

603 CMR: DEPARTMENT OF EDUCATION

603 CMR 50.00: EDUCATIONAL COLLABORATIVES

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50.01: Authority, Scope, and Purpose

- (1) Authority. 603 CMR 50.00 is promulgated pursuant to the authority of the Board of Elementary and Secondary Education under M.G.L. c. 69, §1B, and M.G.L. c. 40, § 4E.
- (2) Scope. 603 CMR 50.00 governs the formation, operation and review by the Department of educational collaboratives created under the authority of M.G.L. c. 40, § 4E.
- (3) Purpose. The purpose of 603 CMR 50.00 is to provide uniform rules and procedures governing the establishment and operation of educational collaboratives.

50.02: Definitions

As used in 603 CMR 50.00, unless the context clearly requires otherwise, terms shall have the following meanings:

Appointed Representative. The individual appointed by each member district's school committee or charter school board to serve on the collaborative board of directors.

Board. The Board of Elementary and Secondary Education or a person duly authorized by the Board.

Capital. The acquisition or improvement of fixed assets, including real property, with a unit cost of \$5,000 and a useful life of one year or more, debt payments and deposits into capital reserve.

Charter School Board. The board of trustees of a charter school established under M.G.L. c. 71, § 89.

Collaborative Agreement. The written agreement that forms the basis of the educational collaborative.

Collaborative Board of Directors. The board comprised of the representatives appointed by the member districts and by the Commissioner to manage the educational collaborative.

Commissioner. The Commissioner of the Department of Elementary and Secondary Education.

Department. The Department of Elementary and Secondary Education.

Educational Collaborative. A collaborative approved by the Board in accordance with M.G.L. c. 40, § 4E. The terms collaborative, education collaborative, and educational collaborative shall have the same meaning.

Member District. A charter school board or school committee of a city, town, or regional school district that has voted to join an educational collaborative and has been accepted by appropriate votes of the collaborative board of directors, and the member school committees and charter school boards, and approved by the Board.

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Model Agreement. The collaborative agreement developed by the Department, which may be used or adapted by educational collaboratives.

Non-member District. A school committee or charter school board that receives services from the educational collaborative but is not a member district.

Related For-profit or Non-profit Organization. Shall have the meaning as defined in M.G.L. c. 40, § 4E.

50.03: Department Approval

(1) Forming an Educational Collaborative. Two or more school committees of cities, towns, and regional school districts and charter school boards may establish an educational collaborative by entering into a collaborative agreement in accordance with M.G.L. c. 40, § 4E. The collaborative agreement shall be submitted to the Department for approval as outlined in 603 CMR 50.03 and in guidelines issued by the Department.

(2) Existing Collaboratives. Each educational collaborative in existence as of March 2, 2012 shall amend its collaborative agreement to comply with the provisions of M.G.L. c. 40, § 4E and 603 CMR 50.00. The process for amending the collaborative agreement shall comply with the provisions of the existing collaborative agreement, provided, however, that the amended collaborative agreement must be approved by all of the member districts. The amended collaborative agreement must be submitted to the Department for approval no later than March 4, 2013. An educational collaborative in existence as of March 2, 2012 that submits its amended collaborative agreement to the Department in accordance with 603 CMR 50.03 operating under its existing agreement until the Board approves the amended agreement in accordance with 603 CMR 50.03(6).

(3) New Collaborative Agreements. No new educational collaborative may operate until the collaborative agreement created in accordance with M.G.L. c. 40, § 4E and 603 CMR 50.03 is approved by all of the member districts and the Board, upon recommendation of the Commissioner. A collaborative agreement shall be effective on July 1<sup>st</sup> of any fiscal year, provided that all requisite approvals, including the Board's approval, shall be obtained no later than the preceding April 30<sup>th</sup>.

(4) Amending a Collaborative Agreement.

(a) All amendments to collaborative agreements shall be approved by the member districts in accordance with the collaborative agreement and shall comply with 603 CMR 50.03(5) and (6).

(b) All amendments for the admission and withdrawal of member districts shall comply with the following timeline.

