

**Charter school statute, Mass. General Laws chapter 71, section 89  
as amended by Chapter 12 of the Acts of 2010**

Chapter 71, Section 89.

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Board”, the board of elementary and secondary education.

“Charter school”, commonwealth charter schools and Horace Mann charter schools unless specifically stated otherwise.

“Commissioner”, the commissioner of elementary and secondary education.

“Department”, the department of elementary and secondary education.

“District”, or “school district”, the school department of a city, town, regional school district, or county agricultural school.

“Superintendent”, the superintendent of the district.

(b) The purposes of establishing charter schools are:

(i) to stimulate the development of innovative programs within public education;

(ii) to provide opportunities for innovative learning and assessments;

(iii) to provide parents and students with greater options in selecting schools within and outside their school districts;

(iv) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management;

(v) to encourage performance-based educational programs;

(vi) to hold teachers and school administrators accountable for students' educational outcomes; and

(vii) to provide models for replication in other public schools.

(c) A commonwealth charter school shall be a public school, operated under a charter granted by the board, which operates independently of a school committee and is managed by a board of trustees. The board of trustees of a commonwealth charter school, upon receiving a charter from the board, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

A Horace Mann charter school shall be a public school or part of a public school operated under a charter approved by the school committee and the local collective bargaining unit in the district in which the school is located; provided that all charters shall be granted by the board of elementary and secondary education. 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 and states the funding of the charter school by the district. A Horace Mann charter school established as a conversion of an existing public school shall not require approval of the local collective bargaining unit, but shall require a memorandum of understanding agreement regarding any waivers to applicable collective bargaining agreements; provided further, that the memorandum of understanding shall be approved by a majority of the school faculty;

provided further, that Horace Mann charter schools that are conversion of existing public schools shall not be subject to clause (1) of subsection (i).

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. A Horace Mann charter school shall be operated and managed by a board of trustees independent of the school committee which approved the school. The board of trustees may include a member of the school committee.

(d) Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to: (i) a non-profit business or corporate entity; (ii) 2 or more certified teachers; or (iii) 10 or more parents; provided, however, that for profit business or corporate entities shall be prohibited from applying for a charter. The application may be filed in conjunction with a college, university, museum or other similar non-profit entity. Private and parochial schools shall not be eligible for charter school status. The board may authorize a single board of trustees to manage more than 1 charter school; provided, however, that each school is issued its own charter. The commissioner shall provide technical assistance to public school districts to assist in the development of proposals for Horace Mann charter schools.

(e) The board shall establish the information needed in an application for the approval of a charter school; provided that the application shall include, but not be limited to, a description of:

- (i) the mission, purpose, innovation and specialized focus of the proposed charter school;
- (ii) 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;
- (iii) the organization of the school by ages of students or grades to be taught, an estimate of the total enrollment of the school and the district or districts from which the school will enroll students;
- (iv) the method for admission to the charter school;
- (v) the educational program, instructional methodology and services to be offered to students, including research on how the proposed program may improve the academic performance of the subgroups listed in the recruitment and retention plan;
- (vi) the school's capacity to address the particular needs of limited English-proficient students, if applicable, to learn English and learn content matter, including the employment of staff that meets the criteria established by the department;
- (vii) how the school shall involve parents as partners in the education of their children;
- (viii) the school governance and bylaws;
- (ix) a proposed arrangement or contract with an organization that shall manage or operate the school, including any proposed or agreed upon payments to such organization;
- (x) the financial plan for the operation of the school;

- (xi) the provision of school facilities and pupil transportation; (xii) the number and qualifications of teachers and administrators to be employed;
- (xiii) procedures for evaluation and professional development for teachers and administrators;
- (xiv) a statement of equal educational opportunity which shall state that charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or academic achievement;
- (xv) a student recruitment and retention plan, including deliberate, specific strategies the school will use to ensure the provision of equal educational opportunity as stated in clause (xiv) and to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school is expected to enroll students, contains a comparable academic and demographic profile; and (xvi) plans for disseminating successes and innovations of the charter school to other non-charter public schools.

(f) The student recruitment and retention plan required under clause (xv) of subsection (e) shall include, but not be limited to, a detailed description of deliberate, specific strategies the school will use to maximize the number of students who successfully complete all school requirements and prevent students from dropping out. The student recruitment and retention plan shall be updated annually and shall include annual goals for:

- (i) recruitment activities;
- (ii) student retention activities; and
- (iii) student retention.

