

HOUSE No. 4727

A communication from the Massachusetts Department of Elementary and Secondary Education (under the provisions of sections 1B, 1J and 1K of Chapter 69 of the General Laws) submitting amendments to 603 CMR 2.00, regulations on accountability and assistance for school districts and schools. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act A communication from the Massachusetts Department of Elementary and Secondary Education (under the provisions of sections 1B, 1J and 1K of Chapter 69 of the General Laws) submitting amendments to 603 CMR 2.00, regulations on accountability and assistance for school districts and schools.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Massachusetts Department of
- 2 Elementary and Secondary Education
- 3 75 Pleasant Street, Malden, Massachusetts 02148-4906
- 4 Telephone: (781) 338-3000
- 5 TTY: N.E.T. Relay 1-800-439-2370
- 6 November 3, 2016
- 7 Steven James, Clerk of the House
- 8 State House, Room 145

9 Boston, MA 02133

10 Dear Mr. James:

11 Pursuant to its authority under M.G.L. c. 69, §§ 1B, 1J and 1K, and in accordance with
12 the Administrative Procedure Act, M.G.L. c. 30A, § 3, the Massachusetts Board of Elementary
13 and Secondary Education is soliciting public comment on the proposed technical amendments to
14 603 CMR 2.00, Accountability and Assistance for School Districts and Schools Regulations.

15 Among other matters, the regulations describe the process for developing and
16 implementing turnaround plans for schools that have been declared underperforming (placed in
17 Level 4) and for schools and districts that have been declared chronically underperforming
18 (placed in Level 5). The proposed amendments provide clarity to underperforming schools and
19 chronically underperforming schools and districts, address provisions in the Achievement Gap
20 Act that may be ambiguous, and conform to existing practice with respect to Level 4 schools.
21 These proposed technical amendments make explicit the commonsense result that a turnaround
22 plan authorized pursuant to the Achievement Gap Act remains in effect until the statutory
23 process to develop a new, modified or renewed turnaround plan is completed, or the school or
24 district is no longer designated as underperforming or chronically underperforming.

25 I have enclosed the proposed regulations as well as my October 14, 2016 memorandum
26 to the Board. Please let me know if you need any additional information to initiate the next steps
27 under the process outlined in M.G.L. c. 69, § 1J(a), as amended by St. 2010, c. 12, § 3:

28 The board shall adopt regulations establishing standards for the commissioner to make
29 such designations [of underperforming and chronically underperforming schools] on the basis of
30 data collected pursuant to section 1I or information from a school or district review performed

31 under section 55A of chapter 15. Upon the release of the proposed regulations, the board shall
32 file a copy thereof with the clerks of the house of representatives and the senate who shall
33 forward the regulations to the joint committee on education. Within 30 days of the filing, the
34 committee may hold a public hearing and issue a report on the regulations and file the report
35 with the board. The board, pursuant to applicable law, may adopt final regulations making
36 revisions to the proposed regulations as it deems appropriate after consideration of the report and
37 shall forthwith file a copy of the regulations with the chairpersons of the joint committee on
38 education and, not earlier than 30 days of the filing, the board shall file the final regulations with
39 the state secretary.

40 If you have any questions, please contact me or Jessica Leitz at (781) 338-3104 or
41 jleitz@doe.mass.edu. Thank you very much.

42 Sincerely,

43

44 Mitchell D. Chester, Ed.D.

45 Commissioner of Elementary and Secondary Education

46 Enclosures

47 PROPOSED TECHNICAL AMENDMENT TO REGULATIONS ON
48 ACCOUNTABILITY AND ASSISTANCE FOR SCHOOL DISTRICTS AND SCHOOLS

49 603 CMR 2.00

50 • Presented to the Board of Elementary and Secondary Education for initial review
51 and vote to solicit public comment: October 25, 2016

52 • Period of public comment: through December 9, 2016

53 • Anticipated final action by the Board of Elementary and Secondary Education:
54 January 24, 2017

55 Summary: Among other matters, the regulations on Accountability and Assistance for
56 School Districts and Schools describe the process for developing and implementing turnaround
57 plans for schools that have been declared underperforming (placed in Level 4) and for schools
58 and districts that have been declared chronically underperforming (placed in Level 5). The
59 regulations provide that the turnaround plans are authorized for a period of up to three years.
60 The proposed technical amendments make explicit the commonsense result that a turnaround
61 plan authorized pursuant to the Achievement Gap Act remains in effect until the statutory
62 process to develop a new, modified or renewed turnaround plan is completed, or the school or
63 district is no longer designated as underperforming or chronically underperforming. The
64 amendments provide clarity to underperforming schools and chronically underperforming
65 schools and districts regarding the length of the turnaround plans, and conform to existing
66 practice.

67 See below for the text of sections 2.05-2.06 of the regulations, with the proposed
68 amendments redlined. The full text of the regulations is posted at:

69 <http://www.doe.mass.edu/lawsregs/603cmr2.html>.

70 603 CMR 2.00:

71 Accountability and Assistance for School Districts and Schools

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78 Adopted by the Board of Education: June 16, 1997

79 Most Recently Amended by the Board of Education: June 26, 2012

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81 2.05: Accountability and Assistance for Districts and Schools in Level 4

82 (1) Placement of districts in Level 4

83 (a) A district shall be placed in Level 4 if any of its schools has been placed in Level 4,

84 pursuant to 603 CMR 2.05 (2).