1. A school committee or charter school board may be admitted to, or an existing member district may withdraw from, an educational collaborative as of July 1<sup>st</sup> of any fiscal year, provided that all requisite approvals for such admission or withdrawal, including the Board's approval, shall be obtained no later than the preceding April 30<sup>th</sup>. The authorizing votes may provide for the deferral of said admission or withdrawal until July 1<sup>st</sup> of a subsequent fiscal year.

2. Following the approval for admission to an educational collaborative and continuing until the actual date of such admission, the school committee or charter school board may designate a non-voting representative to the collaborative board of directors.

(c) No amendment shall take effect until it is approved by the Board.

(5) Department's Review of a Collaborative Agreement or Amendment.

(a) A draft collaborative agreement or draft amendment to a collaborative agreement shall be submitted to the Department for initial review, prior to its approval by the member districts. The model agreement developed by the Department may be used as a guide.

(b) The collaborative agreement shall include the following:

1. the mission, purpose, objectives and focus of the collaborative;
2. the programs or services to be offered by the collaborative;

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3. the powers and duties of the collaborative board of directors to operate and manage the collaborative;
  4. the governance of the collaborative;
  5. the conditions of membership of the collaborative, which may include:
    - a. minimum attendance requirements, including consequences for failure to attend meetings;
    - b. consequences for failure of a member district to meet the terms of the collaborative agreement;
    - c. consequences for failure to attend training as required by 603 CMR 50.05(3) and 50.12(3); and/or
    - d. whether member districts will be assessed membership dues.
  6. the financial terms for member districts and non-member districts, including any non-member surcharge or fee;
  7. the detailed procedure for the preparation and adoption of an annual budget, tuition rates, membership dues and fees-for-service;
  8. a timeline and process for amending the budget, tuition rates, membership dues and fees-for-service;
  9. the method and timeline for notification and payment of tuition, membership dues and fees-for-service;
  10. a limit, not to exceed 25%, on the amount of cumulative surplus that may be held by the collaborative at the end of a fiscal year;
  11. how and under what conditions surplus funds may be returned to member districts or credited to support collaborative programs and services offered to member districts and how such funds will be allocated to such member district(s) upon the withdrawal of a member district(s) or the termination of the collaborative;
  12. a procedure for the review and approval of any borrowing, loans, mortgages or acquisition of real property;
  13. the method of termination of the collaborative;
  14. the procedure for apportioning assets and liabilities upon the termination of the collaborative or the withdrawal of a member district;
  15. the procedure for the admission or withdrawal of member districts;
  16. the procedure for amending the collaborative agreement; and
  17. any other matter not incompatible with law which the member districts consider advisable.
- (c) The Department shall review the draft collaborative agreement or amendment to ensure that it complies with M.G.L. c. 40, § 4E, 603 CMR 50.00, and any guidelines issued by the Department.
- (d) When all changes are made to the draft collaborative agreement or amendment as required by the Department, the final collaborative agreement or amendment shall be submitted to the collaborative member districts for approval. Member districts shall not delegate the approval of a collaborative agreement to any other person or entity.
- (6) Required Documentation for Board Approval.
- (a) Once the collaborative agreement or amended collaborative agreement has been approved by the member districts in accordance with 603 CMR 50.03, it shall be submitted to the Commissioner for approval by the Board along with the following supplemental documentation:
    1. a notification and signature from the chair of each member district certifying as to the date the member district voted to approve the collaborative agreement;
    2. a current organizational chart with the administrative structure of the collaborative;
    3. the names and positions of current appointed representatives to the collaborative board of directors from each member district;
    4. the collaborative by-laws, as applicable;
    5. a detailed description of proposed programs and services for the current year;
    6. the current location(s) or planned location(s) of the collaborative program(s); and
    7. any other information as required by the Commissioner or Board to clarify the intent or purpose of the collaborative.

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(b) The Board shall approve or disapprove a collaborative agreement or any amendment to such agreement, upon a recommendation by the Commissioner as to whether the collaborative agreement or amendment meets the standards in M.G.L. c. 40, § 4E and 603 CMR 50.00.

50.04: Collaborative Responsibilities

(1) Responsibilities of Member Districts.

(a) Each member district shall annually appoint either a member of the school committee or charter school board or its superintendent of schools to be its appointed representative on the collaborative board of directors.

