

statement which shall be published in the City Record giving in detail the reasons for not inviting bids by advertisement. [Acts of 1909, c. 486, s. 30, amended by Acts of 1955, c. 60, s. 2, and further amended by Acts of 1992, c. 373, s. 2]

SECTION 69. *Contracts to be Accompanied by Sureties.* All contracts made by any department of the city of Boston or by any officer, board or official of the county of Suffolk having power to incur obligations on behalf of said county in cases where said obligations are to be paid for wholly from the treasury of said city, shall, when the amount involved is \$10,000 or more, or when the contract comes within section [sixty-eight], be in writing; and no such contract shall be deemed to have been made or executed until the approval of the mayor of said city has been affixed thereto in writing and the auditor of said city has certified thereon that an appropriation is available therefor or has cited thereon the statute under authority of which the contract is being executed without an appropriation. All such contracts shall be accompanied by a suitable bond or deposit of money or other security for the faithful performance of such contracts, and such bonds or other security shall be deposited with the city auditor until the contract has been carried out in all respects; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his or their bond, and the officer, board or official making the contract, with the approval of the mayor affixed thereto. [Acts of 1890, c. 418, s. 6, amended by Acts of 1939, c. 156, s. 2, and further amended by Acts of 1998, c. 262, s. 1]

## **THE SCHOOL COMMITTEE AND SUPERINTENDENT**

SECTION 70. *Establishing a School Committee.* Subject only to the provisions of [chapter one hundred and eight of the acts of the year nineteen hundred ninety-one] the school committee of the city of Boston shall consist of seven appointed members. The mayor of Boston shall have the power to appoint the seven members of the school committee subject to the provisions governing the nominating panel as set forth in [chapter one hundred and eight of the acts of the year nineteen hundred ninety-one]. The members of the school committee shall at all times during their terms of office be Boston residents. The mayor shall strive to appoint individuals who reflect the ethnic, racial and socioeconomic diversity of the city of Boston and its public school population. [Acts of 1991, c. 108, s. 2]

SECTION 71. *Terms of Office for School Committeemembers.* The term of office of the members of the school committee shall be four years and shall commence on the first day of the municipal year ... . The office of each member shall expire upon the expiration of the term of said member and shall become vacant. Any member whose term of office shall expire may be considered for reappointment, but only if renominated by the nominating panel. A president of the school committee shall be elected annually by its members at the first meeting in each municipal year. [Acts of 1991, c. 108, s. 4]

SECTION 72. *Establishing a Superintendent.* The school committee of the city of Boston shall, by majority vote of the whole number of its members, elect and contract with a superintendent of schools for any period of time not to exceed six years. The school committee exclusively shall fix the compensation of such superintendent, which sum shall be in full for all services rendered to said city. The school committee may remove the superintendent for just cause by a vote of three-fifths of the whole number of its members after proper notice and public hearing. The superintendent shall upon taking employment become, and during such employment remain, a resident of said city as the term

resident may be defined by ordinance. Failure to maintain such residence shall be deemed a voluntary termination of employment.

The superintendent of schools shall be the executive officer of the school committee in all matters pertaining to the powers and duties of the school committee. The school committee shall take no action on any particular matter without first receiving the superintendent's recommendation thereon. The superintendent shall give his recommendation before or during the regularly scheduled meeting of the school committee next following the meeting at which the particular matter is raised and at which the superintendent is asked to prepare a recommendation thereon; provided, however, that the superintendent in his sole discretion may elect to present any such recommendation at the school committee meeting at which the particular matter is raised or thereafter but prior to the next regularly scheduled school committee meeting. Any such recommendation of the superintendent shall include the superintendent's estimate of the cost or savings involved, if any, and if the superintendent estimates that there are costs involved, the recommendation shall identify available budgeted funding sources or new funding sources. If the superintendent fails to make a recommendation on a particular matter when raised at such next regularly scheduled school committee meeting, the school committee may take action thereon without receiving the superintendent's recommendation.

