

## Summary of Public Comments Concerning Proposed Amendments to the Massachusetts Charter School Regulations, 603 CMR 1.00

March 2014

Unless otherwise indicated, “regulations” refer to the proposed regulations on charter schools, 603 CMR 1.00, as released for public comment on December 17, 2013. References to “the statute” are to G.L. c. 71, § 89. Positive comments and technical changes are not included in this summary.

The Department of Elementary and Secondary Education (Department) received seven written responses to the request for public comment from public school personnel, attorneys, advocates, and legislators. All comments were carefully reviewed, and are reflected in this chart. This chart follows the organization of 603 CMR 1.00, the regulations on charter schools. In cases where multiple agencies or individuals offered the same or similar comment, we note the numbers of agencies or individuals. Copies of each respondent’s written comments are available upon request. In the Department Response and Recommendations column, proposed amendments in response to public comment are indicated by underline (new language) or ~~strikethrough~~ (deleted language).

Some of the public comments fell outside of the scope of these regulation changes. Additionally, some comments recommended changes in regulatory language that is mandated by statutory requirements. In cases where the statute controls the regulatory language, the suggested regulatory change was not adopted, unless it called for clarification of unclear or conflicting requirements.

Section	Summary of Comments	Department Response and Recommendation
<b>1.02 Definitions</b>		
<b>1.02 Campus</b>	Concern [1] about the new campus definition and that it “should not be used to circumvent the charter school enrollment cap. A charter school that exceeds a certain number of students, duplicate grades in different buildings in a single or multiple districts should secure charters for the school in each building.”	The definition of campus does not circumvent the charter school “enrollment cap.” The “enrollment cap” is based on the net school spending (NSS). The NSS cap in districts in the lowest 10 percent of all statewide student performance scores in two consecutive years is 18 percent. In all other districts, the NSS cap is 9 percent. This cap exists irrespective of the number of campuses. Accordingly, no change is recommended.
<b>1.03 General Provisions</b>		
<b>1.03(2) Waivers</b>	Concerns [2] about the Board delegating the decision to grant waivers to the Commissioner.	State law permits the Board to delegate authority to the Commissioner.
<b>1.03(2) Waivers</b>	Concern [1] about “regulations that have been approved pursuant to the terms of 30A should not be waived upon the application of those to whom they apply.” The commenter went on to assert that “[n]otice of an opportunity to comment by those affected does not resolve the problem” and	The statute directs the Board to promulgate regulations. The Board’s regulations generally include a waiver provisions, consistent with the principles of administrative law. Further, notice of an opportunity to comment does help to better inform the Board’s decision. Accordingly, no change is recommended.

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	<p>“DESE regulations do not normally provide for the wholesale waiver of their terms in this matter. E.g., see Educator Evaluation Regulations.”</p>	
<p><b>1.03(4) Immediate Closure</b></p>	<p>Recommends [1] that the Department includes language that signals the district’s responsibility in completing the required facilities upgrades, before an immediate closure of Horace Mann charter school becomes necessary.</p>	<p>Federal and state laws require all public school facilities, including those of charter schools, to pass certain inspections and to be programmatically accessible to persons with physical disabilities. While a Horace Mann charter school is overseen by an independent board of trustees and is its own Local Educational Agency, the statute explains, “[a] Horace Mann charter school shall have a memorandum of understanding with the school committee of the district in which the charter school is located which, at a minimum, defines the services and facilities to be provided by the district to the charter school.” The Memorandum of Understanding (MOU) should articulate the facilities use, capital repairs, modifications, ongoing maintenance, utilities, safety and security, and the like. It is essential that a Horace Mann charter school maintain an open dialogue with the school district about facilities issues. Accordingly, no change is recommended.</p>
<p><b>Formerly “1.04 Charter Application and Procedures for Granting Charters” and “1.05 Criteria for Assessment and Approval of Charter Applications, Awarding Charters” merged and changed to “1.04 Applications for and Granting of Charters”</b></p>		
<p><b>1.04(1) Charter Application Process</b></p>	<p>Concerns [3] about eliminating the required two-step charter application review process, particularly, that the current transparency and thoroughness of review will be expedited too quickly or without opportunity for appropriate public comment at more than one stage.</p>	<p>The statute and regulations contain extensive processes to ensure transparency, public input, accountability, and oversight of the application process for and the granting of charters. The proposed change would permit a differentiated process for Horace Mann II (conversions) charters, resubmissions, and replications. Further, the Department has a rigorous review process and will continue the high standards that guide the charter authorizing process. For clarity, we have revised the regulation by removing this sentence: “<del>There may be a two-stage application process leading to the granting of charters for Commonwealth and Horace Mann applicants.</del>”</p>

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<p><b>1.04(1) Charter Application Process</b></p>	<p>Concerns [2] about districts not being given a reasonable opportunity to plan for and address proposals for new charter schools, or expansion of a current one. The commenters recommend that the Board add specific requirements that:</p> <ul style="list-style-type: none"> <li>a) applicants be required to provide preliminary proposals to those districts from which they can reasonably anticipate attracting students;</li> <li>b) the sending districts be permitted to respond;</li> <li>c) the Department and the applicant be required to respond; and</li> <li>d) that the Board be allowed to review and consider such comments. In addition, they propose that the principal sending districts be given not less than six months to plan to address the proposal for a new charter school or expansion of a current one before an application may be formally submitted.</li> </ul>	<p>For new schools, the statute requires that the “Board shall hold a public hearing on the application in the school district in which the proposed charter school is to be located and solicit and review comments on the application.” The regulations require that Commonwealth charter school applicants “send a copy of the application to the superintendent of the school district(s) from which the applicant is expected to enroll students.” The Department considers public comment as part of the review process and summarizes public comment for the Board to review, and recordings of each public hearing, as well as written public comments, are made available upon request.</p> <p>For instance, prospectuses are typically due by August 1, and new charters are granted in February of the following year, providing sending districts at least six months to address the proposal for a new charter school. The Department agrees it is important to continue to have a reasonable timeline so that districts that may be affected will have time to plan. The statute and regulations contain several provisions to ensure that school districts receive information and a reasonable opportunity to comment.</p> <p>Superintendents of affected districts receive a copy of amendment requests and have an opportunity to submit written comments that are reviewed before action is taken on the amendment.</p> <p>The Department maintains a written, detailed summary of interviews with final applicant groups and includes that summary in the material provided to local school officials, the public, and the Board. Accordingly, no change is recommended.</p>
<p><b>1.04(1) Charter Application</b></p>	<p>Commenters [2] “strongly support measures to increase access to information, permit public response, and allow for the full range of responses</p>	<p>The Department is committed to providing access to information and public documents and welcomes public input during the application process.</p>