(b) Each member district shall, to the extent possible, provide appropriate space to support collaborative programs in the least restrictive environment to ensure compliance with civil rights and special education laws and regulations.

(c) Each member district shall comply with the provisions of the collaborative agreement.

(2) Responsibilities of Appointed Representatives.

(a) Each appointed representative has a fiduciary responsibility to discharge his or her duties with care, skill, prudence and diligence for the benefit of the representative's member district and the students served by the educational collaborative.

(b) If the interests of the educational collaborative conflict with the interests of the member district, the appointed representative shall have a duty to inform the member district about the conflict at the next regularly scheduled open meeting of the member district.

(c) Each appointed representative shall be responsible for providing the following information to the representative's member district in accordance with the provisions of M.G.L. c. 40, § 4E:

1. quarterly information and updates to the school committee or charter school board at an open meeting on collaborative activities, including, but not limited to, the programs and services provided by the collaborative;
2. a report on significant changes in programs, services, budgets, and property as they arise;
3. a copy of the collaborative agreement and any amendments;
4. a copy of the annual budget and tuition rate;
5. a copy of the annual report and financial audit;
6. notification of applications for real estate mortgages;
7. a copy of any capital plan approved by the board of directors; and
8. any additional information as may be requested by a vote of the school committee or charter school board of the member district.

(d) Each appointed representative shall complete training provided or approved by the Department, as outlined in 603 CMR 50.05.

(e) The appointed representative shall be an active and engaged voting member of the collaborative board of directors. The appointed representative shall attend scheduled meetings and fulfill all duties as may be required by the collaborative board of directors, 603 CMR 50.00 and the collaborative agreement. In accordance with 603 CMR 50.03(5)(b)5., the collaborative agreement may provide for the imposition of consequences for failure of an appointed representative to fulfill the responsibilities set forth in law and the provisions of the collaborative agreement.

(f) The appointed representative shall not delegate his or her powers or send a representative in his or her place as a voting member.

(3) Responsibilities of the Collaborative Board of Directors.

(a) The collaborative board of directors shall establish a process to provide to member districts, students, parents/guardians, the Board, and the public all information required by law and regulation.

(b) The collaborative board of directors shall establish and maintain an internet website in accordance with M.G.L. c. 40, § 4E that shall include at a minimum:

1. a list of the appointed representatives on the collaborative board of directors;
2. copies of the minutes of open meetings held by the collaborative board of directors;
3. a copy of the collaborative agreement and any amendments; and

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4. a copy of the annual report and independent audit required by 603 CMR 50.08; and
  5. contact information for key educational collaborative staff members.
- (c) The collaborative board of directors shall establish policies to support the operation of the educational collaborative and shall review the effectiveness of such policies to ensure currency and appropriateness. In addition to other requirements of law, at a minimum, the collaborative board of directors shall develop and maintain policies relative to personnel, students, finance and internal controls, and health and nursing.
- (d) The collaborative board of directors shall be responsible for:
1. ensuring adherence to the collaborative agreement and progress toward achieving the purposes set forth in the agreement;
  2. determining the cost-effectiveness of programs and services offered by the collaborative;
  3. ensuring that any borrowing, loan, or mortgage is cost-effective, is necessary to carry out the purposes for which the collaborative is established, is in the best interest of the collaborative and its member districts and is consistent with the terms of the collaborative agreement;
  4. approving all expenditures, including contracts, borrowing, and the purchase and sale of real estate; and
  5. ensuring compliance with the provisions of applicable state and federal laws and regulations.
- (e) For collaborative programs operating within public school buildings, the collaborative shall develop a memorandum of agreement with the host district:
1. to maximize integration opportunities for students placed in or served by the collaborative programs;
  2. to coordinate services, including basic health care services, to students placed in or served by the collaborative programs; and
  3. to identify any terms and conditions for the use of space.
- (4) Appointee of Commissioner.
- (a) The Commissioner shall appoint a representative to serve on the board of directors of each educational collaborative.
- (b) The Commissioner's appointee shall be provided with all information presented to the collaborative board of directors and such other information as the Commissioner's appointee may request to fulfill the responsibilities of the position.
- (c) The Commissioner's appointee shall be an active member of the board of directors with full voting rights and responsibilities.

