

PROPOSED TECHNICAL AMENDMENT TO REGULATIONS ON ACCOUNTABILITY AND ASSISTANCE FOR SCHOOL DISTRICTS AND SCHOOLS

603 CMR 2.00

- Presented to the Board of Elementary and Secondary Education for initial review and vote to solicit public comment: **October 25, 2016**
- Period of public comment: **through December 9, 2016**
- Anticipated final action by the Board of Elementary and Secondary Education: **January 24, 2017**

Summary: Among other matters, the regulations on Accountability and Assistance for School Districts and Schools describe the process for developing and implementing turnaround plans for schools that have been declared underperforming (placed in Level 4) and for schools and districts that have been declared chronically underperforming (placed in Level 5). The regulations provide that the turnaround plans are authorized for a period of up to three years. The proposed technical amendments make explicit the commonsense result that a turnaround plan authorized pursuant to the Achievement Gap Act remains in effect until the statutory process to develop a new, modified or renewed turnaround plan is completed, or the school or district is no longer designated as underperforming or chronically underperforming. The amendments provide clarity to underperforming schools and chronically underperforming schools and districts regarding the length of the turnaround plans, and conform to existing practice.

See below for the text of sections 2.05-2.06 of the regulations, with the proposed amendments redlined. The full text of the regulations is posted at: <http://www.doe.mass.edu/lawsregs/603cmr2.html>.

**603 CMR 2.00:
Accountability and Assistance for School Districts and Schools**

Adopted by the Board of Education: June 16, 1997
Most Recently Amended by the Board of Education: June 26, 2012

2.05: Accountability and Assistance for Districts and Schools in Level 4

(1) Placement of districts in Level 4

(a) A district shall be placed in Level 4 if any of its schools has been placed in Level 4, pursuant to 603 CMR 2.05 (2).

(b) The Board may place a district in Level 4 upon recommendation of the commissioner based on findings from a district review, monitoring report, or follow-up review showing serious deficiencies, relating to one or more district standards, that are likely if they are not addressed effectively and in a timely manner to have a substantial negative effect on student performance in the district, putting the district at risk of being placed in Level 5.

(c) A district may be placed in Level 4 pursuant to both 603 CMR 2.05(1)(a) and 603 CMR 2.05(1)(b).

(d) A district declared underperforming by a vote of the Board prior to April 27, 2010, shall remain in Level 4 until the commissioner makes the determination described in 603 CMR 2.05(12)(b) and it has no schools in Level 4, unless the Board has voted to remove the district from underperforming status.

(2) Placement of schools in Level 4

(a) A school shall be eligible for placement in Level 4 if it scores in the lowest 20% statewide of schools serving common grade levels on a single measure developed by the Department that takes into account at least:

1. school MCAS performance over a four-year period based on Composite Performance Index (CPI) in English language arts; CPI in mathematics; and percentages of students scoring in the "warning" or "failing" category on MCAS; and
2. improvement in student academic performance.

(b) The commissioner may place a school in Level 4 on the basis of quantitative data including but not limited to:

1. school MCAS performance over a four-year period based on Composite Performance Index (CPI) in English language arts; CPI in mathematics; and percentages of students scoring in the "warning" or "failing" category on MCAS;
2. improvement in school MCAS performance as represented by change in CPI (for years available, up to four);
3. annual growth in MCAS performance for students at the school as compared with peers across the Commonwealth (for years available, up to four);
4. in the case of high schools, graduation and dropout rates; or
5. other indicators of school performance including student attendance, dismissal, suspension, exclusion, and promotion rates upon the determination of each indicator's reliability and validity, or lack of demonstrated significant improvement for two or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based on special education, low-income, English language proficiency, and racial classifications; or on the basis of information from a school or district review performed under M.G.L. c.15, § 55A.

(c) Not more than 4% of the total number of public schools may be in Levels 4 and 5, taken together, at any given time.

(d) Any school designated by the Board as chronically underperforming prior to 2010 may be placed in Level 4.

