIVE DATE
MAY 31, 2016
(REVISED)**

**State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509**



NUMERICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>SECTION</u>
General Information	79-435 and 79-413 through 79-4,111 R.R.S.	001
Definitions	79-435 and 79-413 through 79-4,111 R.R.S.	002
Criteria for Approval of Petitions for Changes of School District Boundaries; Notice and Hearing Procedures	79-435 and 79-413 through 79-4,111 R.R.S.	003
Unified Systems, Application for Approval	79-435 and 79-413 through 79-4,111 R.R.S.	004
Mandatory Boundary Changes	79-435, 79-413 through 79-4,111, 79-598, and 79-599 R.R.S.	005
Appendix A:	Sample Newspaper Notice for a Hearing on a Petition under Section 003.01	
Appendix B:	Sample Newspaper Notice for a Hearing on a Plan or Plans under Section 003.02	

ALPHABETICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>SECTION</u>
Criteria for Approval of Petitions for Changes of School District Boundaries; Notice and Hearing Procedures	79-435 and 79-413 through 79-4,111 R.R.S.	003
Definitions	79-435 and 79-413 through 79-4,111 R.R.S.	002
General Information	79-435 and 79-413 through 79-4,111 R.R.S.	001
Mandatory Boundary Changes	79-435, 79-413 through 79-4,111, 79-598, and 79-599 R.R.S.	005
Unified Systems, Application for Approval	79-435 and 79-413 through 79-4,111 R.R.S.	004

Appendix A: Sample Newspaper Notice for a Hearing on a Petition under Sections 003.01

Appendix B: Sample Newspaper Notice for a Hearing on a Plan or Plans under Section 003.02

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 83 - PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

001 General Information

- 001.01 Statutory Authority. This Rule is adopted pursuant to 79-435 R.R.S. which states, in part, that the State Board of Education shall adopt and promulgate rules and regulations for the State Committee for the Reorganization of School Districts to carry out its duties as provided in law.
- 001.02 Scope and Application of this Rule. This chapter provides the criteria and procedure to be used by the State Committee for the Reorganization of School Districts in the review and approval or disapproval of plans and petitions for changing school district boundaries, and for unifications as provided by law.
- 001.03 Related Regulations. In addition to the requirements of this Rule, the following regulations apply: Title 92 Nebraska Administrative Code (NAC), Chapter 8, dealing with school financing and budgeting; and Title 92 NAC Chapter 10, dealing with procedures for the accreditation of schools.
- 001.04 Filing of Petitions and Plans. All petitions and plans which must be filed with the State Committee for the Reorganization of School Districts shall be filed in care of the Commissioner of Education, Nebraska Department of Education, Nebraska State Office Building, 6th Floor, 301 Centennial Mall South, Lincoln, NE 68509-4987.

002 Definitions as Used in This Chapter:

- 002.01 Affected Districts/District Affected. shall mean districts whose boundaries are in any manner changed by a plan of reorganization pursuant to the Reorganization of School Districts Act (Sections 79-432 to 79-451 R.R.S.) or a plan of reorganization which is the subject of a petition under Sections 79-413, 79-415, or 79-416 R.R.S..
- 002.02 Average Daily Membership. shall mean the average daily membership (enrollment) for grades kindergarten through twelve attributable to the local system under Section 79-1003 R.R.S. and as filed by each district under Section 79-528(4) R.R.S..
- 002.03 City. shall mean a city of any class as defined by the following statutes: Sections 14-101, 15-101, 16-101, and 17-101, R.R.S..
- 002.04 Commissioner. shall mean the Commissioner of Education.
- 002.05 Consolidations. shall mean the voluntary reduction in the number of school districts providing education to a grade group (Section 79-1003 R.R.S.).

