

THE EDUCATION COOPERATIVE COLLABORATIVE AGREEMENT

Vote to be Amended March 13, 2020

Approved by Commissioner Riley July 20, 2020

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The School Committees of Canton, Dedham, Dover, Dover/Sherborn, Framingham, Holliston, Hopkinton, Medfield, Medway, Millis, Natick, Needham, Norwood, Sherborn, Walpole, Wayland and Westwood, Massachusetts, (hereinafter referred to as “Member Districts”), acting for and on behalf of said Towns and Regions respectively, enter into this Collaborative Agreement (hereinafter referred to as “Agreement”) for the purposes authorized by M.G.L. c. 40, § 4E, which includes the formulation and provision of educational programs and services on a collaborative basis among the Member Districts. This Agreement replaces the original agreement, dated 1979-80, and most recently amended September 14, 2015, and will be effective upon July 1, 2020, after the approval of the Member Districts and the Board of Elementary and Secondary Education (hereinafter referred to as “BESE”).

ARTICLE I – MISSION, OBJECTIVES, FOCUS AND PURPOSES

A. Mission Statement

The Education Cooperative (hereinafter referred to as “TEC”) actively develops and coordinates educational and organizational programs to meet the needs of member communities and their students.

B. Objectives

The overall objectives of TEC include:

1. To enhance and expand learning opportunities to meet the diverse needs of all students;
2. To enhance and expand professional development that meets and anticipates Member Districts’ needs;
3. To strengthen our relationships and partnerships with member and non-member communities, and
4. To improve our ability to provide proactive support to TEC programs.

C. Focus/Purposes

Notwithstanding any other provision of these articles, TEC 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 said code. No substantial part of the activities of TEC shall be carrying on of propaganda, or otherwise attempting to influence legislation, or participating in, or intervening in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

TEC does not discriminate on the basis of race, color, sex, gender identity, religion, national origin, disability, or sexual orientation and ensures that all students have equal rights of access and equal enjoyment of the opportunities, advantages, privileges and courses of study. TEC is an Equal Opportunity Employer.

This Agreement will permit TEC to focus on the continuation of programs and services supplied under previous Agreements among the Member Districts. Said programs and services supplement and strengthen the education

programs and services offered by each Member District. The cost-savings aspects of said programs and services include the effective apportionment of expenses and budgetary items among all participants. These expenses would be significantly greater for each Member District if it were required to establish and fund each program and service individually.

This Agreement replaces the original agreement, dated 1979-80, amended on June 3, 2011, and most recently amended September 11, 2015 and will be effective upon the approval of the Member Districts and the Board of Elementary and Secondary Education (hereinafter referred to as "BESE").

ARTICLE II – GOVERNANCE

A. Name

The entity hereby established shall be known and referred to as The Education Cooperative, a Massachusetts Educational Collaborative established under the authority of M.G.L. c.40, §4E, as amended.

B. Formation and Duties of TEC Board

All programs conducted pursuant to this Agreement shall be approved, undertaken and administered by an Education Collaborative Board, which shall be known as the Board of Directors of The Education Cooperative (hereinafter referred to as “the Board”). The Board’s membership shall consist of one school committee representative or Superintendent from each Member District (hereinafter referred to as “appointed representative(s)”). Each appointed representative will have one (1) vote. In addition, the Commissioner of Elementary and Secondary Education (hereinafter referred to as “Commissioner”), shall appoint an individual to serve as a liaison from the department of elementary and secondary education to the education collaborative board of directors. Appointed representatives shall not delegate their powers or send a representative in their place as a voting member.

The Board shall manage TEC and shall be responsible for providing fiduciary and organizational oversight and accountability over the operation of TEC. 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:

1. It is the function and responsibility of the Board to formulate and maintain policies for TEC, including but not limited to policies relative to personnel, students, finance and internal controls, and health and nursing, 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.
2. The Education Cooperative shall be a public entity.
3. The Board shall be responsible for:
 - a. ensuring adherence to this Agreement and progress toward achieving the purposes and objectives set forth in the Agreement;
 - b. determining the cost-effectiveness of programs and services offered by TEC;
 - c. determining the appropriateness and cost-effectiveness of any borrowing, loans, or mortgages, in accordance with Article VIII; and
 - d. approving all borrowing and the purchase and sale of real estate in accordance with Article VIII.
4. The Board has standing to sue and be sued to the same extent as a city, town, or regional school district.

