

This policy sets forth the procedure for annexing territory that currently forms part of another school district, but is not contiguous to its present school district. Either the board or one-fourth (1/4) or more of the school district electors may petition the state board of education in writing for annexation of property that meets these criteria:

1. The territory must be not more than fifty (50) square miles;
2. The territory must contain no schoolhouse or facility necessary for the operation of a school district;
3. The territory must be contiguous to the district petitioning for annexation.

### **PETITION REQUIREMENTS**

One copy of the petition to annex territory will be sent to (1) the board of trustees of the district from which the area is proposed to be excised, (2) the board of trustees of the district to which the area is proposed to be annexed. The petition will contain the following:

1. The names and addresses of the petitioners;
2. A legal description of the area proposed to be excised from one district and annexed to another contiguous district;
3. Maps showing the boundaries of the districts as they presently appear and as they would appear should the excision and annexation be approved;
4. The names of the school districts from and to which the area is proposed to be excised and annexed;
5. A description of reasons for which the petition is being submitted; and
6. An estimate of the number of children residing in the area described in the petition.

The board of trustees of each school district will submit the petition, with recommendations, to the state board of education no later than ten (10) days after its first regular meeting held subsequent to receipt of the petition.

### **STATE BOARD OF EDUCATION REVIEW**

Approval or disapproval of the petition will be made in writing to each school district named in the petition. The state board of education will approve the petition, provided:

1. The excision and annexation is in the best interests of the children residing in the area described in the petition; and

2. The excision of the territory, as proposed, would not leave a school district with a bonded debt in excess of the limit then prescribed by law.

**ELECTION TO ACCEPT TO REJECT ANNEXATION**

If the state board of education approves the proposal for annexation, the proposal will be submitted to the qualified electors of a school district residing in the area described in the petition within sixty (60) days. The phrase “qualified electors” means only those individuals who both reside in the area to be excised and annexed, as described in the petition, and are eligible to vote in a school district’s bond elections. The election will be held in a manner provided in Idaho Code Section 33-401, *et seq.*

Qualified electors will be asked to vote on the following two issues:

1. The question of whether the area described in the petition shall be excised from school district number ( ) and annexed to contiguous school district number ( ); and
2. The question of assumption of the appropriate proportion of any bonded debt, and the interest thereon, of the proposed annexing school.

The proposal will pass and be approved if a majority of qualified electors who vote in the election vote in favor of excision and annexation, and if two-thirds (2/3) of the qualified electors who vote in the election approve the assumption of bonded debt and interest.

If the proposal is approved in the manner described above, the state board of education will make an appropriate order for the boundaries of the affected school districts to be altered, and the legal descriptions of the school districts will be corrected.



**LEGAL REFERENCE:**

Idaho Code Sections  
33-308  
33-401 *et seq.*

Article VIII, Section 3, Idaho Constitution

**ADOPTED:** May 12, 2003

**Note:** The statutory change which occurred to Idaho Code section 33-308, as set forth in this policy, may have some unresolved constitutional issues, since the only persons voting on the issue of annexation are the qualified voters residing in the proposed area to be annexed. Previously, the statute provided that residents in both districts voted on the annexation issue.

However, a judge in the First Judicial District for Idaho recently ruled that the state board of education’s statutory authority to unilaterally annex property from one district to another did not violate the Idaho Constitution. The court noted that “the mere fact of an increase in the tax rate for property remaining in a taxing district because of the removal from the tax rolls of other property therein does not unfailingly equate to a constitutional violation.” *St. Maries Joint School District No. 41 v. Idaho State Tax Commission* (June 4, 1998).