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<b>Process</b>	to be placed before the Department and the Board.”	
<b>1.04(1) Charter Application Process</b>	Recommend [2] that the regulations require all charter school applicants to demonstrate how innovative programs will be provided. Further, sending districts should be allowed to respond to applicants who state the existence of deficiencies or lack of innovation in the sending district.	The statute requires that applicants provide a description of “the innovative methods to be used in the charter school and how they differ from the district or districts from which the charter school is expected to enroll students.” Districts are given the opportunity to publicly comment on charter applications. Accordingly, no change is recommended.
<b>1.04(1)(a) Three Categories of HMs</b>	Concern [1] about the lack of clarity for the Horace Mann IIs and IIIs regarding whether a signed Memorandum of Agreement (MOA) is required prior to opening. Recommend adding the following language for both HM IIs and HM IIIs, “...may not open until completion of the opening procedures process, <u>including a signed Memorandum of Agreement with the appropriate employee union(s).</u> ”	The statute states that a “Horace Mann charter school established as a conversion [HM II]... shall require a memorandum of understanding regarding waivers to applicable collective bargaining agreements... approved by a majority of the school faculty.” It goes on to say, “A vote by the school faculty shall be held and finalized within 30 days of submission of the charter school application to the board of elementary and secondary education.”  In the case of HM IIIs, the statute states that, “if an agreement is not reached on the memorandum of understanding at least 30 days before the scheduled opening of the school, the charter school shall operate under the terms of its charter until an agreement is reached.” Requiring signed agreements prior to opening would contradict the statute. Accordingly, no change is recommended.
<b>1.04(1)(b) HM Exemptions</b>	Concern [1] about using the term “work rules” which the commenter asserted “has no definition in labor law.” Recommends the following language: after “Consistent with M.G.L. c. 71, § 89, Horace Mann charter school employees will be exempt from all <del>union</del> <u>‘agreed-upon provisions of the collective bargaining agreement’</u> and school committee <del>work rules</del> <u>‘policies’</u> to the	The Department agrees and has made the following changes in section 1.04(1)(b)(iii): “to receive at a minimum, the salary and benefits established by the local collective bargaining agreement. Consistent with M.G.L. c. 71, § 89, Horace Mann charter school employees will be exempt from all <del>union</del> <u>agreed-upon provisions of the collective bargaining agreement</u> and school committee <u>policies</u> <del>work rules</del> to the extent provided by their charter and the Memorandum of

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	extent provided by their charter...”	Understanding with the local district or collective bargaining unit or as voted by teachers as defined in M.G.L. c. 71, § 89.”
<b>1.04(1)(c) HM Applications</b>	Concern [1] about the phrase “other than those already mandated by law.”	The Department agrees that it could be confusing and has removed the “ <del>other than those already mandated by law</del> ” language in section 1.04(1)(c)(iii).
<b>1.04(1)(d) MOU Requirements</b>	Concern [1] that “MOAs and MOUs are authorized by c. 150E. While they may be limited by c. 71, sec. 89, they cannot be limited by Department guidelines.” Recommend removing the following: “The Memorandum or Memoranda of Understanding must be consistent with M.G.L. c. 71, § 89; <i>and</i> 603 CMR 1.00; <del>and any guidelines issued by the Department</del> and must include at a minimum:”	The regulation applies to all MOUs, including those between the school district and a Horace Mann charter school regarding services, facilities, and funding. The Department guidelines offer greater detail in order to clarify the statute and the regulations and do not exceed the scope of the Department’s authority. Accordingly, no change is recommended.
<b>1.04(1)(d)(6) MOU and Resolving Disputes</b>	Concern [1] about using the phrase “procedures for dispute resolution processes” in the MOU. Recommend the following language: “ <u>the grievance and arbitration procedures outlined in the collective bargaining agreement</u> for resolving disputes.”	The regulation applies to all MOUs, including those between the school district and a Horace Mann charter school. Dispute resolution procedures in the collective bargaining agreement would not apply to disputes between the school district and a Horace Mann charter school. Accordingly, no change is recommended.
<b>1.04(4)(b) Qualifications to Achieve Proven Provider Status</b>	Recommends [1] the following language: After “(b)(iii) attendance, retention, and attrition data,” add the following, “ <u>disaggregated by race, special educational status, English language learner status, and socioeconomic status;</u> ”	The Department collects this information from public schools in the Commonwealth and publishes attrition in the aggregate and by student subgroups, including the high-needs subgroup and race/ethnicity, and by grade level to the extent it does not identify individual students. Due to concerns regarding student confidentiality, no change is recommended.
<b>1.04(4)(b) Qualifications to Achieve Proven Provider Status</b>	Recommends [1] the following language: After “(iv) graduation and dropout data”, add the following “ <u>disaggregated by race, special educational status, English language learner status, and socioeconomic status;</u> ”	The Department currently publishes graduation and dropout data in the aggregate and by student subgroups to the extent it does not identify individual students. Accordingly, no change is recommended.

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<b>1.04(4)(b)</b> <b>Qualifications to Achieve Proven Provider Status</b>	Recommends [1] that the Department requires potential Proven Providers to include additional information about “ <u>suspension and expulsion data, disaggregated by race, special educational status, English language learner status, and socioeconomic status.</u> ”	The Department concurs that it is prudent to review suspension data as part of the Proven Provider qualifications. We currently include both out-of-school and in-school suspension data in the aggregate as part of the review. We have revised the regulation to add the following language to what is now 1.04(4)(b): After “...evidence of academic program success, including but not limited to,” add “ <u>(v) in-school and out-of-school suspension rates;</u> ”
<b>1.04(4)(b)</b> <b>Qualifications to Achieve Proven Provider Status</b>	Recommends [1] that the regulations include additional requirements for Proven Providers that address issues of “using in and out of school suspensions as a push-out strategy” and “the impact of student retention on charter schools reporting high end-of-school (graduation class) performance on MCAS in terms of percentages only.” Recommends [1] the following additional language: After “...evidence of academic program success, including but not limited to, add “ <u>(v) in-school and out-of-school suspension rates; (vi) impact of student attrition on performance metrics which must include the actual number of students and the percentage of students in each MCAS performance category for each graduation class.</u> ”	A Proven Provider is required for a Commonwealth charter school that is to be located in a district that performed in the lowest 10 percent of districts statewide on the Massachusetts Comprehensive Assessment System (MCAS) for two consecutive years and where the 9 percent net school spending cap has been or is expected to be raised. The applicant must submit evidence satisfactory to the Commissioner to demonstrate a significant management or leadership role at a school or similar program that is an academic success and a viable organization.  As noted above, the Department currently looks at out-of-school and in-school suspension data, attrition, and MCAS performance as part of the Proven Provider qualifications. Accordingly, no change is recommended.
<b>1.04(4)(c)</b> <b>Qualifications to Achieve Proven Provider Status</b>	Recommends [1] the following additional language: After “(c) The applicant shall submit evidence of organizational viability, which shall include but not be limited to effective governance, effective financial management,” add the following, “ <u>effective implementation of recruitment and retention plans,</u> ” before “and compliance with applicable laws and regulations;”	The Department agrees this is important information to consider as we look at potential Proven Providers that operate charter schools in Massachusetts. Because the “Recruitment and Retention Plan” is a Massachusetts charter school specific plan, it is not applicable to other applicants looking for Proven Provider status. Therefore, we have revised the regulation to add to what is now 603 CMR 1.04 (4)(c): “ <u>effective implementation of recruitment and retention plans, if applicable,</u> ” before “and compliance with applicable laws and regulations;”