The superintendent of schools shall at the beginning of the term for which he was appointed, submit to the school committee a management plan for all administrators and community and deputy superintendents serving at the discretion of said superintendent. The school committee of said city, in the year nineteen hundred and eighty-nine and every sixth year thereafter or in the year when a superintendent is appointed shall vote by a two-thirds majority to accept or reject the management plan submitted by the superintendent of schools. The school committee shall accept a management plan of the superintendent on or before September first in the year that the superintendent is appointed to term. [Acts of 1906, c. 231, s. 1, amended by Acts of 1986, c. 701, s. 1, and further amended by Acts of 1987, c. 613]

**SECTION 73.** *Superintendent's Authority over School Department Positions.* For the purposes of this section, all individuals engaged to render services and paid pursuant to the school department's budget shall be deemed to be school department employees and their positions shall be deemed to be school department positions.

The superintendent of schools shall have the exclusive authority to make appointments and promotions for all school department positions except for the positions of community superintendent, an election or appointment of a chairman, secretary or treasurer of the school committee, of school committee administrative assistants appointed pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and sixty-four, and of special assistant corporation counsels. Prior to making an appointment or promotion to the position of community superintendent, the superintendent of schools shall present his recommendation thereon to the school committee at a regularly scheduled meeting. Any such appointment or promotion shall be deemed approved by the school committee on the sixth business day following the presentation of said superintendent's recommendation, unless a majority of the whole number of the school committee's members file with the secretary of the school committee a written objection to the intended appointment or promotion within five business days following the presentation of said superintendent's recommendation; in which case, the appointment or promotion shall be approved only upon majority vote of the whole number of the members of the school committee.

Any general or special law to the contrary notwithstanding, a vote of the school committee shall not be required for the appointment or promotion of any school department employee except as provided in section one A. [Acts of 1906, c. 231, s. 1, amended by Acts of 1986, c. 701, s. 1, and further amended by Acts of 1987, c. 613]

Except as may be required by any collective bargaining agreement or by the provisions of chapter thirty-one and chapter one hundred and fifty E of the General Laws, and, subject to appropriation, the superintendent of schools shall have the exclusive authority to fix the compensation of all school department employees with the exception of school committee members; provided, however, that the school committee shall fix the compensation of the superintendent as provided in section [seventy-two] and shall fix the compensation of school committee administrative assistants appointed pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and sixty-four. [Acts of 1991, c. 108, s. 5]

The superintendent of schools shall have the exclusive authority to assign, reassign, suspend, lay-off, demote, remove and dismiss any school department employees except school committee members and administrative assistants appointed pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and sixty-four. Any general or special law to the contrary notwithstanding, the actions of the superintendent of schools pursuant to this subsection shall be deemed to be the actions of the school committee under the General Laws. In exercising his authority under this subsection, the superintendent shall have the authority and powers, and be subject to the limitations, otherwise applicable to the school committee, including but not limited to the terms of any collective bargaining agreement imposed by chapter one hundred and fifty E of the General Laws. In the case of actions taken pursuant to this subsection as to which notice or hearing, or both, would otherwise be afforded to the subject school department employee by the school committee, such notice or hearing, or both, shall be afforded instead by the superintendent of schools or his designee. In the event that said superintendent delegates to a designee the conduct of a hearing for an affected school department employee, said superintendent shall base his decision upon the evidence presented at such hearing. This section shall not affect the rights of teachers under sections forty-two, forty-three A and forty-three B of chapter seventy-one of the General Laws.

The superintendent of schools shall have the authority to supervise and direct school department employees except school committee members and administrative assistants appointed pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and sixty-four, and special assistant corporation counsels to the extent that their legal work is directed and supervised by the corporation counsel of the city of Boston.

Except as specifically provided herein, nothing in this section shall be construed or interpreted so as to limit in any way the existing employment rights of school employees, including rights of tenure and seniority as provided by chapter seventy-one and chapter thirty-one of the General Laws as well as those employment rights provided under applicable collective bargaining agreements and chapter one hundred and fifty E of the General Laws. [Acts of 1906, c. 231, s. 1, amended by Acts of 1986, c. 701, s. 1, and further amended by Acts of 1987, c. 613]

**SECTION 74.** *Fiscal Responsibilities of Superintendent.* The school committee may delegate, in whole or in part, to the superintendent of schools the authority to approve for the school department the acceptance and expenditure of grants or gifts of funds from the federal government, charitable foundations, private corporations, individuals, or from the commonwealth, its counties, municipalities or

an agency thereof, the provisions of section fifty-three A of chapter forty-four of the General Laws notwithstanding.

