

# COLLABORATIVE AGREEMENT FOR LABBB EDUCATIONAL COLLABORATIVE

Pursuant to *M.G.L. c. 40, § 4E*.

## PREAMBLE / AUTHORIZATION

This document constitutes the Collaborative Agreement of the LABBB Educational Collaborative (herein LABBB or the Collaborative) established pursuant to the provisions of Chapter 40, Section 4E of the General Laws of the Commonwealth of Massachusetts and acts or amendments thereof as they may from time to time be enacted by the legislature, and 603 CMR 50.00. This collaborative agreement ~~shall not be effective until approved by the~~ **and any subsequent amendments hereto, shall not take effect unless and until approved by the school committees of the Collaborative's Member Districts and approved by the Massachusetts Board of Elementary and Secondary Education (BESE), upon recommendation by the Commissioner of the Department of Elementary and Secondary Education (Commissioner).**

~~This agreement will be effective upon the approval of the Board of Elementary and Secondary Education, as indicated on the signatory page.~~

**This Amendment replaces the original Agreement, which was adopted on April 29, 2015, entered into by and between the School Committees of Lexington, Arlington, Bedford, Belmont, and Burlington. In consideration of the mutual promises and agreements contained herein, it is hereby agreed as follows:**

## **ARTICLE Section I** **Membership**

The membership of LABBB, as of the effective date of this **amendment**, includes the school committees (herein Member Districts) from the following districts, as indicated by the signatures of the chairs of the school committees:

- A. School Committee for the Lexington Public Schools
- B. School Committee for the Arlington Public Schools
- C. School Committee for the Burlington Public Schools
- D. School Committee for the Bedford Public Schools
- E. School Committee for the Belmont Public Schools
- F. **School Committee for the Watertown Public Schools**

## **ARTICLE SECTION II** **Mission, Objectives, Focus and Purposes**

The ~~mission~~ of this Collaborative is to jointly conduct educational programs and/or services for Member Districts and non-member districts in a cost-effective manner, increase educational opportunities ~~for children~~ **students** (ages 3-22), **design other programs as approved by member districts**, and to improve educational outcomes for **its** students.

~~The purposes of this Collaborative is to provide~~ **high-quality** intensive educational, vocational, therapeutic, and recreational programs and ~~related~~ **services** for students **individuals** ~~with disabilities which are low incidence in their districts of residence; to provide professional~~

development to educators; and to provide related services to students with low incidence disabilities in Member Districts and non-member districts.

The purpose of the Collaborative is to provide high quality education programs and services for students with disabilities; to provide professional development for educators, to provide related services to students' disabilities in Member and Non-Member Districts, and to provide other high-quality, cost-effective services to meet the changing needs of the member districts. The Collaborative, shall therefore, exist to provide educational programs and services which shall complement and strengthen the school programs of Member Districts and increase educational opportunities for students children when it is determined that such programs and services can most effectively and economically be provided on a collaborative basis.

The foregoing purpose includes the authority of the Collaborative, acting through its Board of Directors, to enter into contracts for the purchase of supplies, materials and services and for the purchase or leasing of land, buildings and equipment as considered necessary by the Board of Directors. contract with corporations, individuals, associations, agencies and/or any entities in order to obtain and provide services for Member Districts. In addition, subject to the approval of the Board of Directors, the Collaborative will continue to create new programs, increase and expand its level of service in general educational, occupational-vocational education, staff development and training, research and development of innovative programs and in any such area determined to be a need by the Member Districts and consistent with this collaborative agreement and MGL c 40, § 4E(C) and (e);603 CMR 50.03(4)(b).

~~Notwithstanding any other provision of these articles, the Collaborative is organized exclusively for educational purposes, as specified in Section 501(c)(3) of the Internal Revenue Code, and shall not carry on any activities not permitted to be carried on by any entity exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.~~ **Question for Colby: Why 501(c)(3)?**

The focus of this Collaborative is the creation and provision of special education, transitional, occupational and therapeutic programs and services in the least restrictive environment and comprehensive professional development within the local communities of the Member Districts. The focus of the Collaborative consists of:

- A. Programs and Services for students with special needs;
- B. Providing student transportation;
- C. Coordinating and/or implementing professional development; and
- D. Cooperative planning and delivery of services to meet the needs of the districts.

The overall objectives of this Collaborative include:

- A. to improve the academic achievement and/or occupational skills of students and individuals with low incidence disabilities in the least restrictive environment through high quality programs and services;
- B. to offer a variety of high-quality professional development opportunities to general and special education teachers, administrators and related service providers;
- C. to offer all programs and services in a cost-effective manner; and
- D. subject to statutory and regulatory authorization, the development of continuous and evolving services that may include leveraging expertise and resources to expand the continuum of services to include young children with disabilities and/or adults with disabilities (22+).