5. The Board is a public employer, shall hire all employees of TEC, and ensure that all employees possess the necessary and required credentials and approvals, including, but not limited to, those required by M.G.L. c. 71, §38G, 603 CMR 7.00, M.G.L. c. 74, 603 CMR 4.00, and all acts and regulations amendatory thereof.
6. The Board shall hire an Executive Director to oversee and manage the operation of TEC; a Business Manager, or an employee with responsibilities similar to those of a town accountant, to oversee TEC finances; at least one school nurse to support TEC programs; and a Treasurer, who shall annually give bond consistent with the requirements of M.G.L. c. 40, § 4E. The Board shall ensure that there is segregation of duties between the Executive Director, Treasurer, and Business Manager, and that these employees shall not serve as a member of the Collaborative 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. The Board shall review the Executive Director's and Treasurer's performance annually.
7. 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.
8. The Board shall be responsible for ensuring that any borrowing, loans, or mortgages is cost-effective, necessary to carry out the purposes for which the Collaborative is established, in the best interest of the Collaborative and its Member Districts, and consistent with the terms of this Agreement, including the provisions of Article VIII.
9. Each appointed representative must attend training required by the Department of Elementary and Secondary Education (hereinafter referred to as "DESE"), as outlined in M.G.L. c. 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.
10. Each appointed representative shall be responsible for providing timely information and updates to its appointing Member District(s) on TEC 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.
11. Appointed representatives shall be public employees subject to M.G.L. c. 268A. No appointed representative on the Board shall serve on the board of directors or as an officer or employee of a related for-profit or non-profit organization, as defined in M.G.L. c. 40, § 4E, as most recently amended. The Executive Director, Treasurer, and Business Manager shall not serve as an appointed representative, or as an officer, or employee of any related for-profit or non-profit organization. No employee of an educational collaborative shall be employed at any related for-profit or non-profit organization.

12. The Board shall establish and maintain an internet website in accordance with M.G.L. c. 40, § 4E, which shall include, at a minimum:

- a. a list of the appointed representatives on the Board;
- b. copies of the minutes of open meetings held by the Board;
- c. a copy of the Agreement and any amendments;
- d. a copy of the Annual Report and independent audit required by 603 CMR 50.08; and
- e. contact information for key TEC staff members.

C. Authority to Contract

With the approval of the Board, the Executive Director may contract for the purchase of supplies and materials and for the services of such persons as it deems necessary in order to carry on its functions. The Executive Director, acting on behalf of and with approval of the Board, may contract with corporations, individuals, associations, agencies, and/or any other entities in order to obtain and provide services for a Member District(s).

The Board may apply, through an appropriate vote, for state, federal, corporate or foundation grants, and may enter into contracts to obtain the funds necessary to carry out the purpose for which TEC was established.

D. Meetings and Notice

The Board shall hold at least six (6) meetings per fiscal year. A “fiscal year” is defined as the period commencing July 1 and ending the following June 30. Notice of each Board meeting and agenda shall be provided in accordance with the Massachusetts Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and posted on the TEC website. All meetings shall be subject to such Open Meeting Law. Duplicate notice of such meetings shall be sent to the appointed representatives of each Member District at least three (3) days, with the exclusion of Saturday, Sunday and holidays, before such meeting, unless such meeting shall have been scheduled by the Board at a previous meeting and notice of such scheduling shall have been given to all appointed representatives absent. 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. Minutes

Minutes of each Board meeting will be taken in accordance with the Massachusetts Open Meeting Law, M.G.L. c. 30A, §§ 18-25. Minutes will be approved by the full Board at an open meeting and then posted on the TEC website.

F. Quorum

A majority of the appointed representatives serving on the Board shall constitute a quorum for all purposes.

G. Minimum Vote for Action

The affirmative vote of the majority of the appointed representatives present at any meeting of the Board shall be required to decide any question, including the adjournment of a meeting.

H. Board Officers

The Board shall annually organize itself by electing a Chairperson, and Vice-Chairperson by a majority vote of the appointed representatives present at the first Board meeting of the year. The Chairperson, by vote of the Board, may appoint subcommittees as needed to make recommendations to the Board concerning policies. These subcommittees shall be subject to Massachusetts Open Meeting Law, M.G.L. c. 30A, §§ 18-25.

I. Compliance with Policies of the DESE

It is the intention of this Agreement to fully comply with the policies and procedures of the Massachusetts DESE, in accordance with 603 CMR 50.00.