50.05: Training

- (1) Training Requirement. Each appointed representative shall complete training provided or approved by the Department.
- (2) Training Content. The training shall include a review of the open meeting law, public records law, conflict of interest law, special education law, the budgetary process, procurement, fraud prevention and awareness, and the fiduciary and management oversight responsibilities of a collaborative board of directors.
- (3) Frequency of Training. Each appointed representative shall complete the required training within 60 days of initial appointment and every six years thereafter, unless otherwise required by law or regulation.
- (a) Each appointed representative shall submit to the Department a certificate(s) of completion of such required training in a form required by the Department. An appointed representative may meet one or more of the training requirements through an alternative means by providing a description of the training and a certification of completion. The Department shall determine whether such training satisfies the requirement.
- (b) Failure of an appointed representative to attend the mandated training in the time frame set forth in 603 CMR 50.05(3) and 50.12(3) may result in the collaborative being placed on probationary status in accordance with 603 CMR 50.10.
- (c) The Department will publish notices of available training, certification requirements, criteria for approval of authorized training, and supplemental materials.

50.06: Collaborative Employees

- (1) Public Employer. The collaborative board of directors is a public employer and may employ such personnel as may be required to fulfill its mission subject to the certification and approval standards in M.G.L. c. 40, § 4E.
- (2) Segregation of Duties.
- (a) There must be segregation of duties between the executive director, treasurer and business manager.
  - (b) No appointed representative on the collaborative board of directors shall be eligible to serve in the position of executive director, treasurer, or business manager or a person with responsibilities similar to those of a town accountant.
  - (c) No employee of the collaborative may serve on the board of directors of the educational collaborative or shall be eligible to serve concurrently in the positions of treasurer, or business manager or a person with responsibilities similar to those of a town accountant.
- (3) Executive Director. Each collaborative board of directors shall hire an executive director to oversee collaborative programs and services and shall annually evaluate the executive director's performance and effectiveness in implementing the programs, policies and goals of the collaborative. The executive director:
- (a) shall serve under the general direction of the collaborative board of directors, and
  - (b) shall be responsible for managing and supervising the educational collaborative.
- (4) Business Manager. Each collaborative board of directors shall hire a business manager or an employee with responsibilities similar to those of a town accountant who shall be subject to M.G.L. c. 41, § 52. Each collaborative board of directors shall ensure an annual evaluation of such employee's performance and effectiveness. The business manager or employee with responsibilities similar to those of a town accountant may not serve concurrently as treasurer of the collaborative.
- (5) Treasurer. Each collaborative board of directors shall hire or appoint a treasurer to manage all receipts and disbursements through the education collaborative fund and to perform such duties as are required by the collaborative board of directors and authorized by M.G.L. c. 40, § 4E and 603 CMR 50.00. The collaborative board of directors shall annually evaluate the treasurer's performance and effectiveness. The collaborative board may hire or appoint a treasurer of a member district city, town or regional school district to serve as its treasurer.
- (6) School Nurses. The collaborative board of directors shall appoint one or more registered nurse(s) as a school nurse and shall provide such nurse with all proper facilities for the performance of the school nurse's duties. Collaboratives with programs housed in an operating public school may enter into an agreement with the host school district whereby the school nurse of the host school or district provides school nursing services to the students served by the collaborative. No person shall be employed by a collaborative as a school nurse unless such nurse is either licensed as a school nurse under 603 CMR 7.00: *Educator Licensure and Preparation Program Approval* or was employed as a school nurse by the collaborative on or before February 1, 2012.
- (7) Hardship Waivers. The Commissioner may exempt a collaborative board of directors for any one school year from the requirement to employ certified or approved personnel in accordance with M.G.L. c. 40, § 4E.

50.07: Finance

- (1) Financial Accounting System. Each collaborative shall adopt and maintain a financial accounting system in accordance with generally accepted accounting principles as prescribed by the governmental accounting standards board and any supplemental requirements prescribed jointly by the Commissioner and the Commissioner of Revenue, in consultation with the State Auditor. At a minimum, the financial accounting system shall delineate:
- (a) administration and overhead;
  - (b) rental of real property;
  - (c) program costs;
  - (d) capital expenditures, including fixed assets, real property or the improvement of real property;

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- (e) debt payments;
- (f) deposits into a capital reserve; and
- (g) all additional disclosures required in 603 CMR 50.08(2).

