



Massachusetts Department of Elementary and Secondary Education

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COLLABORATIVE CLOSING GUIDELINES

M.G.L. c. 40, § 4E authorizes two or more school committees of cities, towns and regional school districts and boards of trustees of charter schools (herein, member districts) to enter into a written collaborative agreement to provide shared programs and services. The collaborative agreement must be approved by the Commissioner of the Department of Elementary and Secondary Education (herein, Department or ESE) and must comply with all provisions of the collaborative law and companion regulations, 603 CMR 50.00 (herein, collaborative regulations). Under 603 CMR 50.11, and consistent with the procedures set forth in the collaborative agreement, the collaborative board of directors (herein, collaborative board or board) and member districts may voluntarily terminate the collaborative.

These *Collaborative Closing Guidelines* (herein, *Guidelines*) set forth the procedures to be followed in the event the collaborative is terminated and are intended to help collaborative boards and staff comply with the collaborative regulations. These *Guidelines* are not intended to provide legal or financial advice related to the termination of a collaborative. The collaborative board and/or member districts should seek legal, financial and other professional advice related to additional responsibilities or requirements not addressed in these *Guidelines* and the collaborative regulations.

Should the board and/or member district(s) propose to terminate the collaborative, the collaborative director (herein, director) or the chair of the board must provide notification to the Department's Office of Regional Governance (herein, ORG). ORG staff will provide technical assistance to the collaborative board and the member districts regarding the provisions of the collaborative regulations and these *Guidelines*.

Votes, Timeline and Effective Date(s)

M.G.L. c. 40, § 4E and collaborative regulations require that each collaborative agreement include a method of termination. The method will include the required votes of the board¹ (if applicable) and the required votes of the member districts to terminate the collaborative, as well as other locally determined procedures. The collaborative board and the member districts are responsible for ensuring that the procedures set forth in the agreement are followed and that all legal requirements are met, including, but not limited to, the completion of the items listed in these *Guidelines*, before the collaborative is terminated.

- The member districts (and the board, if required by the agreement) must **vote to terminate** the collaborative at open public meetings. Collaborative agreements detail the local votes that are required at the member district and collaborative board levels (e.g., majority, 2/3, unanimous, etc.).

¹ The voluntary termination of a collaborative, like the creation of the collaborative, MUST be voted on by the school committees and charter school boards of the member districts. Some collaborative agreements also require a vote of the collaborative board prior to the vote of the member districts. Please consult your agreement to determine if your agreement requires the additional collaborative board vote.

- The vote(s) to terminate the collaborative must include **the effective date** of the termination (herein, effective date). Most collaborative agreements indicate that the collaborative may only terminate at the end of a fiscal year. Please consult the individual collaborative agreement to determine whether an alternative date may be approved.
- The member districts and the board must adhere to the provisions of the agreement regarding the **timeline for providing notice of termination**. The timing of the effective date could be impacted by language in the agreement that requires the board or the member districts to provide notice of possible termination to each other as well as others, including staff or students in advance of any formal votes to terminate, that a certain amount of time must pass between the vote to terminate the collaborative and the effective date of the termination or that a public meeting must be held by the collaborative prior to a formal vote to terminate. Please consult the individual collaborative agreement.
- As the effective date of the termination of the collaborative may differ from the final closing date of instructional program(s) or service(s), the local votes may include the **last day(s) of instruction** to students served by the collaborative and the **last day(s) of delivery of services** provided by the collaborative, or the votes to terminate may provide to the director or to the board the authorization to determine the appropriate timeline for the closure of individual programs and services.

Notifications

Following the affirmative local votes to terminate the collaborative, the director or chairperson of the board must provide written notification to individuals and/or entities that will be impacted by the termination of the collaborative, as well as to those individuals and/or entities that must be informed as required by law or regulations. As detailed below, these include written notification to member districts, to agencies with whom the collaborative contracts, to parents of collaborative students, to the public, and to the Department, among others.