85 (b) The Board may place a district in Level 4 upon recommendation of the commissioner

86 based on findings from a district review, monitoring report, or follow-up review showing serious

87 deficiencies, relating to one or more district standards, that are likely if they are not addressed

88 effectively and in a timely manner to have a substantial negative effect on student performance

89 in the district, putting the district at risk of being placed in Level 5.

90 (c) A district may be placed in Level 4 pursuant to both 603 CMR 2.05(1)(a) and 603
91 CMR 2.05(1)(b).

92 (d) A district declared underperforming by a vote of the Board prior to April 27, 2010,
93 shall remain in Level 4 until the commissioner makes the determination described in 603 CMR
94 2.05(12)(b) and it has no schools in Level 4, unless the Board has voted to remove the district
95 from underperforming status.

96 (2) Placement of schools in Level 4

97 (a) A school shall be eligible for placement in Level 4 if it scores in the lowest 20%
98 statewide of schools serving common grade levels on a single measure developed by the
99 Department that takes into account at least:

100 1. school MCAS performance over a four-year period based on Composite
101 Performance Index (CPI) in English language arts; CPI in mathematics; and percentages of
102 students scoring in the "warning" or "failing" category on MCAS; and

103 2. improvement in student academic performance.

104 (b) The commissioner may place a school in Level 4 on the basis of quantitative data
105 including but not limited to:

106 1. school MCAS performance over a four-year period based on Composite
107 Performance Index (CPI) in English language arts; CPI in mathematics; and percentages of
108 students scoring in the "warning" or "failing" category on MCAS;

109 2. improvement in school MCAS performance as represented by change in CPI (for
110 years available, up to four);

111 3. annual growth in MCAS performance for students at the school as compared with
112 peers across the Commonwealth (for years available, up to four);

113 4. in the case of high schools, graduation and dropout rates; or

114 5. other indicators of school performance including student attendance, dismissal,
115 suspension, exclusion, and promotion rates upon the determination of each indicator's reliability
116 and validity, or lack of demonstrated significant improvement for two or more consecutive years
117 in core academic subjects, either in the aggregate or among subgroups of students, including
118 designations based on special education, low-income, English language proficiency, and racial
119 classifications; or on the basis of information from a school or district review performed under
120 M.G.L. c.15, § 55A.

121 (c) Not more than 4% of the total number of public schools may be in Levels 4 and 5,
122 taken together, at any given time.

123 (d) Any school designated by the Board as chronically underperforming prior to 2010
124 may be placed in Level 4.

125 (3) Notification The Department shall notify districts of the placement of any of their
126 schools in Level 4. The notification shall be made to the school committee, superintendent, and
127 local teachers' union or association president, and the principal and the parent organization of
128 any school placed in Level 4.

129 (4) Appointment of assistance and accountability personnel Upon placement of a district
130 in Level 4 the Department may make any or all of the following appointments:

131 (a) an assistance liaison:

132 1. to support the district in developing and carrying out a turnaround plan for each of
133 its Level 4 schools, if any; and

134 2. to support the district in district improvement planning pursuant to 603 CMR
135 2.05(8), if required;

136 (b) an accountability monitor to determine and report on:

137 1. whether the goals, benchmarks, and timetable in the turnaround plan for each of
138 the district's Level 4 schools, if any, are being met; and

139 2. if the district has a Level 4 District Plan pursuant to 2.08(c), whether its goals,
140 benchmarks, and timetable are being met; and

141 (c) an individual or team to conduct monitoring site visits to the district or its schools.

142 (5) Turnaround plans for Level 4 schools

143 (a) The turnaround plan developed for each school placed in Level 4 shall:

144 1. be authorized, pursuant to M.G.L. c. 69, s. § 1J(j), for a period of up to three
145 years, and remain in effect until the statutory process to develop any new, modified, or renewed
146 turnaround plan has been completed, or the school has been removed from Level 4;

147 2. fulfill the other requirements of M.G.L. c. 69, § 1J;

148 3. provide for the implementation of the conditions for school effectiveness in 603
149 CMR 2.03(4)(b);

150 4. include benchmarks by which to measure progress toward the annual goals
151 included in the plan pursuant to M.G.L. c. 69, § 1J, and the conditions for school effectiveness,
152 and a timetable for achieving those benchmarks;

153 5. include descriptions of the assistance to be provided by the Department in support
154 of the action steps in the plan, as agreed on by the Department and the superintendent, subject to
155 the availability of resources for the Department to provide the assistance; and

156 6. be prepared on a format provided by the Department.

157 (b) Once the superintendent has received the recommendations of the local stakeholder
158 group under M.G.L. c. 69, § 1J(b), the superintendent may request that the school committee and
159 any union bargain or reopen the bargaining of the relevant collective bargaining agreement,
160 pursuant to M.G.L. c. 69, § 1J(g). If necessary, the 30 days provided by M.G.L. c. 69, § 1J(e) for
161 the superintendent to submit a turnaround plan for modifications to the local stakeholder group,
162 school committee, and commissioner shall be extended, without exceeding the time periods
163 mandated by M.G.L. c. 69, § 1J(g), to provide time for bargaining, ratification, a dispute
164 resolution process, the submission of a decision by the joint resolution committee, or a resolution
165 by the commissioner, pursuant to M.G.L. c. 69, § 1J(g).