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 83 - PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

- 002.06 District/School District, shall mean the territory under the jurisdiction of a single school board (Section 79-101 R.R.S.).
- 002.07 Educational Services, shall mean those instructional and non-instructional programs provided by the school to the students enrolled in the school.
- 002.08 Elementary Grades, shall mean grades kindergarten through eight, inclusive (Section 79-101 R.R.S.).
- 002.09 Fall School District Membership, shall mean the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports (Section 79-1003 R.R.S.).
- 002.10 General Fund Levy, shall mean a levy on the assessed value of real estate to finance all facets of services rendered by a school district, inclusive of operation and maintenance. (Section 003.03A of Title 92, NAC, Chapter 2).
- 002.11 High School Grades, shall mean all grades above eight (Section 79-101 R.R.S.).
- 002.12 Interlocal Agreement, shall mean an agreement under the Interlocal Cooperation Act (Sections 13-801 to 13-827 R.R.S.).
- 002.13 Legal Voters, shall mean an elector who has a valid voter registration record on file with the election commissioner or county clerk in the county of his or her residence (Section 32-115 R.R.S.).
- 002.14 Petition(s), shall mean a formal written request for approval of a plan for a school district boundary change under Sections 79-413, 79-415, or 79-416 R.R.S..
- 002.15 Petition(s) of the people, shall mean petitions of legal voters to create a new school district from other districts, or change the boundaries of existing Class II-V districts under Section 79-413 R.R.S..
- 002.16 Plan(s)/plan(s) of reorganization, shall mean a concrete proposal for readjustment and realignment of any school district (Section 79-433 R.R.S.).
- 002.17 Reorganization of School Districts, shall mean the formation of new school districts, the alteration of boundaries of established school districts, and the dissolution or disorganization of established school districts (Section 79-433 R.R.S.).
- 002.18 Resident School District, shall mean the school district in which a student resides.
- 002.19 School Term, shall mean a "school year:" (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours (Section 79-101(7) R.R.S.).

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 83 - PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

- 002.20 State Aid Resources, shall mean the amount of assistance paid to a district pursuant to the Tax Equity and Educational Support Act (Section 79-1003 R.R.S.).
- 002.21 State Board, shall mean the State Board of Education.
- 002.22 State Committee, shall mean the State Committee for the Reorganization of School Districts.
- 002.23 System/Multiple School District System/Local System, shall have the same meaning as local system set forth in Section 79-1003 R.R.S..
- 002.24 Unified System/Unification, shall mean two or more Class II or III districts participating in an interlocal agreement under the Interlocal Cooperation Act with approval from the State Committee for the Reorganization of School Districts (Section 79-4,108(1) R.R.S.).
- 002.25 Village, shall mean any town or village containing not less than one hundred nor more than eight hundred inhabitants incorporated as a city, town, or village and any city of the second class that has adopted village government (Section 17-201 R.R.S.).
- 003 Criteria for Approval of Petitions for Changes of School District Boundaries; Notice and Hearing Procedures. The State Committee will approve or disapprove petitions for school district boundary changes, following a review for required contents in this section and the holding of public hearings.
- 003.01 Criteria for Approval of Petitions. Petitions under Section 79-413 R.R.S. or of school boards or boards of education under Sections 79-415, and 79-416 R.R.S. shall be filed with the State Committee.
- 003.01A Petitions of the people must contain the signatures of sixty percent of the legal voters of each district affected. If the petitions contain the signatures of at least sixty five percent of the legal voters of each affected district, the State Committee shall approve the petition.
- 003.01B Petitions proposing to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, shall be approved when the petitions involve the transfer of land between Class II, III, IV, and V school districts or when there would be an exchange of parcels of land between Class II, III, IV, and V school districts and the petitions have the approval of at least sixty five percent of the school board of each affected district.
- 003.01C Applicable incentive payments will be approved or disapproved after review by the State Committee according to the criteria and application requirements set forth in Section 79-1011 R.R.S.. For incentive payments to be approved for consolidations, a reorganization study, including efficiency, demographics, curriculum, facility, financial, and community components, must be completed. If a study containing such elements is completed and the reorganization plan or unification agreement “will most likely result in more efficiency in the delivery of educational services or

NEBRASKA DEPARTMENT OF EDUCATION
PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

greater educational opportunities,” pursuant to Section 79-1011 R.R.S., the State Committee may approve incentive payments for the affected districts.

003.01D Petitions proposing to create a new school district or to change the boundary lines of existing school districts, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the State Committee. The State Committee shall, within forty days after receipt of the petition, hold one or more public hearings and review and approve or disapprove such proposal. See Section 003.01I of this Rule for notice and hearing procedures.