- The director or chairperson of the board shall provide the following notifications and documentation to the Department:
 - Written notice of the termination, including the effective date, and, as applicable, the last day(s) of student instruction in each collaborative program, and the last day of delivery of all other collaborative services, must be sent to the Commissioner of Elementary and Secondary Education (herein, commissioner). *See* 603 CMR 50.11(2)(a)(8).
 - Copies of the approved minutes of the meetings of the collaborative board (if applicable) and the member districts, recording the positive votes to terminate the collaborative and the effective date of termination, must also be sent to the commissioner. *See* 603 CMR 50.11(2)(a)(7).
 - The name, title, address, telephone number(s), and e-mail address of the contact person designated to oversee the completion of all closing procedures, as well as a description of the individual's affiliation with the collaborative, must be sent to ORG.
- At least 90 days prior to the termination date (or earlier if local contracts or the collaborative agreement dictate otherwise), provide written notification² to:

² Note that the collaborative's contracts or agreements with districts, agencies, municipalities, and employees may contain **additional requirements or extended notification periods**, not listed in these guidelines. Collaborative directors and boards should consult with legal counsel concerning requirements of these agreements and contracts.

- o **Appropriate administrative staff from member and non-member districts.** These notices may include, but not be limited to, the following:
 - the effective date as well as the last day of student instruction in each educational program and/or delivery of services according to the local votes to terminate; and
 - contact information for collaborative staff who may be able to participate in necessary Team meetings regarding students' new placements.
- o **Current and former students/parents/guardians.** These notices may include, but not be limited to, the following:
 - the effective date of termination as well as the anticipated last day of student instruction and/or delivery of services;
 - information on how to retrieve copies of pertinent student records, or the contact information for the district responsible for maintaining these records; and
 - contact information for the enrollment and special education offices of the school district(s) responsible for educating the student.

Note: Copies of these notices should also be sent to any member/non-member district contact person listed in the notice (e.g., special education director, Team chair).

- o **Current and former employees and contracted service providers.** These notices may include, but not be limited to, the following:
 - the date of the last day of student instruction, service delivery, and/or operation;
 - information regarding the date of termination of employment and/or contract(s);
 - information regarding dates of termination of benefits, and the availability of any continuing health, unemployment or other benefits, as applicable;
 - information regarding any unused leave time; and
 - any other information deemed appropriate by legal counsel and benefits coordinators.
- o **Municipalities.** If the collaborative engages in activities with municipalities, such as cooperative purchasing or the lease of municipal space, buildings, or equipment, the following information should be provided:
 - date of termination of service delivery to the municipalities;
 - date of termination of program(s) or service(s) delivered in municipal space or with municipal equipment, and date(s) of termination of use; and
 - any other information relevant to the collaborative activities with the municipality.
- o **Agencies and Vendors.** If the collaborative contracts for either the provision of services (e.g., Department of Developmental Services) or the receipt of services (e.g., transportation vendors), the following information should be provided:
 - date of termination of the collaborative;
 - date of termination of program(s) or service delivery (or service receipt); and
 - any other information relevant to the collaborative's activities or contracts with the agencies.

In addition to these specific notifications, the Department recommends that the collaborative inform other interested parties that the collaborative will terminate. This may include banks that provide collaboratives with lines of credit or mortgages, contractors, landlords, lessees who rent space from collaboratives, districts who share space with collaboratives, insurance providers, and other collaboratives. The Department further recommends that the collaborative post notice of termination on the collaborative website.

Programmatic Matters

- The collaborative board must ensure that the collaborative remains in compliance with all laws and regulations until the effective date of termination. The collaborative must continue to:
 - implement instructional programs provided to general and special education students, as specified in IEPs, 504 plans, Chapter 222 service plans, and/or other written agreements with member and non-member districts;
 - administer statewide assessments (e.g., MCAS, WIDA, etc.);
 - implement all contracted services until the end date or termination of the contract(s) or the dissolution of the collaborative, whichever comes first;
 - submit all required reports to the Department, including, but not limited to, Education Personnel Information Management System (EPIMs), Student Course Schedule (SCS), School Safety and Discipline Report (SSDR); and
 - submit both the final annual report, and final independent audit report on or before the statutory deadline of January 1st.
- To the extent a collaborative program or service is to be continued by a school district or another collaborative following termination of the collaborative, the collaborative board must consider the following:
 - If collaborative programs or services are supported by grant funds, the collaborative must make arrangements and secure the necessary approvals from the grantor (e.g., Department unit, other state or federal agency) before transferring programs or services to another entity.
 - If a program is approved as a public day or residential special education program, the school district or agency assuming responsibility for the program must contact the Department's [Program Quality Assurance Services Unit](#) to ensure that appropriate program approvals are in place before the collaborative can transfer the program to the school district or agency.
 - The school district or agency assuming responsibility for the collaborative program must secure necessary approvals from the contracting agency (e.g., Department of Developmental Services, contracts with universities concerning licensure programs, etc.) before the collaborative transfers any contracted service to another entity.

