



# **ESC Redistricting Toolkit**

**Ohio School Boards Association**

**Ohio ESC Association**

March 10, 2011

# MEMORANDUM

**TO:** ESC Governing Board Members and Superintendents  
**FROM:** Ohio School Boards Association  
Ohio ESC Association  
**DATE:** March 10, 2011  
**RE:** Redistricting of ESC Territory and Governance

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## **Introduction**

The March 9, 2011, release of the state of Ohio's decennial census data by the U.S. Census Bureau triggered a requirement for Educational Service Centers and ESC governing boards constituted under section 3311.054 of the Ohio Revised Code to redistrict the ESC's territory.

This joint communiqué of the Ohio School Boards Association (OSBA) and the Ohio Educational Service Center Association (OESCA) is designed to support our collective memberships in this process by:

- 1) Bringing attention to the statutory requirement that certain ESCs redistrict following the decennial census,
- 2) Clarifying the statutory requirements under 3311.054 of the Ohio Revised Code, and
- 3) Addressing many of the questions raised by ESC governing board members and superintendents related to this process.

## **Background**

Ohio ESCs, as defined in section 3311.05 of the Ohio Revised Code, are comprised of "the territory within the territorial limits of a county...exclusive of the territory embraced in any city school district or exempted village school district..." As such, ESCs are governed by publicly elected boards of education elected by the voting members of the local school districts' territory.

Amended Substitute House Bill 117 of the 121<sup>st</sup> General Assembly required ESCs serving only one local district to merge by July 1, 1997, and that all ESCs with an average daily membership (ADM) of less than 8,000 students merge by July 1, 1999. Subsequent legislation postponed the consolidation of certain ESCs to July 1, 2000.

With the resulting mergers, two types of ESC governing boards emerged:

- 1) Five member boards as defined under section 3313.01 of the Ohio Revised Code; and
- 2) Governing boards exceeding 5 members who govern multi-county ESCs resulting from mergers.

Multi-county ESC boards may be created under one of three sections of the Ohio Revised Code: 3311.053(A), 3311.054, and 3311.057. Those multi-county ESC governing boards created under section 3311.054 of the Ohio Revised Code are divided into a number of subdistricts equal to the number of board members serving on the board. It is these governing boards that are directly impacted by the redistricting requirement outlined in greater detail below and within the attached "toolkit."

### **Redistricting Requirement**

As indicated previously, the March 9, 2011, release of the state of Ohio's decennial census data by the U.S. Census Bureau triggered a requirement for Educational Service Centers and ESC governing boards constituted under section 3311.054 of the Ohio Revised Code to redistrict the ESC's territory.

Pursuant to the law, affected ESCs have 90 days to redistrict. If a governing board fails to redistrict the territory of its ESC within that time period, the state superintendent of public instruction must redistrict the service center within thirty days. Assuming the official announcement occurred on March 9, the deadline for redistricting is June 7, 2011.

The statute also mandates that, in November 2011, a new set of board members will be elected from the subdistricts most recently created by the redistricting process. This is true even if the results of the census do not require any changes to be made to the subdistricts and regardless of the number of years the current board members have remaining on their current terms.

A preliminary review of the 56 ESC board governance structures suggests this requirement will impact approximately 9 ESCs. These ESCs include:

- ESC of Central Ohio
- Gallia-Vinton ESC
- North Point ESC
- Northwest Ohio ESC
- Ohio Valley ESC
- South Central Ohio ESC
- Southern Ohio ESC
- Tri County ESC
- East Central Ohio ESC

However, it is strongly suggested that all multi-county, merged ESCs review their governance documents to determine if they are required to undertake the redistricting process.

While this section of the Revised Code has been in effect since 1996, most multi-county ESCs either were finalizing initial mergers during the 2000 decennial census or have merged since that time. As a result, the issues related to redistricting pose a new challenge for many ESCs. This requirement is further complicated by several issues including, but not limited to, district transfer of ESCs under section 3311.059 of the Ohio Revised Code; a provision in law not in effect when the redistricting requirement was enacted.

