

January, 2013

M.G.L. c. 40, § 4E requires the Department of Elementary and Secondary Education (herein, “Department”) to develop a model collaborative agreement (herein, “model agreement”) that addresses the requirements and standards for approval of collaborative agreements. The model agreement will be made available on the Department’s website for use by existing or future educational collaboratives formed under M.G.L. c. 40, § 4E.

Please note that this model agreement is provided as a *sample* for the use of Massachusetts school districts, charter school boards, and educational collaboratives in developing amended or new collaborative agreements. While M.G.L. c. 40, § 4E and implementing regulations require that specific provisions **must** be included in the collaborative agreement, in most cases, the specific terms related to those provisions are to be determined by the collaborative board. The model agreement notes where M.G.L. c. 40, § 4E and implementing regulations require specific language and has included references in the orange blocks. Additional sample language that reflects other requirements of M.G.L. c. 40, § 4E and implementing regulations is included for your consideration, although the law and regulations do not specifically require that such language be included in the agreement. Please reference the orange blocks to determine whether specific language is required, or whether a specific provision is required but may be developed by the collaborative itself.

The accompanying model collaborative agreement checklist and guidance (herein, “the checklist”) should also be used to assist you in drafting a collaborative agreement that complies with the requirements of M.G.L. c. 40, § 4E. Be advised that the model agreement and checklist are not intended to be a source of legal advice, and are not intended to explain all of the provisions of the federal and state laws that apply to educational collaboratives. The Department strongly encourages collaborative boards of directors or local school district officials seeking to amend or develop an educational collaborative agreement to retain legal counsel well-versed in relevant laws including those related to educational collaboratives, public bodies, special education, and/or public education.

# MODEL AGREEMENT FOR EDUCATIONAL COLLABORATIVES

Pursuant to *M.G.L. c. 40, § 4E*

## PREAMBLE / AUTHORIZATION

*The agreement **must** name the collaborative, **cite** the authorizing law, and indicate that the agreement is not effective until approved by the Board of Elementary and Secondary Education. No agreement or subsequent amendment to the agreement shall take effect **unless** and **until** approved and authorized by the member school committees, member charter school boards, and by the Board of Elementary and Secondary Education. *M.G.L. c. 40, § 4E. An **example** is provided below.**

This document constitutes the Collaborative Agreement of the New England Educational Collaborative (NEEC), established pursuant to the provisions of Chapter 40, Section 4E of the General Laws of the Commonwealth of Massachusetts and acts or amendments thereof as they may from time to time be enacted by the legislature, and 603 CMR 50.00. This collaborative agreement shall not be effective until approved by the Massachusetts Board of Elementary and Secondary Education.

*The agreement **must** be dated. It should be noted if an agreement is replacing/amending a prior agreement. An agreement or amendment to an agreement shall not be effective until the approval by the Board of Elementary and Secondary Education. The collaborative agreement may provide for a subsequent effective date (end of fiscal year, school year) if so stated in the agreement. An **example** is provided below.*

This agreement, dated March 4, 2013, replaces the original agreement dated December 1, 1996, as most recently amended on June 1, 2010, entered into by and between the school committees and/or charter school boards listed in Section I (herein, the “member districts”) and will be effective upon the approval of the member districts and the Board of Elementary and Secondary Education.

## SECTION I: MEMBERSHIP

*The agreement **must** indicate that the collaborative has been established by two or more school committees of cities, towns, or regional school districts, or boards of trustees of charter schools. *M.G.L. c. 40, § 4E; 603 CMR 50.03(1).* The agreement **must** list the member school committees and charter school boards and correspond to the school districts whose school committee or charter school board chairs have signed the agreement. An **example** is provided below.*

The membership of NEEC, as of the effective date of this agreement, includes the school committees and/or charter school boards from the following districts, as indicated by the signatures of the chairs of the school committees or charter school boards:

- A. School Committee for the Venus Public Schools
- B. School Committee for the Mars Regional School District
- C. School Committee for the Jupiter Public Schools
- D. School Committee for the Saturn Public Schools
- E. Board of Trustees of the Pluto Public Charter School

## SECTION II: MISSION, OBJECTIVES, FOCUS, AND PURPOSES

*The agreement **must** contain a **mission** for the collaborative. M.G.L. c. 40, § 4E; 603 CMR 50.03(5)(b)1. Note that M.G.L. c. 40, § 4E **requires** that a primary purpose of collaborative programs and services **shall** be to complement the educational programs of member school committees and charter schools in a cost-effective manner. An **example** is provided below.*

The mission of this collaborative is to jointly conduct educational programs and/or services for member districts in a cost-effective manner, increase educational opportunities for children ages 3-22, and improve educational outcomes for students.

*The agreement **must** contain a **purpose** for the collaborative. M.G.L. c. 40, § 4E; 603 CMR 50.03(5)(b)1. An **example** is provided below.*

The purpose of this collaborative is to provide intensive education programs and services for students with disabilities which are low-incidence in their districts of residence; to provide professional development to educators; and to provide related services to students with low-incidence disabilities in member and non-member districts.

