

CONCORD AREA SPECIAL EDUCATION COLLABORATIVE

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TO: MEMBERS OF THE SCHOOL COMMITTEE, CASE COLLABORATIVE

FROM: Sanchita Banerjee, Executive Director

DATE: December 2019

RE: Concord Area Special Education (CASE) Agreement

Members of the Board of Directors of Concord Area Special Education (CASE) Collaborative revised certain portions of its agreement. These changes are tracked in the attached document.

In order for these changes to be effective, the agreement needs to be approved by the members of respective school committees of each CASE member district.

CONCORD AREA SPECIAL EDUCATION (CASE COLLABORATIVE)

AGREEMENT

- I. Preamble. The School Committees of the Towns of Bedford, Carlisle, Concord, Harvard, Lincoln, Littleton, Maynard, Sudbury, the Acton-Boxborough Regional School District, the Concord-Carlisle Regional School District, and the Lincoln-Sudbury Regional School District (hereinafter, “member school committees”) enter into this agreement (hereinafter, “the Agreement”) to establish and operate an educational collaborative under the provisions of Section 4E of Chapter 40 of the General Laws and 603 CMR 50.00, as they both are amended from time to time. This Agreement supersedes the previous agreement most recently amended on June 30, 2010, and will be effective upon the approval of the member school committees and the Board of Elementary and Secondary Education (hereinafter, BESE), as indicated on the signatory pages.
- II. Name of Collaborative. The Collaborative is named the Concord Area Special Education Collaborative (hereinafter, the Collaborative or CASE).
- III. Purpose of Collaborative. The mission of the Collaborative is to maximize the full potential of students with disabilities by promoting academically enriching and supportive environments within inclusive school communities. CASE partners with families and districts in delivering high quality, customizable, efficient, and cost-effective educational programs and services tailored to each student. The purpose of CASE is to jointly conduct regional educational programs and services on behalf of the member school committees. The education programs and services provided by CASE complement and strengthen the school programs of the member school committees and increase educational opportunities for children. The focus of these programs and services includes, but is not limited to, pre-school and early childhood programs, elementary and secondary school programs to address the needs of disabled children including, but not limited to, deaf/hard of hearing, blind and deaf/blind children, students on the autism spectrum and students with language-based disabilities, students with developmental disabilities, and programs to address students with emotional/social/behavioral disabilities. CASE also provides consultation services, professional development, and transportation and related services. The overall objectives of the Collaborative are to 1) improve the educational outcomes of students with low-incidence disabilities in the least restrictive environment, and 2) to offer all programs and services in a cost-effective manner.
- IV. Board of Directors. CASE shall be operated by a Board of Directors, which is composed of one school committee representative from each of the member school committees or the Superintendent of Schools of such member school committee (hereinafter, “appointed representative”), appointed annually. The Commissioner of Elementary and Secondary Education shall appoint one

person to serve as a voting member of the Board of Directors. The Board of Directors shall have as its name the Concord Area Special Education Collaborative Board of Directors (hereinafter, the Board).

Each appointed representative to the Board shall be responsible for providing information to their respective school committee in accordance with M.G.L. c 40, §4E and 603 CMR 50.04. No appointed representative shall serve on the board of directors or as an officer or employee of a related for-profit or non-profit organization. The Board shall establish policies to support the operation of CASE, and shall, from time to time, review the policies for their effectiveness and appropriateness. The Board has developed and shall develop/amend policies on personnel, students, finance and internal controls, and health and nursing.

- V. Meetings of the Board. The Board will meet at least six (6) times during the year. Board meetings are subject to M.G.L. c. 30A, §§ 18-25, the Open Meeting Law.
- VI. Voting Procedure of the Board. Each appointed representative to the Board shall be entitled to one vote. At least a majority of the appointed representatives to the Board are required to be present to constitute a quorum for the purpose of voting on items requiring Board action. Every action, decision, or vote of the Board, shall require a majority of the appointed representatives who are present.
- VII. The Powers and Duties of the Board. The Board shall employ an Executive Director who shall serve under the general direction of the Board and who shall be responsible for the oversight of the CASE programs and services and the general management and supervision of CASE personnel on a day-to-day basis. In addition, the Board shall employ a Business Manager who shall have responsibilities similar to those of a town accountant whose duties shall include those duties outlined in M.G.L. c. 41, §52 and other duties as the Board may determine and consistent with 603 CMR 50.00. The Board shall employ teachers, at least one registered nurse and other professional personnel, including a treasurer in accordance with Section XV of this Agreement, and shall enter into contracts for the services of persons who are necessary for the operation of CASE programs and services. The Board shall ensure that all employees possess the necessary and required licenses and approvals as required by M.G.L. c. 40, § 4E. The Board shall ensure that no employee of CASE is employed at any related for-profit or non-profit organization.