J. Compliance with M.G.L. c. 40, § 4E

It is the intention of this Agreement to fully comply with M.G.L. c. 40, § 4E.

ARTICLE III – BUDGETS

A. Annual Budget Preparation and Assessment of Costs

1. 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 BESE, and this Agreement.
2. By March 31 of each year, the Board shall propose a budget for the upcoming fiscal year. The budget shall identify all of the programs or services to be offered by TEC in the upcoming fiscal year and the corresponding costs.
3. The budget shall contain all planned financial activity for the upcoming fiscal year and support TEC's mission statement, and long and short range goals.
4. 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.
5. The general fund budget shall segregate all operating expenditures, capital expenditures, debt service payments, and deposits to capital reserve.
6. The 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.
7. The budget shall include the methodology used to determine tuition prices for students from Member and Non-Member Districts as well as the methodology to determine fees for services and membership dues. Non-Member District tuitions will be set at no more than 30% above the Member District tuitions as determined by the Board annually during the budget process. This surcharge will be used, in addition to the Member District assessment, to offset the total administrative cost of TEC. All tuitions and fees will be based on the total cost of providing TEC's programs, including administration, divided by the number of students or users expected to enroll in each program or service.
8. As applicable, capital costs shall be included in the budget and built into the total costs of the programs. Capital costs will be built into the tuition(s) and/or fee(s) of the program(s) and/or service(s) that will benefit from the capital expenditure.
9. Membership dues, if assessed, shall be assessed to each Member District on July 1st of each year. The amount will be assessed based on a set amount shared equally amongst all member districts as determined by the Board. This set amount will be reduced based on the pro rata population of the total number of TEC Member District special education students in TEC programs on December 1st of the previous year and as determined annually by a majority vote of the Board. The membership dues, in addition to the Non-Member District surcharge, will offset the total administrative cost of TEC.

B. Presentation to Board

The proposed budget shall be presented at a public meeting and notice shall be provided to each Member District ten (10) working days before the date of the Board meeting at which the proposed meeting will be discussed.

C. Board Approval

At a Board meeting at least ten (10) working days following the Board meeting at which the budget was first proposed, the Board shall approve, by at least majority vote, the budget for the upcoming fiscal year. Notice of the Board meeting will be given to each Member District and the public, consistent with the Open Meeting Law, and no less than ten (10) working days before the date of the Board meeting.

D. Transmitting the Budget and Payment Terms

1. The Treasurer shall certify and transmit the budget and the tuition rates, membership dues, payment terms, and fees for services for the upcoming fiscal year to each Member District no later than June 30th of the preceding fiscal year.
2. The Collaborative shall submit invoices to all districts for services and tuitions on a quarterly basis. Invoices will be mailed thirty (30) days prior to payment being due.
3. Membership dues will be invoiced annually on July 1st.
4. Fees for services, dues and tuitions shall be paid within thirty (30) days from invoicing.

E. Budget Amendments

All budget amendments shall be proposed at a public meeting of the Board. 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. Any amendment to the budget that results in an increase in the tuition rates, membership dues, or fees-for-services shall be:

1. Reported to the Member Districts by the appointed representative for the Member District within ten (10) working days of the public meeting at which the amendment was first proposed;
2. 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; and
3. Adopted by a majority vote of the Board.

F. Transmittal of Budget Amendment

The Treasurer shall certify and transmit amended tuition rates, membership dues and fees for services to each Member District no later than ten (10) working days following the majority affirmative vote by the Board.

G. Procurement of Goods and Services

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

ARTICLE IV – PROGRAMS AND SERVICES

A. Educational Programs

TEC shall provide educational programs and services which shall complement and strengthen the school programs of Member Districts and increase educational opportunities for children when it is determined that such programs and services can most effectively and/or economically be provided on a collaborative basis. In addition, TEC will continue to increase and expand its level of service in general education, occupational-vocational education, staff development and training, educator licensure programs, cooperative purchasing, online teaching and learning, and research and development of innovative programs, consistent with M.G.L. c. 40, § 4E. TEC shall provide educational programs for special education students and may offer other programs and services as the Board may deem appropriate, consistent with M.G.L. c. 40, § 4E.

B. Coordinating Services

TEC shall provide such other coordinating services as permitted by applicable law and regulations, and as the Board may establish to be in the best interest of the Member Districts.

C. Services to Non-Member Districts

TEC shall offer educational or training programs or related services to selected non-Member Districts on an individual contract basis; provided, however, such educational or training programs or related services shall not result in an additional cost to any Member District.