*The agreement **must** contain a **focus** for the collaborative. M.G.L. c. 40, § 4E; 603 CMR 50.03(5)(b)1. An **example** is provided below.*

The focus of this collaborative is the creation of special education programs and services in the least restrictive environment and comprehensive professional development within the local communities of the member districts.

*The agreement **must** include the **objectives** of the collaborative. M.G.L. c. 40, § 4E; 603 CMR 50.03(5)(b)1. Note that the collaborative's **annual report** shall include progress made toward achieving the **objectives and purposes** set forth in the collaborative agreement. M.G.L. c. 40, § 4E; 603 CMR 50.08(1)(c). An **example** is provided below.*

The overall objectives of this collaborative include:

- A. to improve the academic achievement of students with low-incidence disabilities in the least restrictive environment;
- B. to offer a variety of quality professional development opportunities to general and special education teachers and related service providers; and
- C. to offer all programs and services in a cost-effective manner.

### SECTION III: PROGRAMS AND SERVICES TO BE OFFERED

*The agreement **must** articulate the **programs or services** to be offered by the collaborative. M.G.L. c. 40, § 4E; 603 CMR 50.03(5)(b)2. An **example** is provided below.*

The collaborative will offer the following programs and services, which shall complement the educational programs and services of the member districts in a cost-effective manner:

- A. day school placements and other programs and services for students with low-incidence disabilities; and
- B. professional development programs for general and special educators.

### SECTION IV: GOVERNANCE

*The agreement **must** address the **governance** of the collaborative. 603 CMR 50.03(5)(b)4. While it is not required that these specific provisions be written into your agreement, this **sample language** reflects additional requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00 that must be followed and it is recommended the agreement address these matters. The agreement should establish the required votes to pass a motion before the collaborative board and the general schedule of collaborative board meetings, and may address other governance issues that are pertinent to the operation of the collaborative. An **example** is provided below.*

Each school committee and charter school board executing this collaborative agreement shall annually appoint the superintendent of schools or one school committee member/charter school board member to serve as its representative on the NEEC board of directors; these board members shall be referred to in this agreement as “appointed representatives.” An appointee of the Commissioner of Elementary and Secondary Education (Commissioner) shall be a voting member of the NEEC board of directors. The educational collaborative shall be managed by the NEEC board of directors, hereinafter referred to as the “board”.

- A. Regular meetings of the board shall be held monthly from September to June; July and August meetings will be scheduled at the discretion of the board.
- B. A quorum for conducting business shall consist of a simple majority of the voting members of the board. A quorum is not needed to close the meeting.
- C. In order to pass any motion, a majority vote of the board members present shall be required, except that a vote to terminate the collaborative shall be approved in accordance with Section XI of this agreement.
- D. The executive director, or designee, will act as executive secretary to the board. The executive director shall attend all board meetings but shall not be entitled to a vote.
- E. The board shall annually organize itself by electing a chairperson, vice-chairperson, and secretary by a majority vote of the members present at the first board meeting of the year. The chairperson, by vote of the board, may appoint such subcommittees or advisory or operating committees of the board as will facilitate the work of the board.

## SECTION V: CONDITIONS OF MEMBERSHIP

*The agreement **must** contain the **conditions of membership**. 603 CMR 50.03(5)(b)5. Such conditions may include minimum attendance requirements, consequences that may be imposed for failure of an appointed representative to attend collaborative board meetings, consequences that may be imposed for failure of a member district to meet the terms of the collaborative agreement, consequences for failure to attend training as required by 603 CMR 50.05 and 50.12 (3) and/or whether member districts will be assessed membership dues. 603 CMR 50.03(5)(b)5.d. An **example** of conditions of membership is provided below; the member districts should determine the specific conditions of membership pertinent to their organization.*

*Note that failure of an appointed representative to attend the mandated training in the time frame set forth in M.G.L. c. 40, § 4E and 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(1). While not a required component of the agreement, due to the consequences that could ensue if an appointed representative fails to complete training, collaboratives are advised to address this in their agreement. Accordingly, **sample** language has been added to paragraph E below.*

Each member district shall have the following rights and responsibilities as a member of NEEC:

- A. Each member of the board shall be entitled to a vote.
- B. Membership dues shall be established annually, as described in Section VII of this agreement.
- C. Each appointed representative shall be responsible for providing timely information and updates to its appointing member district(s) on collaborative activities, as outlined in M.G.L. c. 40, § 4E and 603 CMR 50.04(2)(c) and for providing other information as required or requested.
- D. Each appointed representative is expected to attend every board meeting. When an appointed representative has missed one-half (1/2) of the meetings within a fiscal year, the chair of the board shall inform the chair of the appointing member district of the appointed representative's absences. An appointed representative who misses more than two-thirds (2/3) of the board meetings within a fiscal year will no longer be considered an appointed representative on the board. The board will notify the respective school committee that the seat will remain vacant until such time as the member district, by appropriate vote, appoints a new representative. When a seat becomes vacant, the member district shall automatically become an inactive member of the board shall not count towards a quorum, and shall not have voting rights on the board, but shall continue to have all other rights and obligations of membership.
- E. Each appointed representative must attend training required by the Department of Elementary and Secondary Education (Department), as outlined in M.G.L. Ch. 40, § 4E; 603 CMR 50.05 and 603 CMR 50.12(3). Should an appointed representative fail to complete the required training within the timelines set in law and regulations, the member district shall automatically become an inactive member of the board, shall not count towards a quorum, and shall not have voting rights on the board, but shall continue to have all other rights and obligations of membership. The member district shall become an active member and voting rights shall be reinstated once the appointed representative completes the training.

