



Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148

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

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: September 23, 2011
Subject: Educational Collaboratives: Report of Board Committee, Update on Activities, Proposed Next Steps, and Recommendations

At the September 27 Board meeting we will continue our discussion on educational collaboratives. This memorandum includes recommendations for next steps and for legislative proposals that I am asking the Board to endorse at the meeting.

The Board's committee on educational collaboratives held its second meeting on September 12, where we discussed the State Auditor's recently released reports on the Merrimack Special Education Collaborative, the READS Collaborative, and the Southeastern Massachusetts Education Collaborative. The committee also discussed recent Massachusetts policy reports from the Massachusetts Organization of Education Collaboratives (MOEC), the Pioneer Institute, and the Special Commission on School District Collaboration and Regionalization, and it reviewed information on how regional educational service agencies operate in other states.¹ Steve Theall of MOEC, Glenn Koocher of MASC, and Tom Scott of MASS participated in the committee's discussion.

The Department has also been directly engaged with the Merrimack Special Education Collaborative (MSEC) to address the findings and issues identified in the Auditor's report, while at the same time ensuring no interruption in the student services provided by the collaborative. I am pleased to report that there was an orderly opening of classes earlier this month, and programs and services seem to be functioning well. The collaborative's board, in consultation with the Department, has appointed an interim leadership team, and they are now working to bring back into the collaborative the business and financial functions that were previously handled by the nonprofit organization associated with the collaborative, the Merrimack

¹ Copies of or links to all of these materials were provided to all Board members earlier this month. If you need another copy, please contact J.C. Considine.

Education Center, and to review the collaborative's past financial arrangements with the Center. In addition, several investigations by law enforcement agencies are still active. Deputy Commissioner Jeff Wulfson, who is coordinating the Department's work with MSEC, will provide an update at the September 27 meeting.

We are also proceeding with full implementation of our plan to include collaboratives in our Program Quality Assurance (PQA) unit's six-year cycle of coordinated program reviews, which cover all school districts and charter schools in the state. The new collaborative reviews, which were pilot tested during the 2010-11 school year, focused on compliance with special education and civil rights requirements and on financial systems and controls. The review protocol was developed by PQA with advice and assistance from MOEC and from the Department's internal audit unit.

The Legislature's Joint Committee on Education has scheduled a series of oversight hearings on educational collaboratives, the first of which will be held on Wednesday, September 28, at the State House. Chair Banta and I have been asked by the committee to testify at that hearing. Based on my discussions with the chairs of the Joint Committee and other legislative leaders, I believe it is likely that the Legislature will enact legislation this fall to strengthen the state's oversight of collaboratives.

Based on the Board committee's deliberations, our research into best practices in other states, and our discussions with key stakeholder groups, I have developed a set of recommendations addressing both the need for improved oversight and the opportunity for collaboratives to play a more central role in our education reform efforts. The recommendations are provided below. The recommendations take into account discussions over this past week with various organizations, including the Massachusetts Association of School Superintendents, the Massachusetts Association of School Committees, and MOEC – although the recommendations do not necessarily represent the position of these associations.

I am asking the Board to endorse these recommendations at the September 27 Board meeting. I will then bring the recommendations to the Legislature when I testify at the oversight hearing.²

Recommendations related to accountability and oversight

- *BESE regulatory authority.* The Board of Elementary and Secondary Education should be given explicit authority to issue regulations dealing with collaborative governance and operations.

² Some of the recommendations can be implemented via regulation or administrative action, but I believe it will be useful for the Joint Committee to have before them the full range of proposed activities.

- *Collaborative governance.* Primary responsibility for the governance of collaboratives should remain with their boards of directors, with appointed members from each member school district. To improve the operation of these boards, I recommend:
 - a minimum of six board meetings during each calendar year;
 - mandatory training for newly appointed board members to be provided by the Department;
 - eliminating the provision that allows a superintendent or school committee member appointed to a collaborative board to designate another person to serve in their place;
 - authorizing the Commissioner to appoint one “independent” member to each collaborative board.

- *Financial auditing and reporting.* All collaboratives should be required to obtain an annual independent audit of their financial statements. The Department, in consultation with the State Auditor, should have authority to establish standards for financial reporting and for supplemental statements to accompany the audit. Copies of audits should be filed with the Department, with the State Auditor, and with each member school committee, and should also be published on the collaborative’s website.

I am not recommending at this time any specific limit on cash surpluses that a collaborative can retain, as the need for cash balances may vary greatly depending on the specific circumstances. It is my expectation that the disclosure of unencumbered cash balances through a transparent financial audit and reporting process will allow the member school committees to have an informed discussion and, if needed, to adopt local policies through their representatives to the collaborative board. The BESE authority I am recommending will provide the Board with the authority to address cash surpluses through regulation as appropriate.

- *Educator licensing.* Educator licensing requirements for teachers in collaboratives are similar to the requirements for teachers in school districts, but the requirements for program leadership and for educators in instructional support positions are less rigorous. In general, we should expect licensing requirements for collaboratives to mirror the requirements in school districts, and any exceptions should be specifically required by the unique structure of collaboratives. At a future meeting I will be recommending amendments to the Board’s licensure and special education regulations to address these needs.

With respect to the issues raised by the Auditor regarding the use of waivers in the licensing process, the shortage of qualified and licensed special education teachers is a problem that affects districts as well as collaboratives. Overall, the number of waivers being requested statewide has been declining in recent years. I plan to conduct analyses to determine if controls beyond those currently in place are needed in the waiver process.

