

603 CMR 41.00: REGIONAL SCHOOL DISTRICTS

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41.01: Definitions

As used in 603 CMR 41.00 the following terms shall have the following meanings:

Alternative Assessment Method. The calculation of members' assessments pursuant to the local option provided in the fourth paragraph of M.G.L. c. 71, § 16B. Each such assessment shall be the sum of the following amounts:

- (a) the member's share of the regional school district's net school spending, as defined by M.G.L. c. 70, § 2; and
- (b) the member's share of costs for transportation, capital project debt service, other capital costs, and all other expenditures not included in the regional school district's net school spending; both such shares to be allocated pursuant to the assessment provisions of the regional agreement.

Department. The Massachusetts Department of Education.

Board. The Board of Education of the Commonwealth of Massachusetts.

Commissioner. The Commissioner of Education or his or her designee.

Expanded Regional School District. An existing regional school district that has added additional grade levels.

Enlarged Regional School District. An existing regional school district that has changed its membership by adding one or more additional municipalities.

Local Appropriating Authority. In a town, town meeting; in a city, the council, with the mayor's approval when required by law; in a municipality having a town council form of government, the town council.

Member. A municipality that is a member of a regional school district.

Municipality. Any city or town of the Commonwealth.

Regional School Committee. The regional school committee having charge of a regional school district.

Regional School District. Any local education agency established under M.G.L. c. 71, § 15; M.G.L. c. 74, § 5A; or by a special act of the Great and General Court for the purpose of operating regional schools.

School District Reorganization. The formation of a new regional school district or changes in the grade structure or membership of an existing regional school district.

Statutory Assessment Method. The calculation of members' assessments pursuant to the provisions of M.G.L. c. 70, § 6. Each such assessment shall be the sum of the following amounts:

- (a) the member's required local contribution to the regional school district as determined by the Commissioner;

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- (b) the member's share of that portion of the regional school district's net school spending, as defined by M.G.L. c. 70, § 2, that exceeds the total required local contribution for all members, this share to be allocated pursuant to the assessment provisions of the regional agreement; and
- (c) the member's share of costs for transportation, capital project debt service, other capital costs, and all other expenditures not included in the regional school district's net school spending, this share to be allocated pursuant to the assessment provisions of the regional agreement.

41.02: Reorganization Procedures

- (1) Reorganization Needs Conference. In order to establish the need for a proposed school district reorganization and to ensure that all alternatives for satisfying said need are fully addressed, the Department shall convene a Reorganization Needs Conference. For a proposed new regional school district, the Reorganization Needs Conference shall be requested in writing by the Regional School District Planning Board, as defined in M.G.L. c. 71, § 14. For an existing regional school district expanding its grade level structure or enlarging its membership, the Regional School Committee shall submit the written request for the Reorganization Needs Conference.
- (2) Long Range Education Plan. The Reorganization Needs Conference shall include consideration of a Long Range Education Plan to determine whether the proposed project is in the best interest of the applicant and of the Commonwealth. The Long Range Plan shall be a written plan which addresses the expected educational benefits of reorganization; current and projected enrollments; an inventory of all educational facilities under the jurisdiction of the various school committees (current and proposed) and any construction efficiencies; the administrative structure, including a current and proposed organization chart; the fiscal benefits; the geographical and physical characteristics; and the transportation economies which would result from a school district reorganization.
- (3) Department Review. The review and evaluation of the Long Range Educational Plan by the Department shall include consideration of compliance with state and federal law and potential for enhancing learning opportunities and improving student performance for all students within the proposed district.

41.03: Department of Education Approval

- (1) After the Reorganization Needs Conference the Department will either give written notification to proceed or make a written request for additional information or modifications. In the case of an approved proposal to establish a new region, the Department shall direct the Regional School District Planning Board to draft a District Agreement, in accordance with M.G.L. c. 71, § 14B. In the case of an approved proposal to expand or enlarge a regional school district, the Department will direct the regional school committee to draft an amendment to the existing District Agreement.
- (2) Admission and Withdrawal of Members.
 - (a) A new member may be admitted to, or an existing member withdraw from, a regional school district as of July 1st of any fiscal year, provided that all requisite approvals for such admission or withdrawal, including the Commissioner's approval, shall be obtained no later than the preceding December 31st. The authorizing votes may provide for the deferral of said admission or withdrawal until July 1st of a subsequent fiscal year.