(g) To ensure that a commonwealth charter school shall fulfill its obligations under its recruitment and retention plan, the school district or districts from which the commonwealth charter school is expected to enroll students shall annually provide, at the request of a commonwealth charter school, to a third party mail house authorized by the department, the addresses for all students in the district eligible to enroll in the school, unless a student's parent or guardian requests that the district withhold that student's information; provided, however, that the department may require the charter school to send the mailing in the most prevalent languages of the district or districts that the charter school is authorized to serve.

At the request of a school district from which a commonwealth charter school enrolls students, the charter school shall provide to a third party mail house the addresses for all students currently enrolled in the commonwealth charter school from the district; provided, however, that the information shall not be provided if a student's parent or guardian requests that the school withhold that student's information. Each district shall be permitted to supply a mailing to the third party mail house and pay for it to be copied and mailed to families of students from said district enrolled in the commonwealth charter school.

(h) An application submitted for the establishment of a commonwealth charter school shall:

- (i) be submitted to the board for approval under this section; and
- (ii) be filed with the local school committee for each school district from which the charter school is expected to enroll students.

Before final approval to establish a commonwealth charter school, 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 from the local school committee of each school district from which the charter school is expected to enroll students and any contiguous districts. At least 1 member of the board shall attend the public hearing. A comprehensive written summary of all materials prepared by the department or its administrative subdivisions, which evaluates or recommends approval or disapproval of a charter application must be delivered to the members of the board, the applicant, in support of, or in opposition to, the school submitted not later than 3 days before any board vote on the charter application.

All material in support of, or in opposition to, the school submitted to the department or the board shall be made available to the applicant and affected school districts before a vote by the board on a commonwealth charter school application.

(i) (1) Not more than 120 charter schools shall be allowed to operate in the commonwealth at any time, excluding those approved pursuant to paragraph (3); provided, however, that of the 120 charter schools, not more than 48 shall be Horace Mann charter schools; provided, however, notwithstanding subsection (c) the 14 new Horace Mann charter schools shall not be subject to the requirement of an agreement with the local collective bargaining unit prior to board approval; provided, further, that after the charter for these 14 new Horace Mann charter schools have been granted by the board, the schools shall develop a memorandum of understanding with the school committee and the local union regarding any waivers to applicable collective bargaining agreements; provided, further, 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; provided, further, that not less 4 of the new Horace Mann charter schools shall be located in a municipality with more than 500,000 residents; and not more than 72 shall be commonwealth charter schools. 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.

Applications to establish a charter school shall be submitted to the board annually by November 15. The board shall review the applications and grant new charters in February of the following year.

(2) In any fiscal year, no public school district's total charter school tuition payment to commonwealth charter schools shall exceed 9 per cent of the district's net school spending; provided, however, that a public school district's total charter tuition payment to commonwealth charter schools shall not exceed 18 per cent of the district's net school spending if the school district qualifies under paragraph (3). The commonwealth shall incur charter school tuition payments for siblings attending commonwealth charter

schools to the extent that their attendance would otherwise cause the school district's charter school tuition payments to exceed 9 per cent of the school district's net school spending or 18 per cent for those districts that qualify under said paragraph (3).

Not less than 2 of the new commonwealth charters approved by the board in any year shall be granted for charter schools located in districts where overall student performance on the statewide assessment system approved by the board under section 1I of chapter 69 is in the lowest 10 per cent statewide in the 2 years preceding the charter application.

In any fiscal year, the board shall approve only 1 regional charter school application of any commonwealth charter school located in a school district where overall student performance on the statewide assessment system is in the top 10 per cent in the year preceding charter application. The board may give priority to applicants that have demonstrated broad community support, an innovative educational plan, a demonstrated commitment to assisting the district in which it is located in bringing about educational change and a record of operating at least 1 school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed school seeks to serve.

(3) In any fiscal year, if the board determines based on student performance data collected pursuant to section 1I, said district is in the lowest 10 per cent of all statewide student performance scores released in the 2 consecutive school years before the date the charter school application is submitted, the school district's total charter school tuition payment to commonwealth charter schools may exceed 9 per cent of the district's net school spending but shall not exceed 18 per cent.

