

HOUSE No. 429

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote collaboration at level 4/5 schools.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/16/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/25/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/1/2019</i>

HOUSE No. 429

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 429) of Marjorie C. Decker, James K. Hawkins and Russell E. Holmes relative to under performing schools. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to promote collaboration at level 4/5 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 SECTION 1. Section 1J of chapter 69 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof
3 the following subsection:-

4 (d) Notwithstanding any general or special law to the contrary, in creating the turnaround
5 plan required in subsection (b), the superintendent may, after considering the recommendations
6 of the group of stakeholders and consistent with the procedures set forth in this section: (1)
7 expand, alter or replace the curriculum and program offerings of the school, including the
8 implementation of research-based early literacy programs, early interventions for struggling
9 readers and the teaching of advanced placement courses or other rigorous nationally or
10 internationally recognized courses, if the school does not already have such programs or courses;
11 (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the
12 school from the budget of the district, if the school does not already receive funding from the

13 district at least equal to the average per pupil funding received for students of the same
14 classification and grade level in the district; (4) provide funds, subject to appropriation and
15 following consultation with applicable local unions, to increase the salary of any administrator,
16 or teacher in the school, to attract or retain highly-qualified administrators, or teachers or to
17 reward administrators, or teachers who work in underperforming schools that achieve the annual
18 goals set forth in the turnaround plan; (5) expand the school day or school year or both of the
19 school; (6) for an elementary school, add pre-kindergarten and full-day kindergarten classes, if
20 the school does not already have such classes; (7) require the principal and, following
21 consultation with applicable local unions, all administrators to reapply for their positions in the
22 school, with full discretion vested in the superintendent regarding his consideration of and
23 decisions on rehiring based on the reapplications. (8) limit, suspend or change 1 or more
24 provisions of any contract or collective bargaining agreement, as the contract or agreement
25 applies to the school; provided, that the superintendent shall not reduce the compensation of an
26 administrator, teacher or staff member unless the hours of the person are proportionately reduced
27 and further provided that no provision of a collective bargaining agreement shall be limited,
28 suspended, or changed, nor shall any rights extended pursuant to sections 7(a) or 9 of chapter
29 150E be diminished, unless the superintendent can demonstrate that (a) the school has
30 implemented the steps identified by the superintendent in coordination with the secretaries of
31 health and human services, labor and workforce development, public safety and other applicable
32 state and local officials identified in clauses (1) through (6) in the second paragraph of this sub-
33 section and (b) limiting, suspending or changing a provision or provisions of the bargaining
34 agreement is reasonable and necessary to further the rapid academic achievement of students at
35 the school; (9) limit, suspend or change 1 or more school district policies or practices, as such

36 policies or practices relate to the school; (10) include a provision of job-embedded professional
37 development for teachers at the school, with an emphasis on strategies that involve teacher input
38 and feedback; (11) provide for increased opportunities for teacher planning time and
39 collaboration focused on improving student instruction; (12) establish a plan for professional
40 development for administrators at the school, with an emphasis on strategies that develop
41 leadership skills and use the principles of distributive leadership; (13) establish steps to assure a
42 continuum of high-expertise teachers by aligning the following processes with a common core of
43 professional knowledge and skill: hiring, induction, teacher evaluation, professional
44 development, teacher advancement, school culture and organizational structure; (14) develop a
45 strategy to search for and study best practices in areas of demonstrated deficiency in the school;
46 (15) establish strategies to address mobility and transiency among the student population of the
47 school; and (16) include additional components based on the reasons why the school was
48 designated as underperforming and the recommendations of the group of stakeholders in
49 subsection (b).

50 If the superintendent does not approve a reapplication submitted by an administrator
51 pursuant to clause (7) for a position in the school or if an administrator does not submit a
52 reapplication for a position in the school, the administrator shall retain such rights as may be
53 provided under law or any applicable collective bargaining agreement in relation to the his
54 ability to fill another position in the district; provided, however, that the administrator shall not
55 have the right to displace any teacher with professional teacher status in any other school during
56 a school year.

57 A teacher with professional teacher status in a school declared underperforming or
58 chronically underperforming may be dismissed from the school, but not from the district, for

59 good cause; provided, however, that the teacher receives 5 days written notice of the decision to
60 terminate which shall include, without limitation, an explanation of the reason why the
61 superintendent is not retaining the teacher in the school; provided, further, that the teacher may
62 seek review of a termination decision within 5 days after receiving notice of the teacher's
63 termination by filing a petition for expedited arbitration with the commissioner; provided,
64 further, that except as otherwise provided herein section 42 of chapter 71 shall apply to a petition
65 filed pursuant to this section; provided, further, that the commissioner shall cause an arbitrator to
66 be selected pursuant to the procedures in section 42 of chapter 71 within 3 days of receipt of
67 petition and shall conduct and complete a hearing within 10 days of receipt of the petition;
68 provided, further, that in reviewing dismissal decisions, the arbitrator shall consider the
69 components of the turnaround plan and shall also consider any personnel evaluations conducted
70 that are consistent with the guidelines established pursuant to section 1B; and provided, further,
71 that the arbitrator's decision shall be issued within 10 days from the completion of the hearing.