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<b>1.04(6)(f) Granting of Charters – Use of Census to Determine Population</b>	Concerns [2] about relying on the most recent United States Census data to determine the population of a city or town as it relates to allowing a single district charter school, primarily because information can be outdated, sometimes as old as 10 years. Recommend [2] that the regulations include a census conducted by the Commonwealth.	The statute explicitly states that, “The board shall not approve a new commonwealth charter school in any community with a population of less than 30,000 as determined by the most recent United States Census estimate, unless it is a regional charter school.” United States Census estimates are updated annually. Accordingly, no change is recommended.
<b>1.04(6)(g) Granting of Charters – private and parochial schools</b>	Concern [1] about including any language about private and parochial schools, “the Department’s ‘determination’ notwithstanding.” The commenter went on to state that, “The characteristics of these schools are not probative on intent, which intent is irrelevant anyway. The fact is the ‘members of the governing boards’ of these private and religious entities will be receiving public money. The Massachusetts Constitution requires public monies to be spent on public schools only.  Recommend removing entire section (g).	The charter school regulations have included this language for a number of years. Public funding of private and parochial schools is prohibited by the anti-aid amendment of the Commonwealth’s Constitution. A charter is only granted to a public board of trustees. Because of the very concerns expressed, the Department recommends maintaining this language. Accordingly, no change is recommended.
<b>1.04(7) Conditions for Opening New Charter Schools</b>	Recommends [1] that we remove the Board’s temporary waiver language, stating, “The waiver process is problematic. If required conditions are not met at the time of the application, the school should resubmit the charter application when these conditions are met. To wait to see if conditions are met by school opening will throw the potential students and their parents into turmoil. We suggest that the Gloucester charter school is a clear example of this problem.”	This is not a proposed change; the regulations have included this language for many years. The regulations clearly articulate that, “(7)…the applicant submits adequate written assurance that all such conditions will be met prior to the opening of the [charter] school.” Accordingly, no change is recommended.
<b>1.04(7) Conditions for Opening New Charter Schools</b>	Recommends [1] the following language: After “(c) criteria and procedures for,” add the following, “ <u>suspension and</u> ” before “expulsion of students;”	The Department agrees that requesting the new school’s suspension policy prior to opening is prudent. We have revised the regulation to add the following language to what is now 1.04 (7)(c) “criteria and procedures for <u>suspension and</u> expulsion of students;”

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<b>1.04(9) Lowest 10 Percent</b>	Recommends [1] that when determining the lowest 10 percent of districts that the Department only uses student growth instead of achievement and growth.	Results from the MCAS are performance based. Student Growth Percentiles (SGPs) complement the MCAS performance-based test scores. They measure change in achievement over time rather than grade-level achievement results in any one year. Using a combination of achievement and growth is prudent and consistent with the statewide school and district accountability system. Accordingly, no change is recommended.
<b>1.04(9) Lowest 10 Percent</b>	Concerns [2] that the explanation of the lowest 10 percent was confusing and unreadable. They go on to explain that it should meet the “standards of ‘readability’ similar to that required by the Division of Insurance for communicating with the public so that the language can be understood by the general public.”	While the regulation is complicated, it is accurate, allows for flexibility, and is consistent with the statewide system of accountability. The Department will issue further guidance, if necessary. Accordingly, no change is recommended.
<b>Formerly “1.06 Charter School Enrollment and Student Recruitment” changed to “1.05 Student Recruitment, Enrollment, and Retention”:</b>		
<b>1.05(1) Recruitment and Retention Plan</b>	Recommends [1] the following: After “1) Recruitment and Retention Plan: A charter school must develop a plan that includes deliberate, specific strategies the school will use to attract, to enroll, and to retain a student population that is demographically comparable to similar grades in schools from which the charter school enrolls students” add the following “ <u>The plan must include specific strategies, including alternative disciplinary strategies described in M.G.L. c. 71, §37H¾, that limit reliance on out-of-school suspension and other practices shown to predict student dropout.</u> ”	The statute, G.L. c. 71, §89(i), defines the required components of school’s recruitment and retention plans. All charter schools will be held to the same requirements as other public schools under G.L. c. 71, §37H¾ and the Student Discipline Regulations that the Board will adopt this spring. Accordingly, no change is recommended.
<b>1.05(1) Recruitment and Retention Plan</b>	Recommend [2] that “districts from which students are targeted for recruitment shall be invited to comment specifically on the practicality of the plan and to propose further requirements that will ensure that the plan will actually enroll a	The suggested language goes beyond the scope of the statute, G.L. c. 71, § 89. Accordingly, no change is recommended.