*While the provisions of paragraphs F, G, and H represent requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00, this law and these regulations do not require that these provisions be made part of the collaborative agreement.*

- F. No appointed representative on the board shall serve as a member of a board of directors or as an officer or employee of any related for-profit or non-profit organization as defined in M.G.L. c. 40, § 4E, as most recently amended.
- G. No appointed representative shall receive an additional salary or stipend for his/her service as a board member.
- H. No appointed representative shall delegate his/her powers or send a representative in his/her place as a voting board member and no member district shall delegate the rights, responsibilities, or duties of its appointed representative to any other individual, unless the member district is replacing the appointed representative with that individual.

## **SECTION VI: POWERS AND DUTIES OF THE BOARD AND APPOINTED REPRESENTATIVES TO THE BOARD**

*The agreement **must** contain the **powers and duties** of the collaborative board **to operate and manage the collaborative**. 603 CMR 50.03(5)(b)3. The collaborative board shall have such powers, duties, and responsibilities as provided in the law and regulations and such additional duties and responsibilities as the member districts deem advisable, **as reflected in the collaborative agreement. An example is provided below.***

*Responsibilities of the collaborative board are found in 603 CMR 50.04(3). While it is not required that these specific terms be written into the collaborative agreement, this **sample language** reflects requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00 that must be followed and it is recommended the agreement address these matters.*

The NEEC board shall manage the educational collaborative and shall be responsible for providing fiduciary and management oversight and accountability over the operation of the educational collaborative. The board shall be vested with all authority and responsibilities provided to it by M.G.L. c. 40, § 4E and 603 CMR 50.00 and all acts and regulations amendatory thereof, including but not limited to the following:

- A. It is the function and responsibility of the board to formulate policy for the collaborative and to ensure compliance with applicable state and federal laws and regulations, including M.G.L. c. 40, § 4E and 603 CMR 50.00.
- B. The New England Educational Collaborative shall be a governmental entity.
- C. The board shall be vested with the authority to enter into agreements with non-member districts or other collaboratives to establish mutually beneficial programs and services or pricing arrangements.
- D. The board shall be responsible for:
  - 1. ensuring adherence to this collaborative agreement and progress toward achieving the purposes and objectives set forth in the agreement;
  - 2. determining the cost-effectiveness of programs and services offered by the collaborative;
  - 3. ensuring that any borrowing, loans, or mortgages are cost-effective, necessary to carry out the purposes for which the collaborative is established, in the best

interest of the collaborative and its member districts, and consistent with the terms of this agreement; and

4. approving all expenditures, including, but not limited to, contracts, borrowing, and the purchase and sale of fixed assets.
- E. The board has standing to sue and be sued to the same extent as a city, town, or regional school district.
- F. The board is a public employer and shall hire all employees of the educational collaborative and ensure that all employees possess the necessary and required licenses and approvals as required by M.G.L. c. 40, § 4E.
- G. The board shall hire an executive director to oversee and manage the operation of the collaborative, a business manager or an employee with responsibilities similar to those of a town accountant to oversee collaborative finances, at least one school nurse to support collaborative programs, and a treasurer, who shall annually give bond consistent with the requirements of M.G.L. c. 40, § 4E. The board shall ensure that there is segregation of duties between the executive director, treasurer, and business manager, and that these employees shall not serve as a member of the collaborative board of directors or as an officer or employee of any related for-profit or non-profit organization as defined in M.G.L. c. 40, § 4E.
- H. The board shall ensure that no employee of an educational collaborative is employed at any related for-profit or non-profit organization.
- I. The board shall develop such policies as it deems necessary to support the operation of the collaborative, including, but not limited to, policies relative to personnel, students, finance and internal controls, health and nursing, and any other policies required by state or federal law and regulation. The board shall review the effectiveness of such policies to ensure currency and appropriateness, and may establish a subcommittee to do so.
- J. The board shall ensure that the collaborative completes and files an annual report and an annual independent audit, as well as such other student, program, financial and staffing information, reports or documents as the Department deems necessary. The board shall ensure that annual reports and annual independent audits are filed with appropriate governmental agencies and posted on the collaborative's website, consistent with the requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00.
- K. The board shall establish a process to provide to member districts, students, parents/guardians, the Board of Elementary and Secondary Education, and the public all information required by law and regulation.