(3) **Notification** The Department shall notify districts of the placement of any of their schools in Level 4. The notification shall be made to the school committee, superintendent, and local teachers' union or association president, and the principal and the parent organization of any school placed in Level 4.

(4) **Appointment of assistance and accountability personnel** Upon placement of a district in Level 4 the Department may make any or all of the following appointments:

(a) an assistance liaison:

1. to support the district in developing and carrying out a turnaround plan for each of its Level 4 schools, if any; and
2. to support the district in district improvement planning pursuant to 603 CMR 2.05(8), if required;

(b) an accountability monitor to determine and report on:

1. whether the goals, benchmarks, and timetable in the turnaround plan for each of the district's Level 4 schools, if any, are being met; and
2. if the district has a Level 4 District Plan pursuant to 2.08(c), whether its goals, benchmarks, and timetable are being met; and

(c) an individual or team to conduct monitoring site visits to the district or its schools.

(5) **Turnaround plans for Level 4 schools**

(a) The turnaround plan developed for each school placed in Level 4 shall:

1. be authorized, pursuant to M.G.L. c. 69, s. § 1J(j), for a period of up to three years, and remain in effect until the statutory process to develop any new, modified, or renewed turnaround plan has been completed, or the school has been removed from Level 4;
2. fulfill the other requirements of M.G.L. c. 69, § 1J;
3. provide for the implementation of the conditions for school effectiveness in 603 CMR 2.03(4)(b);
4. include benchmarks by which to measure progress toward the annual goals included in the plan pursuant to M.G.L. c. 69, § 1J, and the conditions for school effectiveness, and a timetable for achieving those benchmarks;
5. include descriptions of the assistance to be provided by the Department in support of the action steps in the plan, as agreed on by the Department and the superintendent, subject to the availability of resources for the Department to provide the assistance; and
6. be prepared on a format provided by the Department.

(b) Once the superintendent has received the recommendations of the local stakeholder group under M.G.L. c. 69, § 1J(b), the superintendent may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreement, pursuant to M.G.L. c. 69, § 1J(g). If necessary, the 30 days provided by M.G.L. c. 69, § 1J(e) for the superintendent to submit a turnaround plan for modifications to the local stakeholder group, school committee, and commissioner shall be extended, without exceeding the time periods mandated by M.G.L. c. 69, § 1J(g), to provide time for bargaining, ratification, a dispute resolution process, the submission of a decision by the joint resolution committee, or a resolution by the commissioner, pursuant to M.G.L. c. 69, § 1J(g).

(c) Within 30 days of the issuance of the superintendent's final turnaround plan under M.G.L. c. 69, § 1J(e), the commissioner shall review the plan and may, in consultation with the superintendent, modify the plan if the commissioner determines that

1. such modifications would further promote the rapid academic achievement of students in the school;
2. a component of the plan was included, or a modification under M.G.L. c. 69, § 1J(e) was excluded, on the basis of demonstrably false information or evidence; or
3. the superintendent failed to meet the requirements of M.G.L. c. 69, § 1J(b) to (e), inclusive.

(d) Within 30 days of the issuance of the superintendent's final turnaround plan under M.G.L. c. 69, § 1J(e), the school committee or local union may appeal to the commissioner one or more components of the plan pursuant to M.G.L. c. 69, § 1J(f). Within 30 days of the receipt of such appeal, the commissioner shall decide the appeal and may, in consultation with the superintendent, make one or more modifications to the plan based on the appeal if the commissioner makes any of the determinations in 603 CMR 2.05(5)(c)1 through 3. The commissioner's decision on the appeal shall be final.

(e) Within 30 days of the receipt of the last appeal made under M.G.L. c. 69, § 1J(f) and 603 CMR 2.05(5)(d), or, if no such appeal is received within 30 days of the issuance of the superintendent's final turnaround plan under M.G.L. c. 69, § 1J(e), at the expiration of those 30 days, the commissioner shall return the turnaround plan to the superintendent incorporating any modifications made under 603 CMR 2.05(5)(c) or (d), or both. Such return of the plan to the superintendent shall constitute the commissioner's approval, pursuant to M.G.L. c. 69, § 1J(b), of the plan returned.