(b) Following the approval of a prospective member for admission into a regional school district and continuing until the actual date of such admission, the local school committee of the prospective member may designate a non-voting representative to the regional school committee.

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(3) When a proposed Regional School District Agreement or Amended Agreement has been accepted by all of the participating municipalities, the Regional School District Planning Board or Regional School Committee shall submit to the proposed Agreement or Amended Agreement, together with the certified votes of the participating municipalities, to the Commissioner for approval.

(4) The Commissioner shall approve or disapprove a Regional District Agreement, and any subsequent amendments to the Agreement, based on review and recommendation by the Department that the Agreement meets the standards in 603 CMR 41.00 and applicable law. The decision of the Commissioner shall be final.

(5) With the approval of the commissioner, a regional agreement may provide for a transition planning period to commence with the election or appointment of the regional school committee. Such transition planning period may extend not longer than the remainder of the fiscal year in which the school committee is elected or appointed plus one additional fiscal year. During such transition planning period, the local school committees shall continue to oversee and operate the schools in their respective towns. The regional school committee shall have non-operating status during this period and shall have power to hire staff, enter into contracts, and take such other actions as are needed to prepare for an orderly transition. At the end of the transition planning period, responsibility for the oversight and operation of the schools shall transfer to the regional school committee.

41.04: Municipal Representatives in Regional School District Collective Bargaining

(1) Selection of Municipal Representative. No less than 21 days before collective bargaining negotiations commence or resume in a regional school district, the superintendent of the district shall send a notice to all chief executive officers of the member cities and towns of the district, or, if there is no town manager or town administrator in a member town, to the chairman of the board of selectmen in that town, indicating the time, place and date of a meeting to be held by the regional school district at which the chief executive officers or chairmen of boards of selectmen shall elect one of their number to represent them pursuant to M.G.L. c. 150E, § 1.

(a) The meeting shall be held no later than seven days before commencement of collective bargaining negotiations in the regional school district, and shall comply with the open meeting law. In regional school districts where regional agreements provide for weighted voting in accordance with law, such weighted voting shall be employed.

(b) A chief executive officer or chairman of a board of selectmen may designate a representative to attend the meeting and to vote in his or her place.

(c) If the meeting of chief executive officers or chairmen of boards of selectmen does not result in the designation of a representative, the superintendent shall notify the commissioner of education, who shall randomly select one representative from among the chief executive officers or chairmen of boards of selectmen. Failure of the meeting of chief executive officers or chairmen of boards of selectmen to elect a representative shall not delay or otherwise impede the collective bargaining process.

(d) The chief executive officer or chairman of the board of selectmen chosen to represent member municipalities may serve either personally or through a designee, and must serve through a designee if such officer or selectman is barred from service under the provisions of M.G.L. c. 268A. In such cases, the city council or board of selectmen shall designate an alternate.

(2) Role of Municipal Representative. The municipal representative shall serve as a member of the school committee on all matters related to collective bargaining by the regional school

district. The municipal representative may serve on the school district bargaining team, if any, if selected by the school committee to be a member of such a sub-committee.

(3) Vote of Municipal Representative. The municipal representative shall have one vote in all school committee deliberations on collective bargaining matters. In regional school districts which employ weighted voting, the municipal representative's vote shall be added to the vote total of the elected members and shall not cause a reapportioning of voting weight among the elected school committee members.

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(4) Term of Municipal Representative. The municipal representative's term as a participant in the regional school district's collective bargaining shall be the same length as the term of office of an elected member of the school committee unless a shorter term is agreed to by the chief executive officers of the member cities and towns at the time of the municipal representative's selection.

41.05: Regional School District Budgets

(1) Initial Adoption by the School Committee.