(2) Education Collaborative Fund. The collaborative board of directors shall establish and manage an education collaborative fund. All monies paid by the member districts and non-member districts and all grants or gifts from the federal government, state government, charitable foundations, private corporations, or any other source shall be paid to the collaborative board of directors and deposited in the fund. The treasurer of the collaborative, subject to the direction of the collaborative board of directors, shall receive and disburse all money belonging to the collaborative without further appropriation.

(3) Revenues. The collaborative board of directors may apply, through an appropriate vote, for state, federal, corporate, or foundation grants, and may enter into contracts to obtain the funds necessary to carry out the purpose for which the collaborative was established.

(4) Purchasing. An educational collaborative, acting through its board of directors, may, subject to M.G.L. c. 30B, enter into contracts for the purchase of supplies, materials and services and for the purchase or leasing of land, buildings and equipment as considered necessary by the board of directors.

(5) Creating the Annual Budget.

(a) The collaborative board of directors shall follow the process outlined in the collaborative agreement for the development and approval of the collaborative budget, tuition rates, membership dues and fees-for-service. On an annual basis the collaborative board of directors shall propose a budget for the upcoming fiscal year. The proposed budget shall contain all planned financial activity. Expenditures from grant funds, trust funds and other funds not designated as general funds that by law may be expended by the collaborative board of directors without further appropriation shall be segregated in the budget. The general fund budget shall segregate all operating expenditures, capital expenditures, debt service payments and deposits to capital reserve. The proposed budget shall be classified into such line items as the collaborative board of directors shall determine.

(b) All financial activity for the operation of the collaborative shall be considered general fund activity with the exception of activities relative to grants, gifts or contracts.

(c) The budget shall delineate the tuition rates, membership dues and fees-for-service to be paid by the member districts and non-member districts.

(d) Tuition rates and fees-for-service shall be based on the combined cost of providing collaborative programs and services.

(e) The proposed budget shall be discussed at a public meeting of the collaborative board of directors. Public notice shall be given to member districts.

(6) Approving the Collaborative Budget.

(a) At a collaborative board meeting at least ten working days following the board meeting at which the collaborative budget was first proposed, the collaborative board of directors shall approve, by at least a majority vote, the collaborative budget for the upcoming fiscal year.

(b) The treasurer of the educational collaborative shall certify and transmit the budget and the tuition rates, membership dues and fees-for-service for the upcoming fiscal year to each member district in a timeframe specified in the collaborative agreement.

(7) Amendments to Approved Budgets.

(a) Any amendment to the budget must be approved by the collaborative board of directors.

(b) Any amendment to the budget that results in an increase in the tuition rates, membership dues or fees-for-service shall also be provided to the member districts in accordance with a timeframe and process outlined in the collaborative agreement.

(8) Borrowing. The collaborative, by an appropriate vote of the board of directors, may borrow money or enter into short- or long-term agreements or mortgages, provided that when the borrowing or short- or long-term agreements or mortgages are for the approved acquisition or improvement of real property:

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- (a) the collaborative board of directors shall provide notice to each member district within 30 calendar days of applying for real estate mortgages; and
- (b) the collaborative board of directors shall discuss its intent to apply for a real estate mortgage at a public meeting of the board of directors prior to the meeting of the collaborative board of directors at which the final vote is taken.

(9) Limitation on Surplus Funds. At the close of the fiscal year, unexpended general funds may be carried forward and used in subsequent budget cycles. These unexpended general funds are determined to be the current surplus. Cumulative surplus is derived by adding prior year surplus funds to the current year surplus funds. The collaborative agreement shall include a limit on the amount of cumulative surplus funds that may be maintained by the collaborative. The collaborative board of directors shall annually approve by majority vote the dollar amount designated as cumulative surplus. The board of directors shall vote annually to retain the cumulative surplus funds for the collaborative's use or return all, or some portion, of the funds to the member districts. The collaborative agreement shall address how and under what conditions such surplus funds may be returned to member districts or credited to support programs and services offered to member districts and how such funds will be allocated to such member district(s) upon the withdrawal of a member district or the termination of the collaborative. The determination of surplus funds shall not include funds deposited in a capital reserve as provided for in 603 CMR 50.07(10), funds deposited in trust in accordance with M.G.L. c. 32B, § 20, or funds prepaid to the collaborative for tuition or services in accordance with M.G.L. c. 40, § 4E. In no event shall such cumulative surplus funds exceed 25% of the previous fiscal year's general fund expenditures.

