

**AGREEMENT  
OF  
CAPS EDUCATION COLLABORATIVE**

**Presented to the Board of Directors  
March 12, 2014**

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## **PREAMBLE**

This document constitutes the collaborative agreement of the Central Area Programs and Services (CAPS) Education Collaborative which is established and exists pursuant to the provisions of Section 4E of Chapter 40 of the General Laws of the Commonwealth of Massachusetts and 603 CMR 50.00.

This agreement replaces the original agreement dated May 3, 1991, as most recently amended in June, 2011 (Leominster added), 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. No agreement or subsequent amendment shall take effect unless and until approved by the member districts and by the Board of Elementary and Secondary Education upon the recommendation of the Commissioner.

## **SECTION I: MEMBERSHIP**

The membership of CAPS Education Collaborative, 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:

- Ashburnham/Westminster Regional School Committee
- Athol/Royalston Regional School Committee
- Fitchburg School Committee
- Gardner School Committee
- Leominster School Committee
- Mahar Regional School Committee
- Narragansett Regional School Committee
- Orange School Committee
- Petersham School Committee
- Quabbin Regional School Committee

- Winchendon School Committee

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

- A. Mission: CAPS Education Collaborative will work in partnership with districts to provide programs and services of the highest quality.
- B. Vision: CAPS will be the provider of choice for regional programs and services.
- C. Objectives: CAPS will commit every aspect of the organization to providing exceptional educational opportunities for students.
  - 1. CAPS will demonstrate quality and responsiveness by becoming the first choice of districts for programs and services.
  - 2. CAPS will strive to be a customer-focused organization that constantly evaluates district needs.
  - 3. CAPS will integrate quality, integrity, respect, and teamwork into every aspect of the organization.
  - 4. CAPS will demonstrate accountability through constantly evaluating results and progress towards goals.
  - 5. CAPS will implement programs and services in the most cost-effective manner and exercise due diligence in financial decision making.
  - 6. CAPS will work in partnership with districts to ensure that students transition to the least restrictive environment in their home school district.
- D. Focus: The focus of CAPS Education Collaborative is the creation of education programs and services, the provision of technical assistance, professional development, and other educational services as determined by the Board of Directors.
- E. Purpose: The purpose of this collaborative is to provide intensive education programs for students with disabilities which are low-incidence in their districts of residence; to provide professional development to educators; to provide related services to students with low-incidence disabilities in member and non-member districts; and to provide other services as determined by the Board of Directors and are consistent with the provisions of M.G.L. Ch. 40, Section 4E.

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

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 general and special education students with low-incidence disabilities;
- B. Professional development programs for general and special educators;
- C. Contracted and related services needed by districts; and
- D. Other educational services as determined by the Board of Directors.

## SECTION IV: GOVERNANCE

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 CAPS 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 shall be a voting member of the collaborative board of directors. The educational collaborative shall be managed by this collaborative board of directors, hereinafter referred to as the “board”.

- A. Regular meetings of the board shall be held at least six (6) times annually. The board shall meet 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 appointed representatives present shall be required, except that a vote to terminate the collaborative shall be approved in accordance with Section XI of this agreement.
- D. All business will be conducted in accordance with *Robert's Rules of Order*. 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 on the board<sup>1</sup> 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.
- F. Public notice will be given of the date, time, and location of all meetings in accordance with M.G.L. c. 30A, §§ 18-25 the law pertaining to the open meetings of state governmental bodies. Detailed, accurate records of every meeting will be adopted and kept in accordance with the law pertaining to the open meetings of governmental bodies and made available on the collaborative website.

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<sup>1</sup> The Secretary on the Board ensures that the CAPS Agreement is followed and that Board procedures follow Robert’s Rules of Order. The Board Secretary does not record proceedings at CAPS Board meetings; the executive director, or designee, is assigned this responsibility.