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	<p>representative cross section of the community population with regard to clients of special education, English language learners, and economically disadvantaged children.”</p> <p>Recommend [2] “authorizing the Department to require a charter school applicant or current charter school to delay use of its applicant pool should it be determined that the pool contains an unsatisfactory number of students from cohorts representing the districts from which students are targeted for recruitment.”</p>	
<p><b>1.05(1) Recruitment and Retention Plan</b></p>	<p>Recommends [1] further guidance about the student recruitment and retention plan requirements and if requirements are different for Horace Mann charter schools.</p>	<p>Recruitment and retention plans are required by statute for all charter schools in the Commonwealth. The Department has provided guidance, webinars, feedback, and one-on-one trainings with each school on their recruitment and retention plans. Accordingly, no change is recommended.</p>
<p><b>1.05(3) Enrollment Process and Applications for Admission</b></p>	<p>Recommends [1] clarification about whether all or major revisions to the school’s applications for admission need to be submitted to the Department for approval.</p>	<p>The Department agrees that clarification is required. We have revised the regulation to include the following language amending what is now 1.05(3)(b). After “Every charter school must submit its proposed application for admission, and any subsequent revisions,” add, “<u>beyond changing dates indicated and correcting minor grammatical errors,</u>” to the Department for approval.</p>
<p><b>1.05(4) Written Notice</b></p>	<p>Recommends [1] that along with written notice, charter schools be required to provide a copy of a school’s student code of conduct to all applicants as a part of their enrollment materials.</p>	<p>Copies of the school’s code of conduct must be made available to applicants upon request. Requirements regarding codes of conduct can be found at: G.L. c. 71, § 37 H. Accordingly, no change is recommended.</p>
<p><b>1.05(4) Written Notice</b></p>	<p>Recommends [1] further guidance on the written notice for student support services.</p>	<p>The Department will provide guidance on the written notice requirements regarding the rights of students with diverse learning needs, after the Board adopts the revised regulations. Accordingly, no change is recommended.</p>
<p><b>1.05(7) Enrollment for Horace Mann</b></p>	<p>Recommends [1] clarification regarding priorities for admission to Horace Mann charter schools, including, 1) seat guarantees versus priority; and</p>	<p>The Department agrees that this is confusing. To clarify, we have revised the language in 603 CMR 1.05(7)(b) to read, “(b) <u>In order of priorities, a Horace Mann charter school shall</u></p>

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<b>Charter Schools</b>	2) sibling priorities.	<p>provide an enrollment preference to:</p> <ul style="list-style-type: none"> <li>(i) <u>for the initial lottery, any students attending said school, or attending school in the school building previously occupied by said school, on the date that the final application is filed with the Board;</u></li> <li>(ii) <u>for the initial lottery, siblings, of any students attending said school, or attending school in the school building previously occupied by said school, on the date that the final application is filed with the Board;</u></li> <li>(iii) <u>in all subsequent lotteries, siblings of students currently attending the school;</u></li> <li>(iv) <u>students who are currently enrolled in the public schools of the district in which the Horace Mann charter school is located; and</u></li> <li>(v) <u>students who reside in the city or town in which the Horace Mann charter school is located.”</u></li> </ul>
<b>1.05(8) Repeat Enrollment Process</b>	Concerns [2] about allowing the “Repeat Enrollment Process,” unless “the charter school has enrolled a representative share of students reflective of the communities from which students are targeted for recruitment or where a strong effort is being made to use the repeat process to enroll students considered at special risk under standards determined by Department.”	The suggested language goes beyond the scope of the statute. Accordingly, no change is recommended.
<b>1.05(10)(a) Waitlist</b>	<p>Concern [1] about “cases where the enrollment of a student who is a sibling of a student already attending a charter school would exceed the district charter school tuition cap, the sibling may be enrolled with the Commonwealth of Massachusetts providing tuition for the sibling, subject to appropriation.” The commenter also asked the following follow-up questions:</p> <ul style="list-style-type: none"> <li>• “Does this mean the Commonwealth would pay the tuition it would not impact the net school spending cap for the</li> </ul>	This is a provision in the charter school statute, and the Massachusetts legislature already appropriates this funding, as a contingency. For more information see, <a href="#"><i>Understanding District Aid for Commonwealth Charter School Tuition</i></a> , on our website. Accordingly, no change is recommended.

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	<p>sending district?</p> <ul style="list-style-type: none"> <li>• How would the Commonwealth appropriate this funding?</li> <li>• When?</li> <li>• Does Department have the authority to tell the Legislature how to appropriate funding?"</li> </ul>	
<b>1.05(10)(a) Waitlist</b>	<p>Concern [1] about the timing for when students on a waitlist are eligible to be “grandfathered.” The particular concern was based on the fact that lottery processes for most charter schools are being conducted now. The date contained in the draft 603 CMR 1.05(10)(a), is January 1, 2014 when waitlist students are eligible to be “grandfathered.” Recommends changing the eligibility date to March 30, 2014 or to a similar date to coincide with the completion of the majority of current charter school lottery processes. By changing the date, communication regarding procedural changes to the waitlist would be clear and transparent to all applicants submitting application for upcoming and subsequent lotteries after March 30, 2014.</p>	<p>Based upon data collected by the Department this fall, the majority of charter schools will have conducted their lottery for the 2014-2015 school year by March 31, 2014. The Department agrees, in order to reduce confusion, we have revised the regulation, changing the date from <del>January 1, 2014</del> to <u>March 31, 2014</u> in 1.05(10)(a).</p>
<b>1.05(10)(a) Waitlist</b>	<p>Recommend [2] “ the imposition of a one year limit on charter school waiting lists to avoid the current situation in which many students remain on the list after it is no longer clear that these individuals actually wish to continue to be considered for charter enrollment nor that students may be enrolled in one charter but remain on the official waiting list of one or more others for the purpose of creating the impression that there are more students waiting for charter placements than may, in fact, exist.”</p>	<p>The Department agrees that maintaining waitlists for only one year creates greater access and equity. The amended regulations state, “Schools shall maintain waitlists only for the school year for which the students applied.” 603 CMR 1.05(10)(a). Accordingly, no change is recommended.</p>

