



Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

August, 2014

GUIDANCE FOR AMENDING A COLLABORATIVE AGREEMENT

Educational collaboratives are established through a written agreement between or among school committees and charter school boards. In accordance with M.G.L. c. 40, § 4E and 603 CMR 50.00, the collaborative agreement, as well as any amendments to such agreement, must be approved by the member school committees and/or charter school boards and by the Board of Elementary and Secondary Education (Board). The Board has delegated to the Commissioner the authority to approve collaborative agreements and amendments to such agreements. From time to time, collaborative agreements may need to be revised due to a change in membership or to ensure that the agreement is consistent with current legal requirements or practices.

This Guidance is provided to assist collaborative and local school district officials with the amendment process. Additional resources on the required components of collaborative agreements are located at <http://www.doe.mass.edu/finance/collaboratives/>.

Collaborative or local school district officials should contact the Department of Elementary and Secondary Education (Department) as soon as feasible concerning the substance of any proposed amendment to the collaborative agreement and should consult with their own legal counsel to ensure that the proposed amended language meets the collaborative's needs, as well as all provisions of the law and regulations.

The following steps must be followed to ensure a timely approval of an amended collaborative agreement that meets all provisions of law and regulation:

Step 1: Request for Amendment to the Collaborative Agreement

Collaborative leaders should review their collaborative agreement to ensure that they are following the amendment procedures set forth in the agreement. For example, a collaborative agreement may require a specific process as to who may propose amendments, how they may be proposed, and when they may be proposed. Collaborative agreements may also require different procedures for different types of amendments (e.g., for the purpose of changing the membership of the collaborative versus updating the financial terms).

Step 2: Draft Amended Agreement

The amended collaborative agreement (amended agreement) must be drafted as a complete agreement, such that the amended agreement reflects the entire agreement with proposed changes. This will avoid confusion that may arise from amending agreements through supplemental documents. The amended agreement must meet the requirements set forth in 603 CMR 50.03(4), (5) and (6).

Please be aware of any timelines that are contained in the agreement for notification of a proposal to amend an agreement, for the approval of an amended agreement, and for the effective date of an amended agreement. *Note* that any amendment that provides for a change in a collaborative's membership shall be effective on July 1 of any fiscal year only if all requisite approvals, including the Commissioner's approval, are obtained no later than the preceding April 30. (*Please note additional requirements under Specific Circumstances below.*)

Step 3: Department review

The draft amended agreement must be submitted to the Department for initial review prior to submitting it for approval by the collaborative's member districts. This early review will avoid unnecessary steps that may ensue should the member districts' school committees and/or charter school boards approve an amended agreement that does not meet the requirements of the law, regulations and Department Guidance.

The draft amended agreement must be submitted in electronic format, in Microsoft Word, to the Department at Collaboratives@doe.mass.edu, along with the name, address, phone number and e-mail address of the designated local contact(s). Please ensure that proposed changes are indicated in the draft amended agreement, either by using the "track changes" feature in Microsoft Word or by highlighting.

Step 4: Department Feedback

The Department will review the draft amended agreement to ensure that it complies with M.G.L. c. 40, § 4E, 603 CMR 50.00, and this Guidance. The Department may request that changes be made to comply with the above-referenced law, regulations and guidance, and that a revised amended agreement be resubmitted to the Department for further review. Once the Department is satisfied that the draft amended agreement complies with the requirements, as outlined above, the Department will inform the collaborative that it may forward the amended agreement to the collaborative board and its member districts for approval.

Step 5: Collaborative Board Approval

Following Department review, the amended agreement can then be brought to the collaborative board for approval.

Step 6: Member School District Approval

Following Department review and collaborative board approval, the amended agreement can be forwarded to the member districts for approval, following the timelines and notification procedures outlined in the collaborative agreement. All member districts must be provided a copy of the amended agreement, and their school committees and/or charter school boards must vote on the amended agreement consistent with their own by-laws. The amended agreement must be approved by the requisite number of member districts specified in the collaborative agreement. *Note* that the law prohibits member school committees and charter school boards from delegating the approval of an amended agreement to any other person or entity.

Step 7: Final Submission to the Department with Supplemental Documentation

Once the amended agreement is approved by the collaborative board and the requisite number of member districts, a signed copy of the amended agreement must be submitted to the Department for approval by the Commissioner. The following supplemental information, as set forth in 603 CMR 50.03(6)(a), must be included with the amended agreement:

1. a notification and signature from the chair of the requisite number of member school committees and/or charter school boards, certifying as to the date the vote was taken to approve the amended 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 from each member district;
4. the collaborative by-laws, as applicable [or a statement that by-laws do not exist];
5. a detailed description of the 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 to clarify the intent or purpose of the collaborative.