(a) The regional school committee shall propose, by a majority vote, a budget containing all proposed operating expenditures, capital expenditures, and debt service payments to be paid from general revenues of the regional school district. The budget shall be classified into such line items as the regional school committee shall determine, provided that such line items shall be consistent with but need not be to the same level of detail as the chart of accounts required for the end of year reporting of expenditures pursuant to 603 CMR 10.03(3).

(b) The budget shall identify each separate revenue source, and the amount estimated for each revenue source; shall specify whether members' assessments are to be calculated pursuant to the statutory assessment method or the alternative assessment method; and shall specify the total amounts to be assessed to the members for the support of the budget.

(c) The regional school committee may include a line item in the budget for a reserve for extraordinary and unanticipated expenditures.

(d) The regional school committee may include a line item in the budget for transfers into a stabilization fund established pursuant to M.G.L. c. 71, § 16G½. Proposed expenditures from this stabilization fund shall not be included in the budget, but shall be governed by the requirements of M.G.L. c. 71, § 16G½.

(e) Expenditures from grant funds, revolving funds, trust funds, and other funds that by law may be expended by the regional school committee without further appropriation, shall not be included in the budget. A summary of projected receipts and expenditures in such funds shall be provided to the members for informational purposes only along with the budget.

(f) The regional school committee shall hold a public hearing on the proposed budget and, following such hearing, shall adopt a budget by a 2/3 vote, incorporating such changes from the proposed budget as the regional school committee deems appropriate.

(g) The treasurer of the regional school district shall certify and transmit the budget and the assessments to each member within 30 days after the school committee's adoption of the budget and, in any event, no later than April 30th.

(2) Initial Action by the Local Appropriating Authorities.

(a) The budget as adopted by the regional school committee and the member's assessment as certified by the treasurer of the regional school district, shall be placed before each local appropriating authority for its consideration. Notwithstanding provisions in the regional agreement to the contrary, approval of the budget shall require an affirmative vote of the appropriating authorities of 2/3 of the members. A vote by the local appropriating authority to appropriate the member's assessment shall constitute approval of the regional school district's budget. The use of the alternate assessment method shall require the approval of all of the members; such approval may be given by a separate vote of the appropriating authority, or if a separate vote is not taken, approval of a budget or assessment based on the alternate method shall be deemed approval of the method.

(b) If a local appropriating authority votes to appropriate a lower amount than the assessment as certified by the treasurer of the regional school district, such vote shall not constitute approval of the budget as submitted by the regional school committee. The

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regional school committee may consider such votes when it reconsiders the budget pursuant to 603 CMR 41.05(3).

(c) Approval of a budget based on the alternative assessment method shall be reported to the commissioner on the district's end of year financial returns.

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(3) Reconsideration of Rejected Budgets.

(a) If the budget is not approved by $\frac{2}{3}$ of the members, the regional school committee shall have 30 days from the date of disapproval by more than $\frac{1}{3}$ of the members to reconsider, amend, and adopt a revised budget. With the approval of the Commissioner, this 30-day period may be extended an additional 15 days. Where the local appropriating authority is a town meeting and the annual town meeting is dissolved prior to voting on the budget, the budget shall be deemed disapproved by that member as of the date of such dissolution.

(b) The revised budget adopted by the regional school committee and the assessments corresponding to such budget may be less than, equal to, or greater than the amounts in the previously adopted budget.

(c) Within seven days following the regional school committee's adoption of a revised budget, the treasurer of the regional school district shall calculate and certify the assessment of each member and shall transmit the assessments and a copy of the revised budget to the members. Each member's local appropriating authority shall have 45 days from the date of the regional school committee's vote to meet and consider the revised budget.

(d) The approval of a revised budget shall be as set forth in 603 CMR 41.05(2)(a). If a local appropriating authority does not vote on the revised budget within the 45-day period, that member shall be deemed to have approved the revised budget.

(e) In a regional school district comprised of three or more members, if the revised budget is not approved, the regional school committee shall again reconsider, amend, and adopt a revised budget. The revised budget shall be resubmitted to the members pursuant to the provisions of 603 CMR 41.05(3).