## SECTION VII: FINANCE

*The agreement **must** contain the **financial terms for member districts and non-member districts, including whether the collaborative charges a non-member surcharge or fee.** 603 CMR 50.03(5)(b)6. An **example** is provided below.*

*Note that specific financial terms are to be determined by the member districts in the collaborative agreement.*

- A. Financial Terms:
  1. Membership dues shall be assessed to each member district on July 1 of each year. The amount will be assessed on a pro rata population basis, as determined

- annually by a majority vote of the board. The membership dues will offset the administrative and overhead cost of the collaborative.
2. Surcharges or fees may be charged to non-member districts for services rendered by the collaborative. The board shall establish the surcharge or fee annually based on the total administrative and overhead cost of the collaborative and may waive or decrease the percentage of the surcharge or fee charged to non-member districts when doing so is determined to be in the best interest of the collaborative.
  3. The board may limit the distribution of capital assets upon the withdrawal of a member district or the termination of the collaborative to only those member districts that financially contributed to the purchase of the capital assets. The board shall establish a formal, written policy to ensure the fair and equitable distribution of assets upon withdrawal of a member district or upon the dissolution of the collaborative; the policy shall include, but not be limited to, consideration of which member districts contributed to the acquisition of the assets.
  4. The board may apply, by majority vote, for state, federal, corporate, or foundation grants and may accept gifts, grants, or contributions from governmental and private sources, whether in cash or in kind.
  5. The board may enter into contracts to obtain the funds necessary to carry out the purpose for which the collaborative was established.
  6. The collaborative is subject to M.G.L. c. 30B for the procurement of goods and services.

*The board **must establish and manage a fund**, to be known as an **education collaborative fund**, and the fund must be designated by an appropriate name. While it is not required that the name and/or description of the fund be written into your agreement, this **sample language** reflects requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00 that must be followed and it is recommended the agreement address this subject since it is central to the financial system of each collaborative.*

#### B. Collaborative Fund:

1. The board shall establish and manage a fund to be known as the *New England Education Collaborative Fund* (herein, “the NEEC fund”).
2. The NEEC fund shall be the depository of all monies paid by the member districts and non-member districts and all grants, gifts, or contracts from the federal government, state government, charitable foundations, private corporations, or any other source; all such monies shall be paid directly to the board and deposited in the fund.
3. The treasurer, subject to the direction of the board, shall receive and disburse all money belonging to the collaborative.
4. All payments must be approved by the board.
5. The treasurer may make appropriate investments of funds of the collaborative not immediately necessary for operations, consistent with M.G.L. c. 44, § 55B.

*The agreement **must** contain the **procedure for the review and approval of all borrowing, loans, and mortgages, or acquisition of real property** 603 CMR 50.03(5)(b)12. Further, the collaborative board **must ensure that any borrowing, loan, or mortgage is cost-effective and necessary** to carry out the purposes for which the collaborative is established, and also, **is in the best interest of the collaborative and its member districts.** 603 CMR 50.04(3)(d)3. The law further provides that any such borrowing, loans, or mortgages shall be **consistent with the written agreement** of the educational collaborative and shall be consistent with standard lending practices. M.G.L. c. 40, § 4E.*

*The collaborative, by vote of the board 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:** (1) the collaborative board provides notice to each member district within 30 calendar days of applying for real estate mortgages; and (2) the collaborative board discusses its intent to apply for a real estate mortgage at a public meeting of the collaborative board prior to the meeting of the collaborative board at which the final vote is taken. 603 CMR 50.07(8). An **example** is provided below.*

### C. Borrowing, Loans, and Mortgages:

1. The board may authorize the borrowing of funds or enter into short- or long-term agreements or mortgages, and acquire or improve real property to support collaborative operations, subject to the following procedures:
  - a. all borrowing, loans, and mortgages shall be discussed at a public meeting of the board;
  - b. the board shall investigate options related to borrowing, loans, and mortgages in order to determine that the terms related to any borrowing, loans and mortgages are the most favorable available at the time of the application;
  - c. the board shall determine, at a public meeting, through a majority vote, that the terms related to borrowing, loans, and mortgages are cost-effective and are the most favorable available at the time of the application; and
  - d. the board shall determine, at a public meeting, through a majority vote, that the borrowing, loans, and mortgages are necessary to carry out the purposes for which the collaborative is established.
2. In the event that such borrowing, loan or mortgage is for the acquisition and improvement of real property:
  - a. the board shall discuss its intent to apply for a real estate mortgage at a public meeting of the board prior to the meeting of the collaborative board at which the final vote is taken;
  - b. the board shall provide notice to each member district within thirty (30) calendar days of applying for real estate mortgages; and
  - c. the board shall approve such action by a majority vote.