**ARTICLE SECTION III**  
**Programs and Services Offered 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 students with low incidence disabilities; to maximize access to and engagement in curricula as well as other aspects of school life for students with disabilities or other unique learning challenges so that they realize their fullest potential in academic, social, emotional, physical and health related areas;
- B. Extended year programs and services;
- C. professional development programs for general and special educators as well as related service providers educators and other professionals;
- D. vocational/occupational educational opportunities for Member Districts;
- E. vocational/occupational exploratory and major trade/technical course concentrations in collaboration with Chapter 74 schools;
- F. transportation services;
- G. 45 day assessment programs Extended Evaluations and clinical assessments; and
- H. consultation services, BCBA consultation and direct services and other behavioral consultation services.

The programs/services listed above are not all-inclusive; the Board of Directors, acting at the request of the Executive Director and/or Member Districts may consider and approve other programs and services to be provided by the Collaborative so long as such programs/services are within the aforementioned program areas and are in the best interest of the Member Districts, and are not inconsistent with M.G.L. c. 40, § 4E and 603 CMR 50.00, et seq., as amended from time to time.

**ARTICLE SECTION IV**  
**Governance, Powers and Duties of the Board of Directors**

- A. Each Member District school committee executing this Collaborative agreement shall annually appoint the superintendent of schools or one school committee member to serve as its representative on the LABBB 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 act as a liaison to member of the LABBB Collaborative Board of Directors. The educational Collaborative shall be managed by the LABBB Collaborative Board of Directors, hereinafter referred to as the "Board".
- B. Each appointed representative Board member shall have one (1) vote with respect to matters before the Board. No such appointed representative Board Member may serve on the board of directors or as an officer or employees of a related for-profit or non-profit organization. No appointed representative Board Member shall receive an additional salary or stipend for his or her service to the Collaborative. No employees of the Collaborative may serve as an appointed representative Board Member and no appointed representative Board Member shall be eligible to serve concurrently as the Executive Director or Treasurer of the

Collaborative, or the Collaborative's business manager or employee with responsibilities similar to those of a town accountant.

- C. Regular meetings of the Board shall be held **at least** six times per year from September to June; July and August meetings will be scheduled at the discretion of the Board. **Additional meetings will be convened upon determination by the Board of the Directors.** Public notice will be given in accordance with M.G.L. c. 30A, §§ 18-25, **the Open Meeting Law; notice shall include date, time and location of all Board meetings.** Prior to the commencement of the school year, the Board shall post its regularly scheduled meetings for the school year on the Collaborative's website. The Executive Director may call special meetings for special/emergency purposes with consent of the Board chairperson. Special meetings shall also be **convened in a manner** consistent with **the** Open Meeting Law. Meeting minutes will be posted on the LABBB website **after approval by the Board.**
- D. A quorum for conducting business shall consist of a simple majority of the voting members of the Board. **The Board may act by a simple majority of appointed representatives present and voting unless otherwise provided in this agreement. The vote of each appointed representative** ~~Board Member~~ **shall have equal value.** A quorum is not needed to close the meeting.
- E. 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.
- F. 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.
- G. The Board shall annually organize itself by electing a chairperson 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.
- H. LABBB will maintain a website that will list the appointed representatives of the Board, meeting minutes, the Collaborative agreement, annual report, annual audit and contact information of key collaborative office staff.
- I. The Board shall be responsible for providing fiduciary and management oversight **and accountability over the operation and management of the Collaborative. The Board shall have all the powers and duties conferred and imposed upon educational collaborative boards by law, including without limitation those powers and duties conferred and imposed upon the collaborative and the Board by this collaborative Agreement, Massachusetts General Laws chapter 40, Section 4E, 603 CMR 50.00, and all acts and regulations amendatory thereof. The Board is responsible for the establishment and maintenance of policies and procedures to support the effective and economical operation of the Collaborative and to oversee the operation of the Collaborative to the end that the educational needs of the students enrolled in its programs are met in a cost-effective way. In addition to other requirements of law, at a minimum, the Board shall develop and maintain policies relative to personnel, students, finance and internal controls, and health and nursing. The policies and procedures formulated or adopted by the Board shall comply with the pertinent policies and guidelines of the DESE-Department of Elementary and Secondary Education (herein Department) as amended. The Board shall review the effectiveness of its policies and**

procedures from time to time to ensure currency and appropriateness. The Board shall also establish a process to provide to member district school committees, students, parents, guardians, and the general public all information required by law and regulation.