(6) Annual reviews of Level 4 schools Superintendents shall use a format provided by the Department for the reviews to be submitted to the commissioner and school committee at least annually pursuant to M.G.L. c. 69, § 1J(k).

(7) Receiver for a school in Level 4

(a) If the superintendent appoints a receiver for a school in Level 4 pursuant to M.G.L. c. 69, s. 1J(h), the superintendent shall define the scope of the receiver's powers, up to and including all of the powers of the superintendent over the school, including all of the powers granted by M.G.L. c. 69, s. 1J. The superintendent may from time to time modify the scope of the receiver's powers based on conditions in the school. The receiver shall report directly to the superintendent.

(b) If the commissioner requires the superintendent to terminate the receiver for a school in Level 4 pursuant to M.G.L. c. 69, § 1J(k), the superintendent may, with the approval of the commissioner, select and appoint another receiver for the school in accordance with M.G.L. c. 69, § 1J(h) and 603 CMR 2.05(7)(a).

(8) District improvement planning for Level 4 districts

(a) The turnaround plan developed pursuant to 603 CMR 2.05(5) for any school in Level 4 shall include, among its provisions pursuant to 603 CMR 2.05(5)(a)(3) for the implementation of the conditions for school effectiveness, provisions for the improvement of district systems for school support and intervention in accordance with the condition for school effectiveness in 603 CMR 2.03(4)(b)(1).

(b) If a district has been placed in Level 4 pursuant to 603 CMR 2.05(1)(b), the Department shall notify the Level 4 district that it is required to develop a Level 4 District Plan in order to correct the serious deficiencies identified in the district pursuant to 603 CMR 2.05(1)(b); if a district has been placed in Level 4 pursuant to 603 CMR 2.05(1)(a), the Department may notify it that it is required to develop a Level 4 District Plan in order to aid in turning around its Level 4 school or schools.

(c) Each Level 4 district notified by the Department pursuant to 603 CMR 2.05(8)(b) shall develop a Level 4 District Plan that includes goals and benchmarks appropriate to the reasons it has been required to develop a Level 4 District Plan, along with strategies, action steps, and a timetable for achieving those goals and benchmarks. The Level 4 District Plan shall be prepared on a format provided by the Department.

(d) A Level 4 district shall submit any required Level 4 District Plan and any successor Level 4 District Plan for approval by the Department. A district whose Level 4 District Plan is approved by the Department shall receive priority for Department assistance. From year to year, continued priority for Department assistance shall be dependent on the district's success in achieving the goals and benchmarks in the approved Level 4 District Plan or approved successor Level 4 District Plan in accordance with the approved timetable.

(9) Annual report to Board The commissioner shall report annually to the Board on the progress made by districts and schools in Level 4.

(10) Removal of school from Level 4

(a) The commissioner shall define for each Level 4 school the academic and other progress that it must make for it to be removed from Level 4. Such progress may include:

1. an increase in student achievement for three years for students overall and for each subgroup of students, as shown by;
 - a. an increase in MCAS scores and an increase in median student growth percentile;
 - b. a reduction in the proficiency gap;
 - c. (for a high school) a higher graduation rate; and
 - d. (for a high school) a measure of postsecondary success, once the Department identifies one that is sufficiently reliable, valid, and timely; and
2. (ii) progress in implementing the conditions for school effectiveness described in 603 CMR 2.03(4)(b).

(b) The commissioner, in defining the required progress for each school, shall customize it to the particular reasons the school was placed in Level 4, defining it as any or all of the progress in 2.05(10)(a)1 and 2, or any other progress the commissioner determines appropriate.