For a district qualifying under this paragraph whose charter school tuition payments exceed 9 per cent of the school district's net school spending, the board shall only approve an application for the establishment of a commonwealth charter school if an applicant, or a provider with which an applicant proposes to contract, has a record of operating at least 1 school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed school seeks to serve, from the following categories of students, those:

- (i) eligible for free lunch;
- (ii) eligible for reduced price lunch;
- (iii) that require special education;
- (iv) limited English-proficient of similar language proficiency level as measured by the Massachusetts English Proficiency Assessment examination;
- (v) sub-proficient, which shall mean students who have scored in the "needs improvement", "warning" or "failing" categories on the mathematics or English language arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a similar measurement;
- (vi) who are designated as at risk of dropping out of school based on predictors determined by the department;
- (vii) who have dropped out of school; or
- (viii) other at-risk students who should be targeted to eliminate achievement gaps among different groups of students.

For a district approaching its net school spending cap, the board shall give preference to applications from providers building networks of schools in more than 1 municipality.

The recruitment and retention plan of charter schools approved under this paragraph shall, in addition to the requirements under subsections (e) and (f), include, but not limited to:

- (i) a detailed description of deliberate, specific strategies the charter school shall use to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school shall enroll students, contains a comparable or greater percentage of special education students or students who are limited English-proficient of similar language proficiency as measured by the Massachusetts English Proficiency Assessment examination and 2 or more of the following categories: students eligible for free lunch;
- (ii) students eligible for reduced price lunch; students who are sub-proficient, those students who have scored in the "needs improvement", "warning" or "failing" categories on the mathematics or English language arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a similar measurement;
- (iii) students who are determined to be at risk of dropping out of school based on predictors determined by the department;
- (iv) students who have dropped out of school; or
- (v) other at-risk students who should be targeted in order to eliminate achievement gaps among different groups of students.

A charter school approved under this section shall supply a mailing in the most prevalent languages of the district the charter is authorized to serve to a third party mail house and pay for it to be copied and mailed to eligible students. If a school is or shall be located in a district with 10 per cent or more of limited English-proficient students, the recruitment strategies shall include a variety of outreach efforts in the most prevalent languages of the district. The recruitment and retention plan shall be updated each year to account for changes in both district and charter school enrollment.

If a district is no longer in the lowest 10 per cent, the net school spending cap shall be 9 per cent, unless the district net school spending was above 9 per cent in the year prior to moving out of the lowest 10 per cent in which case the net school spending cap shall remain at the higher level plus enrollment previous approved by the board. The department shall determine and make available to the public a list of the school districts in said lowest 10 per cent.

(j) The board shall make the final determination on granting charter school status and may condition charters on the applicant's taking certain actions or maintaining certain conditions. The board shall establish criteria for the approval of a charter application and recommendations to the board shall be based upon and reference those criteria.

If a final application is deemed inadequate by the department, the department may provide feedback to the applicant and invite it to submit a stronger application subsequently. Once a final application has been filed, only minor, non-substantive amendments shall be allowed. The department shall maintain a written detailed summary of interviews it conducts with final charter applicants and include that summary with the final application materials that are provided to the board, local school officials and the public.

(k) A charter school established under a charter granted by the board shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the power to:

- (1) adopt a name and corporate seal; provided that any name selected must include the words "charter school";
- (2) sue and be sued, but only to the same extent and upon the same conditions that a municipality can be sued;
- (3) acquire real property, from public or private sources, by lease, lease with an option to purchase or by gift, for use as a school facility; provided, however, in the case of a Horace Mann charter school, the approval of the local school committee shall be obtained before acquisition of any such real property owned or controlled by the body;
- (4) receive and disburse funds for school purposes;
- (5) make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the charter school intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the board either as part of the original charter or by way of an amendment thereto; provided, further that the board shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools;
- (6) incur temporary debt in anticipation of receipt of funds; provided that a Horace Mann school shall obtain the approval of the local school committee and appropriate local appropriating authorities and officials relative to any proposed lien or encumbrance upon public school property or relative to any financial obligation for which the local school district shall become legally obligated; and provided further, that notwithstanding any general or special law to the contrary, the terms of repayment of any charter school's debt shall not exceed the duration of the school's charter without the approval of the board;
- (7) solicit and accept grants or gifts for school purposes; and
- (8) have such other powers available to a business corporation formed under chapter 156B that are not inconsistent with this chapter.