## **SECTION V: CONDITIONS OF MEMBERSHIP**

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

- A. Each appointed representative shall be entitled to a vote.
- B. Administrative dues for membership in the collaborative 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) 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.
- E. An appointed representative who misses more than two-thirds (2/3) of the board meetings within a fiscal year may 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.
- F. Appointed representatives shall be public employees subject to M.G.L. c. 268A. 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.
- I. No employee of the collaborative may serve on the board or shall be eligible to serve concurrently in the positions of treasurer, business manager or person with responsibilities similar to those of a town accountant.

- J. Each appointed representative must attend training required by the Department of Elementary and Secondary Education (herein 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.

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

The CAPS Board shall manage the educational collaborative and shall be responsible for providing fiduciary and organizational 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, to hire all staff, 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 CAPS Education Collaborative shall be a public entity.
- C. The board shall be vested with the authority to enter into agreements with member and 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. determining the appropriateness and cost-effectiveness of any borrowing, loans, or mortgages; and
  - 4. approving all expenditures, including contracts, borrowing, and the purchase and sale of real estate and consistent with Section VII B of this Agreement.
- 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 credentials and approvals, including those required by M.G.L. c. 71, § 38G and 603 CMR 7.00, M.G.L. c. 74 and 603 CMR 4.00, and all acts and regulations amendatory thereof.
- 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. Ch. 40, § 4E. The board shall ensure that there is segregation of duties between the executive director, treasurer, and business manager. These employees shall not serve as a member of the collaborative board or as an officer or employee of any related for-profit or non-profit organization as defined in M.G.L. Ch. 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. No appointed representative shall serve on the board of directors or serve as an officer or employee of a 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 make recommendations to the board.
- 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 by January 1 of each year 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. Each appointed representative shall complete the required training provided or approved by the Department within 60 days of the appointed representative's initial appointment;
- L. Each appointed representative shall be responsible for providing information to the representative's appointing member district(s) as outlined in M.G.L. c. 40, § 4E and 603 CMR 50.00.
- M. Each appointed representative has a fiduciary responsibility to discharge his or her duties with care, skill, prudence and diligence for the benefit of the representative's member district and the students served by the educational collaborative.
- N. If the interests of CAPS Education collaborative conflict with the interests of the member district, the appointed representative shall have a duty to inform the Executive Director and the Board Chairperson of the conflict. The appointed representative will also inform the member's district about the conflict at the next regularly scheduled open meeting of the member district.
- O. 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.
- P. No employee of the collaborative may serve on the board or shall be eligible to serve concurrently in the positions of treasurer, business manager or person with responsibilities similar to those of a town accountant.

## SECTION VII: FINANCE

The board may establish buy-in fees to be paid by new member districts to reflect capital costs that have previously been incurred by the collaborative and member districts. New member districts will pay a share of existing debt reflective of its student enrollment in the collaborative. Such share will be reflected in the calculation of the annual budget.

The board may, by majority vote, apply for and accept gifts, grants, or contributions from governmental and private sources, whether in cash or in kind.

The collaborative is subject to M.G.L. c. 30B for the procurement of goods and services.

The collaborative shall adopt and maintain a financial accounting system, in accordance with generally accepted accounting principles as prescribed by the governmental accounting standards board and any supplemental requirements prescribed jointly by the commissioner of elementary and secondary education and the commissioner of revenue, in consultation with the state auditor. At a minimum, the financial accounting system shall delineate:

- administration and overhead;
- rental of real property;
- program costs;
- capital expenditures, including fixed assets, real property or the improvement of real property;
- debt payments;
- deposits into a capital reserve; and
- all additional disclosures required in 50.08(2).

### A. Collaborative Fund:

1. The board shall establish and manage a fund to be known as the *CAPS Education Collaborative Fund* (herein, “the CAPS fund”).
2. The CAPS 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 collaborative board and deposited in the CAPS fund.
3. The treasurer, subject to the direction of the board, shall receive and disburse all money belonging to the collaborative without further appropriation.
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.

### B. 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, necessary to carry out the purposes for which the collaborative was established, in the best interests of the collaborative and its member districts, consistent with the terms of the collaborative agreement, consistent with standard lending practices, 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 or 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.