(c) After consultation with the superintendent, the commissioner shall remove a school from Level 4 when, at any time, the commissioner determines, based on evidence that may include evidence from a report from the accountability monitor appointed pursuant to 603 CMR 2.05(4)(b), a review by the superintendent submitted pursuant to M.G.L. c. 69, § J(k), a review conducted by the commissioner pursuant to M.G.L. c. 69, § 1J(l), or a district review or a follow-up review, that:

1. the school has achieved the academic and other progress defined by the commissioner under 603 CMR 2.05(10)(a) and (b) as necessary to allow it to be removed from Level 4; and
2. the district has the capacity to continue making progress in improving school performance without the accountability and assistance provided due to the school's placement in Level 4.

(d) At the expiration of the turnaround plan, in conducting a review of the school pursuant to M.G.L. c. 69, § 1J(l), the commissioner shall consider whether the conditions described in 603 CMR 2.05(10)(c)1 and 2 exist. If the commissioner determines that both of these conditions exist, he or she shall remove the school from Level 4.

(e) Notwithstanding the foregoing requirements of 603 CMR 2.04(10), the commissioner may remove from Level 4 any school for which he or she approves a proposal of closure.

(11) Effect of removal of school from Level 4; transitional period

(a) Upon the commissioner's removal of a school from Level 4 pursuant to 603 CMR 2.05(10)(c) or (d), the provisions of M.G.L. c. 69, § 1J, for schools designated as underperforming shall no longer apply to it and the employment of any receiver for the school shall end.

(b) The district and school may continue their relationship with any external partner appointed to advise or assist the superintendent in the implementation of the turnaround plan and may continue to use the turnaround plan in order to continue to improve school performance, renewing or revising it as appropriate, provided that any feature of the turnaround plan that was adopted pursuant to M.G.L. c. 69, § 1J(d), in contravention of any general or special law to the contrary shall be discontinued unless:

1. no more than one year before the removal of the school from Level 4 the superintendent proposed to continue such feature of the turnaround plan for a transitional period after the school's removal from Level 4, supporting this proposal with a written explication of the reasons this continuation is necessary and providing the school committee, the teachers' union or association, and the parent organization for the school with a copy of the proposal and supporting documents; and
2. before removing the school from Level 4 the commissioner determined, after considering any opposition from the school committee, the teachers' union or association, or the parent organization for the school, that such feature of the turnaround plan would contribute to the continued improvement of the school and should continue after the removal.

The superintendent may propose to continue and the commissioner may allow to continue more than one such feature of the turnaround plan.

(c) Upon making a determination pursuant to 603 CMR 2.05(11)(b)2 that such feature or features of the turnaround plan should continue, the commissioner shall define the progress that the school must make for each continuing feature of the plan to be discontinued.

(d) On determination by the commissioner at any time, based on evidence that may include evidence from a school or district review or a follow-up review, that the school has made the

progress defined under 603 CMR 2.05(11)(c) as necessary to allow a continuing feature of the turnaround plan to be discontinued

1. such feature shall be discontinued; and
2. any powers granted to the commissioner or Board with respect to the school under M.G.L. c. 69, § 1J, that did not cease on removal of the school from Level 4 shall cease.

(e) Two years after the removal of the school from Level 4, if any of the continuing features of the turnaround plan has yet to be discontinued, the commissioner shall conduct a review of the school to determine whether such continuing feature or features should remain in place or be discontinued.

(12) Removal of district from Level 4

(a) A district placed in Level 4 because one or more of its schools has been placed in Level 4 shall be removed from Level 4 when the district no longer has a school in Level 4, unless the district has a Level 4 District Plan and the commissioner has not yet made the determination described in 603 CMR 2.05(12)(b).

(b) A district with a Level 4 District Plan shall be removed from Level 4 by the commissioner, unless it has a school or schools in Level 4, when the commissioner determines, based on evidence that may include evidence from a monitoring report or from a follow-up review, that

1. the district has satisfactorily achieved the goals and benchmarks of its Level 4 District Plan; and
2. the district has the capacity to continue making progress without the accountability and assistance provided by Level 4.