166 (c) Within 30 days of the issuance of the superintendent's final turnaround plan under
167 M.G.L. c. 69, § 1J(e), the commissioner shall review the plan and may, in consultation with the
168 superintendent, modify the plan if the commissioner determines that

169 1. such modifications would further promote the rapid academic achievement of
170 students in the school;

171 2. a component of the plan was included, or a modification under M.G.L. c. 69, §
172 1J(e) was excluded, on the basis of demonstrably false information or evidence; or

173 3. the superintendent failed to meet the requirements of M.G.L. c. 69, § 1J(b) to (e),
174 inclusive.

175 (d) Within 30 days of the issuance of the superintendent's final turnaround plan under
176 M.G.L. c. 69, § 1J(e), the school committee or local union may appeal to the commissioner one
177 or more components of the plan pursuant to M.G.L. c. 69, § 1J(f). Within 30 days of the receipt
178 of such appeal, the commissioner shall decide the appeal and may, in consultation with the
179 superintendent, make one or more modifications to the plan based on the appeal if the
180 commissioner makes any of the determinations in 603 CMR 2.05(5)(c)1 through 3. The
181 commissioner's decision on the appeal shall be final.

182 (e) Within 30 days of the receipt of the last appeal made under M.G.L. c. 69, § 1J(f) and
183 603 CMR 2.05(5)(d), or, if no such appeal is received within 30 days of the issuance of the
184 superintendent's final turnaround plan under M.G.L. c. 69, § 1J(e), at the expiration of those 30
185 days, the commissioner shall return the turnaround plan to the superintendent incorporating any
186 modifications made under 603 CMR 2.05(5)(c) or (d), or both. Such return of the plan to the
187 superintendent shall constitute the commissioner's approval, pursuant to M.G.L. c. 69, § 1J(b), of
188 the plan returned.

189 (6) Annual reviews of Level 4 schools Superintendents shall use a format provided by the
190 Department for the reviews to be submitted to the commissioner and school committee at least
191 annually pursuant to M.G.L. c. 69, § 1J(k).

192 (7) Receiver for a school in Level 4

193 (a) If the superintendent appoints a receiver for a school in Level 4 pursuant to M.G.L. c.
194 69, s. 1J(h), the superintendent shall define the scope of the receiver's powers, up to and
195 including all of the powers of the superintendent over the school, including all of the powers
196 granted by M.G.L. c. 69, s. 1J. The superintendent may from time to time modify the scope of
197 the receiver's powers based on conditions in the school. The receiver shall report directly to the
198 superintendent.

199 (b) If the commissioner requires the superintendent to terminate the receiver for a school
200 in Level 4 pursuant to M.G.L. c. 69, § 1J(k), the superintendent may, with the approval of the
201 commissioner, select and appoint another receiver for the school in accordance with M.G.L. c.
202 69, § 1J(h) and 603 CMR 2.05(7)(a).

203 (8) District improvement planning for Level 4 districts

204 (a) The turnaround plan developed pursuant to 603 CMR 2.05(5) for any school in Level
205 4 shall include, among its provisions pursuant to 603 CMR 2.05(5)(a)(3) for the implementation
206 of the conditions for school effectiveness, provisions for the improvement of district systems for
207 school support and intervention in accordance with the condition for school effectiveness in 603
208 CMR 2.03(4)(b)(1).

209 (b) If a district has been placed in Level 4 pursuant to 603 CMR 2.05(1)(b), the
210 Department shall notify the Level 4 district that it is required to develop a Level 4 District Plan
211 in order to correct the serious deficiencies identified in the district pursuant to 603 CMR
212 2.05(1)(b); if a district has been placed in Level 4 pursuant to 603 CMR 2.05(1)(a), the
213 Department may notify it that it is required to develop a Level 4 District Plan in order to aid in
214 turning around its Level 4 school or schools.

215 (c) Each Level 4 district notified by the Department pursuant to 603 CMR 2.05(8)(b)
216 shall develop a Level 4 District Plan that includes goals and benchmarks appropriate to the
217 reasons it has been required to develop a Level 4 District Plan, along with strategies, action
218 steps, and a timetable for achieving those goals and benchmarks. The Level 4 District Plan shall
219 be prepared on a format provided by the Department.

220 (d) A Level 4 district shall submit any required Level 4 District Plan and any successor
221 Level 4 District Plan for approval by the Department. A district whose Level 4 District Plan is
222 approved by the Department shall receive priority for Department assistance. From year to year,
223 continued priority for Department assistance shall be dependent on the district's success in
224 achieving the goals and benchmarks in the approved Level 4 District Plan or approved successor
225 Level 4 District Plan in accordance with the approved timetable.

226 (9) Annual report to Board The commissioner shall report annually to the Board on the
227 progress made by districts and schools in Level 4.