I will be asking the Department's educator licensing unit to take a closer look at this issue this year.

- *MCAS reporting.* Currently, the academic performance of collaborative students is reported with the students' home school districts. I am proposing to have the Department prepare supplemental reports to aggregate the performance of all students served by each collaborative, so as to provide additional information to the Department, the member school committees, and the public on the effectiveness of collaborative programs.
- *Affiliated organizations.* The use of affiliated non-profit organizations is not unique to collaboratives; they are also used by school districts and charter schools for fundraising, for facility financing, and other purposes. After considerable discussion with stakeholder groups and with the Attorney General's office, which oversees non-profit organizations, I have concluded that there are legitimate purposes for these organizations, and I am not recommending that they be prohibited. However, the Auditor's reports underscore the need for clear rules on the governance and financial relationships between the public agency and the non-profit. I recommend that the Department work with the Attorney General, the State Ethics Commission, the Inspector General, the Auditor, and other oversight agencies to develop appropriate regulations and sub-regulatory guidance to prevent waste or abuse. At a minimum, I expect that we will require independence of the respective membership of a collaborative and its affiliated non-profit boards.
- *Adult services.* We are increasingly aware that some students finish 12th grade, or reach age 22, without acquiring the basic educational skills they will need to function as workers and citizens. School committees, and by extension collaboratives, should be permitted, and in fact encouraged, to provide adult basic education services. In connection with this, we may want to revisit some of the existing school funding provisions that focus on full-time, day students to the exclusion of other schedule options that may be more appropriate to older students.

With respect to other types of adult programs, including job training, work support, and human services, I would recommend that they not be offered by collaboratives. Such programs are generally considered beyond the scope and responsibility of school committees. These programs would, however, be appropriate offerings for affiliated non-profit organizations.

- *DESE staffing and funding.* Without additional staffing and funding to carry out the range of oversight responsibilities discussed above, the Department will have to redeploy resources currently dedicated to other activities. The demands on existing staff and funds will be particularly acute in the next few years and are likely to be exacerbated with potential for cuts in federal education funds, which support the majority of Department staff salaries.

Recommendations related to the role and responsibilities of collaboratives

The current focus on educational collaboratives presents an unusual opportunity to not only eliminate problems and abuses but also to expand their role to become regional educational service agencies, similar to those employed successfully in many other states. The need for regional agencies in Massachusetts is acute – we have more than 400 local education agencies, and many of them are too small to have the capacity to manage and implement increasingly complex educational initiatives. In past years we have focused on encouraging districts to consolidate, but this has produced only limited results, and without a state mandate, it is unlikely that there will be a significant increase in district consolidation.

Regional education service agencies provide a way to efficiently deliver services while still maintaining local control of school districts. Under this model, collaboratives would continue to provide special education and other services desired by the member school committees. But they would also become partners with the Department for the implementation of new programs and for the provision of technical assistance and support to districts and schools. Among the areas where collaboratives could play an expanded role, particularly with our smaller school districts, are:

- educator support and professional development
- curriculum development and implementation
- formative assessments
- district and school improvement support
- technology training
- information management services and data analysis
- alternative education services, including virtual learning programs and programs targeted to at risk populations.

This approach has already been modeled in our highly successful special education transportation pilot program and in our current efforts to partner with selected collaboratives in implementing the new educator evaluation process.

The opportunity for an expanded role for collaboratives was discussed at length in a 2009 report issued by MOEC:

ESAs [educational service agencies] are a resource for providing high quality collaborative services to districts at a considerable saving in public funds. Because of their ability to provide intensive and high quality services using expertise and technology beyond the means of most small districts, ESAs expand the capacity of smaller districts and create greater equity for students in these districts while allowing communities and parents to retain local control of their schools. The expansion of high quality shared services administered through the state's existing ESAs is a cost effective alternative to

the consolidation of smaller districts, and ultimately to the consolidation of smaller, neighborhood-based schools.³

To take full advantage of collaboratives as regional education service agencies will require some “redistricting.” Currently thirty collaboratives are operating in Massachusetts, but they do not serve all areas of the state and they represent a range of capacity – with some providing only a narrow number of services while others provide a broad array of services. I recommend that we initiate a planning process, in partnership with MOEC, the existing collaborative boards, MASS, and MASC, to determine where expansion or consolidation would be needed to provide a reasonable number of regional agencies covering the entire state. We also need to look at the funding streams that would be required to fully support such a network, using a combination of service fees, direct state funding, and local district support. I am recommending that this planning process be concluded by December 31, 2012, and result in a manageable, reduced number of collaboratives with each local education agency a member of one, and only one, collaborative. If the planning process does not succeed within this timeline, then the State Board would have the authority to determine the structure.

Although it may take several years to create this new regional system based on our current collaboratives, and many details need to be worked out, the opportunity it presents for more efficient and effective delivery of educational programs and services would be well worth the effort.

A motion for your endorsement of these recommendations is attached. If you need any additional information prior to our September 27 meeting, please contact me or Deputy Commissioner Jeff Wulfson.

Attachment

³ “Educational Service Agencies in Massachusetts: Building Capacity in Small School Districts”, Massachusetts Organization of Educational Collaboratives, January 2009. I am enclosing a copy of the full MOEC report because it contains a good description of both the benefits of regional educational service agencies and the challenges we would face in implementing it.