D. New Programs

The Board may authorize the Executive Director the power to add new programs to meet specific needs of Member Districts that arise during the fiscal year, consistent with the requirements of M.G.L. c. 40, § 4E and 603 CMR 50.00.

ARTICLE V – CONDITIONS OF MEMBERSHIP

A. Attendance at Board Meetings

Each appointed representative is expected to attend every Board meeting. In the event that an appointed representative is not able to attend, he/she shall notify the Executive Director or his/her designee of the absence. If the appointed representative misses one-half of the meetings within a fiscal year, the Board will notify the respective Member District. The school committee of the Member District will determine if a new appointed representative should be appointed to ensure representation on the Board.

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.

No appointed representative shall receive an additional salary or stipend for his/her service as an appointed representative.

No appointed representative shall delegate his/her powers, or send a representative in his/her place as a voting appointed representative, 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.

B. Removal

In the event that membership dues have not been paid and/or a Member District has in some way failed to meet the terms of this Agreement, written notice of possible suspension of voting rights shall be sent to the Member District by the Executive Director, on behalf of the Board. The Member District will have 45 calendar days from the date of the notice to respond in writing to the notice and resolve the issue(s) noted. In the event the issue(s) remains unresolved beyond the 45-day notice, the Board may suspend the voting rights of the Member District by a majority vote.

ARTICLE VI – DURATION, TERMINATION, WITHDRAWAL AND NEW PARTICIPATION

A. Effective Date of this Agreement

This Agreement shall become effective upon the approval of the Member Districts' School Committees, Member charter school boards and the Massachusetts BESE. This Agreement shall be effective following all requisite approvals and shall continue thereafter until such time as it is amended. No agreement or subsequent amendment shall take effect unless and until approved by the Member Districts and by the BESE, upon the recommendation of the Commissioner.

B. Method of Termination of TEC

1. A Member District may request that the Board initiate proceedings to terminate this Agreement by giving notice to all other Member Districts and the Executive Director at least twelve (12) months before the end of the intended final year.
2. Within thirty (30) days of a request that the Board initiate termination proceedings, the Board shall discuss the request to terminate TEC and determine next steps.
3. A unanimous vote of the 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.
4. The Agreement shall be terminated at the end of any fiscal year following a unanimous vote in favor of termination by the school committees and/or charter school boards of the Member Districts.
5. The Agreement shall only be terminated at the end of a fiscal year.
6. Any vote to terminate TEC must be taken no less than one hundred eighty (180) days prior to its intended effective date.
7. The Executive Director shall notify the Member Districts, the Commissioner and DESE in writing at least two hundred twenty (220) days before the intended effective date of termination.
8. Following the affirmative votes of the Member Districts to terminate the Agreement, a final independent audit will take place and will be provided to all appointed representatives and Member Districts as well as to the Commissioner, including an accounting of assets and liabilities (debts and obligations) of TEC and the proposed disposition of same.
9. Following the affirmative vote of the Member Districts to terminate the Agreement, the Board shall notify the Commissioner of the official termination date of TEC, and shall submit the documentation required by 603 CMR 50.11 to the Commissioner.
10. Prior to termination, the Board shall:

- a. determine the fair market value of all assets for TEC, including, but not limited to, real estate, capital property, equipment and supplies owned by TEC;
 - b. determine the process for the appropriate disposition of federal/state funds;
 - c. identify the Member District responsible for maintaining all fiscal records;
 - d. identify the Member District responsible for maintaining employee and program records;
 - e. ensure records relating to individual students are returned to the sending school districts;
 - f. determine the means of meeting all liabilities (debts and obligations) of TEC, including obligations for post-employment benefits. All liabilities must be met by TEC before any monies are distributed to Member Districts; and
 - g. ensure the appropriate disposition of all assets of TEC, including any unencumbered funds held by the Collaborative, and any capital property and real estate owned by TEC. 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 based on the students enrolled in each district during the most recently completed fiscal year.
11. Should the DESE revoke and/or suspend the approval of the Agreement, the Board will follow all instructions from the Commissioner, and Sections VI.B.8-11, inclusive, shall be implemented to the extent these procedures are consistent with the order of the DESE terminating the Agreement.

C. Withdrawal From this Agreement

Any Member District may withdraw from the Agreement as of July 1 by giving written notice by December 31 of the current fiscal year. Said withdrawal notice shall be sent to the following: (1) the Chair of the School Committee of each participating Member District; (2) the School Superintendent of each Member District; (3) the Executive Director; and (4) the Board. Said withdrawal notice must also 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 TEC 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 TEC.

