

BOSTON PUBLIC SCHOOLS

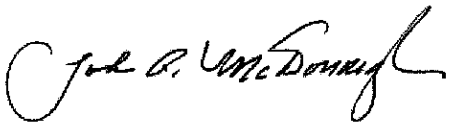


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OFFICE OF THE SUPERINTENDENT

MEMORANDUM

TO: Chairperson and Members
Boston School Committee

FROM: John P. McDonough
Interim Superintendent 

DATE: May 22, 2015

SUBJECT: School Choice, 2015-2016 School Year

The purpose of this memorandum is to request that a public hearing concerning Boston's participation in the School Choice program during school year 2015-2016 be scheduled for Wednesday, May 27, 2015. The public hearing should be conducted before the School Committee meeting.

As indicated in the attached document, the Educational Reform Act of 1993 amended the Massachusetts School Choice Law establishing a presumption that each school committee will admit non-residents under the Choice Program unless there is a vote to the contrary by June 1 each year. The law requires that a public hearing be held and that a resolution stating the reasons for withdrawing from the school choice obligation be stated as part of the resolution not to participate.

Our consideration of the issues involved in deciding whether the Boston Public Schools should participate in School Choice during the 2015-2016 school year is based upon (1) student assignment issues, (2) space limitations, (3) cost implications, and (4) decisions of school committees in neighboring communities.

1. STUDENT ASSIGNMENT ISSUES

At this time, an enrollment of 57,149 students has been projected for school year 2015-2016. Currently, approximately 57,037 students are enrolled in the Boston Public Schools. The implications for non-resident student assignments to the Boston Public Schools are as follows:

- Historically, during the months of July, August, and early September, a large number of students who are Boston residents continue to see school assignments. We are required to provide an assignment for these residents.

- Enrollment of non-residents in the Boston Public Schools should not take precedent over residents who, as noted above, continue to make application for school assignments through early October.

2. SPACE IMPLICATIONS

The BPS is not able to set aside a number of seats for non-resident students at specific schools or in specific programs at the beginning or during the application/registration process. Students who are residents complete an application and provide proofs of residence in order to be assigned. Our obligation is to provide seats for residents of the city.

Certain schools and programs are popular and over-chosen by Boston residents. It is our view that non-Boston residents would probably seek seats in our most popular programs, making it impossible for a large number of Boston residents to obtain seats. We project these programs will be fully used by Boston residents.

3. COST IMPLICATIONS

Unbudgeted costs would result from the need to provide resources to non-Boston residents. Specialized programs, i.e., special education (substantially separate) and programs for English Language Learners have either mandated class size or staffing requirements. Non-residents who apply for specialized services would have to be provided the same services as residents. Since many neighboring communities lack services and programs for students requiring specialized programs, our failure to withdraw from School Choice would result in an influx of students from other communities requesting seats in specialized programs, resulting in unbudgeted costs.

4. DECISIONS OF NEIGHBORING COMMUNITIES

During the 2014-2015 school year, 173 school districts, including Boston, did not participate in the Choice Program. None of the communities surrounding the city of Boston participated. It is expected that they will continue to recommend non-participation during the 2015-2016 school year. The fact that these bordering communities will not participate in the state's School Choice Plan means that Boston students will not be transferring to nearby school systems, thereby opening seats in Boston schools for non-residents.

5. RECOMMENDATIONS

Based on the current enrollment in the Boston Public Schools, I recommend that the School Committee vote to withdraw from participation in the state Choice Plan for the 2015-2016 school year. I recommend that this vote be taken by the School Committee at the May 27, 2015 meeting.

Attached, you will find the Department of Education's advisory opinion on the School Choice program and a copy of the state law regarding school choice. Thank you for your attention to this issue.

District/School Administration > Administration >
Education Laws and Regulations

Advisory on School Governance

- Letter of Introduction from Robert V. Antonucci, Commissioner of Education
- I. Educational Goals & Policies; Management & Leadership
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 - Hiring authority for particular positions
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- Conclusion

Letter from Robert V. Antonucci, Commissioner of Education

November, 1995

Dear Friends,

Successful education reform requires innovation on many levels. One major change brought about by the Education Reform Act of 1993 concerns school governance. The Department of Elementary and Secondary Education has received many questions about the roles and responsibilities of school committees, superintendents, principals, and school councils. The purpose of this advisory is to explain the state law as it applies to particular functions of school governance, and to offer our recommendations, based on two years of experience with the Education Reform Act, on the important role that each partner in this endeavor plays in advancing collaboration and school improvement.

This document is organized according to five broad themes:

- I. Educational Goals & Policies; Management & Leadership
- II. Budget
- III. Staffing
- IV. Selection & Purchase of Textbooks & Educational Materials
- V. School Councils; School-Based Decision-Making

Within each topic the applicable state statutes are summarized and referenced. Then recommendations are made on how to implement the law in day-to-day practice. These recommendations and Education Reform itself will succeed only if all parties involved in local school governance work together effectively, and focus on the goal of improving educational opportunities and results for all students.

Sincerely,

Robert V. Antonucci
Commissioner of Education

I. Educational Goals & Policies; Management & Leadership

State law: The school committee establishes educational goals and policies for the schools in the district, consistent with the requirements of law and the statewide goals and standards established by the Board of Education. (G.L. c. 71, [[section]] 37) The school committee's status as the "employer" for collective bargaining purposes remains unaltered by Education Reform. (G.L. c. 150E, [[section]] 1)

The superintendent employed by the school committee shall manage the system in a fashion consistent with state law and the policy determinations of the school committee. (G.L. c. 71, [[section]] 52)

Principals are the educational administrators and managers of their schools, and shall supervise the operation and management of their schools and school property, subject to the supervision and direction of the superintendent. (G.L. c. 71, [[section]] 59B) Each principal works with a school council to define educational goals for the school, identify the educational needs of the students, and formulate a school improvement plan, consistent with state and local educational goals and policies. (G.L. c. 71, [[section]] 59C)

Department of Elementary and Secondary Education recommendations: We view the school committee as the publicly elected or appointed equivalent of a board of directors of a corporation, which in this case is a school system. The school committee has oversight of and responsibility for the school system, sets the direction in which the system must go, and establishes criteria to determine if its goals and policies are being met.