C. Surplus Funds: Unexpended general funds at the end of the fiscal year (as defined in 603 CMR 50.07) 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(9), funds deposited in trust in accordance with M.G.L. c. 32B, § 20 and any amounts prepaid for services or tuitions in accordance with M.G.L. c. 40, § 4E.
- 2. The board will retain no more than 25 percent of the previous year's general fund expenditures in cumulative surplus.
- 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 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.
- 5. In the event an amount is to be refunded to the member districts, each member district share will be apportioned in accordance to its student membership in the collaborative for the previous fiscal year.

D. Annual Budget Preparation and Assessment of Costs

- 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, s 4E, regulations promulgated by the Department and this agreement.

- a. At a time determined by the board, the board shall propose a budget for the upcoming fiscal year. The board shall identify the programs or services to be offered by the 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. 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.
  - d. The proposed budget shall delineate the tuition prices for member and non-member districts as well as fees for services and membership dues. An additional fee will be charged to non-member districts in order to offset the administrative and indirect costs of providing programs and services to non-member districts (e.g., seventeen percent [17%] above member rates). Tuition rates and fees for services are based on the overall cost, including direct and indirect expenses, and the number of students served by the program or service. Membership dues are based on the member district's enrollment as of October 1 of the previous year multiplied by the board-determined amount (e.g., four dollars per student enrolled). In collaboration with staff and member districts, CAPS begins forecasting the annual budget at the beginning of each school year. The process includes input from program coordinators, teachers, and related services personnel. District special education directors, business managers, and Finance Subcommittee members participate in the process of determining the demand for programs and services. Estimates of enrollment, staff needed to maintain quality of services, administrative overhead, and resources needed to make improvement are used to project the next fiscal year's budget.
  - e. As applicable, capital costs shall be included in the budget and each member district shall be charged a proportionate share based on the member district's enrollment as of October 1 of the previous school year as a percentage of the total enrollment of member districts.
2. The 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.

E. Approving the Collaborative Budget:

The board shall adopt the final budget by 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.

F. Transmitting the Budget:

The treasurer of the educational collaborative 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 in a timeframe determined by the Board but no later than June 30 of the previous fiscal year. Tuition rates are billed quarterly, and fees for service are billed on a monthly basis. Payments are expected within 30 days of receiving the invoice. Membership dues are billed at the beginning of the fiscal year and payments are expected within 30 days of receiving the invoice.

G. Procedure for Amending the Budget:

1. All budget amendments shall be proposed at a public meeting of the board.
2. Any amendment that does not result in an increase in tuition rates, membership dues or fees for services shall be approved by the board by a majority vote.
3. Any amendment to the budget that results in an increase in the tuition rates, membership dues or fees for services 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 services to each member district not later than ten (10) working days following the affirmative vote of the board.
4. The board has the authority to reduce tuition rates, membership dues and fees for services to member and non-member districts, when doing so is determined to be in the best interest of the collaborative.
5. The board shall ensure that the collaborative shall annually, no later than January 1 of each year, prepare financial statements, including:
  - a. a statement of net assets (government-wide);
  - b. a statement of activities (government-wide);
  - c. a governmental funds balance sheet;
  - d. a governmental funds statement of revenues, expenditures, and changes in fund balance;
  - e. a general fund statement of revenues, expenditures and changes in fund balance, budget and actual;
  - f. a statement of fiduciary net assets;
  - g. a statement of changes in fiduciary fund net assets; and
  - h. a capital plan identifying current capital obligations or future planned capital projects.
6. The board shall ensure that an independent audit is completed annually, and, upon the approval by the board and no later than January 1 of each year, submit the audit report for the preceding fiscal year to the chair of each member district, the Commissioner and state auditor.

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

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 consistent with *Robert's Rules of Order* pertaining to new business.
- 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 appointed representatives and the chairs 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 appointed representatives and the chairs 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 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 50.00 to the Commissioner of Elementary and Secondary Education/Board of Elementary and Secondary Education for approval.