Within thirty (30) days of notification of a Member District's intent to withdraw from TEC, the Executive Director must provide written notification of such intent to the Commissioner. An amendment shall be prepared in accordance with Article VIII to reflect changes in the Agreement caused as a result of the change in membership of TEC. The Board must approve this amendment reflecting said withdrawal by a majority vote.

In order to be effective on July 1 of a fiscal year, the amendment must be approved to reflect the withdrawal of any Member District by the Member Districts and by the BESE by April 30 of the prior fiscal year. Upon withdrawal, a former Member District shall not be entitled to any assets or a portion of any assets of TEC, 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.

The withdrawing school committee or charter school board must fulfill all of its financial obligations and commitments to TEC. A school committee or charter school board that has withdrawn from TEC will continue to be liable to TEC for its pro-rata share of any debts, claims, demands, or judgments against TEC, including obligations for post-employment benefits, incurred during the period of said school committee's or charter school board's membership, based on the number of students enrolled in the district during the last full fiscal year of membership.

Upon withdrawal, the withdrawing district will be reimbursed any funds prepaid to TEC by the Member District for tuition or services under M.G.L. c. 40, § 4E. The withdrawing district will not be reimbursed any surplus funds, if available.

The withdrawal of any Member District(s) at any time shall not affect the status of the 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 and the BESE.

If, after the withdrawal of a Member District(s), less than two Member Districts remain, the Board will initiate termination proceedings as provided in this Article.

D. New Member Districts

A school district, through its school committee, or charter school board, may become a member of TEC consistent with the following terms:

1. 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 TEC notification of intent to join TEC 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 TEC.
2. Upon receipt of the prospective Member District's notification of intent to join TEC and the minutes, the Board will consider the request.
3. Upon a majority vote of the Board, the Agreement may be amended to add the new Member District.
4. The Agreement shall be amended consistent with Article XI.
5. The authorizing votes of the Member Districts' school committees may provide for the deferral of the admission of a new Member District until July 1 of the subsequent fiscal year.

6. The admission of a new Member District to TEC shall become effective only after the execution and delivery by the current Member Districts and the applicant school committee or charter school board of an amendment to the Agreement agreeing to be bound by all the terms and conditions thereof, and approval by the BESE.
7. A school committee or charter school board may be admitted to TEC as of July 1st of any fiscal year provided that all required approvals, including that of the BESE, 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 TEC.

ARTICLE VII – THE COLLABORATIVE FUND

A. The TEC Fund

The Board shall establish and manage a fund to be known as The Education Cooperative Educational Collaborative Fund (hereinafter referred to as "the TEC Fund"). The TEC Fund is to be subject to the terms and conditions herein and as said Board shall determine.

B. Financial Accounting for TEC Fund

TEC shall 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 and the Department of Revenue, in consultation with the state auditor. At a minimum, the financial accounting system shall delineate:

1. administration and overhead;
2. rental of real property;
3. program costs;
4. capital expenditures, including fixed assets, real property or the improvement of real property;
5. debt payments;
6. deposits into a capital reserve; and
7. all additional disclosures required in 603 CMR 50.08(2).

The TEC 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 Board and deposited in the TEC fund in compliance with M.G.L. c. 40, § 4E.

C. Financial Statements of TEC Fund

The Board shall ensure that TEC annually, no later than January 1 of each year, prepares financial statements, including:

1. a statement of net assets (government-wide);
2. a statement of activities (government-wide);
3. a governmental funds balance sheet;
4. a governmental funds statement of revenues, expenditures, and changes in fund balance;
5. a general fund statement of revenues, expenditures and changes in fund balance, budget and actual;
6. a statement of fiduciary net assets;
7. a statement of changes in fiduciary fund net assets; and

8. a capital plan identifying current capital obligations or future planned capital projects.

D. Independent Audit

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 the State Auditor.

E. Treasurer

The Board shall appoint a Treasurer upon such terms and conditions, including compensation for his services, as the Board may determine. The Treasurer may, but need not necessarily be, the Treasurer of a Member District. Notwithstanding any provision to the contrary herein, no member of the Board shall be eligible to serve as Treasurer. The Treasurer shall give bond annually for the faithful performance of his duties as Treasurer in a form approved by the Department of Revenue and in such sum, not less than the amount established by said Department of Revenue, as shall be fixed by the Board.

