



OFFICE OF THE STATE AUDITOR

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**TESTIMONY OF STATE AUDITOR SUZANNE M. BUMP
JOINT COMMITTEE ON EDUCATION OVERSIGHT HEARING
ON EDUCATION COLLABORATIVES**

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Introduction

Good morning, Senator Chang-Diaz, Rep. Peisch and members of the committee. Thank you for the invitation to testify on behalf of my office, the Office of State Auditor, and report the sum of our findings and recommendations with regard to educational collaboratives in the Commonwealth.

As you know, in late August of this year, my office released audit reports on 3 of the state's 30 education collaboratives. Our review of the operations at Merrimack Special Education Collaborative (MSEC), READS, and Southeastern Massachusetts Educational Collaborative (SMEC), along with previous findings at EDCO and The Education Cooperative (TEC), reveals an urgent need to address the laws which govern education collaboratives – which, according to the Mass. Organization of Education Collaboratives, serve 8,500 students and take in more

than \$300 million annually in revenue. While much of the Legislature's work lies ahead on the issue, this oversight hearing is a meaningful first step towards resolution of the problems we have found. I commend your efforts and prompt action.

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Summary of Audit Findings: Governance, Accountability and Oversight

Overview

Much media attention and justifiable public outrage has been directed at one of the collaboratives, MSEC. While MSEC has indeed presented the most serious evidence of financial mismanagement and abuse among the collaboratives, there is in fact a systemic problem. This is evidenced by the fact that numerous deficiencies, identified in the MSEC audit, were found in at least two of the audited collaboratives. These include:

- governance problems, including collaborative board members who also sit on boards of related organizations, raising conflict of interest issues;
- staff whose participation in the public retirement system has a questionable legal basis, since they are not supporting special ed. services being provided to children;
- failures to provide appropriately licensed professionals to work with the students;
- the use of collaboratives as keepers of slush funds for member districts;
- the use of related parties to skirt public retiree earnings restrictions;
- unallowable spending on entertainment, staff salaries and benefits; and
- improper retention of accumulated surplus funds.

The pervasiveness of the deficiencies we have seen in this sampling of the 30 collaboratives led us to conclude that the collaborative system lacks effective standards for governance and accountability. In fact, it caused us to see this as a

broken system which puts at risk the interests of taxpayers and of special needs students, both of whom were to be the beneficiaries of these collaboratives.

The law allowing for their creation was passed in 1974, and education policies were last updated in the 1980's. In the intervening years, the state has enacted higher standards for local schools systems in areas including administration, fiscal management, teacher proficiency, and academic performance.

Many of the findings in our audits reflect conduct that is clearly inappropriate by any government standard and is being addressed by the proper authorities. Some of our findings are the result of mistake or negligence. Others, however, arise from insufficient guidance in the statute and insufficient oversight power vested in the education department. Therefore, collaboratives and the families they serve have not benefitted from the accountability and transparency elements that have been at the heart of education reform initiatives since the early 1990's.

Governance

Chapter 40, Section 4E of the General Laws enables the formation of collaboratives "to conduct education programs and services which shall complement and strengthen the school programs of member school committees and charter schools and increase educational opportunities for children." The statute provides for governance of collaboratives by a board of directors comprised of representatives of the member districts – either school committee members, superintendents or their designees.

As demonstrated by our audit findings, however, there is a lack of capacity on many boards, a lack of training and a lack of understanding of the fiduciary responsibilities of board members. To address the immediate governance deficiencies, reforms must include safeguards against conflicts of interest by board members, and mandatory training on fiduciary and ethical responsibilities of board members. Also, the rules developed by the state's operational services division regarding, among other things, related party transactions should be applied to collaboratives and their boards to avoid conflicts of interest and to ensure that all transactions with other entities are conducted at arm's length.

We also believe that the Department of Elementary and Secondary Education should have a more meaningful role on the boards, which may be accomplished by enabling them to make an appointment to each board. Further, consideration should be given to ensuring, through the collaborative agreements submitted to the education department, that board membership will include persons with expertise in finance, budgeting and management oversight in addition to expertise in educational programs.

Oversight and Accountability

Although education collaboratives are creatures of local government, and there is no necessity to change that, higher administrative standards and increased oversight from the state level is necessary. Under Chapter 40, Section 4E of the General Laws, DESE approves education collaborative agreements. However,

there are minimal statutory standards and little state oversight built into the system. Reforms in this area should include:

- The Board and Commissioner of Elementary and Secondary Education should be empowered to develop regulations to address the approval and renewal of collaborative charters;
- A uniform collaborative agreement should be developed that includes requirements that collaboratives:
 - Use Generally Accepted Accounting Principles in budgeting, accounting and financial reporting in order to ensure real budgeting, a true tracking of financial transactions and accurate and meaningful reporting;
 - Provide an end of the year financial report to each member community and to DESE showing budget to actual spending;
 - Submit annual financial audits to DESE and the State Auditor; and
- There should be uniform application of the laws and regulations that govern public schools to collaboratives.