- J. The Collaborative, acting by and through the Board, may adopt by-laws consistent with law and with this Collaborative Agreement to govern the day-to-day operation or other appropriate matters of the Collaborative. If a particular matter is not covered by such a document, if any, then any such matter will be handled as the Board deems appropriate by a majority vote of the ~~appointed representatives~~ ~~Board Members~~ unless otherwise provided in this Collaborative Agreement to the extent permitted by law.

## **ARTICLE SECTION V** **Conditions of Membership**

Each Member District shall have the following rights and responsibilities as a member of LABBB.

- A. Each appointed representative on the Board shall be entitled to a vote.
- B. Each appointed representative shall be responsible for providing timely information and updates to its appointing Member District ~~School Committees~~ on LABBB 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.
- C. 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 ~~School Committee~~ of the appointed representative's absences. An appointed representative who misses more than two-thirds (2/3) of the Board meetings within a fiscal year will no longer be considered an appointed representative on the Board. The Board will notify the respective Member District ~~School Committee~~ that the seat will remain vacant until such time as the Member District, by appropriate vote of the ~~School Committee~~, appoints a new representative. When a seat becomes vacant, the appointed representative 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 the Member District shall continue to have all other rights and obligations of membership.
- D. Each appointed representative must ~~complete~~ ~~attend~~ training required by the Department of Elementary and Secondary Education (herein Department), as outlined in M.G.L. Ch. 40, § 4E; 603 CMR SO.OS 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 appointed representative 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 the Member District shall continue to have all other rights and obligations of membership. Notice will be provided to the appointing Member District ~~School Committee~~ prior to the removal of voting rights. The Member District shall become an active Member District and voting rights shall be reinstated once the appointed representative completes the training.
- E. 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.



- F. No appointed representative shall receive an additional salary or stipend for his/her service as a Board member. All employees and appointed representatives shall comply with M.G.L. c. 268 A.
- G. 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.
- H. At the discretion of the Board a new **all** Member District must contribute **appropriate** classroom space within its respective school buildings for the collaborative to build and operate educational programs. **In addition, new member applicants will be considered at least in part on their geographic adjacency to current member districts and ability and willingness to provide appropriate classroom spaces.**
- I. **All member districts must be willing to provide LABBB classrooms in their buildings with nursing services, custodial services, and internet/technology support.**

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

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

- A. It is the function and responsibility of the Board to formulate policy for the Collaborative, and to ensure compliance with applicable state and federal laws and regulations, including M.G.L. c. 40, § 4E and 603 CMR 50.00. **Specifically,** 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 concerning such policies. ~~The Board shall ensure that the Collaborative completes and files a Board approved annual report and an annual independent audit no later than January 1 of each year to the chair of each Member District, the Commissioner of Elementary and Secondary Education, as well as such other student, program, financial and staffing information, reports or documents as the Department deems necessary. The Board shall ensure that annual reports and annual independent audits are filed with appropriate governmental agencies and posted on the Collaborative's website, consistent with the requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00.~~
- B. The LABBB Educational Collaborative is a governmental entity, and, in compliance with M.G.L. c. 30B, may enter into contracts for the purchase of supplies, materials and services and for the purchase or leasing of land, buildings and equipment as considered necessary by the Board.
- C. The Board shall be vested with the authority to enter into agreements with Member and non-member districts, ~~adjunct member districts~~ and other collaboratives to establish

mutually beneficial programs, health services, facility rentals, 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 ensuring that any borrowing, loans or mortgages are cost effective, necessary to carry out the purpose for which the Collaborative is established, in the best interest of the Collaborative and its Member Districts, and consistent with terms of this agreement, including Section VII; ~~and~~
  4. approving all expenditures, including but not limited to contracts, borrowing, and the purchase and sale of fixed assets and real estate, ~~and~~
  5. considering regional needs and opportunities.
- 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 as required by M.G.L. c. 40, § 4E.
- G. The Board shall hire or appoint an Executive Director, to serve under its general direction, to manage and supervise the collaborative, oversee the day-to-day operation of its programs and services, and implement the policies of the Board. The Executive Director shall have the authority granted by Massachusetts General Laws Chapter 40, Section 4E. The Board shall annually evaluate the Executive Director's effectiveness in implementing the programs, policies, and goals of the Collaborative. The Executive Director shall not serve concurrently (i) as a Board Member or the Treasurer of the Collaborative, (ii) as the Collaborative's business manager or employee with responsibilities similar to those of a town accountant, or (iii) as a board member, officer, or employee of any related for-profit or non-profit organization.
- H. The Executive Director shall have the day-to-day responsibilities for all activities of the Collaborative, shall be responsible for overseeing all its programs and supervising and disciplining personnel, and shall be responsible for implementing the policies and by-laws, if any, and for developing procedures consistent within policies of the Board. In addition, the Executive Director shall have the authority granted by MGL c 40 § 4E and amendments hereto. The Board shall evaluate the Executive Director's performance and effectiveness annually.
- I. The Board shall hire or appoint a business manager or employee with responsibilities similar to those of a town accountant who shall be subject to Massachusetts General Laws Chapter 41, Section 52. The business manager or employee with responsibilities similar to those of a town accountant may not serve concurrently as a Board Member, the Treasurer, or the Executive Director of the Collaborative. The Board shall ensure that the business manager is annually evaluated with respect to his/her their the performance and effectiveness. ~~of its business manager or employee with responsibilities similar to those of a town accountant.~~