2.06 Accountability and Assistance for Districts and Schools in Level 5

(1) Placement of districts in Level 5

(a) A district shall be eligible for placement in Level 5 if it is not a single-school district and it scores in the lowest 10% statewide of districts of the same grade levels on a single measure developed by the Department that takes into account at least:

1. district MCAS performance over a four-year period based on Composite Performance Index (CPI) in English language arts; CPI in mathematics; and percentages of students scoring in the "warning" or "failing" category on MCAS; and
2. improvement in student academic achievement.

(b) The Board may place an eligible district in Level 5 of the framework for district accountability and assistance, if the commissioner so recommends, on the basis of one or more of the following:

1. a district review report;
2. a report from an accountability monitor appointed pursuant to 603 CMR 2.05(4)(b);
3. a follow-up review report;

4. quantitative indicators such as student attendance, dismissal, suspension, exclusion, promotion, graduation, and dropout rates, upon the determination of each indicator's reliability and validity, or lack of demonstrated significant improvement for two or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based on special education, low-income, English language proficiency, and racial classifications, or annual growth in MCAS performance for students in the district as compared with peers across the Commonwealth; or
5. the failure of a Level 4 district to meet, in a timely manner, the benchmarks or goals in its current Level 4 District Plan as approved by the Department pursuant to 603 CMR 2.05(8)(d).

(c) Not more than 2.5% of the total number of school districts may be in Level 5 at any given time.

(d) Before the commissioner recommends that an eligible district be placed in Level 5, a district review team including at least one member with expertise in the academic achievement of students with limited English proficiency shall conduct a district review to assess and report on the reasons for the district's underperformance and the prospects for improvement, unless the commissioner determines that a new review is unnecessary because a district review conducted within the last year is adequate.

(e) Before placing a district in Level 5, the Board shall consider the findings of the most recent district review, as well as multiple quantitative indicators of district quality such as those listed in 603 CMR 2.06(1)(b)4.

(f) School district and municipal officials, including the school committee, as well as the local teachers' union or association president or designee, a representative of the local parent organization, and members of the public, shall have an opportunity to be heard by the Board before final action by the Board to place the district in Level 5.

(2) Placement of schools in Level 5

(a) The commissioner may place a Level 4 school in Level 5 at the expiration of its turnaround plan if the commissioner determines:

1. that the school has failed to improve as required by the goals, benchmarks, or timetable of the turnaround plan; or
2. that the school has failed to make significant improvement and that conditions in the district make it unlikely that the school will make significant improvement unless it is placed in Level 5.

(b) School, school district, and municipal officials, including the school committee, as well as the local teachers' union or association president or designee, a representative of the school's parent organization, and family members of students at the school, shall have an opportunity to meet with the commissioner or his or her designee before the commissioner places a school in Level 5.

(3) Appointment and powers of receiver for a district in Level 5

(a) Following the placement of a district in Level 5 under 603 CMR 2.06(1)(b), the commissioner, on behalf of the Board, shall appoint a receiver for the district pursuant to M.G.L. c. 69, § 1K(a).

(b) The receiver shall have the powers provided to the receiver by M.G.L. c. 69, § 1K, including all of the powers of the superintendent and school committee and full managerial and operational control over the district, provided that the district shall remain the employer of record for all other purposes, and provided further that the commissioner may define the scope of the receiver's powers up to those set forth in M.G.L. c. 69, § 1K, based on conditions in the district or its schools. The commissioner may from time to time modify the scope of the receiver's powers based on conditions in the district or its schools.

(4) Replacement of receiver for a district in Level 5 If the commissioner terminates the receiver for a district in Level 5 pursuant to M.G.L. c. 69, § 1K(h), the commissioner shall appoint another receiver for the district in accordance with M.G.L. c. 69, § 1K(a) and 603 CMR 2.06(3)(b).

(5) Receiver for a school in Level 5

(a) A receiver appointed by the commissioner for a school in Level 5 pursuant to M.G.L. c. 69, s. 1J(r), shall have all of the powers that the superintendent previously had over the school and all of the powers granted to a receiver for a Level 5 school by M.G.L. c. 69, s. 1J. The receiver shall report directly to the commissioner.