The superintendent of schools shall provide to the school committee, the city auditor and the city office of budget and program evaluation of the city of Boston a report, detailing the source, purpose and balance on hand of all funds received or expended pursuant to [the above paragraph], quarterly.

The superintendent of schools shall submit to the school committee for approval an annual budget of the school department for the forthcoming fiscal year no later than the first Wednesday in February prior to the beginning of such fiscal year. The school committee may adopt, reject, reduce or increase any item in the recommended budget; provided, however, that if the school committee fails to take definite action on the annual budget on or before the fourth Wednesday in March of each year, the annual budget as recommended by the superintendent shall be deemed approved as if formally approved by the school committee. After approval of an annual budget by the school committee, said superintendent shall submit said approved budget to the mayor who may approve or reduce the total recommended budget. Thereafter, not later than the second Wednesday in May of each year, the mayor shall submit said annual budget to the city council for an appropriation of funds. Said superintendent shall not approve the appointment of any person except to a budgeted position.

For the purposes of section sixteen of chapter four hundred and eighty-six of the acts of nineteen hundred and nine, members of the school committee and the superintendent of schools shall be deemed to be the officials responsible for the expenditures of the school department, the provisions of section eighteen of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two to the contrary notwithstanding.

Subject to appropriations therefor, the superintendent of schools shall have the exclusive authority to make on behalf of the school committee contracts, or amendments to contracts, for the purchase or rental of equipment, materials, goods or supplies, leases of property, alterations and repairs of school property, and for professional or other services, with the exception of collective bargaining agreements and contracts for the transportation of students. All school department contracts or amendments to contracts shall otherwise conform to the requirements of the city charter of the city of Boston.

With respect to all contracts, agreements or amendments thereto made or entered into by the school department, the superintendent shall be responsible for establishing procedures for auditing and monitoring the compliance of the parties with the terms and obligation of such contracts, agreements or amendments thereto. [Acts of 1906, c. 231, s. 1, amended by Acts of 1986, c. 701, s. 1, and further amended by Acts of 1987, c. 613]

**SECTION 75.** *Appropriation for Support of the Public Schools.* The city of Boston shall annually provide an amount of money sufficient for the support of the public schools as required by law; provided, however, that said city shall not be required to provide more money for the support of the public schools than is appropriated in accordance with the provisions of chapter four hundred and eighty-six of the acts of nineteen hundred and nine, as amended. In acting on appropriations for educational costs, the city council shall vote on the total amount of the appropriations requested by the mayor, but neither the mayor nor the city council shall allocate appropriations among accounts or place any restriction on such appropriations. The appropriation of said city shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation; provided, however, that if the city auditor determines that school department expenditures in any fiscal year are projected to be in excess of

total budgeted expenditures for that fiscal year, as supported by appropriation and other available funding, then the school committee shall not reallocate or transfer funds from any item in the budget for that fiscal year to fund any such projected additional expenditures.

After the fourth Wednesday of March of any fiscal year, the school committee shall not initiate or authorize any new or additional programs or categories of expenditures requiring additional unbudgeted expenditures unless such programs or categories have been incorporated and fully funded in the budget for the subsequent fiscal year. If such programs or categories have not been incorporated or fully funded in the budget for the subsequent fiscal year, they shall not be initiated or authorized until the school committee shall have amended its budget submission for the subsequent fiscal year to reduce or eliminate other costs, programs or categories in amounts equal to the projected annualized costs of the new or additional programs or categories of expenditures.

The superintendent of schools shall prepare and submit to the school committee, the city auditor and the city office of budget and program evaluation, a monthly budget update report which shall detail and itemize year-to-date and projected school department expenditures and budget transfers.