- J. The Board shall hire or appoint a Treasurer. The Treasurer shall be responsible for the oversight and certification of all receipts and disbursements related to the Collaboratives funds and shall perform such duties as are required by the Board and authorized by Massachusetts General Laws chapter 40, § ~~section~~ 4E and its regulations, and any amendments thereof. The Treasurer shall not serve concurrently as a Board Member, the Executive Director, or the Collaborative's business manager or employee with responsibilities similar to those of a town accountant. The Treasurer shall be compensated in such amount as to be set from time to time by the Board. The Treasurer shall give bond annually for the faithful performance of his or her duties in a form and amount approved by the commonwealth of Massachusetts Department of Revenue and the Board. The Board may hire or appoint a treasurer of a member district, city, town, or regional school district to serve as its Treasurer. The Board shall annually evaluate the Treasurer's performance and effectiveness.
- K. The Collaborative shall be considered a government entity and public employer and the Collaborative, by and through its Board of Directors, may employ or appoint such other qualified personnel as may be required to fulfill its duties and responsibilities and the Collaborative's mission, purpose, and objectives, subject to the requirements of Massachusetts General Laws Chapter 40, § ~~Section~~ 4E and its regulations, and any amendments thereof. Collaborative employees shall be considered public employees subject to all applicable laws, including without limitation Massachusetts General laws, Chapter 268A.
- L. The Board shall ensure that an annual report is prepared for each fiscal year, which shall, upon approval of such report by the Board, and no later than January 1, be submitted to the ~~DESE~~ Commissioner and the chair of the school committee of each member district. The collaborative's annual report shall be made available to the public on the collaborative's website and in hard copy to the public upon a request consistent with the Massachusetts Public Records Law.
- M. The Board shall ensure that annual financial statements are prepared, including (a) a statement of net assets; (b) a statement of activities; (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; (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.
- N. The Board shall ensure that an independent audit of the Collaborative is completed annually in accordance with 603 CMR 50.08, and upon approval by the Board, and no later than January 1, submit the audit report for the preceding fiscal year to the chair of the school committee of each member district, the ~~DESE~~ Commissioner, and the Massachusetts Office of the State Auditor.
- O. The Board shall ensure that the Collaborative adopts and maintains 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 ~~DESE~~ Commissioner and the commissioner of Revenue. The Collaborative's financial accounting system shall delineate, at a minimum: (a) administration and overhead; (b) rental of real property (c) program costs; (d) capital expenditures, including fixed assets, real property or the improvement of real property; (e) debt payments; (f) deposits into a capital reserve; and (g) all additional disclosures required in 630 CMR 50.09(2).



- P. The Collaborative, acting by and through the Board, may, subject to Massachusetts General Laws, chapter 30B, enter into contracts for the purchase of supplies, materials, and services and for the purchase or leasing of land, buildings, and equipment as deemed appropriate by the Board.
- Q. The Board shall ensure that the Collaborative establishes and maintains a website, which shall include, among other things: (a) a list of the appointed representatives on the Board; (b) copies of the approved minutes of the open meetings held by the Board; (c) a copy of this Collaborative Agreement and any amendments; (d) a copy of its annual report and independent audit report; and (e) contact information for key collaborative personnel.
- R. The Board shall ensure that no employee of the educational Collaborative is employed at any related for-profit or non-profit organization.
- S. The Board shall establish a process to provide to Member Districts, students, parents/guardians, the ~~BESE Board of Elementary and Secondary Education~~, and the public, all information required by law and regulation.
- T. The Board will have the authority to enter into agreements with Member Districts and non-member ~~and adjunct member~~ districts.
- U. No Employee of the LABBB Collaborative may serve on the Board.