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<b>Formerly “1.07 Charter School Staff” changed to “1.06 Charter School Boards of Trustees and Staff”:</b>		
<p><b>1.06(1) Responsibilities of Boards of Trustees</b></p>	<p>Concern [1] that, “[i]n Horace Mann charter schools, school committees are charged with hiring, evaluating and firing school managers.” The commenter also asserted that “[i]n Horace Mann charter schools, changes in school policies if related to mandatory subjects of bargaining must be changed through collective bargaining between the school committee and the union.”</p> <p>Recommends the following: After “06: Boards of Trustees and Staff (1) Responsibilities of Board of Trustees.” Add, “(e) <u>In Commonwealth charters only,</u>” Hiring, evaluating and removing, if necessary, qualified personnel to manage the charter school’s day-to-day operations and holding these administrators accountable for meeting specified goals;</p> <p>(g) “<u>In Commonwealth charters only</u>” adopting and revising school policies.</p>	<p>This section of the regulations outlines and codifies the responsibilities of all charter school boards of trustees; it does not regulate how they carry them out or the responsibilities of other stakeholders. While the statute is not ambiguous about “(y)…the school committee of the school district in which the Horace Mann charter school is located shall remain the employer for collective bargaining purposes under said chapter 150E”, there are some ambiguities in the statute that could be clarified through a legislative amendment. Absent legislation, it is necessary to hold the boards of trustees accountable and construe the various provisions of state law. To that end, consistent with the Department’s longstanding guidance, this section holds the board of trustees accountable. The Department provides further guidance about the hiring and dismissal of the school leader and adopting and revising school policies, which balances the responsibilities and rights of the district, collective bargaining units, and board of trustees. Accordingly, no change is recommended.</p>
<p><b>1.06(1) Responsibilities of Boards of Trustees</b></p>	<p>Recommends [1] after, “(g) Adopting and revising school policies,” add “<u>including plans that promote student retention;</u>”</p>	<p>While the annual report includes the school’s recruitment and retention plan, the Department has revised the regulation to add the following language to what is now 603 CMR 1.06(1)(g): “<u>including plans for student recruitment and retention;</u>”</p>
<p><b>1.06(1) Responsibilities of Boards of Trustees</b></p>	<p>Recommend [2] adding additional language about boards of trustees fulfilling “their fiduciary responsibilities as defined by the duty of loyalty and duty of care as well as the obligation to maintain full vigilance over budget, revenues and expenses.”</p>	<p>The Department agrees it is important to include the board’s fiduciary and budgetary responsibilities. We have revised the first paragraph of 603 CMR 1.06(1) to read: “Boards of trustees are state governmental bodies. <u>Boards of trustees must fulfill their fiduciary responsibilities, including, but not limited to, the duty of loyalty and duty of care, as well as the obligation to oversee the school’s budget.</u>”</p>

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<b>1.06(1)</b> <b>Responsibilities of Boards of Trustees</b>	Concerns [2] that there was insufficient language about Opening Meeting Law and State Ethics Law, to allow for “meaningful review of the compliance about such matters as publicly announced meetings, accurate indications of items anticipated to be discussed, appropriate use of executive sessions, and informative meeting minutes. It also includes review of compliance with state ethics testing requirements and adherence to the provisions regarding nepotism, gratuities and use of school resources for personal use.”	Boards of trustees and employees of charter schools are already bound by these requirements in the charter school statute. Repeating statutory requirements in regulations is unnecessary and unwise. Furthermore, the State Ethics Commission has jurisdiction over the conflict of interest and financial disclosure laws, and the Attorney General has jurisdiction over the Opening Meeting law. Each is responsible for enforcement matters under their respective authority. The Department defers to these offices regarding these matters and considers action by these agencies in the accountability system. Accordingly, no change is recommended.
<b>1.06(2)</b> <b>Bylaws</b>	Concerns [2] that “certain actions or meetings of Boards of Trustees of multiple charter schools that, although individually authorized, may not be accessible or accountable to the public in every community where the school is sited. We fear that certain ‘Boards of Trustees’ could be located out of state or in locations distant from the school at interest in any particular matter. We propose that the trustees be required to meet in the communities in which the schools are sited or in cities or towns where a reasonable proportion of students may reside.”	The Department agrees that language should be included that requires board meetings to be held in Massachusetts, preferably at the school. We have revised the regulation to add the following language to 603 CMR 1.06(2)(c): “ <u>be held in Massachusetts, and</u> which must be held at least quarterly.”
<b>1.06(2)</b> <b>Bylaws</b>	Concerns [2] about allowing employees of the charter school to serve on the board of trustees, asserting that “[s]uch service would be an egregious conflict of interest.”	While the Department does not necessarily encourage charter schools to have employees on their board of trustees, the State Ethics Commission has determined this is permissible with certain restrictions, provided the school’s bylaws expressly require employees on their boards. The State Ethics Commission has jurisdiction over the conflict of interest and financial disclosure laws and is responsible for enforcement matters. The Department defers to that office regarding these matters. Accordingly, no change is recommended.
<b>1.06(2)</b>	Recommends [1] clarification about whether	The names of board members are not required in the bylaws.

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<b>Bylaws</b>	board member name changes in bylaws require a formal amendment process.	Section 1.06(2) clarifies what is required in the bylaws, and Section 1.10 clarifies the material terms of a school’s charter that require a “formal amendment.” When a charter school’s board of trustees’ votes to accept new members, however, those individuals must be approved by the Commissioner. Accordingly, no change is recommended.
<b>1.06(3) Board of Trustees Training</b>	Inquiry [1] about a specific orientation for board of trustees provided by the Commissioner.	The training of board members is essential, and the board of trustees is responsible for ensuring that its members are trained. The Department will provide guidance regarding training requirements. Accordingly, no change is recommended.
<b>1.06(4) Charter School Staff</b>	Recommends [1] that language be included about evaluation procedures for charter school teachers and administrators and that they must be subject to the same evaluation procedures as all other public school educators. Recommends adding “(iii) <u>must be evaluated following 603 CMR 35.00 regulations.</u> ”	Employees of Horace Mann charter school must be licensed and are already subject to 603 CMR 35.00. While employees of Commonwealth charter schools are not required to be licensed, the Department encourages and expects their evaluation systems to be consistent with 603 CMR 35.00. Accordingly, no change is recommended.
<b>Formerly “1:08 Charter School Funding” changed to “1.07 Funding”:</b>		
<b>1.07(1) Horace Mann Charter Schools</b>	Recommends [1] removing the term “ <del>dispute resolution</del> ” after “shall follow” and replace with “ <u>grievance and arbitration</u> ” before “procedures outlined in the Memorandum of Understanding.”	This provision relates to funding of Horace Mann charter schools, subject to the agreement reached between the school district and the charter school. Dispute resolution procedures can be determined by those parties. Accordingly, no change is recommended.
<b>1.07(1) Horace Mann Charter Schools</b>	Recommends [1] clarification about Horace Mann budgets and that a Horace Mann charter does not need to submit a budget request related to how it plans to use non-district funds. Proposed change, after, “A Horace Mann charter school shall submit a budget request to the local school district” add, ‘ <u>annually that details how the Horace Mann charter school intends to use its district allocation,</u> ’ in accordance with the budget schedule of the local school district and no later than April 1.”	Budget requests to the local school district should be submitted annually in accordance with the budget schedule of the local school district. Horace Mann charter schools, however, have direct control of their funds once the total budget request is approved. School districts may not dictate how Horace Mann charter schools spend the funds appropriated. The statute stipulates that “[t]he board of trustees of each Horace Mann charter school shall annually submit to the superintendent and school committee of the district in which the school is located a budget request for the following fiscal year.” (G.L. c. 71, § 89 (w)). This is a budget request, not a line-by-line budget. The statute further explains that the Horace Mann charter school's