As further outlined in Section XII, the Board has the authority to enter into contracts for the purchase and/or leasing of supplies and materials, land, buildings, and equipment as deemed necessary by the Board to carry out the purpose for which the Collaborative is established, and which the Board has found to be cost-effective and in the best interests of CASE and the member school committees, consistent with the terms of this Agreement. The Board has

the authority to borrow money in anticipation of income for up to ninety days for the purpose of meeting ongoing payroll obligations. The Board has the authority to create, amend, and repeal all by-laws, policies, and rules for the management and operation of CASE. The Board has all other powers, responsibilities and duties as may be provided by M.G.L. c. 40, § 4E and 603 CMR 50.00, as amended, and other laws and regulations.

- VIII. Segregation of Duties. There must be segregation of duties between the Executive Director, Treasurer, and Business Manager. No appointed representative on the Board shall be eligible to serve in the position of Executive Director, Treasurer, or Business Manager. No employee of CASE may serve on the Board or shall be eligible to serve concurrently in the positions of Treasurer or Business Manager, or a person with responsibilities similar to those of a town accountant (see 603 CMR 50.06).
- IX. Conditions of Membership. Each member school committee is required to pay a membership fee, established annually through the budget process.
- X. Budget and Apportionment of Costs. The Collaborative budget projects the cost of operations, including capital expenses, for Collaborative services in the next fiscal year. Capital is defined as fixed assets, including real property, with a unit cost of \$5,000 or more and a useful life of one year or more. Budget projections are based upon enrollment and ridership projections and trends, service requests from member school committees, and other relevant data.

The Board, after receiving a proposed budget from the Executive Director and the Business Manager, and at least ten (10) working days following a public meeting at which the budget was first discussed, shall consider and approve the final annual budget for CASE no later than March 31st of the preceding fiscal year.

The CASE membership fee is a flat rate established annually by the Board through the budget process. The membership fee is the same for all member school committees. The fee offsets, but is not intended to cover, costs related to administration and overhead. Remaining administration and overhead expenses are included in the calculation of tuition rates, transportation assessments, and other fees for services as described below.

Transportation assessments are determined by a weighted, proportional share of district ridership as of May of the preceding fiscal year to the year the budget is being developed. Each student for whom transportation is provided will be weighted according to his/her drop off destination by multiplying by the following:

- Students transported within the member school committee's town(s) receive a weight of 1.0

- Students transported to another member school committee's town(s) receive a weight of 2.0
- Students transported outside all of the member school committees' towns receive a weight of 3.0

When multiple students from the same member school committee are transported to and from the same program location at the same time, the weighting above is adjusted as follows:

- For 2 or 3 students from the same member school committee, the weighted base is multiplied by 0.8
- For 4 or more students from the same member school committee, the weighted base is multiplied by 0.7

Transportation assessments reflect the overall projected costs for services, including salaries, benefits, administration, overhead and fixed costs, capital costs, and program supplies and materials; and shall be voted by the Board annually as part of the budget process and consistent with CASE fiscal policy.

Program tuition rates and other fees for services reflect the overall projected costs for services, including salaries, benefits, administration, overhead and fixed costs, capital costs, and program supplies and materials; and shall be approved voted by the Board annually as part of the budget process and consistent with CASE fiscal policy. Expenses are calculated based upon projected enrollment and/or participation, and rates are determined by dividing the total expenses by projected enrollment and/or participation.

Non-member districts may be charged a surcharge, not to exceed twenty (20) percent over the cost for member school committees, on tuitions and other fees. The Board may waive or decrease the percentage of the surcharge charged to non-members when doing so is determined to be in the best interest of the Collaborative.

The Treasurer will certify and transmit the budget, tuition rates, transportation assessments, membership fees, and fees-for-service for the upcoming fiscal year to each member school committee no later than March 31st of the year in which the budget is approved. Once invoiced by CASE, payment from member school committees for assessments, membership fees, tuitions and fees-for-service, is due within 30 days.

All budget amendments must be approved by the Board. Budget amendments resulting in increases to tuition rates, transportation assessments, membership fees and/or fees-for-service are atypical, and only to be proposed in case of emergency. Consequently, such amendments require only notification to each member school committee one week prior to a single reading and majority vote by the Board. Following a Board vote of approval, the Treasurer will transmit

notification of the budget amendments and amended rates to member school committees within ten business days.