The superintendent serves as the school committee's chief executive officer and educational advisor. The superintendent is the educational leader for the school system, and provides administrative leadership for all school staff in operational matters and in proposing and implementing policy changes. Day-to-day operation of the school system is the responsibility of the superintendent, together with school principals and other administrative staff members.

The respective roles of the school committee and the superintendent are described in a position statement published jointly by the American Association of School Administrators and the National School Boards Association in the 1994 booklet, *Roles and Relationships: School Boards and Superintendents*:

The school board is a legal agent of the state and must, therefore, fulfill both state and federal mandates. At the same time, the board must be responsive to the community it serves. The board is a legislative body that develops, evaluates, and oversees education policies. The superintendent is the professional educator chosen by the board to implement policies and to provide professional leadership for a district's schools. With such vital responsibilities, a sense of teamwork is essential.

In an enterprise as complex as a school district, the line between policy and administration is rarely clear-cut. Nonetheless, harmonious and productive relationships can flourish if two-way communication is established and maintained.

Just as a corporate board of directors seeks information and recommendations from the CEO and from others with expertise in a particular field before making policy decisions, an effective school committee solicits information and recommendations from the superintendent before establishing policy. After reviewing and discussing this information, it is the school committee's duty to make the best decision possible based on the information available. Similarly, an effective superintendent keeps the school committee informed about major administrative decisions and procedures, enabling the committee to assess whether those administrative actions conform to school committee policy.

The line between educational policy (the school committee's domain) and administrative operations (the superintendent's responsibility) is sometimes clear. Several statutes specify policy decisions to be made by the school committee. For example, G.L. c. 76, [[section]] 12B, the school choice law, requires the committee to vote (after holding a public hearing), if the district is not going to admit non resident students, and permits the committee to establish terms for accepting non-resident students if it is participating in choice.

Another example of a school committee policy decision concerns the length of the school day and school year. Under the Student Learning Time Regulations ([603 CMR 27.00](#)), the school committee establishes the school year schedules for the schools in the district, consistent with the state standards and guided by the student learning time plan recommended by the school council at each school.

Similarly, the school committee is responsible for adopting general disciplinary policies for students in the district, in consultation with the superintendent. However, it is appropriate for the committee to delegate to the superintendent, principals and school councils the authority to define detailed rules of student conduct applicable to specific schools. In fact, at the high school level, state law makes this school-based responsibility explicit. By statute, in every school containing grades 9 through 12, the principal and school council annually prepare and publish the student handbook, within the framework of the general policies adopted by the school committee. (See G.L. c. 71, [[section]] [[section]] 37H and 59C.)

Broad, system-wide curriculum or school restructuring issues, such as whether the district should establish a French immersion program for grades K-6, or whether to switch from a junior high to a middle school structure, concern educational goals and policies for the district. As policy issues, these matters are for the school committee to decide, after seeking advice and recommendation from the superintendent.

In contrast, school committees should not decide at what grade level teachers are to start teaching students cursive writing. As an operational issue, that decision should be left to the professional educators. Also, the selection and purchase of textbooks and other educational materials are now the responsibility of school principals, under the direction of the superintendent and within the budget set by the school committee. (G.L. c. 71, [[section]] 48) G.L. c. 71, [[section]] 50 still permits the committee to make a change in the "school books used in the public schools" by a two-thirds' vote. However, we view that law as applying only to a textbook change that constitutes a significant shift in educational direction for the district. As a general rule, the school committee does not approve or reject textbooks and educational materials.

We have been asked whether designing the format of the student report card is a task for the school committee or the school administration. Our response is that the school committee establishes the educational standards for students in the district (e.g., the local standards for high school graduation, and for promotion of students from grade to grade). It is then up to the administration -- the superintendent and principals, perhaps with advice from school councils -- to design the report card format in a way that informs students and families about individual progress, and enables the school committee to determine whether its educational goals and standards for student performance are being met.

Whenever the line between policy and operations is not clear, we believe the matter is best resolved locally, through open communication and collaboration between the school committee and the superintendent. School committees are most effective in advancing education reform when they focus on the strategic direction of the school system, on educational policy and outcomes rather than on managerial responsibilities.

With respect to school principals, under Education Reform their role is more important than ever. The school is the focal point for achieving the primary goal of Education Reform: enabling all students to meet the high standards of the Common Core of Learning [[HTML](#) | [PDF](#)] adopted by the Board of Education in 1994.

Within the framework of the statewide standards, and the local educational goals, policies and budget established by the school committee and implemented by the superintendent, the principal oversees and promotes the continuous improvement of teaching and learning within the school building. Through the principal's leadership, in collaboration with the school council, teachers and other school staff and parents, each school should be an innovative, safe and supportive environment for teaching and learning.

II. Budget

State law: The school committee reviews and approves budgets for public education in the district. (G.L. c. 71, [[section]] 37) The committee must hold a public hearing on the proposed annual budget. (G.L. c. 71, [[section]] 38N) The school committee has authority to determine expenditures within the total appropriation voted by the city or town. The city or town appropriating body is authorized to make non-binding monetary recommendations to increase or decrease certain items allocating such appropriations, but it may not limit the school committee's authority to determine expenditures within the total appropriation. (G.L. c. 71, [[section]] 34)

Department of Elementary and Secondary Education recommendations: The school committee's authority to propose the annual school budget and to determine expenditures within the total appropriation was not amended by the Education Reform Act. However, since Education Reform defines the managerial authority of superintendents and principals in areas such as staff hiring and textbook purchases, some school officials have asked whether the superintendent rather than the school committee should be responsible for approving warrants for payment.

Pending clarification through a statutory amendment or court decision, the school committee remains the body responsible for approving and transmitting school department expenditures to the municipal accountant for the drawing of warrants. The Department of Revenue's Division of Local Services has advised that all school department bills must be approved by the school committee. When the superintendent, or principal and superintendent, have statutory authority to incur expense, the Department of Revenue advises that the bills must be approved by them as well as by the committee.