Let me elaborate on this recommendation.

Accountability depends upon clearly defined responsibilities. As I said at the outset, in the 23 years since the policies that govern education collaboratives were last updated, significant education reforms in administration, fiscal management, teacher proficiency, and academic performance have been put into place for public schools. However, throughout the process of auditing education collaboratives we have learned that many laws designed to ensure quality and

accountability in district schools, regional vocational schools and charter schools do not apply to education collaboratives. For example, the collaborative statute requires, as does Chapter 71, that individuals hired as instructors of children with severe special needs, teachers of children with special needs, teachers, guidance counselors school psychologists be properly certified. However, it fails to apply Chapter 71 professional standards for school administrators to administrators of collaboratives. All schools should be held to the same standards for certification of their administrators.

Further, when we audited TEC, auditors sought clarification from DESE as to which portions of Chapter 71 – the education law – apply to education collaboratives, but they were told that it was not possible to provide a complete list, because the laws had never been considered from this point of view. This suggests that the failure of many statutory updates to include collaboratives was more inadvertent than deliberate. This lack of clarity makes difficult the operation of collaboratives and renders all but impossible effective oversight and accountability.

In reforming the system of oversight and accountability for education collaboratives, I urge you to make it clear that the same laws and regulations that apply to school districts, vocational school districts and charter schools with respect to financial management, procurement, professional licensure and other similar standards also apply to education collaboratives.

As the recent report on regionalization of municipal activities indicated, there are significant financial benefits which may be derived from communities coming together to jointly administer functions and programs. Notwithstanding the problems being discussed here today, the education collaborative model has been an effective means of meeting the educational needs of many school districts in a cost-effective manner and on a regional basis. The collaborative model, with appropriate governance and accountability mechanisms, may well be appropriate for the provision of a range of other services to local school districts, and this Office finds no reason to object to that.

But there is a fundamental issue that needs to be resolved. It goes not to the question of what education services should collaboratives do; rather it goes to the question, whom should collaboratives serve? Many education collaboratives have evolved from their statutory purpose, and are now providing a range of services to special needs adults. To be fair, it is completely logical that some collaboratives would want to continue to serve the needs of their clients who age out of the public school system. After all, they have formed positive, supportive relationships with individuals whose needs may not end just because they have turned 22. So, we do not question their goals.

Yet, allowing them to serve adults is not contemplated in the enabling legislation. Further, at least one has pursued this course to the point that its adult human services program is bigger than its educational program. Even for those which are still much smaller, the practice raises questions that call for your attention. They include:

- Can a board comprised of local school representatives continue to provide the appropriate guidance and oversight to an organization with a mission which bids competitively on government human services contracts?
- Should the employees who provide services to adults be eligible for public employee status, with all the rights and benefits of collaborative staff serving children, including government health care and pension eligibility?
- Does allowing collaboratives to contract for adult services confer upon them an unfair competitive advantage vis a vis the private organizations seeking the same contracts?
- Does this practice represent a reversal of privatization efforts undertaken over the years in an effort to take government workers out of the business of providing adult services?
- If collaboratives are gaining state contracts, shouldn't they be required to comply with standards governing state contractors, including financial reporting?

As you can see, the expansion of collaboratives to provide services beyond educational services to children raises a host of legal, governance and accountability issues, which should also be addressed. I urge this Committee, along with other relevant legislative committees and stakeholders, to consider these public policy questions about the proper role of collaboratives in delivering services in a regionalized manner.

Conclusion

In the weeks that have followed the release of our audits many important steps have been taken by the collaboratives, Education Commissioner Mitchell Chester and the Board of Elementary and Secondary Education, the organizations representing education collaborative, school committees and school superintendents, the Legislature, and numerous investigatory agencies, particularly with regard to MSEC. All should be commended for their swift action to resolve the immediate problems which have been uncovered and their keen interest in addressing the systemic issues raised by the audits collectively. We in the Auditor's Office are enormously gratified that our findings and are recommendations are being so widely embraced. We thank you for seeking our continued input into the various ongoing processes.

In conclusion, then, it seems that the Legislature has two tasks before it – remedial legislation to address governance and accountability problems plaguing the system, and resolving the issue of whether collaboratives should be providing services to special needs adults. I urge swift action on the first task in order to provide much needed clarity in the law as well as stronger governance, oversight and accountability for the 30 collaboratives that are providing services to our children today.

I also urge this committee to commence a broad and inclusive dialogue about the proper role of collaboratives in delivering services to other populations in our communities and the kinds of governance and oversight that would be necessary to ensure accountability in an expanded system. I stand ready to assist in any way that I can as you tackle these two important tasks.