228 (10) Removal of school from Level 4

229 (a) The commissioner shall define for each Level 4 school the academic and other
230 progress that it must make for it to be removed from Level 4. Such progress may include:

231 1. an increase in student achievement for three years for students overall and for
232 each subgroup of students, as shown by;

233 a. an increase in MCAS scores and an increase in median student growth percentile;

234 b. a reduction in the proficiency gap;

235 c. (for a high school) a higher graduation rate; and

236 d. (for a high school) a measure of postsecondary success, once the Department
237 identifies one that is sufficiently reliable, valid, and timely; and

238 2. (ii) progress in implementing the conditions for school effectiveness described in
239 603 CMR 2.03(4)(b).

240 (b) The commissioner, in defining the required progress for each school, shall customize
241 it to the particular reasons the school was placed in Level 4, defining it as any or all of the
242 progress in 2.05(10)(a)1 and 2, or any other progress the commissioner determines appropriate.

243 (c) After consultation with the superintendent, the commissioner shall remove a school
244 from Level 4 when, at any time, the commissioner determines, based on evidence that may
245 include evidence from a report from the accountability monitor appointed pursuant to 603 CMR
246 2.05(4)(b), a review by the superintendent submitted pursuant to M.G.L. c. 69, § J(k), a review
247 conducted by the commissioner pursuant to M.G.L. c. 69, § 1J(l), or a district review or a follow-
248 up review, that:

249 1. the school has achieved the academic and other progress defined by the
250 commissioner under 603 CMR 2.05(10)(a) and (b) as necessary to allow it to be removed from
251 Level 4; and

252 2. the district has the capacity to continue making progress in improving school
253 performance without the accountability and assistance provided due to the school's placement in
254 Level 4.

255 (d) At the expiration of the turnaround plan, in conducting a review of the school
256 pursuant to M.G.L. c. 69, § 1J(l), the commissioner shall consider whether the conditions

257 described in 603 CMR 2.05(10)(c)1 and 2 exist. If the commissioner determines that both of
258 these conditions exist, he or she shall remove the school from Level 4.

259 (e) Notwithstanding the foregoing requirements of 603 CMR 2.04(10), the commissioner
260 may remove from Level 4 any school for which he or she approves a proposal of closure.

261 (11) Effect of removal of school from Level 4; transitional period

262 (a) Upon the commissioner's removal of a school from Level 4 pursuant to 603 CMR
263 2.05(10)(c) or (d), the provisions of M.G.L. c. 69, § 1J, for schools designated as
264 underperforming shall no longer apply to it and the employment of any receiver for the school
265 shall end.

266 (b) The district and school may continue their relationship with any external partner
267 appointed to advise or assist the superintendent in the implementation of the turnaround plan and
268 may continue to use the turnaround plan in order to continue to improve school performance,
269 renewing or revising it as appropriate, provided that any feature of the turnaround plan that was
270 adopted pursuant to M.G.L. c. 69, § 1J(d), in contravention of any general or special law to the
271 contrary shall be discontinued unless:

272 1. no more than one year before the removal of the school from Level 4 the
273 superintendent proposed to continue such feature of the turnaround plan for a transitional period
274 after the school's removal from Level 4, supporting this proposal with a written explication of the
275 reasons this continuation is necessary and providing the school committee, the teachers' union or
276 association, and the parent organization for the school with a copy of the proposal and supporting
277 documents; and

278 2. before removing the school from Level 4 the commissioner determined, after
279 considering any opposition from the school committee, the teachers' union or association, or the
280 parent organization for the school, that such feature of the turnaround plan would contribute to
281 the continued improvement of the school and should continue after the removal.

282 The superintendent may propose to continue and the commissioner may allow to continue
283 more than one such feature of the turnaround plan.

284 (c) Upon making a determination pursuant to 603 CMR 2.05(11)(b)2 that such feature or
285 features of the turnaround plan should continue, the commissioner shall define the progress that
286 the school must make for each continuing feature of the plan to be discontinued.

287 (d) On determination by the commissioner at any time, based on evidence that may
288 include evidence from a school or district review or a follow-up review, that the school has made
289 the progress defined under 603 CMR 2.05(11)(c) as necessary to allow a continuing feature of
290 the turnaround plan to be discontinued

291 1. such feature shall be discontinued; and

292 2. any powers granted to the commissioner or Board with respect to the school under
293 M.G.L. c. 69, § 1J, that did not cease on removal of the school from Level 4 shall cease.

294 (e) Two years after the removal of the school from Level 4, if any of the continuing
295 features of the turnaround plan has yet to be discontinued, the commissioner shall conduct a
296 review of the school to determine whether such continuing feature or features should remain in
297 place or be discontinued.

298 (12) Removal of district from Level 4

299 (a) A district placed in Level 4 because one or more of its schools has been placed in
300 Level 4 shall be removed from Level 4 when the district no longer has a school in Level 4, unless
301 the district has a Level 4 District Plan and the commissioner has not yet made the determination
302 described in 603 CMR 2.05(12)(b).

303 (b) A district with a Level 4 District Plan shall be removed from Level 4 by the
304 commissioner, unless it has a school or schools in Level 4, when the commissioner determines,
305 based on evidence that may include evidence from a monitoring report or from a follow-up
306 review, that

307 1. the district has satisfactorily achieved the goals and benchmarks of its Level 4
308 District Plan; and

309 2. the district has the capacity to continue making progress without the
310 accountability and assistance provided by Level 4.