Some communities have local ordinances or charter provisions that affect school budget and spending procedures. School officials who have specific questions about budget and municipal accounting matters should consult with municipal treasurers and accountants and with local counsel.

III. Staffing

A. Hiring authority for particular positions

1. Superintendent, assistant/associate superintendents, school business administrator, administrator of special education, school physicians and registered nurses, legal counsel, supervisors of attendance

State law: The school committee is responsible for appointing personnel to the following positions:

- a. *Superintendent:* The school committee has the power to select and terminate the superintendent, and to establish his or her compensation. (G.L. c. 71, [[section]] 37)
- b. *Assistant or associate superintendents:* On the recommendation of the superintendent, the committee may establish the positions of and appoint assistant or associate superintendents, who shall report to the superintendent. The superintendent recommends to the school committee candidates for appointment to the position of assistant or associate superintendent. The committee shall approve or disapprove the appointment, but shall not unreasonably withhold its approval. If the superintendent requests, the committee shall explain its disapproval of a recommended candidate. The committee sets the compensation of the superintendent and the assistant or associate superintendents. (G.L. c. 71, [[section]] 59)
- c. *School business administrator; administrator of special education; school physicians and registered nurses; supervisors of attendance; legal counsel:* The Education Reform Act did not change several pre-existing statutes that refer to the school committee appointing certain personnel. G.L. c. 71, [[section]] 41 states that "a school committee may award a contract to ... a school business administrator for a period not exceeding six years..." G.L. c. 71B, [[section]] 3A states that "a school committee ... shall appoint a person to be its administrator of special education." G.L. c. 71, [[section]] 53 says, "The school committee shall appoint one or more school physicians and registered nurses..." G.L. c. 76, [[section]] 19 says, "Every school committee shall appoint, make regulations governing and fix the compensation of one or more supervisors of attendance."

Three sections of the General Laws authorize the school committee to engage legal counsel: G.L. c. 71, [[section]] 16 (j) (powers of regional district school committees); G.L. c. 71, [[section]] 37E (authorizing the school committee to employ legal counsel in connection with collective bargaining); and G.L. c. 71, [[section]] 37F (authorizing the school committee to employ legal counsel for the general purposes of the committee).

Department of Elementary and Secondary Education recommendations: In order for the Education Reform Act to provide a coherent framework for school governance and administration, we believe the appointment of the school business administrator, administrator of special education, school physicians and nurses and supervisors of attendance should be the responsibility of the superintendent.

In our view, the Education Reform Act was designed to enable the school committee to function as an educational policy board, holding the administration accountable for meeting the standards and policies set by the committee. The school committee hires the superintendent and assistant superintendents, and should rely on the superintendent to hire the other personnel who serve the school district as part of the administrative team. This view is reinforced by G.L. c. 71, [[section]] 42, which gives the superintendent the authority to dismiss "any employee of the school district."

Future legislation may clarify the statutes relating to appointment of the school business administrator, administrator of special education, school physicians and nurses and supervisors of attendance. At present, school districts can comply with the intent of the Education Reform Act as well as the plain language of the statutes, as follows: The superintendent manages the hiring process and selects the candidate, keeping the school committee informed, and the committee votes on the appointment based on the superintendent's recommendation. (For a school nurse or other personnel who are assigned exclusively to one school, the principal should manage the hiring and selection process, subject to the superintendent's approval.)

As to appointment of legal counsel, we believe the decision-making authority should remain with the school committee, in consultation with the superintendent. Legal counsel advises the school committee on collective bargaining, policy issues and other matters that are clearly within the committee's domain. Ideally, the school committee and superintendent will agree on the appointment of legal counsel, and the school district as a whole will benefit.

2. Administrators, principals, staff not assigned to particular schools, athletic coaches

State law: The superintendent appoints principals for each public school in the district. (Two or more elementary schools may share a principal, and teaching principals are also permitted in elementary schools.) The superintendent also appoints administrators and other personnel not assigned to particular schools. All such appointments are made at levels of compensation determined in accordance with school committee policies. (G.L. c. 71, [[section]] 59B) The superintendent appoints athletic coaches. (G.L. c. 71, [[section]] 47A)

Department of Elementary and Secondary Education recommendations: The shifting of decisions on most school district personnel actions from the school committee to the superintendent and principals is a major change brought about by the Education Reform Act. For the most part, this has brought positive results: school committees are relieved of personnel matters and can concentrate their time and energy on policy issues, while superintendents and principals have authority commensurate with accountability for the staff they manage.

Consistent with the need for open communication between superintendents and school committees, it is good management practice for the superintendent to keep the school committee informed about appointments and other personnel decisions. Regardless of who makes the actual appointment, the hiring authority should consult with other key parties in the process. For example, the school principal plays a critical role in selecting the athletic coach(es) for the school, even though the superintendent makes the appointment. It is also good practice for superintendents and principals to involve broad-based screening committees (particularly school councils, which represent teachers, parents and community members) in the hiring process whenever possible.

3. Teachers and other school staff

State law: The principal is responsible, consistent with district personnel policies and budgetary restrictions, and subject to the approval of the superintendent, for hiring all teachers, instructional or administrative aides and other personnel assigned exclusively to the school, and for terminating all such personnel, subject to review and prior approval by the superintendent and subject to the provisions of state law. (G.L. c. 71, [[section]] 59B)

This general rule does not apply to the Boston Public Schools, where the superintendent continues to have exclusive authority over school personnel decisions, with a few exceptions. (St. 1993, c. 71, [[section]] 97; St. 1987, c. 613) Also, in any school that requires an examination for student admission, the principal is solely and exclusively responsible for hiring and dismissing all teachers and other personnel, without the requirement of review or approval by the superintendent. (G.L. c. 71, [[section]] 59B)

Department of Elementary and Secondary Education recommendations: Some school districts, particularly larger ones, have a central personnel office that does initial screening of applicants for teaching and other positions, to assure that candidates meet the minimum requirements and that local personnel rules and collective bargaining agreements are followed. These central office personnel functions should support principals

in exercising their statutory responsibility to hire teachers and other school personnel.