003.01E If there is a bond election to be held in conjunction with a petition, the State Committee will hold the petition until the bond election has been held, during which time names may be added to or withdrawn from the petitions. If the bond election is unsuccessful, no further action on the petition is required. If the bond election is successful, the State Committee will, within fifteen days after receipt of the certification of the results, approve the petition and notify the county clerk to effect the changes in boundary lines as set forth in the petition.

003.01E1 The results of the bond election shall be certified by the County Clerk or County Election Commissioner to the State Committee.

003.01F In addition to the petitions of legal voters pursuant to Sections 003.01A through 003.01E of this Rule, Sections 79-415 to 79-418 R.R.S. provide that:

003.01F1 Changes in boundaries and the creation of a new school district from other districts may be initiated and accepted by the school board or board of education of any district.

003.01F2 When the legal voters of a Class II school district in which no city or village is located petition to merge in whole or in part with a Class II district, the merger may be accepted by petition of the school board of the accepting district.

003.01F3 Except as otherwise provided in Section 79-418 R.R.S., petitions presented pursuant to Sections 003.01F1 through 003.01F3 of this Rule shall be subject to the same requirements for content, hearings, notice, review, and appeal as petitions submitted to Sections 003.01A through 003.01E of this Rule. See Section 003.01I of this Rule for notice and hearing procedures.

003.01G When a new district is to be created from other districts or when boundary changes are proposed by dissolution and merger the petition shall contain:

003.01G1 A description of the proposed boundaries of the new district and the established school districts;

NEBRASKA DEPARTMENT OF EDUCATION
PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

003.01G2 A summary of the terms on which reorganization is to be made between the reorganized districts, which terms may include a provision for initial school board districts or wards within the proposed district for the appointment of the first school board and also for the first election as provided in Section 79-451 R.R.S., which proposed initial school board districts or wards shall be determined by the State Committee taking into consideration population and valuation, and a determination of the terms of the board members first appointed to membership of the board of the newly reorganized district;

003.01G3 A map showing the boundaries of established school districts and the boundaries proposed under any plan or plans of reorganization;

003.01G4 A separate statement as to whether the reorganization is contingent upon success of a bond election held in conjunction with the reorganization;

003.01G5 An affidavit from the county clerk or election commissioner regarding the validity of the signatures on the petition; and

003.01G6 Such other matters as the petitioners may determine proper to be included.

003.01H Within thirty days after the creation of a new school district, the State Committee shall appoint from among the legal voters of the new school district created the number of members necessary to constitute a school board of the class in which the new school district has been classified, in accordance with Section 79-420 R.R.S..

003.01H1 The State Committee may request from the petitioners a list of persons qualified to serve on the board of education of the new school district and written applications from such persons to serve on the board of education.

003.01I Notice and Hearing Procedures for Petitions Submitted under Sections 003.01.

003.01I1 Upon receipt of any petition meeting the applicable regulatory and statutory requirements of Sections 003.01A – 003.01G of this Rule and Sections 79-413 and 79-415 through 79-418 R.R.S., the Commissioner of Education, as an ex officio member of the State Committee, or his or her designee, shall set a date for a hearing to occur within forty (40) days of the receipt of such petition and notify, by regular U.S. mail, all affected school districts. Such notice shall also be provided to each member of the State Committee.

003.01I2 All hearings are to be held in Lincoln, Nebraska, unless otherwise determined by the Commissioner or his or her designee.

003.01I3 Notice of such hearing shall be given in a legal newspaper or newspapers of general circulation of each county wherein any portion of any affected district lies. Publication of such notice shall occur at least ten (10) days prior to the hearing and proof of such publication shall be filed with the State Committee prior to the

NEBRASKA DEPARTMENT OF EDUCATION
PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

commencement of the hearing. Publication of such notice shall be the responsibility of the affected district with the largest number of pupils to the most recently filed Fall School District Membership Reports of the affected districts under Section 79-528(4) R.R.S.. The notice shall state that a hearing on the petition is to be held before the State Committee, shall state the date, time, and place of the hearing, shall contain a description of the current and proposed boundaries of the affected districts, and shall contain a statement as to where interested persons may view the petition. A sample notice is contained in Appendix A of this Rule.

