



**PUBLIC COMMENT**

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**PRESIDENT, MASSACHUSETTS TEACHERS ASSOCIATION**

**Amendments to 603 CMR 48.00, Innovation School Regulations**

**January 19, 2012**

The Massachusetts Teachers Association (MTA) respectfully requests that the Board and Department of Elementary and Secondary Education revise the proposed amendments to the innovation school regulations. Statutory authority for these regulations resides largely in M.G.L. c. 71, §92(c), most recently amended by Chapter 12 of the Acts of 2010 (the Law.)

The Proposed Regulations need to be clarified at various sections to ensure that they remain consistent with the enabling legislation, as well as with G.L. c. 150E, the State Collective Bargaining Law. Without such clarification, the regulations are overreaching with regard to the authority of Board and misleading with regard to authority the local school committee and exclusive bargaining agent to negotiate any waivers to collective bargaining agreements that apply to innovation schools.

The following will cite the relevant statutory language that must guide the regulations and proposes changes to the regulations.

**STATUTORY LANGUAGE:** M.G.L. c. 71, §92(c)

An Innovation School shall operate in accordance with the law regulating other public schools, except as the law conflicts with this section or any innovation plans created thereunder.

**REGULATION:** 603 CMR 48.02

*Virtual innovation school.* This definition refers to “80 percent or more of their academic instruction.”

**Comment:**

Add a definition of “Academic Instruction” to ensure that all parties understand the Board’s intent.

**REGULATION:** 603 CMR 48.03(b)

Section b states: *The Commissioner's approval shall be based on his determination that the plan is consistent with 603 CMR 48.03 (2) and with the state's obligations under the education clause of the Massachusetts Constitution, Mass. Const., pt. II, ch. V, s. II, as defined by a court of competent*

*jurisdiction, and that the provision in the plan that may conflict with such laws is necessary to advance the mission or educational programs of the innovation school.*

**COMMENT:**

This provision is overly broad. There are laws and regulations that should not be superseded or waived, e.g. those protecting civil rights, health and safety, and compulsory school attendance.

Amend the regulation to make clear at least laws and regulations protecting civil rights, health and safety of students and staff, and compulsory school attendance may not be superseded or waived.

**REGULATION:** 603 CMR 48.04(1)d

The regulation needs to be clear that the procedure(s) specified in the plan must comply with the law.

**COMMENT:**

To the last sentence, insert “consistent with the requirements of Section 92(m)” between “specify the procedure” and “by which the innovation plan.” The complete sentence would read: *The innovation plan may specify the procedure consistent with the requirements of Section 92 (m) by which an innovation plan may be revised and re-submitted for approval if one or more sponsoring district school committees reject the initial innovation plan.*

**REGULATION:** 603 CMR 48.04(4)

The creation of an academy within a school impacts all those who work in and attend the school.

**COMMENT:**

Replace the first sentence with the following:

In the case of converting an existing program within a school into an academy, all teachers in the school shall be allowed to vote on the innovation plan pursuant to c. 71, s. 92(l).