72 For a school with limited English-proficient students, the professional development and
73 planning time for teachers and administrators identified in clauses (10) to (12), inclusive, shall
74 include specific strategies and content designed to maximize the rapid academic achievement of
75 limited English-proficient students at the school.

76 SECTION 2. Section 1J of chapter 69 of the General Laws, as appearing in the 2016
77 Official Edition, is hereby further amended by striking out subsection (g), and inserting in place
78 thereof the following subsection:-

79 (g) If, after considering the recommendations of the group of stakeholders and ensuring
80 that the steps identified in clauses (1) through (6) in the second paragraph of section (f) have

81 been implemented, the superintendent considers it reasonable and necessary to maximize the
82 rapid academic achievement of students at the applicable school by altering the compensation,
83 hours and working conditions of the administrators, teachers, principal and staff at the school or
84 by altering other provisions of a contract or collective bargaining agreement applicable to the
85 administrators, teachers, principal and staff, the superintendent shall notify the school committee
86 and the union of his determination, and the school committee and any union shall within 30 days
87 of said notice bargain or reopen the bargaining of the relevant collective bargaining agreement to
88 facilitate such achievement. The bargaining shall be conducted in good faith and completed not
89 later than 30 days from the point at which the parties commenced bargaining. The agreement
90 shall be subject to ratification within 10 business days by the bargaining unit members in the
91 school. If the parties are unable to reach an agreement within 30 days or if the agreement is not
92 ratified within 10 business days by the bargaining unit members of the school, the parties shall
93 submit remaining unresolved issues a joint resolution committee for dispute resolution process
94 on the next business day following the end of the 30-day bargaining period or failure to ratify.

95 The joint resolution committee shall be comprised of 3 members, 1 of whom shall be
96 appointed by the employee organization within 3 business days following the submission of
97 unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the school
98 committee within 3 business days following the submission of unresolved issues to the joint
99 resolution committee and 1 who shall be selected through the American Arbitration Association
100 who shall forthwith forward to the parties a list of 3 conciliators, each of whom shall have
101 professional experience in elementary and secondary education, from which the parties may
102 agree upon a single conciliator provided, however, that if the parties cannot select a conciliator
103 from among the 3 within 3 business days, the American Arbitration Association shall select a

104 conciliator from the remaining names. The joint resolution committee shall conduct a dispute
105 resolution process to be concluded within 10 business days of selection. This process shall be
106 conducted in accordance with the rules of the American Arbitration Association and consistent
107 with this section. The fee for the process shall be shared equally between the 2 parties involved.

108 The joint resolution committee shall determine whether the change or changes to the
109 collective bargaining agreement are reasonable and necessary to maximize the rapid academic
110 achievement of students. The burden shall be upon the superintendent to demonstrate by clear
111 and convincing evidence that such changes are reasonable and necessary. Notwithstanding any
112 other provision of this chapter, the decision of the joint resolution committee shall be dispositive
113 of all the issues in dispute and shall be submitted to the parties within 10 business days of the
114 completion of the process. Reasonable extensions of the foregoing timelines may be granted by
115 the joint resolution committee.

116 SECTION 3. Section 1J of chapter 69 of the General Laws, as appearing in the 2016
117 Official Edition, is hereby further amended by striking out subsection (o), and inserting in place
118 thereof the following subsection:-

119 (o) Notwithstanding any general or special law to the contrary, in creating the turnaround
120 plan required in subsection (m), the commissioner may, after considering the recommendations
121 of the group of stakeholders: (1) expand, alter or replace the curriculum and program offerings of
122 the school, including the implementation of research-based early literacy programs, early
123 interventions for struggling readers and the teaching of advanced placement courses or other
124 rigorous nationally or internationally recognized courses, if the school does not already have
125 such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide

126 additional funds to the school from the budget of the district, if the school does not already
127 receive funding from the district at least equal to the average per pupil funding received for
128 students of the same classification and grade level in the district; (4) provide funds, subject to
129 appropriation, to increase the salary of an administrator ,or teacher in the school, in order to
130 attract or retain highly-qualified administrators or teachers or to reward administrators,. or
131 teachers who work in chronically underperforming schools that achieve the annual goals set forth
132 in the turnaround plan; (5) expand the school day or school year or both of the school; (6) for an
133 elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not
134 already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or
135 collective bargaining agreement, as the contract or agreement applies to the school; provided,
136 however, that the commissioner shall not reduce the compensation of an administrator, teacher or
137 staff member unless the hours of the person are proportionately reduced; and provided further,
138 that the commissioner may require the school committee and any applicable unions to bargain in
139 good faith for 30 days before exercising authority pursuant to this clause; and provided further,
140 that no provision of a collective bargaining agreement shall be limited, suspended, or changed,
141 nor shall any rights extended pursuant to sections 7(a) or 9 of chapter one hundred fifty E be
142 diminished, unless the superintendent can demonstrate that (a) the school has implemented the
143 steps identified by the superintendent in coordination with the secretaries of health and human
144 services, labor and workforce development, public safety and other applicable state and local
145 officials identified in clauses (1) through (6) in the second paragraph of the section n and (b)
146 limiting, suspending or changing a provision or provisions of the bargaining agreement is
147 reasonable and necessary to further the rapid academic achievement of students at the school (8)
148 following consultation with applicable local unions, require the principal and all administrators,

149 teachers and staff to reapply for their positions in the school, with full discretion vested in the
150 superintendent regarding his consideration of and decisions on rehiring based on the
151 reapplications, provided that a teacher or staff member may not be demoted or dismissed from
152 the school district except in accordance with the provisions of section forty-one of chapter thirty-
153 three or section forty-two of chapter seventy-one; (9) limit, suspend or change 1 or more school
154 district policies or practices, as such policies or practices relate to the school; (10) include a
155 provision of job-embedded professional development for teachers at the school, with an
156 emphasis on strategies that involve teacher input and feedback; (11) provide for increased
157 opportunities for teacher planning time and collaboration focused on improving student
158 instruction; (12) establish a plan for professional development for administrators at the school,
159 with an emphasis on strategies that develop leadership skills and use the principles of distributive
160 leadership; (13) establish steps to assure a continuum of high expertise teachers by aligning the
161 following processes with the common core of professional knowledge and skill: hiring,
162 induction, teacher evaluation, professional development, teacher advancement, school culture
163 and organizational structure; (14) develop a strategy to search for and study best practices in
164 areas of demonstrated deficiency in the school; (15) establish strategies to address mobility and
165 transiency among the student population of the school; and (16) include additional components,
166 at the discretion of the commissioner, based on the reasons the school was designated as
167 chronically underperforming and the recommendations of the local stakeholder group in
168 subsection (m).

169 If the commissioner does not approve a reapplication submitted by an employee pursuant
170 to clause (7) for a position in the school or if an employee does not submit a reapplication for a
171 position in the school, the employee shall retain such rights as may be provided under law or any

172 applicable collective bargaining agreement, in relation to the employee's ability to fill another
173 position in the district; provided, however, that the employee shall not have the right to displace
174 any teacher with professional teacher status in any other school during a school year.

175 A teacher with professional teacher status in a school declared underperforming or
176 chronically underperforming may be dismissed for good cause from the school, but not from the
177 district; provided, however, that the teacher receives 5 days written notice of the decision to
178 terminate which shall include without limitation an explanation of the reason why the
179 commissioner or superintendent is not retaining the teacher in the school; provided, further, that
180 the teacher may seek review of a termination decision within 5 days after receiving notice of the
181 teacher's termination by filing a petition for expedited arbitration with the commissioner;
182 provided further, that except as otherwise provided herein section 42 of chapter 71 shall apply to
183 a petition filed pursuant to this section; provided further, that the commissioner shall cause an
184 arbitrator to be selected pursuant to the procedures in section 42 of chapter 71 within 3 days of
185 receipt of petition and shall conduct and complete a hearing within 10 days of receipt of the
186 petition; provided, further, that in reviewing dismissal decisions, the arbitrator shall consider the
187 components of the turnaround plan and shall also consider any personnel evaluations conducted
188 that are consistent with the guidelines established pursuant to section 1B; and provided, further,
189 that the arbitrator's decision shall be issued within 10 days from the completion of the hearing.

190 For a school with limited English-proficient students, the professional development and
191 planning time for teachers and administrators identified in clauses (10) to (12), inclusive, shall
192 include specific strategies and content designed to maximize the rapid academic achievement of
193 the limited English-proficient students.

194 If the commissioner proposes to reallocate funds to the school from the budget of the
195 district under clause (3), the commissioner shall notify the school committee, in writing, of the
196 amount of and rationale for the reallocation.