XI. Capital Reserve. The Board 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. The establishment of a capital reserve fund shall be subject to the approval of two-thirds of the member school committees. Deposits into the capital reserve fund shall be proposed and approved through the budget process, based on needs determined in the capital plan. 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 school committees. If a member school committee does not vote to disapprove the revised capital plan within a 45 day period, that member school committee shall be deemed to have approved the revised capital plan. The amended plan shall be subject to the approval of two-thirds of the member school committees.

XII. Borrowing. As also noted in Section VII, the Collaborative, by an appropriate vote of the Board, may borrow money or enter into short- or long-term agreements or mortgages, provided that when the borrowing or short- or long-term agreements or mortgages are for the approved acquisition or improvement of real property:

- the Board shall provide notice to each member district within 30 calendar days of applying for real estate mortgages; and
- 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 the final vote is taken.

Under 603 CMR 50.04(3)(d)(3), the Board is responsible for ensuring that any borrowing, loan, or mortgage is cost-effective, is necessary to carry out the purposes for which the collaborative is established, is in the best interest of the collaborative and its member school committees and is consistent with the terms of this Agreement.

XIII. Cumulative Surplus. CASE Collaborative may retain cumulative surplus funds at the end of a fiscal year that shall not exceed the maximum percentage allowable by law and/or regulations (603 CMR 50.03(5)(b)(10)). 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 tuition or services in accordance with M.G.L. c. 40, § 4E. 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 determine whether such final dollar amount of surplus funds is within the maximum percentage allowable by law, and whether the funds will be

retained by the Collaborative or whether all or some portion will be refunded to the member school committees or credited to support programs and services offered to member school committees. In the event an amount is to be refunded or credited to the member school committees, each member school committee's share will be determined by total payments made to the Collaborative on a percentage basis during the fiscal year when the surplus was generated.

- XIV. CASE Collaborative Fund. There shall be a collaborative fund into which all monies for the operation and management of CASE shall be deposited. This fund is known as the CASE Collaborative Fund, or "the fund." The fund is managed by the Board. All monies which are paid by the member school committees for the operation and management of the Collaborative shall be deposited into this fund. Likewise, all monies, grants, and gifts which the Collaborative may receive from any other sources, including non-member districts, the federal government, the state government, charitable foundations, and private corporations, shall be deposited into this fund.

- XV. Treasurer. The Board shall appoint a Treasurer upon such terms and conditions, including compensation for his/her services, as the Board may determine. The Treasurer may, but need not necessarily be, a Treasurer of a member Town, or regional school district. Notwithstanding any provision to the contrary herein, no appointed representative to the Board, nor any CASE employee, shall be eligible to serve as Treasurer. The Treasurer is authorized, subject to the direction of the Board, to receive and disburse all monies of the fund without further appropriation. The Treasurer shall give bond annually for the faithful performance of his/her duties in accordance with the requirements of M.G.L. c. 40, § 4E. The Board may in its discretion pay the Treasurer compensation for services rendered. The Treasurer of CASE shall have the authority to make appropriate investments of the monies of the CASE Collaborative Fund in accordance with the provisions of Section 55B of Chapter 44 of the Massachusetts General Laws.

- XVI. Amendment. Any member school committee, appointed representative to the Board, or the Executive Director may propose an amendment to the Agreement by submitting said proposed amendment to the Board in writing. The Board will consider the proposed amendment and, if approved, will forward to the member school committees for a vote. The vote of the Board will indicate the proposed effective date of the amendment. The terms and conditions of this Agreement may be amended by a three-fourths vote of the member school committees. This Agreement and any subsequent amendments are subject to the approval of the member school committees and the BESE pursuant to M.G.L. c. 40, § 4E and 603 CMR 50.03(5).

- XVII. New Members. New member school committees, including charter school boards, may be added to CASE consistent with approval of the Board and subsequent to amendment of the Agreement, consistent with the provisions of

Section XVI, to reflect such membership. The applicant school committee (s) shall apply in writing for admission to CASE no later than December 31 of the fiscal year prior to the fiscal year in which the applicant school committee(s) seeks membership. The effective date for such membership shall be July 1 only if the process for amendment of the CASE Agreement has been finally approved consistent with Section XVI above. All approvals of the member school committees and the Board of Elementary and Secondary Education approval must be obtained no later than April 30 for an effective date of July 1. If the process for amendment of this Agreement has not been finalized by July 1, the new member school committee may appoint a non-voting representative to the Board until such time as the process for amendment of this Agreement has been finalized, at which time the new member school committee will have all rights of membership, including the right to vote.