(b) If the commissioner terminates the receiver for a school in Level 5 pursuant to M.G.L. c. 69, § 1J(v), the commissioner may appoint another receiver for the school in accordance with M.G.L. c. 69, § 1J(r) and 603 CMR 2.06(5)(a).

(6) Turnaround plans for Level 5 schools The turnaround plan developed for each school placed in Level 5 shall

(a) be authorized, pursuant to M.G.L. c. 69, § 1J(t), for a period of up to three years, and remain in effect until the statutory process to develop any new, modified or renewed turnaround plan has been completed, or the school has been removed from Level 5;

(b) fulfill the other requirements of M.G.L. c. 69, § 1J;

(c) provide for the implementation of the conditions for school effectiveness in 603 CMR 2.03(4)(b);

(d) include benchmarks by which to measure progress toward the annual goals included in the plan pursuant to M.G.L. c. 69, § 1J, and the conditions for school effectiveness, and a timetable for achieving those benchmarks;

(e) include descriptions of the assistance to be provided by the Department in support of the action steps in the plan, subject to the availability of resources for the Department to provide the assistance; and

(f) be prepared on a format developed by the Department.

(7) Turnaround plans for Level 5 districts The turnaround plan developed for each district placed in Level 5 shall:

- (a) focus, pursuant to M.G.L. c. 69, §1K(b), on any Level 5 school or schools in the district and, using the most recent district review report as a guide, on any district policies or practices that have contributed to the placement of the school or schools or district in Level 5, including but not limited to district systems for school support and intervention;
- (b) be authorized, pursuant to M.G.L. c. 69, § 1K(f), for a period of up to three years, and remain in effect until the statutory process to develop any new, modified or renewed turnaround plan has been completed, or the district has been removed from Level 5;
- (c) fulfill the other requirements of M.G.L. c. 69, § 1K;
- (d) if the district has any Level 4 or Level 5 schools, provide for the implementation in the district of the systems and processes necessary to bring about the conditions for school effectiveness in 603 CMR 2.03(4)(b), including, pursuant to M.G.L. c. 69, § 1K, new turnaround plans for any Level 4 or 5 school for which the turnaround plans are deemed inadequate by the receiver.
- (e) include, for the district: benchmarks by which to measure progress toward the annual goals included in the plan pursuant to M.G.L. c. 69, § 1K, and a timetable for achieving those benchmarks;
- (f) describe the assistance to be provided by the Department in support of the action steps in the plan, subject to the availability of the resources for the Department to provide the assistance; and
- (g) be prepared on a format developed by the Department.

(8) Quarterly reports for Level 5 schools and districts

- (a) Quarterly reports for Level 5 schools, including the review by the commissioner to be submitted at least annually to the superintendent and the school committee, shall be submitted pursuant to M.G.L. c. 69, § 1J(u) and (v) on a format developed by the Department.
- (b) Quarterly reports for Level 5 districts, including the evaluation by the commissioner to be submitted at least annually to the Board and the school committee, shall be submitted pursuant to M.G.L. c. 69, § 1K(g) and (h) on a format developed by the Department.

(9) Reports to the Board The commissioner shall report regularly to the Board on the progress made by each district and school in Level 5.

(10) Removal of school from Level 5

- (a) The commissioner shall define for each Level 5 school the academic and other progress that it must make for it to be removed from Level 5. Such progress may include:
 - 1. an increase in student achievement for three years for students overall and for each subgroup of students, as shown by:
 - a. an increase in MCAS scores and an increase in median student growth percentile;

- b. a reduction in the proficiency gap;
 - c. (for a high school) a higher graduation rate; and
 - d. (for a high school) a measure of postsecondary success, once the Department identifies one that is sufficiently reliable, valid, and timely; and
2. progress in implementing the conditions for school effectiveness described in 603 CMR 2.03(4)(b).

(b) The commissioner, in defining the required progress for each school, shall customize it to the particular reasons the school was placed in Level 5, defining it as any or all of the progress in 603 CMR 2.06(10)(a)1 and 2, or any other progress the commissioner determines appropriate.