(10) Capital. The educational collaborative may create a capital reserve fund to support costs associated with the acquisition, maintenance, and improvement of fixed assets, including real property, pursuant to a capital plan.

- (a) Funds in a capital reserve account may be used only for the project or purpose for which the account was established.
- (b) The establishment of a capital reserve shall be subject to the approval of  $\frac{2}{3}$  of the member districts. The request for approval must state the reason for the reserve and a limit on the balance that may be held in the reserve.
- (c) Deposits into the capital reserve shall be proposed and approved through the budget process.
- (d) In the event that the purpose for which the capital reserve was created requires modification, the collaborative board of directors shall revise its capital plan and provide notice to all member districts. If the member district does not vote to disapprove the revised capital plan within a 45 day period, that member shall be deemed to have approved the revised capital plan.  $\frac{2}{3}$  approval of the member districts is required to revise the capital plan.

(11) Annual Financial Statements. Each collaborative shall annually prepare financial statements, including:

- (a) a statement of net assets (government-wide);
- (b) a statement of activities (government-wide);
- (c) a governmental funds balance sheet;
- (d) a governmental funds statement of revenues, expenditures, and changes in fund balance;
- (e) a general fund statement of revenues, expenditures and changes in fund balance, budget and actual;
- (f) a statement of fiduciary net assets;
- (g) a statement of changes in fiduciary fund net assets; and
- (h) a capital plan identifying current capital obligations or future planned capital projects.

(12) Audit. Each collaborative shall annually have an independent audit conducted of its accounts, in accordance with generally accepted government auditing standards, and consistent with any guidelines the Department may issue. Such audit will be conducted consistent with 603 CMR 50.08(2). Audit results shall be discussed annually at a public meeting of the collaborative board of directors.

50.08: Reporting

(1) Annual Report. An educational collaborative shall prepare an annual report. Upon approval by the collaborative board of directors and no later than January 1<sup>st</sup> of each year, the annual report for the preceding fiscal year shall be submitted to the chair of each member district and the Commissioner. The collaborative shall make the annual report available on its website. The format and content of the annual report shall be presented in accordance with guidelines established by the Department, and shall include, at a minimum, the following information:

- (a) information on the programs and services provided by the collaborative;
- (b) discussion of the cost-effectiveness of such programs and services;
- (c) progress made toward achieving the objectives and purposes set forth in the collaborative agreement; and
- (d) audited financial statements and the independent auditor's report in accordance with 603 CMR 50.08(2).

(2) Audit Report. An educational collaborative shall submit an annual independent audit report to the collaborative board of directors for discussion and approval. Upon approval by the collaborative board of directors and no later than January 1<sup>st</sup> of each year, the annual audit report for the preceding fiscal year shall be submitted to the chair of each member district, the Commissioner and the State Auditor. The collaborative shall make the audit report available on its website. The Department, in consultation with the State Auditor, may establish standards for financial reporting and for supplemental statements to accompany the audit report, as needed. The audit report shall be presented in accordance with generally accepted government auditing standards and additional guidelines as may be established by the Department. The audited financial statements, accompanying notes, and supplemental schedules shall also disclose:

- (a) transactions between the educational collaborative and any related for-profit or non-profit organization;
- (b) transactions or contracts related to the purchase, sale, rental, or lease of real property;
- (c) the names, duties, and total compensation of the five most highly compensated employees;
- (d) the amounts expended on administration and overhead;
- (e) any accounts held by the collaborative that may be spent at the discretion of another person or entity; and
- (f) the amounts expended on services for individuals with disabilities, 22 years of age or older.

(3) Reporting to Other Agencies. An educational collaborative that provides social service programs as defined in M.G.L. c. 7, § 22N shall adhere to the uniform system of financial accounting, allocation, reporting and auditing requirements of the Massachusetts Executive Office of Administration and Finance, Operational Services Division (OSD).