XVIII. Withdrawal of a Member School Committee. Any member school committee may withdraw from CASE at the end of ~~any~~ fiscal year, provided that all necessary approvals have been obtained consistent with 603 CMR 50.00 et seq. and provided that the procedures for amendment of this Agreement as outlined in Section XVI have been followed. Such withdrawal needs to be effected by a written notice of withdrawal to every other member school committee, to the Executive Director and the Board at least ~~twenty-foursix~~ (246) months before the end of the fiscal year. In the case of such withdrawal, the withdrawing school committee shall still be responsible for outstanding payments due to the Collaborative, and no withdrawing school committee shall be entitled to any assets or surplus funds of the Collaborative. The withdrawing school committee will continue to be liable to the Collaborative for its pro-rata share~~r~~, of any debts, claims, demands, or judgments against the Collaborative, incurred during said school committee's membership, in accordance with the provisions concerning the apportionment of operating costs, as noted in Section X, applicable at the time of the occurrences giving rise to the liability or expense. The withdrawal of such member school committee shall not be effective until CASE has received the approval of a majority of the member school committees and the BESE. All approvals must be obtained no later than the preceding April 30.

XIX. Termination of CASE. The Executive Director, any appointed representative of the Board or a member school committee may propose the termination of the Collaborative by submitting such a proposal in writing to the chairperson of the Board. The Collaborative may be terminated at the end of any fiscal year (June 30) by unanimous vote of the entire Board, subject to compliance with this section of this Agreement and compliance with the closing guidelines of the Department of Elementary and Secondary Education. Any vote to terminate the Collaborative must be confirmed by an affirmative vote of all member school committees and must be voted by the Board on or before December 31 of the fiscal year of its intended effective date. The Department of Elementary and Secondary Education will be notified at least thirty (30) days prior to the

effective date of termination, and CASE shall provide the Department of Elementary and Secondary Education, along with the notice of termination, with the information required to be submitted to the Department pursuant to 603 CMR 50.11.

By January 31 of the fiscal year in which the termination shall occur, the Board will: (1) determine the appropriate disposition of the Collaborative funds, equipment and supplies; (2) determine a method of maintaining fiscal records upon termination of the Collaborative; (3) determine a method of maintaining programmatic records; (4) determine a method of maintaining personnel records; and (5) identify the member district(s) responsible for maintaining student, employee and program records. Net assets shall be distributed to member school committees according to the average financial participation of the three (3) fiscal years previous to termination. Distribution of net assets shall not occur until the final fiscal audit has been completed.

Prior to CASE's termination, the Board shall arrange for a final fiscal audit of Collaborative. Such audit will be completed within ninety (90) days of the date of termination of CASE. A copy of such audit report shall be sent to each member school committee and to the Department of Elementary and Secondary Education. Upon termination of the Collaborative, its net liabilities and assets, if any, shall be distributed to member school committees on a pro-rated basis according to the average financial participation of the three years previous to termination.

XX. Compliance with Laws, Regulations, Guidelines. CASE shall comply with all laws and regulations of the Commonwealth of Massachusetts as well as all lawful policies and guidelines of the Massachusetts Department of Elementary and Secondary Education which relate to collaboratives.

XXI. Indemnification. In the event that CASE incurs liabilities or expenses in connection with claims for personal injury or other claims under Chapter 258 of the General Laws (or under other legal authority of similar effect), the provisions of this section shall apply.

CASE shall indemnify and hold harmless its employees in connection with such liabilities or expenses in accordance with, and to the extent permitted by, Chapter 258.

Neither the Executive Director nor any other employee of CASE nor any appointed representative to the Board shall be liable to CASE or to any member school committee thereof for any act or omission of the Executive Director or any other employee of CASE or any appointed representative to the Board or be held personally liable in connection with the affairs of CASE except only liability arising out of his own willful misfeasance, bad faith, gross

negligence or reckless disregard of duty to CASE or its member school committees.

Neither the Executive Director nor any other employee of CASE nor any appointed representative to the Board, or member school committee shall be personally liable for any debt, claim, demand, judgment, decree, liability or obligation of any kind of, against or with respect to CASE or arising out of any action taken or omitted for or on behalf of CASE and CASE shall be solely liable therefore, and resort shall be had exclusively to CASE property for the payment or performance thereof and each appointed representative to the Board, member school committee and Executive Director or any other employee of CASE shall be entitled to full indemnity and full reimbursement out of CASE property, including without limitation, fees and disbursements of counsel.