The superintendent has a review and approval role with respect to principals' decisions on hiring of teachers, instructional or administrative aides and other personnel assigned to a single school, as well as in termination decisions. In hiring, for example, if the superintendent does not approve the principal's choice of a teacher, the matter goes back to the principal to propose an alternative. It is not the superintendent's sole prerogative to hire the teachers for a given school building.

On the issue of teacher transfers, the law addresses only the hiring and dismissal of teachers and other school staff; it does not mention transfers of teachers from one school to another. In light of Education Reform, we believe the principal should have discretion to approve the transfer of a teacher or other staff member into the school, just as with initial hiring. However, the principal's hiring authority is subject to the superintendent's approval and also to the district's personnel policies. School officials must follow the local collective bargaining agreement if it specifies a process for teacher transfers.

In this area the Education Reform Act does not supersede the collective bargaining law or any contractual transfer rights and procedures that are specified in the local agreement. Nevertheless, the Education Reform Act presumes that the school principal will play a strong role in deciding who teaches in the school. For this reason, we believe the transfer issue should be addressed locally when collective bargaining agreements are re-negotiated.

As with collective bargaining, civil service law also remains in force and is not superseded by the Education Reform Act. Where certain positions are covered by civil service rules (e.g., custodians who are assigned to school buildings), those rules still apply and should be construed harmoniously with Education Reform. In other words, the principal makes the hiring decision, subject to the approval of the superintendent, but the eligible pool of applicants for the position is determined by civil service or by the applicable collective bargaining agreement.

B. Levels of compensation

State law: The school committee establishes policies on levels of compensation for school principals and for other administrators and personnel not assigned to particular schools. (G.L. c. 71, [[section]] 59B) "Compensation" is a broader term than salary; it includes, for example, benefits such as group insurance. *Allison v. Whittier Regional Voc. School Dist.*, 445 N.E. 2d 625 (1983). In establishing policies on compensation, the school committee is also bound by St. 1993, c. 495, [[section]] 140, a special act of the Legislature, which states that a principal's rights to accrued sick, personal or vacation leave acquired before June 18, 1993 shall not be impaired or denied.

Department of Elementary and Secondary Education recommendations: During the first two years of implementation of Education Reform, a few school committees established policies on compensation levels for principals and other administrators that reduced their salaries or their contractual benefits. In our opinion, these reductions are ill-advised. Such actions generate turmoil and uncertainty, and impede the school district's ability to attract and retain well-qualified educators to carry out the important responsibilities placed on them.

C. Hiring practices and policies

State law: All educational personnel hired by the school district must be appropriately certified for the position in which they are employed, unless the district has requested and received from the Department of Elementary and Secondary Education a waiver of the certification requirement. The school committee continues to have authority under the certification statute to "prescribe additional qualifications" for educator positions, beyond basic certification. (G.L. c. 71, [[section]] 38G)

The school committee establishes the educational goals and policies for the school district. (G.L. c. 71, [[section]] 37) The superintendent appoints administrators, principals, staff not assigned to particular schools and athletic coaches. (G.L. c. 71, [[section]] [[section]] 59B, 47A) The principal hires all teachers and other personnel assigned to the school, consistent with district personnel policies and budgetary restrictions and subject to the superintendent's approval. (G.L. c. 71, [[section]] 59B)

Department of Elementary and Secondary Education recommendations: Since achieving a diverse and highly qualified staff is a sound educational goal, the school committee's policies may include policies on non-discrimination, equal employment opportunity and affirmative action, and open posting and advertising of positions. However, except for those positions that by statute are the school committee's responsibility to appoint, decisions on hiring staff are operational decisions that are within the authority of the superintendent and principal.

In our view, the authority to hire staff encompasses not only the employment decision itself, but also the details of the process. This means, for example, that the school committee may adopt a policy that requires broad-based screening committees to interview candidates for employment, but the superintendent and principal are responsible for determining the specifics of the process. In many school districts principals have found it valuable to use the school council as an interview committee for finalists for school-based positions.

The school committee's policy on personnel screening may suggest categories of people who should be included on a screening committee. However, a school committee policy that requires all teacher candidates to be screened or interviewed by a school committee member would, in our opinion, be inconsistent with the Education Reform Act. Principals and superintendents may, at their discretion, choose to invite a school committee member, or any other interested member of the community, to participate in the interview process.

We encourage superintendents to use a selection and interview process that is open to the community when hiring principals and others for positions that are particularly significant. For certain administrative positions of major importance, an open meeting of the school committee could be an appropriate forum for public interviews of the finalists.

In short, the school committee may establish personnel policies that are consistent with the law and do not infringe on the superintendent's and principals' management responsibility with respect to personnel selection. In exercising their hiring authority, superintendents and principals should recognize the benefit to be gained from using a broad-based screening process.

D. Collective bargaining

State law: The school committee continues to be the "employer" of school employees for collective bargaining purposes. (G.L. c. 150E, [[section]] 1) The Education Reform Act made only one change concerning participants: the chief executive officer of the city or town (or his or her designee) shall participate and vote as a member of the school committee in collective bargaining. If a town does not have a town manager or administrator, the chairman of the board of selectmen (or his or her designee) shall so participate and vote. In regional school districts, the municipal chief executive officers elect one of their number to represent them, in accordance with Board of Education regulations. (G.L. c. 150E, [[section]] 1; 603 CMR 42.00)

Department of Elementary and Secondary Education recommendations: The school committee chairperson may appoint the municipal official to be a member of the school committee's negotiating subcommittee. Absent such an appointment, the statute does not guarantee that the municipal official will be at the negotiating table, unless the school committee as a whole is involved in the negotiations. Under the statute, the municipal official's role is to participate and vote "as a member of the school committee," whenever the school committee as a whole takes up the

collective bargaining agreement. The municipal official has the same rights and responsibilities of participation as any other member of the school committee in relation to collective bargaining, including the right to be kept informed about the progress of negotiations.

E. Principals' contracts

State law: Principals are not eligible to be represented in collective bargaining. (G.L. c. 71, [[section]] 41) However, if a principal was subject to a collective bargaining agreement on June 18, 1993 and the agreement has not yet expired, section 77 of the Education Reform Act states that any provisions of G.L. c. 71, [[section]] 41 conflicting with the agreement will not take effect until the agreement expires.

