



# Massachusetts Department of Elementary and Secondary Education

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Mitchell D. Chester, Ed.D.  
Commissioner

## MEMORANDUM

**To:** Members of the Board of Elementary and Secondary Education  
**From:** Mitchell D. Chester, Ed.D., Commissioner  
**Date:** March 9, 2012  
**Subject:** Education Collaboratives: Summary of New Law, Update on Activities, and Proposed Next Steps

A comprehensive amendment to the statute authorizing education collaboratives (Mass. General Laws Chapter 40, Section 4E) was recently enacted as Chapter 43 of the Acts of 2012. This new legislation, called *An Act Relative to Improving Accountability and Oversight of Education Collaboratives*, provides for sweeping changes in the operation and accountability of education collaboratives. The new law incorporates many aspects of the bill that Governor Patrick filed in October 2011 in response to recommendations that the Board of Elementary and Secondary Education endorsed after the Board held hearings on education collaboratives during the summer of 2011, as well as a similar bill filed by Education Committee Co-Chair Sonia Chang-Diaz. The new law strengthens state oversight, financial accountability, and governance for education collaboratives. It addresses serious problems and gaps that were identified by the Office of the State Auditor and the Inspector General. It also establishes a special commission to examine and make recommendations on the future role for education collaboratives in the Commonwealth.

A copy of the new law is attached. Here are some of its key provisions:

- Authorizes the Commissioner of Elementary and Secondary Education (ESE) to appoint one “independent” voting member to each collaborative board in the Commonwealth;
- Requires each collaborative board of directors to conduct a minimum of six board meetings annually;
- Mandates training for newly appointed board members within 60 days of appointment, which will be provided by ESE;
- Prohibits collaborative board members from receiving a salary or stipend for their service as board members;
- Eliminates a provision that allowed a superintendent or school committee member appointed to a collaborative board to designate another person to serve in his/her place;
- Requires independence of the collaborative board members, executive director, or any

other collaborative employee from any position at a non-profit or for-profit entity that conducts business with or is affiliated with the collaborative;

- Requires all collaboratives to obtain annual independent audits of their financial statements and for ESE to make those audit reports available to the public online;
- Authorizes the Commissioner to place a collaborative on probation to allow the implementation of a remedial plan, based on an audit or information indicating that the viability of the collaborative is at risk or that there are demonstrated deficiencies in programmatic quality or significant malfeasance; and if the plan is unsuccessful, authorizes the Commissioner, in consultation with the Secretary of A&F, to withhold public funds from the collaborative until the deficiencies are addressed;
- Authorizes the Board to suspend or revoke a collaborative's operating agreement for cause, upon recommendation of the Commissioner;
- Clarifies the licensure (certification) requirements for educators employed by a collaborative;
- Authorizes the Board of ESE to adopt regulations as needed to carry out the new law;
- Authorizes the Department of ESE to develop a model collaborative agreement;
- Requires any collaborative established under the previous law to revise its agreement to conform to the new law and submit it to its members and to the Board for approval; and
- Establishes an 11-member commission to study the role of education collaboratives, including: (a) whether a statewide network of collaboratives should be established to implement new programs and provide technical assistance to schools and districts in partnership with ESE; (b) the relationship of education collaboratives and related for-profit/non-profit entities; and (c) the provision of adult services by education collaboratives, and make recommendations to the Legislature. The commission will convene within 60 days of the passage of the legislation and will have one year to complete its report.

### Background

The need for such reform was first highlighted in a series of audits of education collaboratives by the Office of the State Auditor in 2009-2010. The findings of these audits underscored the lack of clarity about the role of collaboratives as well as their powers and responsibilities under law, the lack of sufficient administrative and financial safeguards, and the lack of structured oversight by state agencies (including ESE) and member school committees.

In response to these findings, in May 2010 I directed our school governance office to review the

Department's monitoring requirements for collaboratives and to manage outreach efforts to the education collaboratives and other constituent agencies. Christine Lynch, our school governance director, was designated as the liaison to all education collaboratives and to the MA Organization of Educational Collaboratives (MOEC), and she represented me on the Special Commission that was established by Section 72 of Chapter 188 of the Acts of 2010 to examine efficient and effective strategies to implement school district collaboration and regionalization. The final report of this Special Commission, issued in August 2011, reaffirmed the value of education collaboratives and also emphasized the need to improve accountability through specific recommendations for legislative and policy change.