Financial Matters

Collaborative regulations require that certain financially related information be considered by the collaborative board and that certain written documentation be provided to the Department when a collaborative terminates. The collaborative board must discuss and approve, at an open meeting(s), the following matters:

- Arrangement for a final independent audit of the collaborative, including the designation of an individual and member district that will be responsible for insuring completion, acceptance,

distribution, and necessary follow-up that results from audit findings. The names and contact information of the responsible individual, member district, and the audit firm must be provided to ORG.

- o Based on the timing of the termination, the collaborative board will likely be required to submit an annual independent audit for the previous fiscal year and a final independent audit that covers the period between the end of the fiscal year and the date of final termination. The processes noted below relative to the final distribution of assets and liabilities should account for the possibility that the final reconciliation of collaborative accounts, assets and liabilities may occur after the end of a fiscal year. In this instance, both independent audits must be submitted to the member districts, ORG, as well as the [Office of the State Auditor](#).
- A process for meeting all liabilities of the collaborative, including obligations for other post-employment benefits (OPEB), as well as any outstanding debt payments or capital obligations. *See* 603 CMR 50.11(2)(a)(6).
 - o Each collaborative agreement includes a procedure for apportioning liabilities upon the termination of the collaborative. *See* 603 CMR 50.03(5)(b)(14). Collaboratives must follow the procedure outlined in the agreement.
- A process for determining the appropriate disposition of all assets of the collaborative, including capital equipment and real estate owned by the collaborative. *See* 603 CMR 50.11(2)(a)(5). This process should include the disposition of all assets and funds obtained through any source (including private grants or foundation funds), as well as the distribution of any cumulative surplus funds.
 - o Each collaborative agreement includes a procedure for apportioning assets upon the termination of the collaborative. *See* 603 CMR 50.03(5)(b)(14). Collaboratives must follow the procedure outlined in the agreement.
 - o Each collaborative agreement also contains language about how and under what conditions surplus funds will be allocated to member district(s) upon the termination of the collaborative. Collaboratives must follow the procedure outlined in the agreement. *See*: 603 CMR 50.03(5)(b)(11).
- A process for determining the appropriate disposition of federal/state funds and all equipment and supplies purchased with state or federal grants or funds. *See* 603 CMR 50.11(a)(1). This process should include:
 - o Contacting funders in order to ensure that such funds, equipment, and supplies are disposed of in a proper manner. Grant terms or other grant requirements may dictate the return of equipment or supplies to funders, or may contain other instructions.
 - o Finalizing of all grant expenditures. The board must ensure that all final grants reports are filed with the Department and/or any other appropriate agencies.
- Prior to determining the disposition of assets and liabilities, the collaborative may need to secure valuations of certain property and assets and arrange for an actuarial study to determine continuing obligations for post employment benefit for collaborative retirees. These decisions should be made in concert with appropriate legal and fiscal advice.

The collaborative board chair must provide the Department with a summary of the agreed upon processes, noted above, and written assurance that the board has discussed and approved all of these processes. In addition, a copy of the final independent audit must be provided to the Department. The final independent

audit must include a detailed accounting of assets and liabilities of the collaborative and the disposition of the assets and liabilities. See 603 CMR 50.11(2)(a)(9).