311 2.06 Accountability and Assistance for Districts and Schools in Level 5

312 (1) Placement of districts in Level 5

313 (a) A district shall be eligible for placement in Level 5 if it is not a single-school district
314 and it scores in the lowest 10% statewide of districts of the same grade levels on a single
315 measure developed by the Department that takes into account at least:

316 1. district MCAS performance over a four-year period based on Composite
317 Performance Index (CPI) in English language arts; CPI in mathematics; and percentages of
318 students scoring in the "warning" or "failing" category on MCAS; and

319 2. improvement in student academic achievement.

320 (b) The Board may place an eligible district in Level 5 of the framework for district
321 accountability and assistance, if the commissioner so recommends, on the basis of one or more
322 of the following:

- 323 1. a district review report;
- 324 2. a report from an accountability monitor appointed pursuant to 603 CMR
325 2.05(4)(b);
- 326 3. a follow-up review report;
- 327 4. quantitative indicators such as student attendance, dismissal, suspension,
328 exclusion, promotion, graduation, and dropout rates, upon the determination of each indicator's
329 reliability and validity, or lack of demonstrated significant improvement for two or more
330 consecutive years in core academic subjects, either in the aggregate or among subgroups of
331 students, including designations based on special education, low-income, English language
332 proficiency, and racial classifications, or annual growth in MCAS performance for students in
333 the district as compared with peers across the Commonwealth; or
- 334 5. the failure of a Level 4 district to meet, in a timely manner, the benchmarks or
335 goals in its current Level 4 District Plan as approved by the Department pursuant to 603 CMR
336 2.05(8)(d).

337 (c) Not more than 2.5% of the total number of school districts may be in Level 5 at any
338 given time.

339 (d) Before the commissioner recommends that an eligible district be placed in Level 5, a
340 district review team including at least one member with expertise in the academic achievement

341 of students with limited English proficiency shall conduct a district review to assess and report
342 on the reasons for the district's underperformance and the prospects for improvement, unless the
343 commissioner determines that a new review is unnecessary because a district review conducted
344 within the last year is adequate.

345 (e) Before placing a district in Level 5, the Board shall consider the findings of the most
346 recent district review, as well as multiple quantitative indicators of district quality such as those
347 listed in 603 CMR 2.06(1)(b)4.

348 (f) School district and municipal officials, including the school committee, as well as the
349 local teachers' union or association president or designee, a representative of the local parent
350 organization, and members of the public, shall have an opportunity to be heard by the Board
351 before final action by the Board to place the district in Level 5.

352 (2) Placement of schools in Level 5

353 (a) The commissioner may place a Level 4 school in Level 5 at the expiration of its
354 turnaround plan if the commissioner determines:

355 1. that the school has failed to improve as required by the goals, benchmarks, or
356 timetable of the turnaround plan; or

357 2. that the school has failed to make significant improvement and that conditions in
358 the district make it unlikely that the school will make significant improvement unless it is placed
359 in Level 5.

360 (b) School, school district, and municipal officials, including the school committee, as
361 well as the local teachers' union or association president or designee, a representative of the

362 school's parent organization, and family members of students at the school, shall have an
363 opportunity to meet with the commissioner or his or her designee before the commissioner places
364 a school in Level 5.

365 (3) Appointment and powers of receiver for a district in Level 5

366 (a) Following the placement of a district in Level 5 under 603 CMR 2.06(1)(b), the
367 commissioner, on behalf of the Board, shall appoint a receiver for the district pursuant to M.G.L.
368 c. 69, § 1K(a).

369 (b) The receiver shall have the powers provided to the receiver by M.G.L. c. 69, § 1K,
370 including all of the powers of the superintendent and school committee and full managerial and
371 operational control over the district, provided that the district shall remain the employer of record
372 for all other purposes, and provided further that the commissioner may define the scope of the
373 receiver's powers up to those set forth in M.G.L. c. 69, § 1K, based on conditions in the district
374 or its schools. The commissioner may from time to time modify the scope of the receiver's
375 powers based on conditions in the district or its schools.

376 (4) Replacement of receiver for a district in Level 5 If the commissioner terminates the
377 receiver for a district in Level 5 pursuant to M.G.L. c. 69, § 1K(h), the commissioner shall
378 appoint another receiver for the district in accordance with M.G.L. c. 69, § 1K(a) and 603 CMR
379 2.06(3)(b).

380 (5) Receiver for a school in Level 5

381 (a) A receiver appointed by the commissioner for a school in Level 5 pursuant to M.G.L.
382 c. 69, s. 1J(r), shall have all of the powers that the superintendent previously had over the school

383 and all of the powers granted to a receiver for a Level 5 school by M.G.L. c. 69, s. 1J. The
384 receiver shall report directly to the commissioner.

385 (b) If the commissioner terminates the receiver for a school in Level 5 pursuant to M.G.L.
386 c. 69, § 1J(v), the commissioner may appoint another receiver for the school in accordance with
387 M.G.L. c. 69, § 1J(r) and 603 CMR 2.06(5)(a).