003.0114 The hearings shall be informal proceedings. The State Committee shall hear all persons interested in the petition. The State Committee may impose reasonable time limitations on presentations and testimony as it deems appropriate and necessary, and limit repetitious testimony. The State Committee, at its discretion, may receive into the record exhibits offered by school districts and other interested parties. The State Committee shall keep a record of all hearings in the formulation of its approval of petitions.

003.0115 Following the submission of testimony and evidence, the State Committee shall review and approve or disapprove petitions for school district boundary changes by an open roll call vote. Prior to such vote, the State Committee may, at its discretion and as necessary, meet in closed session as permitted by the public meetings laws, Section 84-1410 R.R.S.. Following its review and approval or disapproval of a petition, the State Committee shall issue an order in accordance with its decision to all affected districts.

003.0116 Appeals from changes made by the State Committee shall be taken as provided in Section 79-413(4) R.R.S..

003.02 Criteria for Approval of Plans for Reorganization of School Districts. The State Committee will approve or disapprove plans for reorganization which are subject to a special election under Sections 79-447 and 79-452 R.R.S., following a review for required content specified in Section 003.02B of this Rule and the holding of public hearing or hearings.

003.02A Before any plan of reorganization is completed or approved by the State Committee, it shall hold one or more public hearings. At such hearings, it shall hear any and all persons interested with respect to (1) the merits of proposed reorganization plans, (2) the value and amount of all school property of whatever nature involved in the proposed action, (3) the amount of outstanding indebtedness of each district and proposed disposition thereof, and (4) the equitable adjustment of all property, debts, and liabilities among the districts involved. The State Committee shall keep a record of all hearings in the formulation or approval of plans for the reorganization of school districts. Notice of such public hearings of the State Committee shall be given by publication in a legal newspaper of general circulation in the county at least ten days prior to such hearing. See Section 003.02E of this Rule for notice and hearing provisions.

NEBRASKA DEPARTMENT OF EDUCATION
PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

003.02B After one or more public hearings have been held, the State Committee may approve a plan or plans of reorganization. Such plan shall contain:

003.02B1 A description of the proposed boundaries of the reorganized district;

003.02B2 A summary of the reasons for each proposed change, realignment, or adjustment of the boundaries;

003.02B3 A summary of the terms on which reorganization is to be made between the reorganized districts. Such terms shall include a provision for initial school board districts or wards within the proposed district, which proposed initial school board districts or wards shall be determined by the State Committee taking into consideration population and valuation, and a determination of the terms of the board members first appointed to membership on the board of the newly reorganized district;

003.02B4 A separate statement as to whether the reorganization is contingent upon the success of a bond election held in conjunction with the reorganization;

003.02B5 A statement of the findings with respect to the location of schools, the utilization of existing buildings, the construction of new buildings, and the transportation requirements under the proposed plan of reorganization. The plan may contain provisions for the holding of school within existing buildings in the newly reorganized district and that a school constituted under this section shall be maintained from the date of reorganization unless the legal voters served by the school vote by a majority vote for discontinuance of the school;

003.02B6 A map showing the boundaries of established school districts and the boundaries proposed under any plan or plans or reorganization;

003.02B7 Section 79-443(7) R.R.S. also provides that such plan shall contain such other matters as the State Committee determines proper to be included. These shall include (1) The full names and addresses of persons proposed by the affected districts submitting the plan to serve on the initial school board to be appointed by the State Committee under Section 003.02D of this Rule; (2) A statement of assurance that such persons are legal voters of the new school district, if and when created; (3) An assurance that the districts submitting the plan(s) believe such persons are qualified to serve on such board and are in no manner prohibited from holding such office by any law or regulation.

003.02C The State Committee shall, within thirty days after holding one or more public hearings on the proposed plan of reorganization, notify in writing and by first class mail the head administrator of the school districts whether it approves or disapproves such plan or plans. See Section 003.02E for notice and hearing procedures.