(4) Other Information and Reports. An educational collaborative shall file such other student, program, financial and staffing information, reports or documents as the Department deems necessary.

50.09: Department Review of Educational Collaboratives

(1) Six-year Review Cycle. The Department shall review the programs and services provided by each educational collaborative at least once every six years. The review shall focus on compliance with special education and other programmatic requirements, civil rights requirements, and financial systems and controls. The review shall determine compliance with the written collaborative agreement, with the requirements of M.G.L. c. 40, § 4E, and with 603 CMR 50.00. As a result of any finding, the collaborative board of directors and/or the member districts may be required to develop a corrective action plan that may result in remedial action or suspension or revocation of the collaborative agreement as noted in 603 CMR 50.10 and 50.11.

(2) Evaluation and Compliance. The Department may evaluate, review, or audit any part of the educational collaborative's records to determine whether the student, personnel, program and financial data reported by the collaborative are accurate, to ensure compliance with applicable law and regulations, to determine whether the collaborative is maintaining effective controls over revenues, expenditures, assets, and liabilities, and to corroborate and augment information provided in other reporting documents.

50.10: Probationary Status, Suspension, and Revocation(1) Probationary Status.

(a) The Commissioner may place an educational collaborative on probationary status upon receipt of information which, in the opinion of the Commissioner:

1. compromises the collaborative's ability to provide a safe, healthy, and appropriate educational environment;
2. indicates a failure to comply with legal and regulatory requirements relating to the collaborative's delivery of services to students;
3. indicates the presence of circumstances that impede an educational collaborative's viability;
4. demonstrates inability or refusal to comply with provisions of M.G.L. c. 40, § 4E or 603 CMR 50.00;
5. demonstrates deficiencies in programmatic quality of the collaborative; or
6. demonstrates significant malfeasance, financial or otherwise, by any appointed representative of the collaborative board of directors or any employee of the educational collaborative.

(b) The Commissioner shall provide written notification to the board of directors and to the chairs and superintendents of the member districts of the probationary status, the circumstance(s) that caused the Commissioner to take such action, and the actions necessary to correct the problem. Upon a determination by the Commissioner that the health or safety of students is at risk, the Commissioner will order the collaborative board of directors to undertake emergency steps to immediately remedy the circumstances and will monitor the collaborative to ensure compliance with the directive.

(c) A collaborative placed on probationary status shall submit a remedial plan to the Department for approval by the Commissioner within 20 days of being notified that it is on probationary status. Such remedial plan shall outline the steps to be taken by the collaborative to correct the circumstance(s) causing the probationary status. The collaborative remedial plan shall be provided to each member district and approved by the collaborative board of directors before it is submitted to the Department. The Department shall monitor the collaborative's progress in meeting the goals of the remedial plan.

(d) If after 60 days, or such other period as the Commissioner may specify, said remedial plan is unsuccessful in remedying the circumstance(s) leading to probation or alleviating the cause(s) of the probation, the Commissioner may take one or more of the following actions:

1. direct school districts and charter schools to withhold payments of public funds to the collaborative;
2. in consultation with the Secretary of Administration and Finance, withhold state funds being directed to the collaborative; and/or
3. recommend that the Board suspend or revoke approval of the collaborative's written agreement in accordance with 603 CMR 50.10(2).

(2) Suspension or Revocation.

(a) The Board, upon notice to the collaborative board of directors and the member districts, may immediately suspend the operation of a collaborative or one or more of its programs if the health or safety of students is at risk.

(b) The Board may suspend or revoke approval of an educational collaborative agreement for cause, including, but not limited to:

1. a material misrepresentation in the application for approval of the collaborative agreement or amendment to the agreement;
2. failure to comply substantially with the terms of the collaborative agreement, with any of the provisions of M.G.L. c. 40, § 4E, CMR 50.00, or with any other applicable law or regulation;
3. financial insolvency;
4. misappropriation or mismanagement of funds or illegally withholding of funds or refusal to pay any funds that belong to any person or entity otherwise entitled thereto and that have been entrusted to the collaborative board of directors or its administrators in their fiduciary capacities;
5. fraud or gross mismanagement on the part of the collaborative board of directors or administrators, including but not limited to mismanagement of the educational programs and failure to provide a healthy and safe environment for students;
6. criminal convictions on the part of any administrator or appointed representative on the board of directors;