Step 8: Approval

The Commissioner shall approve or disapprove the amended agreement, upon a recommendation by Department staff as to whether the amended agreement meets the standards in M.G.L. c. 40, § 4E and 603 CMR 50.00.

The Commissioner will sign the approved amended agreement and the Department will send the signed amended agreement to the collaborative.

If an amended agreement is not approved by the Commissioner, the Department will notify the collaborative of the reason(s) for the disapproval and the next steps. *Note* that no amended agreement can be effective until it is approved by the requisite number of member districts, as well as by the Commissioner.

Step 9: Distribution of Amended Agreement to Member Districts

The collaborative leader or designated local contact(s) must ensure that copies of the amended agreement are provided to all collaborative board members and member school committee and/or charter school board chairs. (603 CMR 50.04 (2) (c))

Specific Circumstances: Addition, Withdrawal or Removal of a Member District

If the purpose of the amended agreement is to add, remove or permit the withdrawal of a member district, collaborative leaders must follow this Guidance, with special consideration to the additional steps noted below:

- All collaborative agreements include separate provisions outlining the process for the admission or withdrawal of a school committee and/or charter school board. Some agreements also include a provision that would allow for the removal of a member school committee or charter school board for failure to meet the terms of the collaborative

agreement. Collaborative leaders must consult their agreement for the specific procedures that must be followed.

- An amendment to change the membership of a collaborative may be effective as of July 1 in any fiscal year only if all requisite approvals, including those of the prospective member school committee or charter school board, the current member school committees and/or charter school boards and the Commissioner, are obtained by the preceding April 30.
- When an amended agreement provides for the admission of a new member district:
 - The school committee or charter school board of the prospective new member district must approve, and the chair of such body must sign, the amended agreement.
 - The requisite number of member school committees and/or charter school boards must approve, and the chairs of such bodies must sign, the amended agreement.
 - The collaborative board and the member districts must consider any agreement provisions related to buy-in or other specific requirements (e.g., use of space, dues, etc.) related to the admission of a new member district.
 - The amended agreement will be effective on July 1 only if all required approvals are secured prior to April 30 of any given year.
 - The authorizing votes of the member school committees and/or charter school boards may provide for the deferral of the admission of a new member district until July 1 of the subsequent fiscal year.
 - Upon the effective date of the admission, the new member school committee or charter school board must appoint a representative to serve on the collaborative board as a voting member. All appointed persons shall be either a school committee member, the superintendent of schools or a member of the charter school board.
- When an amended agreement provides for the withdrawal of a member district:
 - The withdrawing member school committee or charter school board must vote to withdraw from the collaborative, following the timeline and process stated in the collaborative agreement.
 - The requisite number of the remaining member school committees and/or charter school boards must approve, and the chairs of such bodies must sign, the amended agreement.
 - The collaborative board and the member districts must consider any agreement provisions concerning the payment of outstanding debts, distribution of assets of the collaborative, including surplus and capital reserve funds, and sharing or distribution of outstanding and future liabilities of the collaborative, related to the withdrawal of a member district.
 - The amended agreement will be effective on July 1 only if all required approvals are secured prior to April 30 of any given year.
- When an amended agreement provides for the removal of a member district for failure to adhere to the provisions of the approved agreement:

- The requisite number of member school committees and/or charter school boards must approve the removal of a member district, and the chairs of such bodies must sign the amended agreement.
- The amended agreement need not be signed by the member district that is being removed.
- The collaborative board and member districts must consider any agreement provisions concerning the payment of outstanding debts, distribution of assets of the collaborative, including surplus and capital reserve funds, and sharing or distribution of outstanding and future liabilities of the collaborative, related to the removal of a member district.
- The amended agreement will be effective on July 1only if all required approvals are secured prior to April 30 of any given year.

Additional Information

For further information, please contact the Office of Regional Governance at 781-338-6540 or collaboratives@doe.mass.edu and consult the following resources:

Model Collaborative Agreement: [Model Agreement](#)
Checklist of Required Components: [Checklist](#)
Authorizing Law: [M.G.L. Chapter 40, Section 4E](#)
Regulations: [603 CMR 50.00](#)