NEBRASKA DEPARTMENT OF EDUCATION
PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

003.02C1 If the State Committee disapproves the plan, it shall be returned to the school districts and shall not be submitted to a special election.

003.02C2 If the State Committee approves the plan, or any part thereof, it shall be designated as the final approved plan and shall be returned to the school districts to be submitted to a vote in the special election under Section 79-447 R.R.S..

003.02C3 Applicable incentive payments (Section 79-1010 R.R.S.) will be approved or disapproved pending final approval of the plan by the legal voters voting in a special election.

003.02C4 If the majority vote in each voting unit at the election described in Section 79-447 R.R.S. is not in favor of the plan of reorganization, the school districts may continue in their efforts in an attempt to prepare a revised plan that might be acceptable. If a revised plan is approved by the school districts, it shall be submitted for the approval of the State Committee, and if approved by the State Committee it shall be submitted to a vote under the procedure provided in Section 79-447 R.R.S..

003.02D The State Committee shall, within thirty days after the classification of the reorganized school districts by the county clerk, appoint from among the legal voters of each new school district created, the number of members necessary to constitute a school board of the class in which the new school district has been classified. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as school districts are established as provided in Section 32-554 R.R.S.. The terms of the appointment will be as specified in Section 79-451 R.R.S..

003.02E Procedures for Notice and Hearings on Plans for the Reorganization of School Districts.

003.02E1 Upon the filing with the State Committee of a plan for the reorganization of school districts pursuant to Section 79-441(2) R.R.S., the Commissioner of Education, as an ex officio member of the State Committee, or his or her designee, shall set a date for such hearing and notify, by regular U.S. mail, all affected school districts of the date, time and place of such hearing. Such notice shall also be provided to each member of the State Committee. All hearings shall be held in Lincoln, Nebraska unless otherwise determined by the Commissioner or his or her designee.

003.02E2 Pursuant to Section 79-442 R.R.S., notice of such public hearings of the State Committee on plans of reorganization shall be given by publication in a legal newspaper of general circulation in the county at least ten (10) days prior to such hearing.

NEBRASKA DEPARTMENT OF EDUCATION
PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

003.02E2A Publication of such notice shall be the responsibility of the affected school district that has the largest number of pupils according to the most recently filed Fall School District Membership Reports of the affected districts under Section 79-528(4) R.R.S.. Proof of such publication shall be filed with the State Committee prior to commencement of such hearing.

003.02E2B The notice shall state that a hearing on the plan of reorganization of school districts is to be held before the State Committee for the Reorganization of School Districts, the date, time and place of the hearing, and state a description of the current and proposed boundaries of the reorganized districts in the statement as to where interested persons may view the proposed plan. The notice shall identify that it is being submitted by the superintendent or other authorized official of the school district that has the responsibility of publication of a notice under Section 003.02E2A of this Rule. A sample notice is contained in Appendix B of this Rule.

003.02E3 The hearing shall be an informal proceeding. The State Committee shall hear all persons interested with respect to the aspects in Section 003.02A of this Rule. The State Committee may impose reasonable time limitations on the presentations and testimony as it deems appropriate and necessary, and limit repetitious testimony. The State Committee, at its discretion, may receive into the record exhibits offered by school districts and other interested parties.

003.02E4 At the conclusion of any hearing, the State Committee may take the matter under advisement and issue its approval or disapproval of a plan within thirty (30) days after the conclusion of the hearing or hearings in accordance with Section 79-444 R.R.S. and Section 003.02C of this Rule.

003.02E5 At its discretion and as it deems necessary, at the conclusion of any hearing, the State Committee may require further hearings on a plan of reorganization. In such an event, the approval or disapproval of a plan of reorganization is not required until thirty (30) days after the conclusion of the final hearing.

003.03 Dissolution Petitions; Class II Districts. Section 79-452 R.R.S. provides that a proposal to dissolve a Class II school district and attach it to one or more existing Class II, III, IV, or V school districts may be initiated by filing with the State Committee a petition or petitions signed by at least twenty-five percent of the legal voters of the district, together with an affidavit from the county clerk or election commissioner listing all legal voters of the district and a determination by the county clerk or election commissioner that the signatures are sufficient.