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		budget allocation "shall be available for expenditure by the board of trustees of such school for any lawful purpose without further approval by the superintendent or school committee." (G.L. c. 71, § 89(w)). Again, Horace Mann charter schools have direct control of their operating funds. This means districts should transfer a school's budget allocation to an account controlled solely by trustees and officers of the charter school. Non-district funds need not be reviewed by the district. The Department plans to revise the technical advisory on Horace Mann charter schools upon the approval of the revised regulations. Accordingly, no change is recommended.
<b>1.07(1) Horace Mann Charter Schools</b>	Recommends [1] adding the following language that specifies that " <u>districts are to disburse to Horace Mann charter schools any funding from the district allocation that is not used for salaries, stipends or other personnel costs in a timely manner and in accordance to the specifications of the MOU with the district.</u> "	This issue must be resolved between the Horace Mann charter school and the school district. The school's annual appropriation will be an amount agreed upon by the Horace Mann charter school and the school committee. The Department encourages Horace Mann charter schools and districts to specify these terms in the MOU. Accordingly, no change is recommended.
<b>1.07(3) Transportation</b>	Recommends [1] that the Department "add language that makes it clear that this section applies to both Horace Mann and Commonwealth charter schools." The commenter asked that the regulations specify whether part c applies to Horace Mann charter schools. The commenter "believes that it should, and that a Horace Mann charter school should also be reimbursed by the district for any transportation costs it must incur because the district is not able to accommodate its schedule."	The charter school regulations at 603 CMR 1.02 define "Charter School" to refer to both Commonwealth and Horace Mann charter schools. Accordingly, no change is recommended.
<b>1.07(4) Surplus Determination</b>	Concerns [2] about the 25 percent surplus determination and reserves, asserting that "25 percent excess in any given year is unreasonable by current accounting standards for similar organizations. A more reasonable standard would be 5-10 percent. However, we do not object to a	The charter school statute at G.L. c. 71, § 89(hh), specifies that charter schools may retain "the fourth quarter tuition payment," approximately 25 percent. It goes on to indicate that, "20 percent of its operating budget and its budgeted capital costs; (ii) the amount held in reserve for the purchase or renovation of an academic facility pursuant to a capital plan, and (iii) any

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	charter school being able to retain 25 percent of its budget in a reserve account, subject to disclosure to the school committee of the cities, towns, and regional districts from which the charter school enrolls its students. A three month reserve is an acceptable standard for a public organization such as a charter school.”	reserve funds held as security for bank loans, exceeds 20 percent of its operating budget and its budgeted capital costs for the succeeding fiscal year as is reported in a capital plan to be submitted in the school’s most recent annual report, the amount in excess of said 20 percent shall be returned by the charter school to the sending district or districts and the state in proportion to their share of tuition paid during the fiscal year.” Accordingly, no change is recommended.
<b>1.07(5) Capital Plan and Reserves</b>	Recommends [1] that the Department makes it clear that the section on Capital Plan and Reserves applies to both Horace Mann and Commonwealth charter schools.	The charter school regulation at 603 CMR 1.02 defines “Charter School” to refer to both Commonwealth and Horace Mann charter schools. Accordingly, no change is recommended.
<b>Formerly “1:09 Ongoing Review of Charter Schools” changed to “1.08 Reporting Requirements and Ongoing Review of Charter Schools”:</b>		
<b>1.08(1)(c) Annual Report</b>	Recommends [1] adding language: after “(c) A report on the school’s implementation of its recruitment and retention plan for the relevant year,” add “ <u>including data, disaggregated by race, socioeconomic status, English language learner status, and disability status, on attendance, retention, attrition, dropout, suspension, and expulsion;</u> ”	The Department publishes guidance containing requirements for the annual report. The Department provides schools with access to SIMS data from the past year, including demographic data including special education, English language learners, and low income students. Schools also report on the implementation of their recruitment and retention plans, by subgroups, and update the plans for the upcoming school year. The Department has also issued guidance about the requirements of the recruitment and retention plans. Accordingly, no change is recommended.
<b>1.08(1)(c) Annual Report</b>	Concern [1] about whether the Department thinks it is sufficient for the annual report to be made available via the school’s website.  Recommend [2] that “[e]ach charter school...be required to provide a copy of its annual report to the public library of its sending cities and towns.”	The Department issues Annual Report guidelines, which include: “By statute, a copy of the annual report must be submitted to the local school committee chair(s) of the district(s) from which the school draws students and be made available to families of current students as well as families contemplating enrollment. While the full report does not need to be sent to each family, the school must inform families of enrolled and prospective students that an annual report is available upon request. The school may make the annual report available to members of the wider community by displaying it in the local library or the school’s front office, and we strongly

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		encourage that the annual report is posted on the school's website." In order to facilitate greater transparency and accessibility, the Department has revised the first paragraph of 603 CMR 1.08(1)(c) to read: " <u>Each charter school shall make the annual report available on its website.</u> "
<b>1.08(1)(c) Annual Report</b>	Recommend [2] that "[a]ll annual reports should include data describing the census of the school and comparative data with the districts from which the school targets its recruiting."	The Department collects all of this information from all public schools in the Commonwealth. Accordingly, no change is recommended.
<b>1.08(2) Site Visits</b>	Concern [1] about whether charter schools "would be given ample notice if Department wishes to conduct ad hoc site visits?"	The Department generally gives notice to schools about planned site visits. From time to time, however, the Department may have to conduct an unannounced site visit, as when student health or safety is a concern. The language, "conduct site visits as necessary," is deliberate. Accordingly, no change is recommended.
<b>1.08(3) Financial Audits</b>	Recommends [1] that language be added requiring districts to " <u>assist Horace Mann charters to the fullest extent possible in providing them with the financial, payroll and personnel records required for a complete audit.</u> "	The Department agrees this request is reasonable and could help clarify expectations of the Horace Mann charter school and the school district. We have revised the regulation by adding the following language to 603 CMR 1.08(3), " <u>Districts are required to assist Horace Mann charter schools to the fullest extent possible in providing them in a timely fashion with the financial, payroll, and personnel records required for a complete audit.</u> "
<b>1.08(5) Enrollment Reports</b>	Recommends [1] not deleting the word "number" after the word "aggregate."	The Department agrees that the deletion from the original regulation makes the sentence unclear. We have reinserted the word " <u>number</u> " after the word "aggregate" in section 1.08(5).
<b>1.08(5) Enrollment Reports</b>	Recommends [1] greater clarification about whether "Enrollment Reports" only apply to Commonwealth charter schools, particularly how the reports relate to receiving tuition payments that exceed the total enrollment for that charter school as it was reported to the Department in the school's pre-enrollment report.  The commenter [1] goes on request greater	The statute and regulations stipulate that enrollment reports requirements apply to both Commonwealth and Horace Mann charter schools.  Whether or not a charter school is granted an amendment to expand (maximum enrollment or grades served), the total number of students attending a charter school in a given school year cannot exceed the total number of students reported to the Department in the previous spring (pre-enrollment) in