Every principal has the right to meet and discuss individually the terms and conditions of his or her employment with the superintendent, at which meeting the principal may be represented by an attorney or other representative. Every principal has the right to a written contract of employment, for a term of up to three years. Unless the superintendent notifies the principal of the proposed non-renewal of the contract at least sixty days before its expiration date, the contract is automatically renewed for another year. (G.L. c. 71, [[section]] 41, as amended by St. 1994, c. 346, effective April 13, 1995)

The superintendent appoints principals for each public school at levels of compensation determined in accordance with policies established by the school committee. (G.L. c. 71, [[section]] 59B)

Department of Elementary and Secondary Education recommendations: Although principals are no longer eligible for collective bargaining, each principal is entitled to meet with the superintendent to discuss the terms and conditions of his or her employment. The principal may be represented by an attorney or other representative at the meeting. These discussions should be conducted in good faith and should consider the needs of the individual as well as the needs of the school system. The contracting process should be equitable, fair and expeditious, enabling the district to move forward with Education Reform under the leadership of its administrative team.

In our opinion, the superintendent and principals may meet as a group to discuss contractual issues, if they mutually agree to such a meeting, and the school district may offer a uniform benefit package to all principals, even though collective bargaining does not apply. As we read the statute, assistant principals and other school administrators may continue to be represented in collective bargaining, consistent with the relevant labor laws of the Commonwealth.

One of the "terms and conditions" of the principal's employment contract is the length of the contract. The length of the employment contract for each principal, up to the three year statutory limit, is determined by the superintendent. However, the school committee's policies on levels of compensation (see Sec. III. B), will define the bounds of the compensation level for a principal in any given year of the contract.

Before the 1994 amendment to G.L. c. 71, [[section]] 41, almost half the Massachusetts secondary school principals surveyed did not have written contracts of employment. This was no more appropriate for principals than it would be for superintendents. Today every principal working in a public school in the Commonwealth is legally entitled to have a written contract. Furthermore, we encourage the use of multi-year contracts for principals, as for superintendents. Principals play a critical role in implementing Education Reform. The instability inherent in a one-year contract undermines the district's ability to employ school principals who will be effective in carrying out the responsibilities of Education Reform at the school level.

F. Performance standards; supervision and evaluation

State law: The school committee, upon the recommendation of the superintendent, establishes performance standards for teachers and other employees in the district. These performance standards must be consistent with and supplemental to the Regulations on Evaluation and Principles of Effective Teaching and Administrative Leadership adopted by the Board of Education in July 1995. (G.L. c. 71, [[section]] 38 and 603 CMR 35.00)

The school committee establishes teacher performance standards in accordance with the following procedure:

1. it must hold a public hearing to solicit comment on the proposed standards;
2. it must bargain with the teachers' association to agree on the standards and procedures; and
3. if the parties cannot agree on teacher performance standards within a reasonable period of time, the standards shall be determined by binding interest arbitration. (G.L. c. 71, [[section]] 38)

By September 1, 1996, each school committee shall file its evaluation procedures and performance standards with the Department, unless the committee is then engaged in the interest arbitration process. The superintendent shall certify that the local performance standards meet the state standards and are consistent with the Board's Principles of Effective Teaching and Principles of Effective Administrative Leadership. (603 CMR 35.05)

The superintendent shall assure the comprehensive evaluation of the performance of all teachers, principals and administrators within the school district, using the regulations and principles adopted by the Board of Education and such consistent, supplemental performance standards as the school committee may require. (G.L. c. 71, [[section]] 38 and 603 CMR 35.00) The superintendent is responsible for ensuring that all evaluators have training in the principles of supervision and evaluation and have, or have available to them, expertise in the subject matter and areas to be evaluated. (603 CMR 35.06)

Department of Elementary and Secondary Education recommendations: The school committee evaluates the performance of the superintendent, as its chief executive officer. We encourage school committees and superintendents to conduct the performance evaluation of the superintendent in a public meeting of the school committee, consistent with the open meeting law. Other professional staff in the district are evaluated by their administrative supervisors. For example, principals are evaluated by the superintendent, and teachers and other employees assigned exclusively to one school are evaluated by the principal of that school.

The Board of Education's Regulations on Evaluation of Teachers and Administrators, and the Principles of Effective Teaching and Administrative Leadership that they incorporate, provide an excellent foundation for every school committee and superintendent to establish a rigorous and comprehensive staff evaluation process. The purpose of the regulations and principles is to ensure that every school committee has a system to enhance the professionalism and accountability of teachers and administrators which will enable all students to perform at high levels. We encourage all school committees, administrators and teachers to review and use the regulations and principles in the local evaluation process.

G. Professional development

State law: The school committee adopts the professional development plan for all principals, teachers and other professional staff employed by the district. It must update the plan annually, and set forth a budget for professional development. The plan shall include training related to the statewide curriculum frameworks and other skills required for effective implementation of education reform, including participatory decision-making, parent and community involvement, and training for members of school councils. The plan may also include teacher training to address gender bias in the

classroom. (G.L. c. 71, [[section]] 38Q)

The school improvement plan formulated by the principal and school council at each school shall address professional development for the staff in that school. (G.L. c. 71, [[section]] 59C)

Department of Elementary and Secondary Education recommendations: Every school district's professional development plan should be consistent with the goals and priorities of the State Plan for Professional Development adopted by the Board of Education in June 1995. The additional \$25 per pupil funding that the Legislature allocated to each school district for professional development in FY 1996 must be used for purposes consistent with the State Plan. Local professional development should be of high quality, focusing in FY 1996 on the priority areas of curriculum frameworks, educational leadership and use of technology.

Every school should prepare and implement a professional development plan that is consistent with the goals and priorities of the district-wide plan. The plan should be designed to enhance the ability of professional staff in that school to provide high-quality education to the students.