(f) In a regional school district comprised of two members, if the revised budget is not approved by both members, the regional school committee shall again reconsider, amend, and adopt a revised budget and shall convene a district-wide meeting, at which the revised budget shall be placed before all voters eligible to vote at said meeting. If a majority of voters at this district-wide meeting votes to approve the revised budget, such vote shall constitute approval. If a majority of voters at this meeting votes to approve a greater or lesser amount for the budget, such amount shall be placed before the regional school committee for its ratification. If the regional school committee by a $\frac{2}{3}$ vote ratifies this amount, it shall constitute approval. If the regional school committee rejects such greater or lesser amount, it shall again reconsider, amend, and adopt a revised budget and shall reconvene a district-wide meeting pursuant to the provisions of 603 CMR 41.05(3)(f).

(g) A district-wide meeting convened in accordance with 603 CMR 41.05(3)(f) shall only consider budgets based on the statutory assessment method.

(h) A regional school committee may reconsider, amend, and adopt a revised budget at any time prior to the approval of a previously adopted budget.

(i) If a local appropriating authority votes to approve an adopted budget subsequent to the required date for such action but prior to the regional school committee's revision of the budget, such vote shall be deemed valid.

(j) Whenever a member's assessment is reduced to a smaller amount than previously appropriated by the local appropriating authority, that appropriation shall automatically be reduced to the lesser amount.

(4) Establishment of Budgets by the Commissioner.

(a) If the operating budget for a regional school district has not been approved by July 1st, the superintendent of schools shall notify the Commissioner, and the Commissioner shall establish an interim monthly budget for the regional school district. The interim monthly budget shall be $\frac{1}{12}$ of the regional school district's budget for the prior fiscal year or such higher amount as the Commissioner may determine. The interim monthly budget shall remain in effect until an operating budget is approved pursuant to 603 CMR 41.05(3) or

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December 1st, whichever comes earlier.

(b) If a regional school district's budget has not been approved by December 1st of the fiscal year, the Commissioner shall assume fiscal control of the regional school district pursuant to M.G.L. c. 71, § 16B, and 603 CMR 41.07, and shall establish the final budget for the fiscal year.

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(c) Whenever the Commissioner establishes an interim or final budget for a regional school district under the provisions of 603 CMR 41.05(4), the treasurer of the regional school district shall calculate and certify to the members their respective assessments. Every member shall pay its respective assessment in accordance with the payment schedule in the regional agreement. The appropriation of funds to pay an assessment ordered by the Commissioner under 603 CMR 41.05(4) shall not be deemed approval by the municipality of the district's budget.

(5) Amendments to Approved Budgets.

(a) A regional school committee may propose, with a $\frac{2}{3}$ vote, an amendment to a previously approved budget. If such amendment results in an increase in the total amount of the budget or an increase in assessment for any member, such amendment shall be submitted to the local appropriating authorities for their approval. The treasurer of the regional school district shall submit the proposed amendment to the members within seven days from the date of the regional school committee vote. The local appropriating authority of every member shall have 45 days from the date of the regional school committee's vote to meet and consider the amendment. The proposed amendment shall be effective if it is approved by $\frac{2}{3}$ of the local appropriating authorities and by the local appropriating authority of any member whose assessment is increased.

(b) If a local appropriating authority does not vote on the proposed amendment within the 45-day period and that local appropriating authority has previously appropriated funds for its assessment in an amount greater than or equal to the member's assessment for the amended budget, that member shall be deemed to have approved the amended budget.

(c) If a proposed amendment to a previously approved budget does not increase the total amount of the budget and reduces or leaves unchanged the assessment for every member, the amendment shall not require approval by the local appropriating authorities and shall be effective upon a $\frac{2}{3}$ vote of the regional school committee.

(d) If the Commissioner adjusts the required local contribution of any member or members subsequent to the approval of the budget, the regional school committee shall propose an amendment to the budget to reflect such adjustments.

(e) Whenever a member's assessment is reduced to a smaller amount than previously appropriated by the local appropriating authority, the appropriation shall automatically be deemed to be reduced to such lesser amount.

(f) Transfers from one budget line item to another shall require and be effective upon approval of the regional school committee. Such approval shall be by a majority vote of the regional school committee unless otherwise specified in the regional agreement. Authority for such transfers may not be delegated.