003.03A The petition shall contain a plan of the proposed reorganization, an effective date, and a statement whether any existing bonded indebtedness shall remain on the property of the district which incurred it or be assumed by the enlarged district. The petition may also contain provisions for the holding of school within existing buildings in the proposed reorganized district, and when so provided, the holding of school within such buildings shall be maintained from the date of reorganization unless either the legal voters served by the school or the school board of the reorganized district votes by a majority vote for discontinuance of the school. In case of conflicting votes between the legal voters and the school board on such issue, the decision of the legal voters shall prevail. A signing petitioner shall not be permitted to withdraw his or her name from the petition after the petition has been filed. The school board of each Class II, III, IV, or V district to which the merger is proposed shall also submit to the State Committee a statement to the effect that a majority of the board members approve the proposal contained in the petition.

004 Unified Systems, Application for Approval.

004.01 Approval of Unification Agreements. Pursuant to Section 79-4,108 R.R.S., two or more Class II or III school districts may apply to the State Committee for approval of a unification agreement.

004.01A Application Procedures:

004.01A1 The application shall contain a copy of the interlocal agreement signed by the president of each participating school board. The State Committee shall approve or disapprove applications for unification within forty days after receipt of the application.

004.01A2 If the application contains all statutory content requirements prescribed in Section 005.01B of this Rule, and all school boards of the participating districts have approved the interlocal agreement, the State Committee shall approve the application.

004.01A3 Unification agreements shall be effective on June 1 following approval from the State Committee for status as a unified system or on the date specified in the interlocal agreement, except that the date shall be on or after June 1 and on or before September 1 for a specified year.

004.01B The unification agreement shall provide:

004.01B1 For a minimum term of three school years.

004.01B2 That all property tax and state aid resources shall be shared by the unified system.

004.01B3 For a unified system board composed of school board members, with at least one school board member from each district.

004.01B4 That the board of the unified system shall determine the general fund levy, within the statutory limitations placed on school districts and multiple district school systems pursuant to Section 77-3442 R.R.S., to be applied in all participating districts.

004.01B5 That the board of the unified system shall determine the distribution of property tax and state aid resources within the unified system.

004.01B6 That certificated staff will be employees of the unified system with tenure and seniority transferred to the unified system. Tenure and seniority provisions shall continue in the unified system except as provided in Sections 79-850 to 79-858 R.R.S..

004.01B7 That if a district withdraws from the unified system or if the interlocal agreement expires and is not renewed, certificated staff employed by a participating district immediately prior to the unification shall be reemployed by the original district and tenure and seniority as of the effective date of the withdrawal or expiration shall be transferred to the original district.

004.01B8 That any certificated staff hired by the unified system but not employed by a participating district immediately prior to the unification shall be subject to the reduction-in-force policy of the unified system.

004.01B9 That participating districts pay obligations of the unified system pursuant to Sections 79-850 to 79-858 R.R.S. on a pro rata basis based on the adjusted valuations if a district withdraws from the unified system or the interlocal agreement expires and is not renewed.

005 Mandatory Boundary Changes

005.01 Land Not in a District. The State Committee will, upon notification by local, county and state officials, dissolve and attach school districts to other school districts when the following conditions occur:

005.01A When it comes to the attention of the county clerk that any territory located wholly within his or her county is not included in any organized district, he or she shall notify the State Committee. Within fifteen days after such notice, the State Committee shall set a date for a hearing on the question of the district or districts to which such territory should be attached and shall give fifteen days notice by certified or registered mail of the time and place of hearing to each legal voter residing in such territory and whose mailing address is known and also to the school board of each school district in the county adjacent to such territory. Notice of the hearing also shall be given by publication once each week for two weeks in a newspaper of general circulation in the county. Following such hearing, the State Committee shall notify the county clerk of the county or counties containing the district or districts to which such territory should be attached and the county clerk shall attach such territory.

005.01B If the State Committee cannot or does not agree on the district or districts to which the territory shall be attached, within sixty days after being notified by the county clerk, the matter shall be referred to the State Board of Education, which shall attach the territory after notice and hearing. Notice shall be given in the same manner as by the State Committee.