*The collaborative may carry forward unexpended funds at the end of a fiscal year. The agreement **must** contain a **limit, not to exceed 25 percent, on the amount of cumulative surplus** that may be held by the collaborative at the end of a fiscal year. 603 CMR 50.03(5)(b)10. Note that the language in paragraph D is an **example** of such language; the percentage limit is to be determined by the member districts in the collaborative agreement, consistent with the requirements of the regulations.*

*The collaborative board shall annually approve by majority vote the dollar amount designated as cumulative surplus. The collaborative board 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 percent of the previous fiscal year's general fund expenditures.** 603 CMR 50.07(9). Also, see section X of this model agreement concerning surplus funds and the **withdrawal** of members, and section XI concerning surplus funds and the **termination** of a collaborative.*

*Note that the methods and timelines related to the provisions above are to be determined by the member districts in the collaborative agreement, consistent with regulations. An **example** is provided below.*

- D. Surplus Funds: Unexpended general funds at the end of the fiscal year plus any previous year's surplus funds, as determined through the financial statements, will be considered cumulative surplus.
1. The determination of cumulative surplus 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, and any amounts prepaid for tuition or services in accordance with M.G.L. c. 40, § 4E.
  2. The board will retain no more than 25 percent in cumulative surplus, in accordance with 603 CMR 50.03(5)(b)10.
  3. On an annual basis, after the board has discussed the audit results of the previous fiscal year, the board shall approve, by majority vote, the final dollar amount of the cumulative surplus.
  4. The board shall determine whether such final dollar amount of surplus funds is within the established 25 percent limit, and whether the funds will be retained by the collaborative or whether all or some portion will be refunded to the member districts or credited to support programs and services offered to member districts.
  5. In the event an amount is to be refunded or credited to the member districts, each member district's share will be apportioned in accordance to its student membership in the collaborative for the previous fiscal year.

*Capital Reserve:* The 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. In order to create a capital reserve fund, (a) a **capital plan must be developed and approved** by the collaborative board, (b) two-thirds (2/3) of the member districts must approve the establishment of the fund and (c) the **request for approval must state the reason for the reserve and a limit on the balance** that may be held in the reserve. 603 CMR 50.07(10). The establishment of a capital plan and a capital reserve fund should be approved outside of the collaborative agreement process.

Deposits into the capital reserve fund shall be proposed and approved through the annual budget process.

Expenditures from the capital reserve fund must be authorized by the board and **may be used only for the project or purpose for which the account was established.**

In the event that the purpose for which the capital reserve was created requires modification, the collaborative board must revise its capital plan and provide notice to all member districts. If a 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. Two-thirds (2/3) approval of the member districts is required to revise the capital plan. 603 CMR 50.07(10).

#### E. Annual Budget Preparation and Assessment of Costs

The agreement **must outline the detailed procedure for the preparation and adoption of an annual budget, tuition rates, membership dues and fees-for-service.** 603 CMR 50.03(5)(b)7. Collaborative agreements must also contain the method and timeline for notification and payment of tuition, membership dues and fees-for-service. 603 CMR 50.03(5)(b)8. The collaborative must provide public notice to member districts about the collaborative board meeting at which the proposed budget will be discussed. 603 CMR 50.07(5)(e). The budget must be approved by at least a majority vote of the collaborative board, and the meeting at which the final budget is approved must be held a minimum of ten working days following the collaborative board meeting at which the budget was first proposed. 603 CMR 50.07(6)(a). An **example** is provided below.

1. Development of the Collaborative Budget: The board shall annually determine the collaborative budget consistent with the timelines, terms, and requirements in M.G.L. c. 40, § 4E, regulations promulgated by the Department, and this agreement.
  - a. By April 30 of each year, the board shall propose a budget for the upcoming fiscal year. The budget shall identify all of the programs or services to be offered by collaborative in the upcoming fiscal year and the corresponding costs.
  - b. The proposed budget shall contain all planned financial activity for the upcoming fiscal year.
  - c. Expenditures from grant funds, trust funds and other funds not designated as general funds that by law may be expended by the board without further appropriation shall be segregated in the budget.
  - d. The general fund budget shall segregate all operating expenditures, capital expenditures, debt service payments and deposits to capital reserve.

- e. The proposed budget shall be classified into such line items as the board shall determine, but shall, at a minimum, delineate amounts for operating expenditures, including, administration, instructional and rental expenses and capital expenditures, including debt service payments and deposits to capital reserve.
  - f. The proposed budget shall include the methodology used to determine tuition prices for member and non-member students which shall be based on the total cost of the programs and the number of students enrolled in such programs. A non member surcharge of not more than 3 percent may be assessed based on each student enrolled from a non-member district or charter school.
  - g. The proposed budget shall include the methodology used to determine fees-for-service which shall be based on the combined cost of providing collaborative services divided by the number of users.
  - h. Each member district shall be charged membership dues which shall be based on a proportional share of the administrative and overhead costs of the collaborative.
  - i. As applicable, capital costs shall be included in the budget and each member district shall be charged an equal share.
2. The proposed budget shall be discussed at a public meeting of the board and notice shall be provided to each member district ten (10) working days before the date of the board meeting at which the proposed budget will be discussed.
  3. The board shall adopt the final budget by an affirmative majority vote at a subsequent meeting no earlier than ten (10) working days after the board meeting at which the collaborative budget was first proposed but no later than June 30 of the preceding fiscal year.