Maintenance of Records

Following the votes to terminate the collaborative and no later than 90 days from the effective date, the collaborative board and member districts must arrange for the maintenance of the collaborative records, as required by applicable laws and regulations. The collaborative board should consult the applicable laws and regulations related to the maintenance and retention of the collaborative's public, personnel, fiscal, program, and student records. Please refer to the website of the public records division of the [Office of the Secretary of the Commonwealth](#) for more information and the following Department regulations: [School Finance](#) (603 CMR 10.00), [Student Records Regulations](#) (603 CMR 23.00) and [Special Education Regulations](#) (603 CMR 28.00) concerning maintenance of the collaborative's public, personnel, fiscal, program and student records in order to determine the formats in which records must be kept, as well as the length of time for which records must be kept. Note that confidentiality and privacy provisions apply to many of these records. It is recommended that collaborative seek legal advice concerning the appropriate handling and maintenance of these records.

The board and the member districts must ensure that the responsibility for maintaining the collaborative's records after the collaborative's termination will be assigned to a member district that is able to fulfill all responsibilities under applicable laws and regulations. The contact person must submit to the Department the name(s) of the district(s)/individual(s) assigned by the board to bear responsibility for the following matters:

- The member district(s) responsible for maintaining all **fiscal records** upon termination of the collaborative. See 603 CMR 50.11(2)(a)2.
 - While regulations allow for the possibility of a number of member districts retaining these records, the Department recommends that fiscal records be maintained by one member district.
- The member district and individual responsible for ensuring the completion, review, acceptance and distribution of the **final annual report and independent audit** of the collaborative.
 - A copy of the final annual report and independent audit must be submitted to ORG by January 1, following the fiscal year of audit.
 - The Department recommends that responsibility for arranging the final audit should be given to the district appointed to maintain the fiscal records of the collaborative.
 - Since the annual report reflects the last programmatic year of collaborative operations, the collaborative board must ensure that the report is completed and filed to meet the January 1 deadline, following the effective date of the closure of the collaborative.
- The member district(s) responsible for maintaining **student records** upon termination of the collaborative. See 603 CMR 50.11(2)(a)3.
 - Student records must be sent to the member and non-member districts where the students were enrolled. The Department recommends that the collaborative keep evidence of the transfer of these student records, and that one member district be assigned to keep the evidence of these transfers.
- The member district(s) responsible for maintaining **employee records** upon termination of the collaborative. See 603 CMR 50.11(2)(a)3.

- o Employee records includes but is not limited to the following personnel records, payroll, attendance, disciplinary, leave, benefits, and any other records related to employees of the collaborative.
- o While regulations allow for the possibility of a number of districts retaining these records, the Department recommends that employee records be maintained by one member district.
- The member district(s) responsible for maintaining **program records** upon termination of the collaborative. See 603 CMR 50.11(2)(a)3.
 - o To the extent any programs are approved for transfer to a member or non-member district (e.g., day programs that are taken over by a member or non-member district), the Department recommends that related program records be transferred to that district.
 - o The Department recommends that program records pertaining to all other collaborative programs be maintained by one member district.
- The member district(s) responsible for maintaining **records of public meetings of the collaborative board**.
 - o Records of public meetings may include agendas, minutes, annual reports, and independent audits, among other records. Collaboratives and member districts should consult the public records division of the [Office of the Secretary of the Commonwealth](#) and local legal counsel to insure the proper disposition and maintenance of these and all other collaborative records.
 - o The Department recommends that these records be maintained by one member district.

Additional Considerations

- The collaborative should consult with legal counsel and financial experts early on in the termination process about legal obligations and financial matters, including, but not limited to, taxes and tax implications, ongoing responsibility for expenses such as Other Post Employment Benefits (OPEB), health, dental and/or life insurance for employees/retirees, and unemployment benefits, and other obligations that may exist yet fall outside the purview of these *Guidelines*.
- If the collaborative also operates as a 501(c)(3) organization, the collaborative should contact the [Office of the Attorney General of the Commonwealth](#) to determine what additional termination requirements may apply.

For further information, consult the following resources and/or contact the Office of Regional Governance (ORG) at 781-338-6526 or at collaboratives@doe.mass.edu:

[Massachusetts Education Collaboratives Website](#)
[Education Collaboratives Law](#), M. G.L. c. 40, § 4E
[Educational Collaboratives Regulations](#), 603 CMR 50.00