005.01C In determining the district or districts to which such territory shall be attached, consideration shall be given to the school facilities, transportation facilities, and distance children must travel to school.

005.02 Contracting with a Class II-V District for Instruction of Pupils; Dissolution; When Required. The State Committee shall dissolve and attach to a neighboring school district or districts any school district which, for two consecutive years, contracts for the instruction of all of its pupils with a Class II, III, IV or V school district. Before dissolving such district, the State Committee shall fix a time for a hearing and shall notify each legal resident of the district at least fifteen days before such hearing. When the dissolution will create extreme hardships on the pupils of the district affected, the State Board of Education may, on application by the school board of the district, annually waive the requirements of this section. Notification shall be by mail or by publication in a newspaper of general circulation in the area.

005.03 Dissolution of Depopulated Districts. When, for a period of one school term, a school district (1) has less than three legal voters residing in the district or (2)(a) fails to maintain a public elementary school within the district in which are enrolled and in regular attendance for at least one thousand thirty two hours one or more pupils of school age residing in the district, other than option students as defined in Section 79-233 R.R.S., or (b) does not contract for the tuition and transportation of pupils of such district with another district or districts and have pupils attending school regularly for at least one thousand thirty-two hours under such contract or contracts, the State Committee shall dissolve such district and attach the territory of such district to one or more neighboring school districts. Before dissolving such district, the State Committee shall fix a time for a hearing and shall notify each legal resident of the district at least fifteen days before such hearing. Notification shall be by mail or by publication in a newspaper of general circulation in the area.

005.03A If the State Committee finds that the district is required by this section to be dissolved, it shall enter an order dissolving the district and directing the county clerk of the county in which such district is located to attach the territory of such district to one or more neighboring school districts. Appeals from the action of the State Committee may be made to the district court of the county in which the depopulated district is located. The county treasurer shall distribute the assets of the closed district among the other district or districts to which the property has been attached in proportion to the taxable valuation of the property attached to such district or districts.

005.04 Class II or III District; Membership Requirements and Cooperative Programs and Plans.
If the fall school district membership or the average daily membership of an existing Class II or III school district shows less than thirty-five students in grades nine through twelve, the district shall submit a plan for developing cooperative programs with other high schools, including the sharing of curriculum and certificated and non certificated staff, to the State Committee for the Reorganization of School districts. The cooperative program plan shall be submitted by the school district by September 1 of the year following such fall school district membership or average daily membership report. A cooperative program plan shall not be required if there is no high school within fifteen miles from such district on a reasonably improved highway. The State Committee shall review the plan and provide advice and communication to such school district and other high schools.

005.05 Class II or III District; Depopulated or Contracting for Educational Services; Reclassification. If for two consecutive years the fall school district membership, or for two consecutive years the average daily membership, of an existing Class II or III school district is less than twenty-five pupils in grades nine through twelve or if for one year an existing Class II or III school district contracts with a neighboring school district or districts to provide educational services for all of its pupils in grades nine through twelve, such school district shall merge with a Class II, III, IV, or V school district through the order of the State Committee if the high school is within fifteen miles on a reasonable improved highway of another high school.

This section does not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

005.06 Class II or III District; Contracting for Educational Services; Reclassification.
Any Class II or III school district maintaining a four-year high school which has a fall school district membership or an average daily membership of less than twenty-five students in grades nine through twelve may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period not to exceed one year. At the end of such one-year period, the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the school district has not achieved such fall school district membership or average daily membership, it shall merge with a Class II, III, IV, or V school district by order of the State Committee entered after thirty days notice to the district but without a hearing, notwithstanding the distance on a reasonably improved highway to the nearest school district conducting a high school.

005.07 Class II or III Districts Maintaining the Only Public High School in the County.
Any Class II or III school district maintaining the only public high school in the county may continue to operate the high school with a fall school district membership or an average daily membership of less than twenty-five students in grades nine through twelve if the following two requirements are met: (a) the plan submitted pursuant to Section 005.04 of this Chapter provides a broad-based curriculum determined by the state committee; and (b) at a districtwide election held the second Tuesday of November by

whatever means the county conducts balloting, in the second consecutive school year that the fall school district membership for grades nine through twelve is less than twenty-five students and for each succeeding school year unless such membership is at least thirty-five students for such school year, a majority of voters approve a ballot issue to continue to operate the high school for the immediately following school year.