The superintendent may, after the fourth Wednesday in March, but prior to the annual appropriation, enter into contracts with the publishers or suppliers of instructional materials and books for the timely purchase and delivery of the same to be used in the schools of the school department of the city of Boston for the school year commencing during the fiscal year for which a recommended appropriation has been submitted but not yet approved; provided, however, that such contracts for the supply and delivery of said instructional materials and books shall be charged to the appropriation of the next fiscal year, and provided further that the total amount of funds obligated for such instructional materials and books ordered prior to the annual appropriation shall be limited to the amount appropriated for such expenditures in the then current annual budget and shall not exceed that amount. Pending the final annual appropriation for the school department, the city auditor may approve such contracts for the purchase and delivery of instructional materials and books, provided, however, that such contracts shall in all other respects conform to the requirements of the city charter of said city. [Acts of 1936, c. 224, s. 2, amended by Acts of 1986, c. 701, s. 5, and further amended by Acts of 1987, c. 613, s. 2]

**SECTION 76.** *Provision for Administrative Assistant.* Notwithstanding any special or general law to the contrary, the members of the school committee appointed pursuant to this act shall not have the authority to hire personal staff; provided, however, that a paid administrative assistant may be appointed by the president of the school committee. [Acts of 1991, c. 108, s. 5]

**SECTION 77.** *Nominating Panel for Appointment of School Committee.* There shall be in the city of Boston a nominating panel composed of thirteen members whose sole function shall be to nominate persons for consideration by the mayor for appointment to the school committee. Representation on the panel and the selection of said members shall be as follows:

- (1) Four parents of children in the Boston public school system as follows: (i) one parent who shall be selected by the citywide parents council; (ii) one parent who shall be selected by the citywide educational coalition; (iii) one parent who shall be selected by the Boston special needs parent advisory council; and (iv) one parent who shall be selected by the bilingual education citywide parent advisory council.
- (2) One teacher in the Boston public school system who shall be selected by the Boston teachers union from its membership.

- (3) One headmaster or principal in the Boston public school system who shall be selected by the Boston association of school administrators and supervisors from its membership.
- (4) One representative from the Boston business community as follows: one representative each shall be selected by the private industry council, the Boston municipal research bureau, and Boston chamber of commerce from their respective memberships. Such representatives shall serve on a rotating basis as follows: the representative from the private industry council shall serve for the first year of the first term of the nominating panel; the representative from the Boston municipal research bureau shall serve for the second year of the first term of the nominating panel; the representative from the Boston chamber of commerce shall serve for the first year of the second term of the nominating panel; and so forth.
- (5) One president of a public or private college or university who shall be selected by the chancellor of higher education of the commonwealth.
- (6) One person shall be the commissioner of education of the commonwealth.
- (7) Four persons who shall be appointed by the mayor. The members of the nominating panel shall be selected from time to time no later than September thirtieth and shall serve for a term of two years, except as otherwise provided in this section. In the event that any member does not complete his or her term for any reason, the person or entity who selected such member shall select another person in like manner to complete the unexpired term.

[Acts of 1991, c. 108, s. 6]

SECTION 78. *Nomination of the School Committee.* The nominating panel annually shall from among its membership elect a chairman who shall forthwith file a list of the names and addresses of the members of the panel with the city clerk. The panel shall meet in public for the sole purpose of deliberating upon, hearing public comment with respect to, and finally selecting a list of nominees to be presented to the mayor from time to time. Each nominee shall be a resident of Boston at the time of such nomination. The panel shall strive to nominate individuals who reflect the ethnic, racial and socioeconomic diversity of the city of Boston and its public school population ... .

On the first Wednesday of October of every year the nominating panel shall convene to select not fewer than three but not more than five nominees for each office of school committee member that shall become vacant on the first day of the next municipal year. No later than the first Monday in December of each year, the panel shall present to the mayor a list containing the names and addresses of the said nominees for each term of office to commence on the first day of the next municipal year; provided, however, should the panel fail to present said list to the mayor by said first Monday in December, the mayor shall have the power to appoint any person he deems suitable to the office of school committee for the term to commence in the following January.

Upon notice provided by the city clerk that a vacancy exists in the office of any school committee member due to death or resignation, the panel shall convene within ten days of such notice and shall, within thirty days after so convening, select and present to the mayor a list containing the names and addresses of not fewer than three but not more than five nominees. Within fifteen days after such presentment, the mayor shall appoint a school committee member to serve the unexpired term of the vacant office; provided, however, should the panel fail to present said list within said thirty days, the mayor shall have the power to appoint any person he deems suitable to the vacant office to serve said unexpired term. [Acts of 1991, c. 108, s. 7]