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	clarification about enrollment reports and schools that are expanding and adding grades.	accordance with 603 CMR 1.08(5). Amendments of this sort take place no later than February. Pre-enrollment activity is based upon whether an amendment has been granted. Accordingly, no change is recommended.
<b>1.08(9) Compliance</b>	Recommends [1] adding language that clearly requires districts, in the case of Horace Mann charter schools, to be in compliance for any matters related to building, safety or health inspections.	Federal and state laws require all public school facilities, including those of charter schools, to pass certain inspections and to be programmatically accessible to persons with disabilities. The agreements reached between school districts and Horace Mann charter schools vary considerably. The Department encourages Horace Mann charter schools and districts to specify these terms in the MOU. Accordingly, no change is recommended.
<b>1.08(10) Investigations</b>	Concern [1] that the phrase, “all significant matters” is so vague as to make the statement meaningless and asks for greater specificity. The commenter asks if this includes 51A? CHINS? Assaults? Drugs? Weapons?	The proposed language in section 1.08(10) states that “Every charter school shall notify the Department in writing of all significant matters within two business days. Every charter school shall report to the Department all communications made or received by or on behalf of the school with any government audit, investigative, or law enforcement agency within two business days of that communication.” The Department agrees that clarification is needed. We have removed, “ <del>Every charter school shall report to the Department</del> ” and have added the phrase “ <u>Significant matters include, but are not limited to,</u> ” The Department will issue further guidance on what are “significant matters” after the Board adopts the revised regulations.
<b>1.08(10) Investigations</b>	Concern [1] about the section on investigations, and asked for greater details regarding: <ul style="list-style-type: none"> <li>• the type of written communication that is required (email versus formal letter),</li> <li>• from whom the communication is to come (school leader/board chair),</li> <li>• specificity about police involvement requiring Department notification (including positive involvement), and</li> <li>• to whom this applies, school resource officers or police officers by districts to</li> </ul>	The statute and regulations establish a legal framework within which charter schools operate. This provision is intended to inform the Department of “significant matters,” and the Department will issue guidance on what constitutes “significant matters.” The Department understands the concerns about this being overly burdensome and will take this into consideration in its guidance. The Department is committed to transparency and balancing the charter school’s autonomy with the Department’s ability to preserve effective oversight. This requires charter schools to provide timely and accurate information to the authorizing authority. Accordingly, no

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	<p>Horace Mann charter schools?</p> <p>The commenter went on to say, “[t]his seems to be an overly burdensome and onerous requirement that will significantly increase the reporting requirements of charter schools to the detriment of student learning and achievement.”</p>	<p>change is recommended.</p>
<p><b>1.08(11)(g) Notification of New Circumstances</b></p>	<p>Recommends [1] changing “(g) significant decreases in enrollment (more than 10 percent lower than any previously reported figure)” to <u>5 percent</u>.</p>	<p>As stated in the regulations, the purpose of requiring charter schools to notify the Department is to flag “circumstances that may have a significant impact on a charter school’s ability to fulfill its goals or mission as stated in its charter.” An enrollment decrease of 5 percent is unlikely to pose a great risk to a charter school’s ability to fulfill its goals or mission. This additional reporting requirement is imposed for decreases of 10 percent or more in enrollment based upon the Department’s experience with under-enrolled charter schools. Accordingly, no change is recommended.</p>
<p><b>1.08(11)(g) Notification of New Circumstances</b></p>	<p>Concern [1] that “[i]ncreases are also new circumstances.” Recommend adding the term “increases” to this section.</p>	<p>Increases in enrollment do not have a significant impact on a charter school’s ability to fulfill its goal and mission. While fluctuation is expected, the charter school statute and schools’ charters strictly limit the number of students who can attend a charter school. Accordingly, no change is recommended.</p>
<p><b>1.08(11)(g) Notification of New Circumstances</b></p>	<p>Concern [1] about the implementation details regarding “Notification of New Circumstances,” including but not limited to, “specifically what written communication is required here? Is an email from the Principal to DESE sufficient, or would they need a written letter from the Chair of the Board of Trustees?”</p>	<p>The Department will issue guidance regarding procedures for “Notification of New Circumstances” after the Board adopts the revised regulations. Accordingly, no change is recommended.</p>
<p><b>Formerly “1.11 Amendments to Charters” changed to “1.10 Amendments to Charters”</b></p>		
<p><b>1.10(1) Amendments Requiring Board Approval</b></p>	<p>Objections [2] to the transfer of authority for approval of amendments to the Commissioner and the commenters assert that, “Such a transfer would compromise the standard of transparency demanded by the affected cities and towns and the public at large who could be adversely affected by</p>	<p>The Department is committed to transparency and agrees that there are certain amendments and key decisions that should be addressed in the more public forum provided by the Board’s consideration, including, but not limited to: (a) districts specified in the school’s charter; (b) maximum enrollment; and (c) grades served. These material terms would change the</p>

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	the decision to move from the public forum key decisions that affect their loss of students and revenue.”	enrollment of students and the payment of related revenues.  For many years, however, the Board by vote has delegated to the Commissioner the authority to approve the following amendments: school name; mission; governance or leadership structure; educational programs, curriculum models, or whole-school designs that are inconsistent with those specified in the school's charter; bylaws; membership of the board of trustees; memoranda of understanding for Horace Mann charter schools; schedule (length of school year, school week, or school day); enrollment policy and application for admission; and expulsion policy. With the narrow exception of changing locations in another municipality which it serves, the proposed amendments do not change what is currently delegated. Accordingly, no change is recommended.
<b>1.10(1) Amendments Requiring Board Approval</b>	Recommends [1] removing the term “desires” and reinsert “ <u>plans to make minor change.</u> ”	The Department agrees. We have revised the regulation by removing the word “ <del>desire</del> ” in both sections 1.10(1) and (2). Instead, it will read, 1.10 “(1) <u>plans to</u> ” before “the school’s board of trustees shall” and respectively, 1.10 “(2) <u>plans to</u> ” before “the school’s board of trustees shall.”
<b>1.10(2) Amendments Requiring Commissioner Approval</b>	Recommends [1] adding, “(k) <u>Suspension and</u> ” before, “expulsion policy( <u>ies</u> );” [change tense accordingly]	Suspension and expulsion policies are governed by Massachusetts law and all public schools must comply. Further, all charter schools must submit codes of conduct or student handbooks that by law, must include all discipline procedures. Expulsion policies and amendments regarding expulsion policies require further Commissioner approval. Accordingly, no change is recommended.
<b>1.10(2) Amendments Requiring Commissioner Approval</b>	Concern [1] about changing approval of amendments regarding locations of facilities to the Commissioner from the Board.	Charter schools must comply with all laws related to building, safety, or health inspections. The Department acknowledges that the language in 1.10(2)(1) is confusing. We have clarified it as follows:“(1) Location of facilities, if such change involves relocating to or adding a facility in another municipality or school district <u>in districts already specified in the school’s charter or subsequent amendments.</u> ” With this clarification, Commissioner approval is reasonable.