## **ARTICLE SECTION VII**

### **FINANCE**

- A. Financial Terms:
  1. Surcharges may be charged to non-member districts and ~~adjunct member districts~~ for services rendered by the Collaborative to offset the total administrative costs, including overhead and unfunded liabilities. The Board shall establish the surcharge, not to exceed 25%, and may waive or decrease the percentage of the surcharge charged to non-member districts ~~or adjunct member districts~~ when doing so is determined to be in the best interest of the Collaborative.
  2. 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.
  3. The Board may enter into contracts to obtain the funds necessary to carry out the purposes for which the Collaborative was established.
  4. The Collaborative is subject to M.G.L. c. 30B for the procurement of goods and services. **A Procurement Officer will be designated to coordinate procurement activities on behalf of the Collaborative and its Member Districts.**
- B. The Collaborative Fund:
  1. The Board shall establish and manage a fund to be known as the *LABBB Educational Collaborative Fund* (herein, "the LABBB fund").
  2. The LABBB fund shall be the depository of all monies paid by the Member Districts, non-member districts, ~~adjunct member districts~~ and all grants, gifts, or contracts from the federal government, state government, charitable foundations, private corporations, or any other source; all such monies shall be paid directly to the Board and deposited in the LABBB 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. **Specifically, the Board must approve by appropriate vote all budget amendments and line-item transfers.**
5. The treasurer may make appropriate investments of funds of the Collaborative not immediately necessary for operations, consistent with M.G.L. c. 44, § SSB.
6. **The collaborative's fiscal year shall commence on July 1 and end on June 30 of the following year.**

C. Borrowing, Loans, and Mortgages:

1. The Board may authorize the borrowing of funds or enter into short- or long term agreements or mortgages, and acquire or improve real property to support Collaborative operations, subject to the following procedures:
  - a. all borrowing, loans, and mortgages shall be discussed at a public meeting of the Board;
  - b. the Board shall investigate options related to borrowing, loans, and mortgages in order to determine that the terms related to any borrowing, loans and mortgages are the most favorable available at the time of the application;
  - c. the Board shall determine, at a public meeting, through a majority vote, that the terms related to borrowing, loans, and mortgages are cost effective and are the most favorable available at the time of the application; and; **(d) consistent with this Collaborative Agreement; and (e) consistent with standard lending practices;**
  - 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.

D. Surplus Funds: Unexpended general funds as defined in 603 CMR 50.00 at the end of the fiscal year, plus any previous year's surplus funds, as determined through the financial statements, will be considered cumulative surplus.

1. The determination of cumulative surplus shall not include funds deposited in a capital reserve as provided for in 603 CMR 50.07(10), funds deposited in trust in accordance with M.G.L. c. 328, § 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 **(25%)** in cumulative surplus in accordance with 603 CMR 50.03(S)(b)10.
3. The Board shall determine whether such surplus funds are within the established 25 percent **(25%)** limit, and whether the funds will be retained by the Collaborative or whether all or some portion will be refunded to the Member Districts or credited to support programs and services offered to Member Districts.
4. 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. **Cumulative surplus funds in excess of the agreement limit or 25 percent of the audited year's general fund expenditures, must be returned or credited to member**

districts consistent 603 CMR 50.07(9) and with the process outlined in the collaborative agreement and in the following ways:

- (a) Credited to member districts for tuition and services;
  - (b) Deposited in an irrevocable trust and/or reserve fund (capital reserve and/or irrevocable trust for retiree benefits);
  - (c) Returned to school districts/towns.
5. In the event an amount is to be refunded or credited to the Member Districts, each Member District's share will be apportioned in accordance with a percentage of its student membership, space allocation, and membership in the Collaborative for the previous fiscal year. The collaborative formula for distributing a specific amount of surplus funds for the Member Districts is based on three factors. (a) 25% of students enrolled in the collaborative. (b) 25% of total space allocated to the collaborative in the district (c) 50% is for membership in the collaborative. Credits to member districts for tuition and services must be used by the end of the fiscal year in which the vote is taken.
6. With respect to deposits in irrevocable trust and/or reserve funds, these deposits must be allocated by board vote to an approved capital reserve fund and/or to an irrevocable trust for retiree benefits. Once allocated, such funds are no longer available to the collaborative for any other purpose. Deposits must be made within 30 days after the vote of the collaborative board.
7. With respect to returning surplus funds to member districts, the collaborative board must follow the process as outlined in the collaborative agreement. The return of funds must be made within 30 days after the vote of the collaborative board.