There have been several significant accomplishments since this issue was first brought to our attention by the State Auditor in 2010. All education collaboratives are now included routinely in the Department's six-year cycle of coordinated program reviews, which cover all school districts and charter schools and focus on compliance with special education and civil rights requirements and on financial systems and controls. This new collaborative review process was first pilot tested in the 2010-2011 school year. In FY10, a pilot program was initiated to collect educational personnel (EPIMS) data from education collaboratives. In FY 11, all education collaboratives submitted an EPIMS report and this reporting instrument has now been incorporated in the Department's routine data collection requirements. In FY11, the Department collected independent fiscal audits from education collaboratives and these audits will continue to be collected in subsequent years under the new law.

Board Chair Maura Banta appointed a Committee on Education Collaboratives, which provided insight and substantive recommendations for new collaborative standards. Both the Board and the Legislative Commission on School District Collaboration and Regionalization recommended increased oversight of education collaboratives, and many of these recommendations were incorporated into the new law.

#### Update on Merrimack Special Education Collaborative

Especially disheartening were the reports issued by the Inspector General and the State Auditor regarding the Merrimack Special Education Collaborative (MSEC) and its related non-profit organization, the Merrimack Education Center (MEC). These findings underscored the urgent need to establish rigorous fiscal controls and to address the relationship between an education collaborative and its affiliated for-profit or non-profit organization. As a result of the serious findings, the Department and the MSEC Collaborative Board signed a Memorandum of Understanding (MOU) in August of 2011. A key component of the MOU was the appointment of an interim leadership team to ensure the continuation of programs and services to students and to disengage the financial and business functions of the collaborative from the related MEC corporate structure. The leadership team of experienced collaborative leaders has been working since August of 2011 to establish the capacity within MSEC to manage all business and financial functions and to renegotiate the leases on the buildings it uses that are owned by MEC. In February the MSEC Collaborative Board of Directors hired Dr. Chris Scott, former Superintendent of Lowell, as the new Executive Director of MSEC and also hired an experienced business manager and treasurer to manage the final transition of all financial tasks

from MEC to MSEC. Department staff has worked closely with the MSEC Board and the interim leadership team over the last six months and an ESE staff member has attended and participated in each of the monthly board meetings and the interviews for executive director and business manager. The MSEC Collaborative Board and the leadership team have initiated the appropriate steps to sever its financial connection with MEC. I am encouraged by the progress that has been made and expect that MSEC will continue to work in close cooperation with ESE to implement all of the recommendations and resolve all of the findings in the reports issued by the Inspector General and the State Auditor's Office. Although there is work yet to be accomplished, I am confident that the new executive director will be successful in creating complete financial independence from MEC, while establishing stringent internal controls and continuing quality programs.

### Funding

H.2, the Governor's proposed budget for FY2013, recommends an appropriation of \$314,731 to ESE's administrative line item specifically for oversight of education collaboratives. We believe this funding is essential and that the proposed amount will be sufficient to enable the Department to carry out our responsibilities under the new law.

### Update on activities and anticipated next steps

The Department is in the process of developing an action plan to identify the tasks and resources necessary to address the requirements of the new law. The plan will include a timeline for the development of the following:

- A model collaborative agreement;
- Training for collaborative board members;
- Promulgation of regulations to implement the accountability standards of the law.

We continue to work with collaborative directors through MOEC to solicit their input regarding issues that should be addressed in the regulations.

### Conclusion

The accountability and monitoring standards that are outlined in Chapter 43 will require substantial changes in how collaboratives operate and will expand the responsibilities of the Department as well as local school committees to ensure that these standards are met. These standards will increase accountability and transparency and will also serve to highlight the important role performed by education collaboratives over the last forty years.

Of particular interest to me is the potential of collaboratives to play a more systematic, statewide role in implementing policy and improving practice than is currently the case. Through the Commission process, I hope that a plan emerges for a statewide system of collaboratives that will serve all Commonwealth school districts – a system that provides a statewide capacity to deliver services and products more efficiently and effectively than can be done by individual school districts, and that is responsive to the individual needs of school districts. The Department looks forward to working with the collaboratives, constituent groups and local officials to

implement these important changes.

Attachment: *An Act Relative to Improving Accountability and Oversight of Education Collaboratives* (Chapter 43 of the Acts of 2012)