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- 7. information gathered from audits, onsite visits or reviews, or any other source that demonstrates that the collaborative has serious programmatic or fiscal issues; and/or
  - 8. failure to fulfill any conditions imposed by the Board in connection with the approval of the agreement or a remedial plan pursuant to 603 CMR 50.10.
- (c) The Board shall notify the collaborative board of directors, the member districts, and the member districts' superintendents in writing of its intent to suspend or revoke approval of the collaborative agreement. A vote of intent to suspend or revoke approval shall operate as a notice of the action and does not operate as an order to show cause. The Board shall send the notice 60 days before the suspension or revocation takes effect, except when approval is being suspended under 603 CMR 50.10(2)(a).
- (d) Upon receiving a notice of intent to suspend or revoke approval of an educational collaborative agreement, the collaborative shall have all rights of review required by M.G.L. c. 30A, § 13, and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*. All requests for hearings, where hearings are provided by said statute, shall be in writing, addressed to the Board, and must be received within 15 days of receipt by the collaborative board of directors of the notice of intent to revoke or suspend approval. At such hearing, the collaborative board of directors shall bear the burden of proof and present its case first.
- (e) A collaborative that has received a notice of intent to revoke approval of its agreement shall immediately begin planning for termination of the collaborative by providing notice to member districts and non-member districts.
- (f) A collaborative must cease operating upon the revocation of the approval of its collaborative agreement and comply with the termination procedures set forth in 603 CMR 50.11(1)(2).

50.11: Dissolution

- (1) Voluntary Termination. A collaborative may dissolve the collaborative in accordance with the procedures set forth in the collaborative agreement.
- (2) Termination Procedures.
- (a) The collaborative must submit the following information to the Department:
- 1. A process for determining the appropriate disposition of federal/state funds, equipment, and supplies;
  - 2. Identification of the member district(s) responsible for maintaining all fiscal records upon termination of the collaborative;
  - 3. Identification of the member district(s) responsible for maintaining student, employee, and program records upon termination of the collaborative;
  - 4. The plans of the member districts to accommodate the programs and services formerly provided by the educational collaborative;
  - 5. A process for determining the appropriate disposition of all assets of the collaborative, including capital property owned by the educational collaborative;
  - 6. A process for meeting all liabilities of the collaborative, including obligations for post-employment benefits;
  - 7. Copies of the minutes of the meetings of the board of directors and the member districts' recording of the vote to terminate the collaborative;
  - 8. The effective date of the termination; and
  - 9. A copy of the final audit of the collaborative, including an accounting of assets and liabilities of the collaborative and the disposition of same.
- (b) The collaborative shall comply with the closing procedures established by the Department in guidelines.

50.12: General Provisions

- (1) Waivers. Upon written request from a collaborative or member district, the Commissioner may waive the applicability of one or more provisions of 603 CMR 50.00, upon certification that the collaborative or member district has made a good faith effort to comply with said provisions. The waiver request shall include sufficient documentation to support the need for relief. Waivers of 603 CMR 50.00 shall be considered only under circumstances the Commissioner deems exceptional and shall be granted only to the extent allowed by law.

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(2) State Ethics Law. Collaborative board members and employees shall be public employees subject to M.G.L. c. 268A.

(3) Implementation Dates. All existing appointed representatives to collaborative boards of directors in existence as of March 2, 2012 shall complete the training set forth in 603 CMR 50.05 by June 30, 2013.

(4) Related Organizations.

(a) No appointed representative shall serve on the board of directors or as an officer or employee of a related for-profit or non-profit organization.

(b) The executive director, treasurer, and business manager shall not serve as a board member, officer, or employee of any related for-profit or non-profit organization.

(c) No employee of an educational collaborative shall be employed at any related for-profit or non-profit organization.

(5) Severability. If any section or portion of a section of 603 CMR 50.00, or the applicability of 603 CMR 50.00 to any person, entity, or circumstance is held invalid by a court, the remainder of 603 CMR 50.00 and/or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

603 CMR 50.00: M.G.L. c. 69, § 1B, and M.G.L. c. 40, § 4E.