### **Questions and Next Steps**

As ESCs have become aware of these redistricting requirements and have begun the process of reviewing their existing governance structure several questions have emerged, including the following:

- How does the ESC determine the number of board members?
- What process should the ESC follow to determine new subdistricts?
- In determining subdistricts, is the new configuration based on the population of the electorate or school district student population (ADM)?
- What census numbers should be used (county or school district)?
- If school district numbers are to be used, how are those determined?
- If a non-contiguous school district has annexed to another ESC, how is the annexed territory factored into the new subdistricts? Is it included within the non-contiguous territory or does it constitute its own subdistrict?

The attached OSBA-created FAQ was designed to answer these and related questions and to assist ESC leadership and board members in understanding the statutory requirements and to guide their efforts in working through this complicated process.

OSBA and OESCA will continue to work in partnership to identify outstanding questions and provide guidance and support to ESC governing board members and leadership.

If you have any questions, please contact:

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## **Educational Service Center Redistricting**

### *Frequently Asked Questions*

Section 3311.054 of the Ohio Revised Code requires certain joint educational service centers to redistrict their territories within 90 days after the official announcement of the federal decennial census. After the redistricting occurs, all elected governing board members must stand for reelection from the newly redistricted subdistricts at the next general election, which will be this November. This memo provided an explanation of the statute and its requirements.

**1. What does the statute require?**

The statute requires that within ninety days after the official announcement of the results of the federal decennial census, certain educational service centers must redistrict their territory to ensure that their subdistricts are as nearly equal in population as possible. After redistricting, each subdistrict is renumbered and all governing board members are reelected from the new subdistricts.

**2. Which ESCs are subject to redistricting?**

Only joint ESCs that were established under RC 3311.054 are subject to the requirement. In order to form a joint ESC, the merging ESCs were required to adopt identical resolutions and file them with the State Board of Education. At the time of the merger, the joint ESC was required to determine the number of members on its governing board and whether the members would be elected at-large or by subdistrict.

Joint ESCs should review their governing documents to determine how they were established. If the joint ESC decided to elect its board members by subdistrict, then it is governed by RC 3311.054 and is required to redistrict.

**3. When is the “official announcement” of the results of the census?**

The U.S. Census Bureau releases state data on a rolling basis throughout February and March. On March 8, the Census Bureau shipped local 2010 Census data to the governor and leadership of the state legislature in Ohio. After confirmation of receipt, usually within 24 hours of shipment, the Census Bureau releases the full set of data to the public. This data became available online on Wednesday, March 9.

**4. What is the deadline for redistricting?**

The statute requires ESCs to redistrict their territories within 90 days after the official announcement of the federal decennial census. Assuming the official announcement occurred on March 9, the deadline for redistricting is June 7, 2011.

**5. Are there any standards for redistricting the subdistricts?**

The redistricting is subject to the same standards that were in place when the subdistricts were initially created. This list appears in RC 3311.054(B)(2) and includes the following:

- Each subdistrict shall be as nearly equal in population as possible.
- Each subdistrict shall be composed of adjacent and compact territory.
- To the extent possible, each subdistrict shall be composed only of territory located in one county.
- To the extent possible, each subdistrict shall be bounded by corporation lines, streets, alleys, avenues, public grounds, canals, watercourses, ward boundaries, voting precinct boundaries, or school district boundaries.

**6. What if we have territory that is not adjacent to any other territory? Can it be combined with nonadjacent territory to ensure that each subdistrict is as equal in population as possible?**

Since the statute requires that each subdistrict be composed of adjacent territory, two nonadjacent territories cannot be combined to make a subdistrict. A joint ESC that finds itself in this situation may need to create a separate subdistrict that includes only the territory that is not adjacent to any other territory. The statute requires only that each subdistrict be nearly equal in population *as possible*. This serves as an example of a situation where it may not be possible to achieve such equality.

**7. Can we use the redistricting process to add to or subtract from the number of subdistricts we have?**

No. When the joint ESC was established, the governing board was required to divide the ESC territory into a number of subdistricts equal to the number of board members designated by the joint ESC. It does not appear that RC 3311.054 provides a process by which this number may be altered through the redistricting process.