*The **treasurer must 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. 603 CMR 50.07(6)(b). The timeframe is not prescribed in either the statute or the regulations, but should be reasonable and workable for the member districts. An **example** is provided below.*

F. Transmitting the Budget and Payment Terms:

1. The treasurer 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 not later than June 30 of the preceding fiscal year.
2. Tuition payments shall be paid by member and non-member districts on a quarterly basis in September, December, March, and June.
3. Fees-for-service shall be paid within thirty (30) days of service delivery.
4. Membership dues and non-member surcharges shall be paid on a quarterly basis in September, December, March, and June.

*The agreement **must** outline a **timeline and process** for amending the **budget, tuition rates, membership dues and fees-for-service**. 603 CMR 50.03(5)(b)8. Any amendment to the budget must be approved by the collaborative board. 603 CMR 50.07(7)(a). The collaborative agreement **must** indicate that any **amendment to the budget that results in an increase in 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**. 603 CMR 50.07(7)(b). An **example** is provided below.*

G. Procedure for Amending the Budget:

1. All budget amendments shall be proposed at a public meeting of the board, and must be approved by a majority vote of the board to take effect.
2. Any amendment to the budget that results in an increase in the tuition rates, membership dues or fees-for-service shall adhere to the following procedures:
  - a. All appointed representatives shall, within ten (10) working days of the public meeting at which the amendment was first proposed, report to their member districts the content of the proposed amendment.
  - b. All amendments shall be voted on by the board at a second public meeting of the board no earlier than thirty (30) working days after the board meeting at which the amendment was first proposed; adoption shall require a majority vote.
  - c. The treasurer shall certify and transmit the amended tuition rates, membership dues and fees-for-service to each member district not later than ten (10) working days following the affirmative vote of the board.
3. The board has the authority to reduce tuition rates, membership dues, and fees-for-service to member and non-member districts when doing so is determined to be in the best interest of the collaborative.

## **SECTION VIII: PROCEDURE FOR AMENDING THE COLLABORATIVE AGREEMENT**

*The agreement **must** specify the **procedure for amending the collaborative agreement**. 603 CMR 50.03(5)(b)16. This section shall address who may propose an amendment, the required votes of the collaborative board and the member districts to approve an amendment, the effective dates of amendments, and timelines related to amendments. All amendments to collaborative agreements **must be approved** by the member districts in accordance with the provisions outlined in the collaborative agreement, **must be approved by the Board of Elementary and Secondary Education**, and must comply with 603 CMR 50.03(4)-(6). Member districts should develop their own process, timelines, and required votes, and should include these in the collaborative agreement. An **example** is provided below.*

The collaborative agreement may be amended from time to time in accordance with the following procedures:

- A. Any member district, appointed representative, or the executive director may propose an amendment to the collaborative agreement.

- B. The proposed amendment shall be presented in writing to the executive director of the collaborative and the chair of the board no less than twenty (20) working days prior to a meeting of the board at which it shall first be discussed. No less than ten (10) working days prior to the board meeting at which the amendment is first discussed, the executive director shall cause copies thereof to be sent to all board members and the chairs of the school committees and/or chairs of the charter school boards of the member districts together with notice as to the time and place of the first reading of the amendment.
- C. Following the first reading of any proposed amendment and any changes as requested by the board, the executive director shall submit the proposed amendment to the Department for initial review.
- D. Following the Department review, the executive director shall make such changes as the Department requires.
- E. No less than ten (10) working days prior to the board meeting at which the revised amendment will be discussed, the executive director shall cause copies thereof to be sent to all board members and the chairs of the school committees and/or chairs of the charter school boards of the member districts, together with notice as to the time and place of the second reading of the amendment.
- F. The proposed amendment shall be read a second time at the regular meeting next subsequent to the Department review, at which time, in order to be approved, there must be a majority vote of the board in favor of the amendment. Following approval by the board, the amended agreement shall be submitted by the chair of the board to the chairs of the school committees and/or chairs of the charter school boards of the member districts for a vote to approve the amended agreement.
- G. Once a majority of all member districts have approved and signed the amended agreement, the collaborative shall submit the signed amended agreement in accordance with 603 CMR 50.03 to the Commissioner for approval by the Board of Elementary and Secondary Education.
- H. No amendment to the collaborative agreement shall be effective until approved and authorized by a majority of the member districts and by the Board of Elementary and Secondary Education.