(c) The commissioner shall remove a school from Level 5 when, at any time, the commissioner determines, based on evidence that may include a report from the accountability monitor appointed pursuant to 603 CMR 2.05(4)(b), from the school's or district's receiver, if any, from a district review, or from a follow-up review, that:

- 1. the school has achieved the academic and other progress defined by the commissioner under 603 CMR 2.06(10)(a) and (b) as necessary to allow it to be removed from Level 5; and
- 2. the district has the capacity to continue making progress in improving school performance without the accountability and assistance provided due to the school's placement in Level 5.

(d) At the expiration of the turnaround plan, in conducting a review of the school pursuant to M.G.L. c. 69, § 1J(w), the commissioner shall consider whether the conditions described in 603 CMR 2.06(10)(c)1 and 2 exist. If the commissioner determines that both of these conditions exist, he or she shall remove the school from Level 5.

(11) Effect of removal of school from Level 5; transitional period

(a) Upon the commissioner's removal of a school from Level 5, the provisions of M.G.L. c. 69, § 1J, for schools designated as chronically underperforming shall no longer apply to it and the employment of any receiver for the school shall end.

(b) The district and school may continue to use the turnaround plan in order to continue to improve school performance, renewing or revising it as appropriate, provided that any feature of the turnaround plan that was adopted pursuant to M.G.L. c. 69, § 1J(o), in contravention of any general or special law to the contrary shall be discontinued unless the commissioner determined before removing the school from Level 5 that such feature of the turnaround plan would contribute to the continued improvement of the school and should continue for a transitional period after the removal. The commissioner may allow more than one such feature of the turnaround plan to continue.

(c) Upon making a determination pursuant to 603 CMR 2.06(11)(b) that such feature or features of the turnaround plan should continue, the commissioner shall define the progress that the school must make for each continuing feature of the plan to be discontinued.

(d) On determination by the commissioner at any time, based on evidence that may include evidence from a school or district review or a follow-up review, that the school has made the

progress defined under 603 CMR 2.06(11)(c) as necessary to allow a continuing feature of the turnaround plan to be discontinued

1. such feature shall be discontinued; and
2. any powers granted to the commissioner or Board with respect to the school under M.G.L. c. 69, § 1J, that did not cease on removal of the school from Level 5 shall cease.

(e) Two years after the removal of the school from Level 5, if any of the continuing features of the turnaround plan has yet to be discontinued, the commissioner shall conduct a review of the school to determine whether such continuing feature or features should remain in place or be discontinued.

(12) Termination of receivership and removal of district from Level 5

(a) The commissioner shall define for each Level 5 district the academic and other progress that it must make for it to be removed from Level 5. Such progress may include:

1. an increase in student achievement for three years for students overall and for each subgroup of students, as shown by:
 - a. an increase in MCAS scores and an increase in median student growth percentile;
 - b. a reduction in the proficiency gap;
 - c. a higher graduation rate; and
 - d. a measure of postsecondary success, once the Department identifies one that is sufficiently reliable, valid, and timely;
2. the implementation of district systems and practices that meet district standards established under 603 CMR 2.03(4); and
3. progress in implementing in the district's schools the conditions for school effectiveness described in 603 CMR 2.03(4)(b).

(b) The commissioner, in defining the required progress for the district, shall customize it to the particular reasons the district was placed in Level 5, defining it as any or all of the progress in 603 CMR 2.06(12)(a)1 through 3, or any other progress the commissioner determines appropriate.

(c) The commissioner shall terminate the receivership and remove the district from Level 5 when, at any time, the commissioner determines, based on evidence that may include a report from the district's receiver or a follow-up review, that

1. the district has achieved the academic and other progress defined by the commissioner under 603 CMR 2.06(12)(a) and (b) as necessary to allow it to be removed from Level 5; and
2. the district has the capacity to continue making progress without the accountability and assistance provided by Level 5.