388 (6) Turnaround plans for Level 5 schools The turnaround plan developed for each school
389 placed in Level 5 shall

390 (a) be authorized, pursuant to M.G.L. c. 69, § 1J(t), for a period of up to three years, and
391 remain in effect until the statutory process to develop any new, modified or renewed turnaround
392 plan has been completed, or the school has been removed from Level 5;

393 (b) fulfill the other requirements of M.G.L. c. 69, § 1J;

394 (c) provide for the implementation of the conditions for school effectiveness in 603 CMR
395 2.03(4)(b);

396 (d) include benchmarks by which to measure progress toward the annual goals included
397 in the plan pursuant to M.G.L. c. 69, § 1J, and the conditions for school effectiveness, and a
398 timetable for achieving those benchmarks;

399 (e) include descriptions of the assistance to be provided by the Department in support of
400 the action steps in the plan, subject to the availability of resources for the Department to provide
401 the assistance; and

402 (f) be prepared on a format developed by the Department.

403 (7) Turnaround plans for Level 5 districts The turnaround plan developed for each district
404 placed in Level 5 shall:

405 (a) focus, pursuant to M.G.L. c. 69, §1K(b), on any Level 5 school or schools in the
406 district and, using the most recent district review report as a guide, on any district policies or
407 practices that have contributed to the placement of the school or schools or district in Level 5,
408 including but not limited to district systems for school support and intervention;

409 (b) be authorized, pursuant to M.G.L. c. 69, § 1K(f), for a period of up to three years, and
410 remain in effect until the statutory process to develop any new, modified or renewed turnaround
411 plan has been completed, or the district has been removed from Level 5;

412 (c) fulfill the other requirements of M.G.L. c. 69, § 1K;

413 (d) if the district has any Level 4 or Level 5 schools, provide for the implementation in
414 the district of the systems and processes necessary to bring about the conditions for school
415 effectiveness in 603 CMR 2.03(4)(b), including, pursuant to M.G.L. c. 69, § 1K, new turnaround
416 plans for any Level 4 or 5 school for which the turnaround plans are deemed inadequate by the
417 receiver.

418 (e) include, for the district: benchmarks by which to measure progress toward the annual
419 goals included in the plan pursuant to M.G.L. c. 69, § 1K, and a timetable for achieving those
420 benchmarks;

421 (f) describe the assistance to be provided by the Department in support of the action steps
422 in the plan, subject to the availability of the resources for the Department to provide the
423 assistance; and

424 (g) be prepared on a format developed by the Department.

425 (8) Quarterly reports for Level 5 schools and districts

426 (a) Quarterly reports for Level 5 schools, including the review by the commissioner to be
427 submitted at least annually to the superintendent and the school committee, shall be submitted
428 pursuant to M.G.L. c. 69, § 1J(u) and (v) on a format developed by the Department.

429 (b) Quarterly reports for Level 5 districts, including the evaluation by the commissioner
430 to be submitted at least annually to the Board and the school committee, shall submitted pursuant
431 to M.G.L. c. 69, § 1K(g) and (h) on a format developed by the Department.

432 (9) Reports to the Board The commissioner shall report regularly to the Board on the
433 progress made by each district and school in Level 5.

434 (10) Removal of school from Level 5

435 (a) The commissioner shall define for each Level 5 school the academic and other
436 progress that it must make for it to be removed from Level 5. Such progress may include:

437 1. an increase in student achievement for three years for students overall and for
438 each subgroup of students, as shown by:

439 a. an increase in MCAS scores and an increase in median student growth percentile;

440 b. a reduction in the proficiency gap;

441 c. (for a high school) a higher graduation rate; and

442 d. (for a high school) a measure of postsecondary success, once the Department
443 identifies one that is sufficiently reliable, valid, and timely; and

444 2. progress in implementing the conditions for school effectiveness described in 603
445 CMR 2.03(4)(b).

446 (b) The commissioner, in defining the required progress for each school, shall customize
447 it to the particular reasons the school was placed in Level 5, defining it as any or all of the
448 progress in 603 CMR 2.06(10)(a)1 and 2, or any other progress the commissioner determines
449 appropriate.

450 (c) The commissioner shall remove a school from Level 5 when, at any time, the
451 commissioner determines, based on evidence that may include a report from the accountability
452 monitor appointed pursuant to 603 CMR 2.05(4)(b), from the school's or district's receiver, if
453 any, from a district review, or from a follow-up review, that:

454 1. the school has achieved the academic and other progress defined by the
455 commissioner under 603 CMR 2.06(10)(a) and (b) as necessary to allow it to be removed from
456 Level 5; and

457 2. the district has the capacity to continue making progress in improving school
458 performance without the accountability and assistance provided due to the school's placement in
459 Level 5.

460 (d) At the expiration of the turnaround plan, in conducting a review of the school
461 pursuant to M.G.L. c. 69, § 1J(w), the commissioner shall consider whether the conditions

462 described in 603 CMR 2.06(10)(c)1 and 2 exist. If the commissioner determines that both of
463 these conditions exist, he or she shall remove the school from Level 5.

464 (11) Effect of removal of school from Level 5; transitional period

465 (a) Upon the commissioner's removal of a school from Level 5, the provisions of M.G.L.
466 c. 69, § 1J, for schools designated as chronically underperforming shall no longer apply to it and
467 the employment of any receiver for the school shall end.