## SECTION IX: PROCEDURE AND TIMELINE FOR ADMITTING NEW MEMBERS

*The agreement **must** describe the procedure for the **admission** of member districts. 603 CMR 50.03(5)(b)15.*

*Note that regulations require that 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 of Elementary and Secondary Education's approval, shall be obtained no later than the preceding April 30th.** 603 CMR 50.03(4)(b)1. 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. 603 CMR 50.03(4)(b)2. Collaboratives may wish to include language about this provision of the regulations in their agreements. An **example** is provided below.*

A school district, through a vote of its school committee, or charter school board, may become a member of the educational collaborative consistent with the following terms:

- A. At least 180 days prior to the beginning of a new fiscal year, the prospective member district shall submit to the chair of the board and the executive director of the collaborative notification of intent to join the collaborative and a copy of the school committee/charter school board meeting minutes that indicates an affirmative vote of the committee/charter school board to seek membership in the collaborative.
- B. Upon receipt of the prospective member's notification of intent to join the collaborative and the minutes, the board will consider the request.
- C. Upon a majority affirmative vote of the board, the collaborative agreement may be amended to add the new member district. The collaborative agreement shall be amended consistent with Section VIII of this agreement.
- D. The collaborative board may provide for the deferral of the admission of a new member district until July 1 of the subsequent fiscal year.
- E. A school committee or charter school board may be admitted to the collaborative as of July 1<sup>st</sup> of any fiscal year provided that all required approvals, including that of the Board of Elementary and Secondary Education, are obtained by the preceding April 30<sup>th</sup> of the fiscal year prior to the fiscal year in which the new member district is to be admitted to the collaborative.

## **SECTION X: PROCEDURE AND TIMELINE FOR WITHDRAWAL OF CURRENT MEMBER DISTRICT(S)**

*The agreement shall describe the **procedure for withdrawal** of member school committees and charter school boards. 603 CMR 50.03(5)(b)15. Note that the procedures are to be developed by the member districts; the language below is an **example**. This section should indicate how a proposal to withdraw may be initiated, the required votes needed to effect the withdrawal, the time frame for notification and withdrawal, and how assets and/or liabilities will be handled.*

*Note that 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 of Elementary and Secondary Education'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 withdrawal until July 1 of a subsequent fiscal year. 603 CMR 50.03(4)(b)1. An **example** is provided below.*

- A. A member district may withdraw from the NEEC as of July 1<sup>st</sup> of any year provided that such member district provides written notice of such intent to every other member district that is party to this agreement as well as to the executive director of the collaborative and the collaborative board at least 180 days before the end of such fiscal year, and provided that the Board of Elementary and Secondary Education has approved the withdrawal by April 30<sup>th</sup> of the fiscal year in which the withdrawal is to occur.
- B. Written notification of a member district's intent to withdraw from the collaborative at the end of a fiscal year shall include the following:

1. Notification addressed to the chair of the board and the executive director that the member district has voted to withdraw from the collaborative with the effective date of withdrawal; and
  2. A copy of the minutes from the school committee or charter school board meeting in which the member district voted to withdraw from the collaborative.
- C. Within thirty (30) days of notification of a member district's intent to withdraw from the collaborative, an amendment shall be prepared to reflect changes in the agreement caused as a result of the change in membership of the collaborative and submitted to the Commissioner for approval by the Board of Elementary and Secondary Education.

*The agreement **shall** include the procedure for apportioning **assets and liabilities** upon the **withdrawal** of a member district. 603 CMR 50.03(5)(b)14. An **example** of procedures for apportioning the **assets and liabilities** is provided below. Agreements **must** also include a process for determining how **surplus funds** will be allocated to member district(s) upon the **withdrawal** of a member district. 603 CMR 50.03(5)(b)11. An **example** is provided below.*

- D. Upon withdrawal from the collaborative, a former member district shall not be entitled to any assets or a portion of any assets of the collaborative, including any cumulative surplus, provided that a member's share of capital assets or capital reserve funds may be distributed to any withdrawing member that financially contributed to the purchase of the capital asset or capital reserve deposit under an allocation method and terms established by the board.
- E. The withdrawing school committee or charter school board must fulfill all of its financial obligations and commitments to the collaborative.
- F. A school committee or charter school board that has withdrawn from the collaborative will continue to be liable to the collaborative for its pro-rata share of any debts, claims, demands, or judgments against the collaborative, incurred during said school committee's or charter school board's membership.
- G. Upon withdrawal, the withdrawing district will be reimbursed any funds prepaid to the collaborative by the member district for tuition or services under M.G.L. c. 40, § 4E.
- H. The withdrawal of any member district(s) at any time shall not affect the status of the collaborative agreement and the same shall remain in full force and effect unless specifically changed or amended by the board, and approved by the member districts and the Board of Elementary and Secondary Education.
- I. If, after the withdrawal of a member district(s), less than two member districts remain, the collaborative board will initiate termination proceedings as provided in Section XI.