(6) Changes to Budget upon Admission or Withdrawal of Members.

(a) The treasurer of the regional school district shall include prospective members in the calculation of assessments for the fiscal year in which the members will be admitted. If such assessments are based upon enrollment in the prior fiscal year, the treasurer of the regional school district, with the approval of the Commissioner, shall estimate the enrollment to be used for prospective members. The local appropriating authorities of prospective members shall vote on the district budget for the fiscal year in which the members will be admitted and on the same terms and conditions as if they were a member.

(b) The treasurer of the regional school district shall exclude withdrawing members from the calculation of assessments for the fiscal year in which such withdrawal will take place. The local appropriating authority of the withdrawing members shall not vote on the district budget for the fiscal year in which they will no longer be a member.

- (7) Department Opinions. The regional school committee or the mayor or board of selectmen of a member may request that the Commissioner issue an opinion as to whether:
- (a) the assessments of members have been calculated correctly; and
 - (b) whether the budget of the regional school district has been approved in accordance with statutory and regulatory requirements.

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(8) State Review. The Commissioner, in consultation with the Commissioner of Revenue, may request any regional school committee to submit its proposed budget for review prior to its adoption by the regional school committee. Upon such request, the regional school committee shall provide the Department within seven days with a copy of its proposed budget and all other information as requested by the Commissioner. The regional school committee shall not vote on the adoption of the budget, and the treasurer of the regional school district shall not certify assessments to the members, unless and until the Commissioner and the Commissioner of Revenue jointly determine that the proposed budget is in balance.

41.06: Excess and Deficiency Funds

(1) Every regional school district shall maintain an excess and deficiency fund on its books of account. At the end of every fiscal year, any surplus or deficit in the district's general fund shall be closed to the excess and deficiency fund.

(2) On or before October 31st of each year, every regional school district shall submit to the Department of Revenue the forms and schedules as the Department of Revenue requires for the purpose of reviewing and certifying the balance in the regional school district's excess and deficiency fund. At the discretion of the Commissioner, the Department may withhold release of all or some part of the quarterly state school aid for the regional school district if the regional school district has not filed the required forms and schedules by such date.

(3) A regional school committee may use all or part of the certified balance in the excess and deficiency fund as a revenue source for its proposed budget. If the certified balance exceeds 5% of the proposed budget, the regional school committee shall use the amount in excess of 5% as a revenue source for its proposed budget.

41.07: Fiscal Control of Regional School Districts by the Commissioner

(1) When the Commissioner is required to assume fiscal control of a district pursuant to M.G.L. c.71, §16B, and 603 CMR 41.05(4)(b), the following actions taken by the regional school committee, the superintendent of schools, or any other official of the school district shall be effective only with the written approval of the Commissioner:

- (a) Adoption or reconsideration of the district budget pursuant to 603 CMR 41.05(1) and (3).
- (b) Transfer of budgetary authority between line items.
- (c) Encumbrance or expenditure of funds not included in the general fund budget.
- (d) Borrowing.
- (e) Execution of new or amended collective bargaining agreements.
- (f) Execution of new contracts or amendments to existing contracts with a value of \$25,000 or more.
- (g) Establishment, increase, or decrease of user fees.

(2) During the period of fiscal control, the Commissioner may impound any unencumbered funds for such period of time as he determines.

(3) In addition to the powers enumerated in 603 CMR 41.07(1) and (2), the Commissioner may undertake any initiatives that he deems necessary to secure the financial stability of the district.

(4) The superintendent of schools and other officials of the district shall promptly provide such information and reports as may be requested by the Commissioner.

(5) The Commissioner's fiscal control shall continue until the end of the fiscal year or until the member towns have approved a budget for the subsequent fiscal year, whichever is later.

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(6) The Commissioner may designate a person to act on his behalf with respect to his responsibilities under 603 CMR 41.07.

REGULATORY AUTHORITY

603 CMR 41.00: M.G.L. c. 69, § 1B; c. 71, §§ 14B and 16D; c. 150E, § 1.