468 (b) The district and school may continue to use the turnaround plan in order to continue
469 to improve school performance, renewing or revising it as appropriate, provided that any feature
470 of the turnaround plan that was adopted pursuant to M.G.L. c. 69, § 1J(o), in contravention of
471 any general or special law to the contrary shall be discontinued unless the commissioner
472 determined before removing the school from Level 5 that such feature of the turnaround plan
473 would contribute to the continued improvement of the school and should continue for a
474 transitional period after the removal. The commissioner may allow more than one such feature of
475 the turnaround plan to continue.

476 (c) Upon making a determination pursuant to 603 CMR 2.06(11)(b) that such feature or
477 features of the turnaround plan should continue, the commissioner shall define the progress that
478 the school must make for each continuing feature of the plan to be discontinued.

479 (d) On determination by the commissioner at any time, based on evidence that may
480 include evidence from a school or district review or a follow-up review, that the school has made
481 the progress defined under 603 CMR 2.06(11)(c) as necessary to allow a continuing feature of
482 the turnaround plan to be discontinued

483 1. such feature shall be discontinued; and
484 2. any powers granted to the commissioner or Board with respect to the school under
485 M.G.L. c. 69, § 1J, that did not cease on removal of the school from Level 5 shall cease.

486 (e) Two years after the removal of the school from Level 5, if any of the continuing
487 features of the turnaround plan has yet to be discontinued, the commissioner shall conduct a
488 review of the school to determine whether such continuing feature or features should remain in
489 place or be discontinued.

490 (12) Termination of receivership and removal of district from Level 5

491 (a) The commissioner shall define for each Level 5 district the academic and other
492 progress that it must make for it to be removed from Level 5. Such progress may include:

493 1. an increase in student achievement for three years for students overall and for
494 each subgroup of students, as shown by:

495 a. an increase in MCAS scores and an increase in median student growth percentile;

496 b. a reduction in the proficiency gap;

497 c. a higher graduation rate; and

498 d. a measure of postsecondary success, once the Department identifies one that is
499 sufficiently reliable, valid, and timely;

500 2. the implementation of district systems and practices that meet district standards
501 established under 603 CMR 2.03(4); and

502 3. progress in implementing in the district's schools the conditions for school
503 effectiveness described in 603 CMR 2.03(4)(b).

504 (b) The commissioner, in defining the required progress for the district, shall customize it
505 to the particular reasons the district was placed in Level 5, defining it as any or all of the progress
506 in 603 CMR 2.06(12)(a)1 through 3, or any other progress the commissioner determines
507 appropriate.

508 (c) The commissioner shall terminate the receivership and remove the district from Level
509 5 when, at any time, the commissioner determines, based on evidence that may include a report
510 from the district's receiver or a follow-up review, that

511 1. the district has achieved the academic and other progress defined by the
512 commissioner under 603 CMR 2.06(12)(a) and (b) as necessary to allow it to be removed from
513 Level 5; and

514 2. the district has the capacity to continue making progress without the
515 accountability and assistance provided by Level 5.

516 (d) At the expiration of the turnaround plan, in reevaluating the district's Level 5 status
517 pursuant to M.G.L. c. 69, § 1K(i), the commissioner shall consider whether the conditions
518 described in 603 CMR 2.06(12)(c)1 and 2 exist. If the commissioner determines that both of
519 these conditions exist, he or she shall terminate the receivership and remove the district from
520 Level 5.

521 (13) Effect of removal of district from Level 5; transitional period

522 (a) Upon the commissioner's removal of a district from Level 5, the provisions of M.G.L.
523 c. 69, § 1K, for districts designated as chronically underperforming shall no longer apply to it
524 and the employment of the receiver shall end.

525 (b) The district may continue to use the turnaround plan in order to continue to improve
526 students' academic performance, renewing or revising it as appropriate, provided that any feature
527 of the turnaround plan that was adopted pursuant to M.G.L. c. 69, § 1K(d), in contravention of
528 any general or special law to the contrary shall be discontinued unless the commissioner
529 determined, before removing the district from Level 5, that such feature of the turnaround plan
530 would contribute to the continued improvement of the district and should continue for a
531 transitional period after the removal. The commissioner may allow more than one such feature of
532 the turnaround plan to continue.

533 (c) Upon making a determination pursuant to 603 CMR 2.06(13)(b) that such feature or
534 features of the turnaround plan should continue, the commissioner shall define the progress that
535 the district must make for each continuing feature of the plan to be discontinued.

536 (d) On determination by the commissioner at any time, based on evidence that may
537 include evidence from a district review or a follow-up review, that the district has made the
538 progress defined under 603 CMR 2.06(13)(c) as necessary to allow a continuing feature of the
539 turnaround plan to be discontinued:

- 540 1. such feature shall be discontinued; and
- 541 2. any powers granted to the commissioner or Board with respect to the district
542 under M.G.L. c. 69, § 1K, that did not cease on removal of the district from Level 5 shall cease.

543 (e) Two years after the removal of the district from Level 5, if any of the continuing
544 features of the turnaround plan has yet to be discontinued, the commissioner shall conduct a
545 review of the district to determine whether such continuing feature or features should remain in
546 place or be discontinued.