The Treasurer, subject to the direction of the Board, shall receive and disburse all money belonging to TEC without further appropriation.

The Treasurer may make appropriate investments of the money of TEC consistent M.G.L. c. 44, § 55B.

All payments and investments must be approved by a majority vote the Board.

ARTICLE VIII – BORROWING, LOANS AND MORTGAGES

A. Process to Borrow Funds

TEC, by an appropriate vote of the Board, may borrow money or enter into short- or long-term agreements or mortgages, provided that all borrowing, loans and mortgages shall be discussed at a public meeting of the Board and the following terms shall apply:

1. 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;
2. the Board shall determine, at a public meeting, through a majority vote, that the terms related to borrowing, loans and mortgages are cost-effective, in the best interests of TEC and its Member Districts, consistent with the terms of the Agreement, consistent with standard lending practices, and are the most favorable available at the time of the application; and
3. 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 TEC is established.

B. Real Property

In the event that such borrowing loan or mortgage is for the acquisition or improvement of real property:

1. 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 Board at which a final vote is taken;
2. the Board shall provide notice to each Member District within thirty (30) calendar days of applying for real estate mortgages; and
3. the Board shall approve such action by a majority vote.

ARTICLE IX – 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.

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. 32B, § 20, and any amounts prepaid for services or tuitions in accordance with M.G.L., c. 40, § 4E.

The Board will retain no more than 25 percent in cumulative surplus.

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.

The Board shall annually determine whether such surplus funds are within the established 25 percent limit, and whether the funds will be retained by TEC or whether all or some portion will be refunded to the Member Districts.

- a. In the event an amount is to be refunded to the Member Districts, each Member District share will be apportioned in accordance with the student membership enrolled in each district during the most recently completed fiscal year.

ARTICLE X - CAPITAL RESERVE

The Board may create a capital reserve fund to support costs associated with the acquisition or improvement of fixed assets, including real property, with a unit cost of \$5,000 or greater and a useful life of one year or more.

Similar items purchased together or items to be used as one system, which total \$5,000 or greater in aggregate, should also be capitalized.

In order to create a capital reserve fund

- a. a capital plan must be developed and approved by the Board
- b. a 2/3 vote of the Member Districts must approve the establishment of the capital reserve fund;
and
- c. the request for approval must state the reason for the reserve and a limit on the balance that may be held in the reserve. 603 CMR 50.07 (10).

Deposits and expenditures from the capital reserve fund must be included in the budget and may be used only for the project or purpose stated in the capital plan.

ARTICLE XI – AMENDMENT AND SEVERANCE

A. Amendment

Any voting appointed representative, Member District, or the Executive Director may propose an amendment to the Agreement. The proposed amendment shall be presented in writing to the Executive Director of TEC and the Chair of the Board. 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 school committees of the Member Districts, with notice as to the time and place of the first reading of the proposed amendment.

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 DESE for initial review. Following DESE review, the Executive Director shall make such changes as the DESE requires. The Executive Director shall cause copies of the revised amendment to be sent to all appointed representatives and the chairs of the Member Districts with notice as to the time and place of the second reading of the amendment. The proposed amendment shall be read a second time at a Board meeting subsequent to the DESE review and revision, 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. Once a majority of 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 and BESE for approval by the BESE. No amendment to the Agreement shall be effective until approved and authorized by a majority of the Member Districts and by the BESE. Member Districts shall not delegate the authority to approve agreements or amendments to the Agreement to any other person or entity.

B. Severance

If any part or parts of the Agreement or amendments hereto shall be deemed inapplicable or void by any court of competent jurisdiction, such part or parts shall be deemed as severed from this Agreement and any subsequent amendments, and the remaining part or parts of this Agreement and amendments shall survive.

This Agreement will take effect on July 1, 2020 following all required votes of approval as listed on the signature pages of this document and the Commissioner on behalf of the Massachusetts Board of Elementary and Secondary Education, no later than April 30, 2020.

IN WITNESS WHEREOF, the School Committees of the Member Districts, acting for and on behalf of the Member Districts, and the Commissioner, in approval of this Agreement and in acknowledgement of receipt of a copy hereof, have all hereunto set their hands and seals on the respective dates hereinafter indicated.

Approved by the Commissioner on behalf of the Board of Elementary and Secondary Education

Jeffrey C. Riley

July 20, 2020

Commissioner of Elementary and Secondary Education

Date of Approval