E. 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, § 4E, regulations promulgated by the Department and this agreement.
- a. By April 30 of each year, the Board shall propose a budget for the upcoming fiscal year. The budget shall identify 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. Expenditures from grant funds, trust funds and other funds not designated as general funds that by law may be expended by the Board without further appropriation shall be segregated in the budget.
  - d. The general fund budget shall segregate all operating expenditures, capital expenditures, debt service payments and deposits to capital reserve.
  - e. The proposed budget shall be classified into such line items as the Board shall determine, but shall, at a minimum, delineate amounts for operating expenditures, including, administration, instructional and rental expenses and capital expenditures, including debt service payments and deposits to capital reserve.
  - f. Revenues of the Collaborative shall be derived from the following sources:
    - i. Program Tuition: The costs of the Collaborative's programs, as determined by the Executive Director and approved by the Board shall be assessed to Member Districts and non-member districts, and ~~adjunct member districts~~ based on the combined cost of providing such programs to the Collaborative's students and the number of students enrolled or projected to be enrolled in the Collaborative's programs from the respective Member Districts and non-member ~~and adjunct member districts~~. A surcharge may be assessed to a non-member district or ~~adjunct member district~~ for all students enrolled from such non-member or ~~adjunct member district~~

- ~~member~~ district at the recommendation of the Executive Director, and by an annual vote of the Board in accordance with Section VII. A.1.
- ii. Fees for Services: The Collaborative may charge a fee as determined by the Executive Director and approved by the Board for student transportation based on the combined cost of providing such transportation services and the number of students who use or who are projected to use the Collaborative transportation services from the respective Member and non-member ~~or adjunct member~~ districts. A surcharge may be assessed to a non-member ~~or adjunct member~~ district for transportation services provided to students from such districts at the recommendation of the Executive Director, and by an annual vote of the Board in accordance with Section VII. A.1.
  - iii. Assessments: The Collaborative may charge an assessment as determined by the Executive Director and approved by the Board for student evaluations and other contracted services, based on the cost of the evaluation or service. A surcharge may be assessed to a non-member ~~or adjunct member~~ district for such evaluations and services provided to students from such districts at the recommendation of the Executive Director, and by an annual vote of the Board in accordance with Section VII. A.1.
  - iv. Donations, Grants, and Contributions: The Executive Director may, with the approval of the Board, from time to time accept donations, grants, or contributions from governmental and private sources, whether in cash or in kind, which will further the purpose of the Collaborative.
- g. The proposed budget shall be discussed at a public meeting of the Board and notice shall be provided to each Member District ten (10) working days before the date of the Board meeting at which the proposed budget will be discussed.
  - h. The Board shall adopt the final budget by affirmative majority vote **of the entire Board** 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.
  - i. ~~Capital costs will be included in operating budgets of each program or service requiring capital expenditures, and will be included in the calculations used to determine tuition, fees, assessments for the programs and services which they benefit.~~ The board may establish a capital reserve fund, consistent with 603 CMR 50.07 (10), to support capital expenditures, pursuant to a capital plan. Capital reserve funds will be used with approval of board to support capital expenditures in accordance with the capital plan established consistent with 603 CMR 50.07 (10).
- F. Transmitting the Budget and Payment Terms:
1. The treasurer shall certify and transmit the budget and the tuition rates, fees and assessments for services for the upcoming fiscal year to each Member District ~~and adjunct member district~~ not later than June 30 of the preceding fiscal year.
  2. The collaborative shall submit invoices to Member Districts and non-member ~~and adjunct member~~ districts three times per year in August, September and February or monthly as determined through an agreement with Member Districts, or non-member ~~or adjunct member~~ districts.
  3. Tuition payments, assessments, and fees for services shall be paid within thirty (30) days of service delivery, although it is understood that M.G.L. c. 40, § 4E allows a school committee to authorize the prepayment of monies for a program or a service provided by an educational collaborative.

4. Member districts must expend all tuition credits within the fiscal year from which they were credited. ~~If not spent in that year, the funds/credits revert to the collaborative general fund.~~
- G. Procedure for Amending the Budget:
1. All budget amendments shall be proposed at a public meeting of the Board and must be approved by a majority vote of the **entire** Board to take effect.
  2. Any amendment that does not result in an increase in tuition rates, or fees for services shall be approved by the **entire** Board by a majority vote.
  3. Any amendment to the budget that results in an increase in the tuition rates 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 **entire** 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, and fees for services to each Member District not later than ten (10) working days following the affirmative vote of the Board.
    - d. The Board has the authority to reduce tuition rates, assessments, and fees for services to Member Districts, non-member districts, ~~adjunct member districts~~ when doing so is determined to be in the best interest of the Collaborative.
- H. No part of the net earnings of the Collaborative shall inure to benefit of any member of the Board of Directors, trustee, director, officer of the Collaborative, or any private individual except that reasonable compensation may be paid for services rendered to or for the Collaborative by a private individual who is not a member, director, or officer of the Collaborative, and no Member of the Board of Director, trustee, or officer of the Collaborative shall be entitled to share on the distribution of any assets upon dissolution of the Collaborative.
- I. Capital Reserve Fund. The Collaborative may create a capital reserve fund to support costs associated with the acquisition, maintenance, and improvement of fixed assets, including real property, pursuant to a capital plan. Funds in a capital reserve account may be used only for the project or purpose for which the account is established. The establishment or revision of a capital reserve shall be subject to the approval of two-thirds (2/3) of the member school committees. Any request for approval of a capital reserve fund must state the reason for the reserve and a limit on the balance that may be held in the reserve. Deposits into the capital reserve shall be proposed and approved through the budget process. In the event that the purpose for which the capital reserve was created requires modification, the Board shall revise its capital plan and provide notice to all member districts. If any member district does not vote to disapprove the revised capital plan within a forty-five (45) calendar day period, that member district shall be deemed to have approved the revised capital plan. Member Districts must approve any increase to the limit on the collaborative capital reserve fund.
- J. The Collaborative's Adult Service Program Budget(s) shall be developed in accordance with state contract requirements and approved by the Board by June 30<sup>th</sup> of each year for the following fiscal year. The Collaborative shall submit the amounts expended on services for individuals with disabilities (age 22 and older) in the Annual Audit. ~~a-Uniform Financial~~