H. Discipline and dismissal

State law: The school committee has authority to discipline or terminate the employment of the superintendent, in accordance with state law and the terms of the contract of employment. (G.L. c. 71, [[section]] 59)

The superintendent has authority to discipline or dismiss any employee of the school district, subject to the provisions of state law and the terms of any contract of employment. (G.L. c. 71, [[section]] 42) Only a superintendent may dismiss a principal. (G.L. c. 71, [[section]] 41)

The principal may dismiss or demote any teacher or other person assigned full-time to the school, subject to the approval of the superintendent. (G.L. c. 71, [[section]] 42)

The superintendent may suspend any employee of the school district, and the principal may suspend any teacher or other employee assigned to the school, subject to the provisions of G.L. c. 71, [[section]] 42D. The employee is entitled to review the decision to suspend with the superintendent or principal if the decision was made by the principal.

Standards and procedures for dismissal of certain personnel, including principals and teachers, and for arbitration of disputed dismissals and suspensions, are found in G.L. c. 71, [[section]] [[section]] 41, 42 and 42D.

Department of Elementary and Secondary Education recommendations: Discipline and dismissal of public school employees are subject to applicable collective bargaining agreements and contracts as well as state education laws, civil rights and non-discrimination laws, and constitutional requirements. We advise school officials to consult with the school district's legal counsel for advice on employee discipline and dismissal.

IV. Selection & Purchase of Textbooks and Educational Materials

State law: The principal at each school, subject to the direction of the superintendent, shall, at the expense of the school district, purchase textbooks and other educational materials and supplies. The purchases must be within the budget approved by the school committee, and are to be made in accordance with the Uniform Procurement Act (G.L. c. 30B) and any purchasing guidelines adopted by the municipality. (G.L. c. 71, [[section]] 48)

Department of Elementary and Secondary Education recommendations: The principal, under the direction of the superintendent, is responsible for selecting and purchasing textbooks and other educational materials and supplies to be used by students in the school. The superintendent's involvement in the process is to ensure that the books and materials selected for any particular school are consistent with the educational goals and policies established by the school committee. The school committee, in approving a budget for the district, establishes the budgetary limits within which the principal and superintendent must operate.

G.L. c. 71, [[section]] 50 still permits the committee to make a change in the "school books used in the public schools" by a two-thirds' vote. We view that law as applying only to a textbook change that constitutes a significant shift in educational direction for the district. As a general rule, the school committee does not approve or reject textbooks and educational materials.

V. School Councils; School-Based Decision-Making

State law: The principal co-chairs the school council, which is a representative, school-based committee composed of the principal, parents, teachers, community members and, at the secondary level, at least one student. The principal works with the council to identify the educational needs of the students attending the school, review the annual school budget, and prepare a school improvement plan. The plan addresses issues such as professional development, student learning time, parent involvement, safety and discipline, and ways to meet the diverse learning needs of the students in the school. Each school council in the district submits its school improvement plan annually to the school committee. If the school committee does not review the plan within thirty days of receipt, the plan is deemed to have been approved. (G.L. c. 71, [[section]] 59C)

The school committee may grant a school council additional authority in the area of educational policy, except over matters that are subject to collective bargaining. (G.L. c. 71, [[section]] 59C)

The principal, in consultation with professional staff in the school building, is responsible to promote participatory decision-making among all professional staff for the purpose of developing educational policy. (G.L. c. 71, [[section]] 59B)

Superintendents and principals are expected to pursue opportunities to establish school-community partnerships that may advance policy development, staff development, curriculum development, instructional enrichment and may provide material and financial support. (G.L. c. 71, [[section]] 59D)

Department of Elementary and Secondary Education recommendations: School councils, participatory decision-making and community partnerships strengthen and broaden the base of support for school improvement. Under Education Reform, the goal of all school-based decision-making is to generate and implement more effective approaches to teaching and learning. When teachers, parents and the larger school community participate in a constructive process, the whole school benefits. Decisions on school improvement initiatives can be made after getting a variety of perspectives, and the initiatives are more likely to succeed, because the people implementing them feel ownership and responsibility for the decision.

In the two years since the Education Reform Act took effect, public schools throughout the Commonwealth have established school councils. The most effective councils are actively involved in important issues of substance at the school level, with the encouragement of the principal. While the principal is ultimately responsible as the educational administrator of the school, experience shows an increase in the quality of decision-making and the success of school improvement efforts when the principal engages the school council and school staff in a collaborative endeavor. **6**

While school councils do not have authority over matters that are subject to collective bargaining, they play an increasingly important role in school policy. Starting with the 1995-96 school year, each school council is to include in its school improvement plan recommendations for changes in school practices, structure or schedule that will enable the school to meet the Student Learning Time standards (603 CMR 27.00). On these matters and others, we encourage open communication between the school committee and the school councils in the district. If the school committee does not approve part or all of a school improvement plan, it should state its reasons.

For further information on school councils, please refer to *Questions and Answers on School Councils*, published by the Massachusetts Department of Education.

Conclusion

Education Reform will be successful if all parties involved in local school governance -- school committees, superintendents, principals, and school councils -- communicate and work collaboratively with each other and with the wider community to achieve the common goal of improving educational opportunities and outcomes for students. Every party in the governance structure has a vital role to play. As the AASA-NSBA booklet states, those who work in and with schools and students "must share a vision, a clear purpose, and the ability and courage to lead." We hope this advisory helps to clarify the roles and relationships in the local school governance structure. If we are to assure that our students realize the promise that Education Reform holds, we must continue to work together.

Massachusetts Department of
Elementary & Secondary Education

- **PART I** ADMINISTRATION OF THE GOVERNMENT
- **TITLE XII** EDUCATION
- **CHAPTER 76** SCHOOL ATTENDANCE
- **Section 12B** Definitions; attendance of school other than in city or town of residence of child; reports; tuition; parent information system; transportation reimbursement program; funding

Section 12B. (a) As used in this section, the following terms shall have the following meanings:

“Above foundation reimbursement amount”, (i) for fiscal year nineteen hundred and ninety-four, fifty percent of the net losses due to the provisions of this section; provided, however, that if the amount lost by said district pursuant to subsection (f) is greater than two percent of the total school budget of said district, the amount of said reimbursement shall be equal to seventy-five percent of the net losses due to the provisions of this section; (ii) beginning in fiscal year nineteen hundred and ninety-five, twenty-five percent of the net losses due to the provisions of this section.