If such ballot issue fails, the state committee shall dissolve the school district and attach the territory to other school districts based on the preferences of each landowner if such preference is provided in the time and manner required by the state committee and would transfer such parcels to a school district with a boundary contiguous to the school district being dissolved. Landowners submitting such preferences shall sign a statement that the district of preference is the district which children who might reside on the property, at the time of the dissolution or in the future, would be expected to attend. For property for which a preference is not provided in the time and manner required by the state committee, the state committee shall transfer such property to one or more of the school districts with boundaries contiguous to the district being dissolved in a manner that will best serve children who might reside on such property, at the time of the dissolution or in the future, and that will, to the extent possible, create compact and contiguous districts.

This section shall not apply to any district if the fall school district membership or an average daily membership falls to less than fifteen students in grades nine through twelve.

005.08 Calculation of Fall District Membership. For purposes of Sections 005.06 through 005.08 of this Rule, when calculating fall school district membership or average daily membership, a resident school district shall not count students attending an option district and a Class II or III school district shall not count foreign exchange students and nonresident students who are wards of the court or state.

005.09 Contracting for Educational Services and Mandatory Dissolution. The State Committee shall dissolve and attach to a neighboring district or districts any school district which, for five consecutive years, contracts for the instruction of its pupils, except that when such dissolution will create extreme hardships on the pupils or the district affected, the State Board of Education may, on application by the school board of the district, waive the requirements of this subsection.

005.10 Districts That Have Contracted for the Instruction of Pupils for Two or More Consecutive Years; Requirements Before Reopening. School districts that have contracted for instruction for two or more consecutive years shall, before reopening the schoolhouse within the district, have an enrollment of at least five pupils whose parents or legal guardians are legal voters of the school district and shall apply to the State Committee for approval to reopen that schoolhouse for school use. The State Committee or its designee shall, before granting that approval, personally inspect the school building and toilets and approve them as being safe, clean, and sanitary. The State Committee or its designee shall also inspect the supplies, equipment, and furnishings and approve them as being adequate for proper instruction.

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 83 - PROCEDURES OF THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

005.11 Other Situations in Which the State Committee may Dissolve a District. The State Committee may dissolve any district: (a) failing to comply with the contracting requirements of Section 79-598 R.R.S., (b) in which the votes cast at an annual or special election on the question of contracting with a neighboring district are evenly divided, or (c) in which the governing body of the district is evenly divided in its vote on the question of contracting pursuant to Section 79-598 (2) R.R.S..

APPENDIX A: SAMPLE NEWSPAPER NOTICE FOR A HEARING ON A PETITION

NOTICE OF A HEARING BEFORE THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

Notice is hereby given that (name(s) of petitioning district(s)) have filed a petition with the State Committee for the Reorganization of School Districts. A hearing on this petition will be held at (state time), on (state date), at (state full address of location).

The petition seeks to (describe the current and proposed boundaries of all affected districts, or, if a petition for affiliation, describe the proposed affiliation).

Copies of the petition are available for review at (state the locations of the affected districts offices where the petition can be viewed) and at the office of the Commissioner of Education in Lincoln, NE.

By: (name and title of district official responsible for notice).

APPENDIX B: SAMPLE NEWSPAPER NOTICE FOR HEARING ON A PLAN OR
PLANS

NOTICE OF A HEARING BEFORE THE STATE COMMITTEE FOR THE
REORGANIZATION OF SCHOOL DISTRICTS

Notice is hereby given that (name(s) of districts filing the plan(s)) have filed a plan for the reorganization of school districts with the State Committee for the Reorganization of School Districts. A hearing on this plan will be held at (state time) on (state date) at (state full address of location).

The plan seeks to (describe the current and proposed boundaries of all affected districts, or, if a plan for affiliation, describe the proposed affiliation).

Copies of the plan are available for review at (state the location(s) of the affected district offices where the plan can be viewed) and at the office of the Commissioner of Education in Lincoln, NE.

By: (name and title of district official responsible for notice)