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<b>1.10(2) Amendments Requiring Commissioner Approval</b>	<p>Concern [1] that changes to a school’s recruitment and retention plan should require Commissioner approval through the amendment process.</p>	<p>Recruitment and retention plans are included as a part of the school’s annual report, which is submitted to the Department by August 1 for approval. The Department has policy standards for recruitment and retention plans. All schools’ recruitment and retention plans go through a rigorous review process before the annual report is approved. Recruitment and retention plans and changes in them do not rise to the level of an amendment requiring Commissioner approval. Accordingly, no change is recommended.</p>
<b>1.10(4) Horace Mann Charter Schools</b>	<p>Recommends [1] clarification regarding Horace Mann amendments and their approval by the school committee and union. The commenter also asked for greater clarification of what constitutes “other amendments” mentioned in section (b).</p> <p>The commenter asserts that “the law is clear that all amendments relate to mandatory subjects of bargaining must be approved by the school committee and the union.” Recommend striking in Section 1.10(4)(a) <del>“and do not require approval of the local collective bargaining unit and local school committee.”</del></p>	<p>The statute states that “Horace Mann charter school shall be operated and managed by a board of trustees independent of the school committee which approved the school.” G.L. c. 71, § 89(c). 603 CMR 1.10(4)(a) refers to amendments to bylaws, which guide the boards of trustees and their members. These amendments do not relate to collective bargaining issues. Accordingly, no change is recommended to subsection (a).</p> <p>As to subsection (b), regarding other amendments, the Department has revised the regulation to include citations to 1.10(1 and 2). Therefore, the proposed language in 1.10(4)(b) will include, <u>“All other amendments, as described in 1.10 (1 and 2).”</u></p>
<b>1.10(4) Horace Mann Charter Schools</b>	<p>Recommends [1] further clarification regarding Horace Mann charter schools and amendments, including, but not limited to, which changes actually require an amendment process.</p>	<p>Section 1.10 clearly outlines the changes requiring a formal amendment to the material terms of the charter. The Department will revise the technical advisory on amendments after the Board adopts the revised regulations. Accordingly, no change is recommended.</p>
<b>1.10(4) Horace Mann Charter Schools</b>	<p>Recommends [1] clarification about why many of the amendments require local collective bargaining unit and school committee approval, even when the local collective bargaining unit had no approval authority over the documents when the charter was awarded.</p>	<p>To the extent that the charter school statute does not exempt such amendments from the approval of the collective bargaining unit and school committee, approval is required. For instance, in G.L. c. 71, § 89(i)(1)(c), the statute states that the 14 new Horace Mann charter schools (Horace Mann III) shall negotiate waivers of provisions in a collective bargaining agreements in good faith with the relevant collective bargaining units and school committee. “[I]f an agreement is not reached</p>

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		on the memorandum of understanding at least 30 days before the scheduled opening of the school, the charter school <i>shall operate under the terms of its charter</i> until an agreement is reached.” (Emphasis added.) Accordingly, no change is recommended.
<b>1.10(4) Horace Mann Charter Schools</b>	Recommends [1] that language be added to 1.10(4)(b) that requires the Commissioner to review any denials of amendments requested by the local collective bargaining unit or the local school committee.	The statute does not provide this authority. Accordingly, no change is recommended.
<b>Formerly “1.12 Renewal of Charters” changed to “1.11 Renewal of Charters”</b>		
<b>1.11 Renewal of Charters</b>	Recommend [2] that the regulations include provisions to rescind a charter if a school a) fails to enroll a representative cross-section of student cohorts or b) has a record of not retaining students.	The regulations (sec. 1.11(2)) currently contain language about renewals being based upon “affirmative evidence regarding the faithfulness of the school to the terms of its charter, including the extent to which the school has followed its recruitment and retention plan.” Revoking a charter on either one of these bases alone is inconsistent with the charter school statute. The provisions in the statute and regulations are sufficient. Accordingly, no change is recommended.
<b>Formerly “1.13 Charter Revocation, Probation, Suspension, and Non-Renewal” changed to “1.12 Conditions, Probation, Suspension, Revocation, and Non-Renewal”</b>		
<b>1.12(1) Conditions</b>	Recommends [1] adding the following language to this section: “(1) Conditions: The Board or Commissioner may impose conditions on a school’s charter for violations of law or failure to make progress with student achievement, <u>failure to make progress on its recruitment and retention plan</u> , failure to comply with the terms of its charter, or failure to remain viable.”	The Department agrees that this suggestion will help to reiterate the importance of a school’s recruitment and retention plan. The statute says the “Board may impose conditions on the charter school upon renewal if it fails to adhere to and enhance its recruitment and retention plan as required.” G.L. c. 71, § 89(dd). Therefore, we have revised the regulation to include in section 1.12(1) language as follows: “student achievement, <u>failure to adhere to and enhance its recruitment and retention plan</u> ,”

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<b>1.12(3) Suspension or Revocation</b>	Recommends [1] adding the following language to the list of reasons why the Board can suspend and revoke a charter, “ <u>failure to comply substantially with its recruitment and retention plan.</u> ”	The Department agrees that it is critical for a charter school to comply with its recruitment and retention plan. The Department will collect this evidence annually and as part of renewal. While the Department can impose conditions for a failure to meet this requirement, charter suspensions or revocations on this basis alone would be extreme measures. Accordingly, no change is recommended.

**Appendix: Public Comment Contributors**

1. Massachusetts Teachers Association (MTA)
2. Lawyers’ Committee for Civil Rights and Economic Justice (CCREJ)
3. Patricia Jehlen, State Senator – 2<sup>nd</sup> Middlesex District
4. Massachusetts Association of School Committees (MASC) and Massachusetts Association of School Superintendents (MASS) submitted comments together
5. Foxborough Regional Charter School
6. Unlocking Potential
7. Salem Academy Charter School