“Receiving district”, any city, town or regional school district within the commonwealth in which a child does not reside, but in which that child attends public school under the provisions of this section.

“Sending district”, any city, town or regional school district within the commonwealth in which a child resides, but in which that child does not attend public school under the provisions of this section.

“State school choice limit”, in fiscal year nineteen hundred and ninety-four, one percent of the total number of students attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-five, one and one-half percent of the total number of students attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-six, one and three-quarters percent of the total number of students attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-seven and thereafter, two percent of the total number of students attending public schools in the commonwealth; provided, however, that students enrolled under the program for the elimination of racial imbalance as provided in section twelve A shall not be counted toward these limits.

(b) Notwithstanding the provisions of section twelve, or any other special or general law to the contrary, any child may attend a public school, in a city or town where he does not reside; provided, however, that the receiving district shall be paid by the commonwealth a tuition rate as established in subsection (f).

(c) Not later than May first of every year, the school committee of each city, town or regional school district shall submit a report to the department stating:

(1) The capacity of each school in said city, town or regional school district for the following academic year.

(2) The number of students expected to attend each school in said city, town or regional school district in the following academic year.

(3) The number of students attending said school district under the terms of this section in the prior school year and the number of those students who are expected no longer to be attending said school district in the next school year.

(4) The number of additional seats therefore available to non-resident students reduced by the number of students enrolled under the program for the elimination of racial imbalance as provided in section twelve A, in said charter school or each school in said city, town or regional school district. The board may require every district to update this report in whatever manner is required to effectuate the objectives of this section.

(d) Each city, town or regional school district shall enroll non-resident students at the school of such non-resident student's choice; provided, however, that such receiving district has seats available as stated in said report; provided, however, that this obligation to enroll non-resident students shall not apply to a district for a school year in which its school committee, prior to June first, after a public hearing, adopts a resolution withdrawing from said obligation, for the school year beginning the following September. Any such resolution of a school committee shall state the reasons therefor, and such resolution with said reasons shall be filed with the department of education; provided, however, that said department shall have no power to review any such decision by a school committee. If the city, town or regional school district operates an intra-district choice plan, non-resident students may apply for schools on the same basis as resident students, but the intra-district choice plan may give preference to resident students in assigning students to schools.

(e) Not later than the first day of July, each city, town or regional school district shall each year submit a non-resident attendance report to the board and to the state treasurer, certifying the number of non-resident applicants for each available seat in each school, the disposition of their applications, how many of said applicants will be attending the district in the next school year, the identity of the sending districts for those students, the annual amount of tuition for each such child and the total tuition owed to the district based on full or partial attendance, itemized by the amount attributable to each city or town of residence. The board may review said certification to determine that the amount of the individual tuition charged for each child is in accordance with the provisions of this section and shall inform the state treasurer of any errors. The department may also, on a post-audit basis, verify the admission and attendance of the number of children certified by each school district. In addition to the foregoing, all said districts shall, on October first and April first, report to the board and certify to the state treasurer accurate and up to date reports of all the information required in the non-resident attendance report. If the total number of students admitted to receiving districts pursuant to this section is greater than the state school choice limit,

the board shall notify all districts that no more students may be accepted pursuant to this section.

(f) For each student enrolling in a receiving district, there shall be a school choice tuition amount. Said tuition amount shall be equal to seventy-five percent of the actual per pupil spending amount in the receiving district for such education as is required by such non-resident student, but not more than five thousand dollars; provided, however, that for special education students whose tuition amount shall remain the expense per student for such type of education as is required by such non-resident student. The state treasurer is hereby authorized and directed to deduct said school choice tuition amount from the total education aid, as defined in chapter seventy, of said student's sending district, prior to the distribution of said aid and to deposit said aid in the School Choice Tuition Trust Fund established by section twelve C. In the case of a child residing in a municipality which belongs to a regional school district, the school choice tuition amount shall be deducted from said chapter seventy education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of chapter seventy by accepting section fourteen of said chapter, the commonwealth shall assess said district for said excess amount.

(g) The state treasurer is further directed to disburse to the receiving district, from the School Choice Tuition Trust Fund established by section twelve C, an amount equal to each student's school choice tuition as defined in subsection (f); provided, however, that each public school district which admits children under the provisions of this section shall certify to the state treasurer the number of such children attending its public schools, the city or town of residence of each such child, the annual amount of tuition for each such child and the total tuition owed to the district based on full or partial attendance, itemized by the amount attributable to each city or town of residence; and, provided further, that such certification shall be made on October first of each year and April first of each year. Each school district submitting a certification to the state treasurer shall also submit a copy of said certification to the department of education. Said department may review said certification to determine that the amount of the individual tuition charged for each child is in accordance with the provisions of this section and shall inform the state treasurer of any errors. The department may also, on a post-audit basis, verify the admission and attendance of the number of children certified by each school district.

(h) There shall be a parent information system established, maintained and developed by the board of education to disseminate to parents detailed and comparable information about each school system participating in the school choice program, so-called, which shall include, but not be limited to, information on special programs offered by the school, philosophy of the school, number of spaces available, transportation plans, class sizes, teacher/student ratios, and data and information on school

performance that indicate its quality. Said information shall include the school profiles, so-called, developed pursuant to section one B of chapter sixty-nine. The board may include information regarding regional choice initiatives as deemed appropriate. The system shall have as its primary goal to ensure that all parents have an equal opportunity to participate in the program of interdistrict choice. The board of education, when disseminating this information shall encourage the parent and student to make at least one visit to the school of choice as part of the application procedure.