~~Report annually in accordance with guidelines established by the Operational Services Division.~~

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

The Collaborative agreement may be amended from time to time in accordance with the following procedures ~~and Department guidelines~~:

- A. Any Member District ~~School Committee~~, appointed ~~representative Board member~~ representative or the Executive Director may propose an amendment to the Collaborative agreement.
- B. The proposed amendment shall be presented in writing to the Executive Director of the Collaborative and the chair of the Board no less than twenty (20) working days prior to a meeting of the Board at which it shall first be discussed. No less than ten (10) working days prior to the Board meeting at which the amendment is first discussed, the Executive Director shall cause copies thereof to be sent to all 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 ~~as part of a second reading~~, the Executive Director shall cause copies thereof to be sent to all appointed ~~Board~~ representatives and the chairs of the Member District ~~School Committees~~, 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 subsequent to the Department review, at which time, in order to be approved, there must be a majority vote of the ~~entire~~ Board in favor of the amendment. Following approval by the Board, the amended agreement shall be submitted by the chair of the Board to the chairs of Member District ~~School Committees~~, 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 for approval by ~~BESE the Board of Elementary and Secondary Education~~.
- H. No amendment to the Collaborative agreement shall be effective until approved and authorized by a majority of the Member Districts ~~School Committees~~ and by ~~BESE the Board of Elementary and Secondary Education~~.

- I. Member District ~~School Committees~~ shall not delegate the authority to approve the Collaborative agreement or amendments to the Collaborative agreement to any other person or entity.

**ARTICLE SECTION IX:  
PROCEDURE AND TIMELINES FOR ADMITTING NEW MEMBER DISTRICTS**

A school district, through a vote of its School Committee, or charter school board, may become a member of the educational Collaborative consistent with the following terms ~~and Department guidelines~~:

- 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 or charter board minutes that indicates an affirmative vote of the committee or charter 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 shall be amended to add the new Member District. The collaborative agreement shall be amended consistent with Section VIII of this agreement. The authorizing votes may provide for the deferral of the admission of a new Member District until July 1 of the subsequent fiscal year.
- D. The admission of a new Member District to the educational Collaborative shall become effective only after the execution and delivery by the current Member Districts ~~School Committees~~ and the applicant school committee or charter school board of an amendment to the Collaborative agreement agreeing to be bound by all the terms and conditions thereof, and approval by ~~BESE the Board Department of Elementary and Secondary Education~~.
- E. A school committee or charter school board may be admitted to the Collaborative as of July 1st of any fiscal year provided that all required approvals, including that of ~~BESE the Board Department of Elementary and Secondary Education~~, are obtained by the preceding April 30<sup>th</sup> of the fiscal year prior to the fiscal year in which the new Member District is to be admitted to the Collaborative.