The Executive Director and his/her legal representative(s), any other employee of CASE and his/her legal representative(s), each appointed representative to the Board and his/her legal representative(s) and each member school committee and its legal representatives shall be indemnified by CASE against all liabilities and expenses, exclusive of amounts paid to CASE, 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 to the Board, member school committee or Executive Director or any other employee of CASE or his/its legal representatives may be made a party or otherwise involved by reason of his/its capacity as an appointed representative to the Board, Executive Director or employee of the Collaborative, except for those liabilities and expenses arising out of his/its own willful misfeasance, bad faith, gross negligence or reckless disregard of duty to CASE as finally adjudged in such action or, in the event of settlement, determination of counsel for CASE. Said right of indemnification shall be in addition to any other rights to which such appointed representative to the Board or Executive Director or any other employee of CASE or member school committee may be entitled as a matter of law or which may be lawfully granted to him/it.

The costs of such liabilities or expenses which are not borne by the CASE's insurance carriers shall be apportioned among, assessed to and paid by the member school committees that were members of CASE at the time of the occurrences giving rise to the liability or expenses, whether or not any such member school committees have thereafter withdrawn from CASE, in accordance with the provisions concerning the apportionment of operating costs, as noted in Section X, applicable at the time of the occurrences giving rise to the liability or expense.

The provisions of this section shall be applicable to such liabilities or expenses, whether incurred in connection with settlement or adverse adjudication of such claims. The Collaborative shall have the authority to settle such claims, in

amounts, which exceed applicable insurance coverage, only upon vote of the Collaborative Board.

- XXII. Section 501(c)(3) Status. Notwithstanding any other provision of these articles, CASE 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 an entity exempt from Federal income tax under Section 501(c) (3) of the Internal Revenue Code.

No substantial part of the activities of CASE shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and CASE shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

- XXIII. Personal Benefit. No part of the net earnings of the Collaborative shall inure to the benefit of any appointed representative to the Board, member school committee, director, officer of CASE, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Collaborative), and no appointed representative to the Board, member School Committee, director, or officer of CASE shall be entitled to share in the distribution of any of the assets upon the dissolution of CASE.

- XXIV. Non-Discrimination. The Collaborative does not discriminate on the basis of race, color, sex, gender identity, religion, national origin, pregnancy or pregnancy-related conditions, 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.

- XXV. Transportation. Any member school committee may withdraw from receiving transportation services from CASE at the end of a fiscal year. Such withdrawal needs to be effected by a written notice of withdrawal to every other member school committee, to the Executive Director and the Board at least twenty-four (24) months before the end of the fiscal year. In the case of such withdrawal, the withdrawing school committee shall still be responsible for outstanding payments due to the Collaborative, and no withdrawing school committee shall be entitled to any assets or surplus funds of the Collaborative related to transportation. The withdrawing school committee will continue to be liable to the Collaborative for its pro-rata share, of any debts, claims, demands, or judgments against the Collaborative related to transportation, incurred during said school committee's membership, in accordance with the provisions concerning the apportionment of operating costs, as noted in Section X, applicable at the time of the occurrences giving rise to the liability or expense. Any member school committee that submitted a notice of withdrawal from transportation services prior to March 1, 2019 shall not be required to submit the twenty-four (24) months notice.

CASE Collaborative is an Equal Opportunity Employer.

Approved by votes of the member school committees in the following manner:

Acton-Boxborough Regional District School Committee

_____ Authorized on _____
Chairperson Date

Bedford School Committee

_____ Authorized on _____
Chairperson Date

Carlisle School Committee

_____ Authorized on _____
Chairperson Date

Concord School Committee

_____ Authorized on _____
Chairperson Date

Concord-Carlisle Regional District School Committee

_____ Authorized on _____
Chairperson Date

Harvard School Committee

_____ Authorized on _____
Chairperson Date

Lincoln School Committee

_____ Authorized on _____
Chairperson Date

Lincoln-Sudbury Regional District School Committee

_____ Authorized on _____
Chairperson Date

Littleton School Committee

_____ Authorized on _____
Chairperson Date

Maynard School Committee

_____ Authorized on _____
Chairperson Date

Sudbury School Committee

_____ Authorized on _____
Chairperson Date

Approved by the Board of Elementary and Secondary Education

Commissioner of Elementary and Secondary Education

Date of Approval