**8. What numbers from the census do we use to determine subdistrict population?**

The population of the ESC's territory, and not the districts' ADM numbers, govern the redistricting process. As of Wednesday, March 9, the full set of data is available on the Census Bureau's American FactFinder site at: <http://factfinder2.census.gov>. In the "Quick Start" box, type "Ohio" in the "geography" box. Once the tables load, the data can be sorted by a number of different methods, including by school district or by county.

**9. Does the current governing board of the joint ESC need to vote to approve the proposed redistricting plan?**

Although the statute does not specifically require the board to vote to approve the proposed redistricting plan, a board is empowered to act as a collective unit and perform acts involving judgment and discretion only by action at authorized meetings. As a result, a vote would appear to be required before the redistricting plan is implemented.

If the board is unable to come to an agreement, consensus building may be necessary. If the board continues to disagree and fails to redistrict the territory within the 90-day period, the statute requires the superintendent of public instruction to redistrict the service center.

**10. Are we required to submit our new plans to state board of education or to the board of elections?**

The statute does not require ESCs to submit their plans to either the state board of education or the board of elections. However, since the resolution creating the joint ESC was initially filed with the superintendent of public instruction, submitting an updated copy of the ESC's plan ensures that ODE has the most updated plan on file. Additionally, since the county boards of election will be integrally involved in subsequent ESC board member elections in November, OSBA recommends that they also receive a copy of the updated plan.

**11. What happens to our elected joint ESC board members after the redistricting?**

In November 2011, the members of the redistricted subdistricts will elect a new board. This is true even if the results of the census do not require any changes to be made to the subdistricts. Current board members who wish to remain on the board will need to be reelected in November regardless of the number of years they have remaining on their current term.

Board members elected from even-numbered subdistricts will serve a two-year term, while board members elected from odd-numbered subdistricts will serve for a four-year term. Thereafter, successors shall be elected for four-year terms.

**12. How do we determine which subdistricts are even-numbered districts and which subdistricts are odd-numbered districts?**

The statute does not require a specific process, so boards have great discretion in determining how its subdistricts are numbered. Boards could attempt to maintain the status quo, draw numbers out of a hat, etc.

**13. What happens to our appointed joint ESC board members after the redistricting?**

In order to appoint board members to the joint ESC, the elected joint ESC board members were required to pass a resolution outlining a plan for adding the appointed members. That plan was required to provide for the length of terms of the appointed board members. Because RC 3311.054 does not mention anything about appointed joint ESC board members, they do not appear to be immediately impacted by the redistricting requirement and would continue to serve their term as set forth in the board's plan until the expiration of their terms.

**14. What happens if the redistricted subdistrict crosses over two counties?**

To the extent possible, each subdistrict shall be composed only of territory located in one county. If it is impossible to contain the district in one county, a multi-county election may be held.

**15. I have additional questions. Whom should I contact?**

If you have general questions about the redistricting process or the requirements of RC 3311.054, please contact either OSBA's legal division at (614) 540-4000 or the Ohio ESC Association at (614) 846-3855. If you have technical questions about the redistricting process, please contact your board counsel.

## **3311.05 Educational service center defined - county school financing district.**

(A) The territory within the territorial limits of a county, or the territory included in a district formed under either section [3311.053](#) or [3311.059](#) of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center.

(B) A county school financing district created under section [3311.50](#) of the Revised Code is not the school district described in division (A) of this section or any other school district but is a taxing district.

Effective Date: 06-26-2003



## **3311.053 Joint educational service center.**

(A) The boards of education of up to five adjoining educational service centers may, by identical resolutions adopted by a majority of the members of each governing board within any sixty-day period, combine such educational service centers into one educational service center. The resolutions shall state the name of the new center, which may be styled as a "joint educational service center." The resolutions shall also indicate whether the governing board of the new educational service center is to be formed in accordance with division (B) of this section, in accordance with division (A) of section [3311.054](#) of the Revised Code, or in accordance with section [3311.057](#) of the Revised Code.