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

- A. A Member District may withdraw from LABBB as of July 1st in any year provided that such Member District ~~School Committee~~ 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 no later than December 31 ~~of the prior year, provided that all requisite approvals for such admission or withdrawal, including BESE's the Board's approval, shall be obtained no later than the preceding April 30th.~~ The withdrawal can take effect a year and half from January 1<sup>st</sup> 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 ~~School Committee~~ has voted to withdraw from the Collaborative with the effective date of withdrawal;
  2. A copy of the minutes from the school committee meeting or charter school board 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, the Executive Director shall cause an amendment to be prepared to reflect changes in the agreement caused as a result of the change in membership of the Collaborative.
- D. The amendment will not be effective until ~~approved~~ ~~accepted~~ approved by a majority vote of the ~~entire Collaborative Board Member Districts~~ and, ~~if accepted,~~ approved by the ~~Commissioner on behalf of the Board of Elementary and Secondary Education Department of Elementary and Secondary Education (DESE)~~ in accordance with MGL c. 40 s. 4E and 603 CMR 50.00 et. seq.
- E. 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 ~~the~~ prior years and any capital reserve fund that may have been established by the Board.
- F. The withdrawing school committee or charter school board must fulfill all of its financial obligations and commitments to the Collaborative ~~prior to the official date of withdrawal from the Collaborative.~~
- G. The withdrawing member will continue to be liable to the Collaborative ~~and its debtors~~ for its pro rata share of any debts, claims, demands, or judgments against the Collaborative incurred during said member's membership.
- H. The pro rata share is determined by dividing the total student enrollment of the withdrawing member by the sum of the total student enrollment of all members; the enrollment figures will be based on the numbers of students at the end of the fiscal year of withdrawal.
- I. 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.
- J. ~~Following the final audit of that fiscal year's financial records, the withdrawing district will be reimbursed any funds that remain on balance at the collaborative as a result of prepayments to the collaborative by the member district for tuition or services under M.G.L. c. 40, § 4E.~~
- K. 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 specifically changed or amended by the Board and approved by the Member Districts ~~School Committees and the Commissioner on behalf of the Board of Elementary and Secondary Education. DESE the Board Department of Elementary and Secondary Education.~~

- L. 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 **and the Department of Elementary and Secondary Education** within ten (10) working days of such vote.
- C. The Collaborative agreement shall only be terminated at the end of a fiscal year **in which such a vote is taken**. However, in the case of revocation, the Collaborative shall immediately begin planning for termination by providing notice to member districts and non-member districts.
- D. The Collaborative agreement **may** ~~shall~~ be terminated at the end of any fiscal year following votes in favor of termination by two-thirds (2/3) of the Member Districts. ~~School Committees~~. **These votes must take place by December 31 of the fiscal year in order for the Collaborative to be terminated on July 1.**
- 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 **and adjunct member districts** who are served by the Collaborative and the Department (~~DESE~~) 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, equipment and supplies;
  3. identify the Member District responsible for maintaining all employee, program and fiscal records;
  4. identify the Member District(s) and/or non-member district(s) **and adjunct member district(s)** responsible for maintaining student records;
  5. **ensure the confidential return of records related to individual students to the sending Member or non-member Districts;**

6. determine the means of meeting all liabilities (debts and obligations) of the Collaborative, including obligations for **current and future OPEB liability**. All liabilities must be met before any monies are distributed to Member Districts;
7. distribute surplus funds and capital reserve funds consistent with the methodology in Section VII.D.5 and to the Member Districts; and
8. 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, consistent with the methodology in Section VII.D.5.

- 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 and initiate termination procedures; the collaborative must close in accordance with the procedures set forth in M.G.L. c. 40, § 4E, 603 CMR 50.00, the most recently approved collaborative agreement, and Massachusetts Department of Elementary and Secondary Education (DESE) guidelines to ensure that all votes, timelines, and notifications are met as required and the collaborative agreement. The collaborative board of directors is responsible for ensuring the completion of the items listed prior to the date of termination and in cooperation with the Department. ~~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 to revoke and/or suspend the Collaborative agreement.

## **ARTICLE 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 Office 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 of the Collaborative or its Member Districts.

Neither the Executive Director nor any appointed representative or Member 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 of performance thereof and each appointed representative, member 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 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/hers legal representatives and each appointed representative and his legal representatives and each member 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 or his/its capacity as appointed representative, Executive Director or member, 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 may be entitled as a matter of law or which may be lawfully granted to him/her.

### **ARTICLE SECTION XIII: NON-DISCRIMINATION**

The Collaborative does not discriminate on the basis of race, sex, color, religion, sexual orientation, gender identity, age, disability and national or ethnic origin in the administration of its educational policies, administrative policies, scholarship or loan programs, athletic and other school administered programs or in employment; **the Collaborative does not tolerate any form of discrimination, intimidation, threat, coercion, and./or harassment that insults the dignity of others by interfering with their freedom to learn and work.** The Board's policy of nondiscrimination will extend to students, staff, the general public, and individuals with whom it does business.

### **ARTICLE SECTION XIV: ~~ADJUNCT MEMBERSHIP STATUS~~**

~~The LABBB Educational Collaborative may, by a majority vote of the Board, admit a school district as an adjunct member district of the Collaborative. The status may be terminated at any other time upon a two thirds vote of the entire Board.~~

~~Adjunct Membership is defined as having no representation on the Board and the adjunct member district shall not be included in any agreement language or financial procedures regarding withdrawal or termination of the Collaborative. The adjunct member district shall have fewer rights than Member Districts, but more rights than non-members in the placement of students into Collaborative programs. The adjunct member district may have representation on the Operating Committee and other Committees operating within the Collaborative that are represented by a designee from Member Districts, but the adjunct member district shall have no voting rights.~~