(d) At the expiration of the turnaround plan, in reevaluating the district's Level 5 status pursuant to M.G.L. c. 69, § 1K(i), the commissioner shall consider whether the conditions described in 603 CMR 2.06(12)(c)1 and 2 exist. If the commissioner determines that both of these conditions exist, he or she shall terminate the receivership and remove the district from Level 5.

(13) Effect of removal of district from Level 5; transitional period

(a) Upon the commissioner's removal of a district from Level 5, the provisions of M.G.L. c. 69, § 1K, for districts designated as chronically underperforming shall no longer apply to it and the employment of the receiver shall end.

(b) The district may continue to use the turnaround plan in order to continue to improve students' academic performance, renewing or revising it as appropriate, provided that any feature of the turnaround plan that was adopted pursuant to M.G.L. c. 69, § 1K(d), in contravention of any general or special law to the contrary shall be discontinued unless the commissioner determined, before removing the district from Level 5, that such feature of the turnaround plan would contribute to the continued improvement of the district and should continue for a transitional period after the removal. The commissioner may allow more than one such feature of the turnaround plan to continue.

(c) Upon making a determination pursuant to 603 CMR 2.06(13)(b) that such feature or features of the turnaround plan should continue, the commissioner shall define the progress that the district must make for each continuing feature of the plan to be discontinued.

(d) On determination by the commissioner at any time, based on evidence that may include evidence from a district review or a follow-up review, that the district has made the progress defined under 603 CMR 2.06(13)(c) as necessary to allow a continuing feature of the turnaround plan to be discontinued:

1. such feature shall be discontinued; and
2. any powers granted to the commissioner or Board with respect to the district under M.G.L. c. 69, § 1K, that did not cease on removal of the district from Level 5 shall cease.

(e) Two years after the removal of the district from Level 5, if any of the continuing features of the turnaround plan has yet to be discontinued, the commissioner shall conduct a review of the district to determine whether such continuing feature or features should remain in place or be discontinued.

(14) Petition by school committee of a Level 5 district

(a) When the school committee of a Level 5 district petitions the commissioner, pursuant to M.G.L. c. 69, § 1K (i), for either modification of the turnaround plan or elimination of the turnaround plan and termination of the receivership, the commissioner shall decide the petition after considering the following:

1. written arguments and supporting documentation submitted with the petition by the school committee;
2. written arguments and supporting documentation submitted in response to the petition by the receiver; and
3. the report of any follow-up review conducted since the district was placed in Level 5.

(b) If no follow-up review has been conducted within the last year before the commissioner's receipt of the petition and the commissioner determines that such a review would be useful in deciding on the petition, the commissioner may cause one to be conducted and delay the decision

on the petition until 30 days after receiving the follow-up review report, provided that a decision on the petition shall be made within four months of the commissioner's receipt of the petition.

(c) Within 30 days of receiving the commissioner's decision, the school committee may appeal an adverse decision to the Board. The Board shall consider the evidence described in 603 CMR 2.06(14)(a)1 through 3 and may consider other evidence from the school committee, receiver, and commissioner. The decision of the Board shall be made within 60 days of receiving the appeal and shall be final.

(d) Neither the process before the commissioner nor the process before the Board shall be an adjudicatory hearing.

(e) No petition for the elimination of the turnaround plan and termination of the receivership shall be granted unless the commissioner or, in the case of an appeal, the Board determines

1. that the district has achieved the progress defined by the commissioner under 603 CMR 2.06(12)(a) as necessary to allow the district to be removed from Level 5 or that the district has achieved other, comparable or superior progress; and
2. that the district has the capacity to continue making progress without the accountability and assistance provided by Level 5.

(f) Upon a decision by the commissioner or the Board granting a petition for the elimination of the turnaround plan and termination of the receivership, the receivership shall be terminated and the district removed from Level 5.

Regulatory Authority:

M.G.L. c. 69, § 1B; c. 69, §§ 1J and 1K, as amended by St. 2010, c. 12, § 3; c. 71, § 38G.

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