547 (14) Petition by school committee of a Level 5 district

548 (a) When the school committee of a Level 5 district petitions the commissioner, pursuant
549 to M.G.L. c. 69, § 1K (i), for either modification of the turnaround plan or elimination of the
550 turnaround plan and termination of the receivership, the commissioner shall decide the petition
551 after considering the following:

552 1. written arguments and supporting documentation submitted with the petition by
553 the school committee;

554 2. written arguments and supporting documentation submitted in response to the
555 petition by the receiver; and

556 3. the report of any follow-up review conducted since the district was placed in
557 Level 5.

558 (b) If no follow-up review has been conducted within the last year before the
559 commissioner's receipt of the petition and the commissioner determines that such a review would
560 be useful in deciding on the petition, the commissioner may cause one to be conducted and delay
561 the decision on the petition until 30 days after receiving the follow-up review report, provided
562 that a decision on the petition shall be made within four months of the commissioner's receipt of
563 the petition.

564 (c) Within 30 days of receiving the commissioner's decision, the school committee may
565 appeal an adverse decision to the Board. The Board shall consider the evidence described in 603
566 CMR 2.06(14)(a)1 through 3 and may consider other evidence from the school committee,
567 receiver, and commissioner. The decision of the Board shall be made within 60 days of receiving
568 the appeal and shall be final.

569 (d) Neither the process before the commissioner nor the process before the Board shall be
570 an adjudicatory hearing.

571 (e) No petition for the elimination of the turnaround plan and termination of the
572 receivership shall be granted unless the commissioner or, in the case of an appeal, the Board
573 determines

574 1. that the district has achieved the progress defined by the commissioner under 603
575 CMR 2.06(12)(a) as necessary to allow the district to be removed from Level 5 or that the district
576 has achieved other, comparable or superior progress; and

577 2. that the district has the capacity to continue making progress without the
578 accountability and assistance provided by Level 5.

579 (f) Upon a decision by the commissioner or the Board granting a petition for the
580 elimination of the turnaround plan and termination of the receivership, the receivership shall be
581 terminated and the district removed from Level 5.

582 Regulatory Authority:

583 M.G.L. c. 69, § 1B; c. 69, §§ 1J and 1K, as amended by St. 2010, c. 12, § 3; c. 71, § 38G.

584 Last Updated: September 7, 2012

585 The Massachusetts Board of Elementary and Secondary Education
586 Proposed Technical Amendments to Regulations on Accountability and Assistance for
587 School Districts and Schools (603 CMR 2.00)

588 To: Members of the Board of Elementary and Secondary Education

589 From: Mitchell D. Chester, Ed.D., Commissioner

590 Date: October 14, 2016

591

592 I am presenting to the Board of Elementary and Secondary Education proposed technical
593 amendments to 603 CMR 2.00: Accountability and Assistance for School Districts and Schools.
594 I will be asking the Board to vote on October 25, 2016 to solicit public comment on the proposed
595 technical amendments.

596 Among other matters, the regulations describe the process for developing and
597 implementing turnaround plans for schools that have been declared underperforming (placed in
598 Level 4) and for schools and districts that have been declared chronically underperforming
599 (placed in Level 5). The proposed amendments provide clarity to underperforming schools and
600 chronically underperforming schools and districts, address provisions in the Achievement Gap
601 Act that may be ambiguous, and conform to existing practice with respect to Level 4 schools.
602 These proposed technical amendments make explicit the commonsense result that a turnaround
603 plan authorized pursuant to the Achievement Gap Act remains in effect until the statutory
604 process to develop a new, modified or renewed turnaround plan is completed, or the school or
605 district is no longer designated as underperforming or chronically underperforming.

606 For example, with respect to Level 4 schools, G.L. c. 69, § 1J(l) provides "[u]pon the
607 expiration of the turnaround plan," the commissioner conducts a review of the school to
608 determine whether the school has improved sufficiently, requires further improvement or has
609 failed to improve. On the basis of his review, the commissioner may determine that the school
610 remains underperforming. In that case, the superintendent, with the approval of the
611 commissioner, will either renew the turnaround plan, or create a new or modified turnaround
612 plan, consistent with the statutory process (e.g., convening a local stakeholder group to make
613 recommendations regarding the turnaround plan, submitting a preliminary turnaround plan to
614 stakeholders for their review, and considering proposed modifications before providing a final
615 turnaround plan). The proposed technical amendments make clear that during the period that a
616 new or modified turnaround plan is under development, the prior turnaround plan remains in
617 effect. This result permits a smooth transition and avoids the disruption that would occur if a
618 turnaround plan expires before the planning process required by the statute has been completed
619 and the successor plan has been put in place.

620 With the Board's approval, the Department will solicit public comment on the proposed
621 amendments. I will also share the proposed amendments with the Board's Advisory Council on
622 School and District Accountability and Assistance at their next meeting on October 26, 2016, for
623 the council's review and comment. After reviewing all the comments and determining whether
624 further changes are needed, I plan to bring the amendments back to the Board in January 2017
625 for final adoption.

626 A redlined version of the regulations is attached, along with a motion authorizing the
627 period of public comment. Senior Associate Commissioner Russell Johnston will be at the Board
628 meeting on October 25 to answer your questions.

629 Enclosures:

630

631 Motion

632

633 Redline version of the regulations

634