## SECTION XI: PROCEDURE FOR TERMINATION OF THE COLLABORATIVE AGREEMENT

*The agreement shall include the method of **termination** of the collaborative. 603 CMR 50.03(5)(b)13. If the member districts elect to terminate the operation of a collaborative, the collaborative shall adhere to the termination procedures set forth in the collaborative agreement, the termination procedures provided in regulations, and the closing procedures issued by the Department in guidelines. 603 CMR 50.11. This section of the agreement should indicate who may initiate a proposal to terminate, the required votes needed to effect the termination, the time frame for providing notice to member districts, the timeframe for termination, and how assets and/or liabilities will be handled. 603 CMR 50.03(5)(b)14. The agreements **must** also include a process for determining how **surplus funds** will be allocated to such member district(s) upon the **termination** of the collaborative. 603 CMR 50.03(5)(b)11 and 50.07(9). An **example** is provided below.*

- A. A member district may request that the board initiate proceedings to terminate this collaborative agreement by giving notice to all other member districts and the executive director at least *twelve (12) months* before the end of the current fiscal year.
- B. Within thirty (30) days of a request that the board initiate termination proceedings, the board shall discuss the request to terminate the collaborative and determine next steps. A two-thirds (2/3) vote of the board is required in order to initiate termination proceedings. Should the board vote to initiate termination proceedings, notice must be provided to all member districts within ten (10) working days of such vote.
- C. The collaborative agreement shall only be terminated at the end of a fiscal year.
- D. The collaborative agreement shall be terminated at the end of any fiscal year following votes in favor of termination by two-thirds (2/3) of the school committees and/or charter school boards of the member districts.
- E. Following the affirmative votes of the member districts to terminate the collaborative agreement, the executive director shall inform the member districts and non-member districts who are served by the collaborative and the Department in writing 180 days prior to the effective date of any termination.
- F. Following the affirmative votes of the member districts to terminate the collaborative agreement, a final independent audit will take place and will be provided to all appointed representatives and member districts as well as to the Department, including an accounting of assets and liabilities (debts and obligations) of the collaborative and the proposed disposition of same.
- G. Prior to termination, the board shall:
  1. determine the fair market value of all assets of the collaborative, including, but not limited to, real estate, capital property, equipment and supplies owned by the collaborative;
  2. determine the process for the appropriate disposition of federal/state funds, equipment and supplies;
  3. identify the member district responsible for maintaining all fiscal records;
  4. identify the member district responsible for maintaining student, employee and program records;
  5. determine the means of meeting all liabilities (debts and obligations) of the collaborative, including obligations for post-employment benefits. All liabilities must be met before any monies are distributed to member districts.

6. distribute surplus funds or capital reserve funds to the member districts on a pro rata basis; and
  7. ensure the appropriate disposition of all assets of the collaborative, including any unencumbered funds held by the collaborative, and any capital property and real estate owned by the collaborative. Unless the board determines otherwise, all assets shall be sold and the monies shall be distributed to the member districts on a pro rata basis.
- H. Following the affirmative vote of the member districts to terminate the collaborative agreement, the board shall notify the Department of the official termination date of the collaborative, and shall submit the documentation required by 603 CMR 50.11 to the Department.
- I. Should the Department revoke and/or suspend the approval of the educational collaborative agreement, the board will follow all instructions from the Department, and Sections XI. E through XI. H, inclusive, shall be implemented to the extent these procedures are consistent with the order of the Department terminating the collaborative agreement.

This agreement shall take effect on the date of approval by the Board of Elementary and Secondary Education and shall continue indefinitely. This agreement has been approved by duly authorized votes at public meetings held by the individual school committees and charter school boards whose chairpersons have signed below.

*(1) 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 no later than **March 4, 2013**. The amended collaborative agreement **must be approved by all of the member districts, and must be submitted to the Department for approval**. 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 may continue to operate under its existing agreement until the Board of Elementary and Secondary Education approves the amended agreement in accordance with 603 CMR 50.03(6).*

*(2) 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 of Elementary and Secondary Education, 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 of Elementary and Secondary Education's approval, **shall** be obtained no later than the preceding April 30th. Member districts **shall not** delegate the approval of a collaborative agreement or amendment to any other person or entity. M.G.L. c. 40, § 4E, 603 CMR 50.03. Once the collaborative agreement has been approved by member districts, the collaborative agreement **must** be submitted to the Commissioner along with the signatures of the chairs of the school committees and charter school boards of the member districts. 603 CMR 50.03(6).*

**No agreement or subsequent amendment to the agreement shall take effect unless and until approved and authorized by the member school committees, member charter school boards and by the Board of Elementary and Secondary Education. M.G.L. c. 40, § 4E.**

**Date of first reading:**

**Date of second reading:**

**Date approved by collaborative board of directors:** \_\_\_\_\_

**Dates approved by member school committees/charter school boards:**

Member district \_\_\_\_\_  
Date

**Signatures:**

\_\_\_\_\_  
CHAIRPERSON OF MEMBER DISTRICT Date

*No agreement or subsequent amendment to the agreement shall take effect unless and until approved and authorized by the Board of Elementary and Secondary Education. M.G.L. c. 40, § 4E.*

**Approved by the Commissioner of the Department of Elementary and Secondary Education:**

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COMMISSIONER

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Date

**Approved by the Board of Elementary and Secondary Education:**

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CHAIRPERSON

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Date