A copy of each resolution shall be filed with the state board of education. The new educational service center shall be created and the governing boards of the participating educational service centers shall be dissolved and a new governing board established thirty days after the date on which the last resolution was filed with the state board.

(B) The initial members of a new governing board established in accordance with this division shall be appointed as follows:

(1) If two educational service centers combine, each center's governing board, prior to its dissolution, shall appoint two members to the new governing board and the four members so selected shall select a fifth member within ten days of the date on which the last of the four members is appointed.

(2) If three educational service centers combine, each center's governing board, prior to its dissolution, shall appoint one member to the new governing board and the three members so selected shall select the remaining two members of the governing board within ten days of the date on which the last of the three members is appointed.

(3) If four educational service centers combine, each center's governing board, prior to its dissolution, shall appoint one member to the new governing board and the four members so selected shall select the remaining member of the governing board within ten days of the date on which the last of the four members is appointed.

(4) If five educational service centers combine, each center's governing board, prior to its dissolution, shall appoint one member to the new governing board.

If the members appointed to a new governing board by the governing boards of the combining educational service centers are unable to agree on the selection of the remaining members of the new governing board within ten days, the probate judge of the county in which the greatest number of pupils under the supervision of the new educational service center reside shall appoint the remaining members.

Electors of the new educational service center shall elect a new governing board at the next general election occurring in an odd-numbered year and more than ninety days after the date of the appointment of the last member to the initial governing board. Members shall serve for the duration of the term to which they are elected or until their successors are elected and qualified. At such election, two members shall be elected to terms of two years and three members shall be elected to terms of four years. Thereafter, their successors shall be elected in the same manner and for the same terms as members of governing boards of all educational service centers. Each candidate for election as a member of the

educational service center governing board shall file a nominating petition in accordance with section [3513.255](#) of the Revised Code.

(C) The funds of each former educational service center shall be paid over in full to the governing board of the new educational service center, and the legal title to all property of the former governing boards shall become vested in the new governing board.

The governing board of an educational service center created under this section shall honor all contracts made by the former governing boards.

Amended by 128th General Assembly File No. 29, HB 48, § 1, eff. 7/2/2010.

Effective Date: 06-30-1997

## **3311.054 Membership of governing board of joint service center.**

(A) The initial members of any new governing board of an educational service center established in accordance with this section shall be all of the members of the governing boards of the former educational service centers whose territory comprises the new educational service center. The initial members of any such governing board shall serve until the first Monday of January immediately following the first election of governing board members conducted under division (C) of this section. Notwithstanding section [3313.11](#) of the Revised Code, that section shall not apply to the filling of any vacancy among the initial members of any governing board established in accordance with this section. Any such vacancy shall be filled for the remainder of the term by a majority vote of all the remaining members of the governing board.

(B) Prior to the next first day of April in an odd-numbered year that occurs at least ninety days after the date on which any new governing board of an educational service center is initially established in accordance with this section, the governing board shall do both of the following:

(1) Designate the number of elected members comprising all subsequent governing boards of the educational service center, which number shall be an odd number not to exceed nine.

(2) Divide the educational service center into a number of subdistricts equal to the number of governing board members designated under division (B)(1) of this section and number the subdistricts. Each subdistrict shall be as nearly equal in population as possible and shall be composed of adjacent and compact territory. To the extent possible, each subdistrict shall be composed only of territory located in one county. In addition, the subdistricts shall be bounded as far as possible by corporation lines, streets, alleys, avenues, public grounds, canals, watercourses, ward boundaries, voting precinct boundaries, or school district boundaries. If the new governing board fails to divide the territory of the educational service center in accordance with this division, the superintendent of public instruction shall establish the subdistricts within thirty days.

(C) At the next regular municipal election following the deadline for creation of the subdistricts of an educational service center under division (B) of this section, an entire new governing board shall be elected. All members of such governing board shall be elected from those subdistricts.