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 MEMBER DISTRICTS**

A school district, through 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 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 authorizing votes 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 30th 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)**

- A. A member district may withdraw from CAPS Education Collaborative as of July 1st in any year provided that such member district provides written notice 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 of such intent 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 30th 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 in accordance with Section VIII of this Agreement to reflect changes in the agreement caused as a result of the change in membership of the collaborative and submitted to the member districts and the Commissioner for approval by the Board of Elementary and Secondary Education.
- D. Upon withdrawal, a former member district shall not be entitled to any assets or a portion of any assets of the collaborative, including any surplus funds that may have been carried over from prior years and any capital reserve fund that may have been 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, based on the number of the district's students in collaborative programs, 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 until changed or amended in accordance with Section VIII.

- I. No withdrawal of a member district shall be effective until approved and authorized by a majority of the member districts and by the Board of Elementary and Secondary Education.
- J. 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**

- 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 collaborative 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 member districts.
- E. Following the affirmative votes of the member districts to terminate this 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 for 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.
  - 3. identify the member district responsible for maintaining all fiscal, employee, and program records;
  - 4. identify the member and non-member districts responsible for maintaining student 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 (based on the number of the district's students in collaborative programs); 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.

## **SECTION XII: INDEMNIFICATION**

Neither the Executive Director nor any appointed representative shall be liable to the Collaborative or to any member district hereof for any act or omission of the Executive Director or any appointed representative or be held personally liable in connection with the affairs of the Collaborative except only liability arising out of his own willful misfeasance, bad faith, gross negligence or reckless disregard of duty to the Collaborative of its members.

Neither the Executive Director nor any appointed representative shall be personally liable for any debt, claim, demand, judgment, decree, liability or obligation of any kind or, against or with respect to the Collaborative or arising out of any action taken or omitted for or on behalf of the Collaborative and the Collaborative shall be solely liable therefore and resort shall be had exclusively to the Collaborative property for the payment or performance thereof and each appointed representative and any Executive Director shall be entitled to full indemnity and full reimbursement out of Collaborative property, including, without limitation, fees and disbursements of counsel, if, contrary to the provisions hereof, such appointed representative, Executive Director or member district shall be held personally liable. Any person dealing with the Collaborative shall be informed of the substance of this provision except that any such person need not be informed of the indemnification contained herein and, where the Board deems it appropriate, documents or instruments executed by or by authority of the Board shall contain reference hereto.

The Executive Director and his legal representatives and each appointed representative and his legal representatives and each member district and its legal representatives shall be indemnified by the Collaborative against all liabilities and expenses, exclusive of amounts paid to the Collaborative, including judgments, fines, penalties, amounts paid in settlement and counsel fees, incurred in reasonable settlement of any action, suit or proceeding to which such appointed representative, member or Executive Director or his/its legal representatives may be made a party or otherwise involved by reason of his/its capacity as appointed representative, Executive Director or appointed representative, except only liabilities and expenses arising out of his/its own willful misfeasance, bad faith, gross negligence or reckless disregard of duty to the Collaborative as finally adjudged in such action or, in the event of settlement or termination of such action without final adjudication, as determined by independent counsel for the Collaborative. Said right of indemnification shall be in addition to any other rights to which such appointed representative or Executive Director or member district may be entitled as a matter of law or which may be lawfully granted to him/it.

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.

**Date of first reading:**

**Date of second reading:**

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

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

**Signatures:**

\_\_\_\_\_  
CHAIRPERSON OF ASHBURNHAM/WESTMINISTER REGIONAL SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF ATHOL/ROYALSTON REGIONAL SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF FITCHBURG SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF GARDNER SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF LEOMINISTER SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF MAHAR REGIONAL SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF NARRAGANSETT REGIONAL SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF ORANGE SCHOOL COMMITTEE      Date \_\_\_\_\_

\_\_\_\_\_  
CHAIRPERSON OF PETERSHAM SCHOOL COMMITTEE

\_\_\_\_\_  
Date

\_\_\_\_\_  
CHAIRPERSON OF QUABBIN REGIONAL SCHOOL COMMITTEE

\_\_\_\_\_  
Date

\_\_\_\_\_  
CHAIRPERSON OF WINCHENDON SCHOOL COMMITTEE

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
COMMISSIONER

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
Date