(i) Subject to appropriation, the board of education shall develop and administer a school choice transportation reimbursement program for the purpose of providing reimbursement for the transportation of pupils enrolled under the provisions of this section. Pupils eligible for said reimbursement must be eligible to receive free or reduced cost lunches under eligibility guidelines promulgated by the federal government under 42 USC section 1758. The board may limit said reimbursement to a yearly amount. The types of transportation to be reimbursed pursuant to said program shall include, but need not be limited to, the following: (1) transportation by school buses provided by the sending or receiving district; (2) transportation provided by the parent or guardian of the child; (3) transportation provided by public transportation. All eligible pupils who attend a school district contiguous to the school district of residence of such pupil shall be eligible for said reimbursement. If cost-effective transportation alternatives exist for pupils who attend districts not contiguous to the school districts of residence of such pupil, the board may provide a transportation reimbursement. Said reimbursements may be paid to the district in which the pupil is enrolled, the district of residence of the student, or the parent, guardian or person acting as guardian of the student; provided, however, that said district or parent provide documentation of the transportation expenditure. The board of education shall promulgate regulations for the program to be placed on file with the joint committee on education, arts and humanities of the general court. The board of education shall disseminate information to parents and school systems detailing the availability of said transportation reimbursements. A full description of said school choice transportation reimbursement program shall be submitted to the house and senate committees on ways and means and shall not become effective until ninety days after said submission. Notwithstanding the second paragraph of section one, nothing in this section shall confer upon any student attending a private school any right to transportation or reimbursement therefor.

(j) School committees may establish terms for accepting non-resident students; provided, however, that if the number of non-resident students applying for acceptance to said district exceeds the number of available seats, said school-committee shall select students for admission on a random basis; provided, further, that said school committee shall conduct said random selection twice: one time prior to July first and one time prior to November first; provided, further, that no school committee shall discriminate in the admission of any child on the basis of race, color, religious creed, national origin, sex, gender identity, age, sexual orientation, ancestry, athletic performance, physical handicap, special need or academic performance or proficiency in the English language. The Massachusetts commission against discrimination, established by section fifty-six of chapter six, shall have jurisdiction to enforce the

provisions of this section; provided, however, that all students described in subsection (m) shall be entitled to remain in the receiving districts they are attending or have been accepted to attend. Any school committee that accepts non-resident students under the provisions of this section shall notify each district from which it has accepted a non-resident student of its acceptance of that student; provided, however, that a school committee may not publicly release the names of students leaving or entering a district under the provisions of this section. Notwithstanding the preceding provisions of this paragraph, any sibling of a student already enrolled in the receiving district shall receive priority for admission to said district.

(k) Any child accepted to attend a public school in a community other than the one in which he resides pursuant to this section shall be permitted to remain in that school system until his high school graduation, unless there is a lack of funding of the program as authorized by said sections.

(l) Notwithstanding the provisions of this section or any general or special law to the contrary, any school district which admitted children on a private tuition basis prior to June thirtieth, nineteen hundred and ninety-one may continue, on that basis, to admit any child who attended its school system prior to that date, as well as any sibling or step-sibling of such child and any foster child residing in the home of such child.

(m) Any student who, pursuant to the provisions of this section, has been attending or has been admitted to attend a public school of a city or town in which he does not reside and for whom the commonwealth has been paying tuition or, in the case of a student recently admitted, would be required to pay tuition in the coming year, shall be deemed to be a student admitted pursuant to paragraph (j), and shall be subject to all of the provisions of this section; provided, however, that said students shall be allowed to remain in said school notwithstanding any determination of capacity or decision by the receiving district to withdraw made pursuant to this section.

(n) Subject to appropriation, any sending district for which the provisions of subsection (f) result in a reduction in state aid shall be eligible to apply for a school choice reimbursement from the commonwealth. If net school spending in a sending district is greater than said foundation budget as defined in chapter seventy, the amount of said reimbursement shall be the above foundation reimbursement amount for that fiscal year. If net school spending in a sending district is less than said foundation budget, the amount of said reimbursement shall be equal to one hundred percent of the positive difference, if any, between (i) the amount transferred pursuant to subsection (f), and (ii) the product of the number of students leaving the sending district and the average per pupil expenditure in the sending district for such education as is required by such nonresident student, for the period the child shall attend; provided, however, that if any district has exempted itself from the provisions of said chapter seventy by accepting section fourteen of said chapter seventy, the district shall be ineligible for a reimbursement under this subsection; provided, further, that if any district in which net school spending is greater than the foundation budget becomes a sending district for the first time in fiscal year nineteen hundred and ninety-five or any year thereafter, the

reimbursement amount for that district in the first year that it is a sending district shall be the fiscal year nineteen hundred and ninety-four reimbursement amount; the reimbursement amount for the district in its second year as a sending district shall be the fiscal year nineteen hundred and ninety-five reimbursement amount. Said reimbursement application shall be submitted to the department of education on or before October first of each year together with an educational corrective action plan containing information, recommendations and suggestions relative to: (1) areas needing improvement within the school system of the applicant; (2) methods of improvement to be employed; (3) goals and objectives of said improvement; (4) evaluation and control methods to be used; (5) personnel to be engaged in such improvement; (6) results intended to be accomplished within one year from the date of application; and (7) methods of increasing parental involvement to be employed; provided, however, that any community or regional school district that has a previously approved plan need not refile said plan; and, provided further, that approval of said plan by said board shall act as a condition precedent to the distribution of said reimbursement to the applicant community or regional school district. Under no circumstances shall the total amount expended pursuant to subsections (h) and (i) and to reimburse sending districts pursuant to this paragraph, be greater than twenty million dollars. If, in any year, the total amount that would be required to reimburse said cities at said rates would be greater than twenty million dollars, then the reimbursement rates shall be reduced proportionately to those rates at which the total cost does not exceed twenty million dollars.

(o) The commonwealth and the school committee of any town may accept funds from the federal government for the purposes of this section. Any amounts received by the school committee of any town from the federal government, from the commonwealth or from a charitable foundation or private institution shall be deposited with the treasurer of such town and held as a separate account, and may be expended by said school committee without further appropriation, notwithstanding the provisions of section fifty-three of chapter forty-four. Whenever such funds are received after the submission of the annual school budget, all or any portion thereof may be expended by the school committee without further appropriation, but shall be accounted for in the next annual school budget.

If the student attends the public schools of another town and it is anticipated that the student shall need the services of a private day or residential school, an individual education plan team meeting shall be convened by the school district in which the child is attending school. The school district in which the student attends school shall notify the school district where the student resides of the team meeting at least five school days prior to the meeting. Personnel from the district in which the child resides shall be allowed to participate in the team meeting concerning future placement of the child.