(D) Within ninety days after the official announcement of the results of each successive federal decennial census, each governing board of an educational service center established in accordance with this section shall redistrict the educational service center's territory into a number of subdistricts equal to the number of board members designated under division (B)(1) of this section and number the subdistricts. Each such redistricting shall be done in accordance with the standards for subdistricts in division (B)(2) of this section. At the next regular municipal election following the announcement of the results of each such successive census, all elected governing board members shall again be elected from the subdistricts most recently created under this division. If a governing board fails to redistrict the territory of its educational service center in accordance with this division, the superintendent of public instruction shall redistrict the service center within thirty days.

(E) All members elected pursuant to this section shall take office on the first Monday of January

immediately following the election. Whenever all elected governing board members are elected at one election under division (C) or (D) of this section, the terms of each of the members elected from even-numbered subdistricts shall be for two years and the terms of each of the members elected from odd-numbered subdistricts shall be for four years. Thereafter, successors shall be elected for four-year terms in the same manner as is provided by law for the election of members of school boards except that any successor elected at a regular municipal election immediately preceding any election at which an entire new governing board is elected shall be elected for a two-year term.

Effective Date: 10-29-1996

## **3311.056 Plan for adding appointed members to board.**

After at least one election of board members has occurred under division (B) of section 3313.053, division (C) of section [3311.054](#), or section [3311.057](#) of the Revised Code, the elected governing board members of an educational service center created under division (A) of section [3311.053](#) of the Revised Code may by resolution adopt a plan for adding appointed members to that governing board. A plan may provide for adding to the board a number of appointed members that is up to one less than the number of elected members on the board except that the total number of elected and appointed board members shall be an odd number. A plan shall provide for the terms of the appointed board members. The appointed board members in each plan shall be appointed by a majority vote of the full number of elected members on the board and vacancies shall be filled as provided in the plan. Each plan shall specify the qualifications for the appointed board members of an educational service center and shall at least require appointed board members to be electors residing in the service center. A governing board adopting a plan under this section shall submit the plan to the state board of education for approval. The state board may approve or disapprove a plan or make recommendations for modifications in a plan. A plan shall take effect thirty days after approval by the state board and, when effective, appointments to the board shall be made in accordance with the plan. The elected members of the governing board of an educational service center with a plan in effect under this section may adopt, by unanimous vote of all the elected members, a resolution to revise or rescind the plan in effect under this section. All revisions shall comply with the requirements in this section for appointed board members. A resolution revising or rescinding a plan shall specify the dates and manner in which the revision or rescission is to take place. The revision or rescission of a plan shall be submitted to the state board of education for approval. The state board may approve or disapprove a revision or rescission of a plan or make recommendations for modifications. Upon approval of a revision or rescission by the state board, the revised plan or rescission of the plan shall go into effect as provided in the revision or rescission.

Effective Date: 06-30-1997

## **3311.057 Service center board following merger.**

(A) Any educational service center that is formed by merging two or more educational service centers or former county school districts may determine the number of members of its governing board and whether the members are to be elected at large or by subdistrict, provided each board shall have an odd number of members.

(B) The governing board of each service center that is merging to form the new service center shall include identical provisions for electing the new service center's governing board in its resolution adopted pursuant to division (A) of section [3311.053](#) of the Revised Code. If there is any transition period between the effective date of the merger of the service centers and the assumption of control of the new service center by the new board, the resolutions shall include provisions for an interim governing board which shall be appointed to govern the service center until the time the new board is elected and assumes control of the service center.

(C) Any provisions for electing a governing board adopted pursuant to division (B) of this section may provide for the election of members at large, may provide for the establishment of subdistricts within the district, or may require some members to be elected at large and some to be elected from subdistricts. If subdistricts are included, the resolutions shall specify the manner in which their boundaries are to be drawn. The provisions shall attempt to ensure that each elected member of the board represents an equal number of residents of the service center. To accomplish this, any subdistrict containing a multiple of the number of electors in another subdistrict, may elect at-large within that subdistrict, a number of board members equal to the multiple that its population is of the population of the other subdistrict.

(D) The provisions for selecting board members set forth in the latest resolution adopted pursuant to this section shall remain the method of electing board members within that educational service center.

Effective Date: 09-05-2001; 06-30-2006