(l) Charter schools shall not charge a public school for the use or replication of a part of their curriculum subject to the prescriptions of a contract between the charter schools and any third party providers.

(m) Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language or a foreign language or academic achievement.

Charter schools may limit enrollment to specific grade levels and may structure curriculum around particular areas of focus such as mathematics, science or the arts. There shall be no application fee for admission to a charter school. There shall be no tuition charge for students attending charter schools.

(n) Preference for enrollment in a commonwealth charter school shall be given to students who reside in the city or town in which the charter school is located. Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled in the school on the date that the application is filed with the board and to their siblings; second to other students actually enrolled in the public schools of the district where the Horace Mann charter school is to be located; and third to other resident students.

If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located or are siblings of students already attending said charter school, is greater than the number of spaces available, an admissions lottery, including all eligible students applying, shall be held to fill all of the spaces in that school from among the students. If there are more spaces available than eligible applicants from the city or town in which the charter school is located and who are siblings of current students and more eligible applicants than spaces left available, a lottery shall be held to determine which of the applicants shall be admitted; provided, however, that a lottery conducted for Horace Mann charter schools shall reflect the enrollment priorities of this section.

Notwithstanding this subsection, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the board may amend or grant a charter designating such school a regional charter school; provided, however, that such regional charter school shall be exempt from the local preference provision of this paragraph; provided further, that such regional charter school shall continue to grant a preference of siblings of currently enrolled students; and provided further, that if the number of applicants remaining is greater than the number of spaces available, such regional charter school shall conduct a single lottery to determine which applicants shall be admitted.

In any instance where a charter school approved after January 1, 2011 enrolls more than 20 per cent of its total enrollment from school districts not included in its original charter pursuant to subsection (h) for 2 consecutive years, the charter school shall submit an application to the board for an amendment to its charter that reflects its actual enrollment patterns; provided further that upon renewal of a charter school approved prior to January 1, 2011, the board shall establish a timeline of not less than 5 years for the charter to comply with this requirement.

Nothing in this section shall be construed to require a charter school to unenroll any student currently in attendance at the time this act takes effect.

When a student stops attending a charter school for any reason, the charter school shall fill the vacancy with the next available student on the waitlist for the grade in which the vacancy occurs and shall continue through the waitlist until a student fills the vacant seat. If there is no waitlist, a charter school shall publicize an open seat to the students of the sending district or districts and make attempts to fill said vacant seat. Charter schools shall attempt to fill vacant seats up to February 15, provided, however, that charter schools may but are not required to fill vacant after February 15. If a vacancy occurs after February 15, such vacancy shall remain with the grade cohort and shall be filled in the following September if it has not previously been filled. A vacancy occurring after February 15 shall not be filled by adding a student to a lower grade level. Charter schools shall attempt to fill vacant seats up to February 15, excluding seats in the last half of the



grades offered by the charter school, and grades 10, 11 and 12. Within 30 days of a vacancy being filled, the charter school shall send the name of the student filling such vacancy to the department for the purposes of the department updating its waitlist.

The names of students who entered the lottery but did not gain admission shall be maintained on a waitlist, which shall be forwarded to the department not later than June 1 in the year in which the lottery is held. In addition to the names of students, the school shall supply to the department each student's home address, telephone number, grade level and other information the department deems necessary. The department shall maintain a consolidated waitlist for each municipality in order to determine the number of individual students in each municipality seeking admission to charter schools.

(o) Each charter school shall annually, not later than April 1, notify each public school district in writing of the number and grade levels of students who will be attending the charter school from that district the following September as well as the number of new students who will be transferring from that district to the charter school in the following September. Tuition for charter school students shall only be paid for the number of students for whom notification has been reported by April 1. Tuition for charter school students shall be paid only for students actually enrolled in the school.

(p) A student may withdraw from a charter school at any time and enroll in another public school where the student resides.

A student may be expelled from a charter school based on criteria determined by the board of trustees, and approved by the board, with the advice of the principal and teachers; provided, however, that charter school policies shall be consistent with sections 37H and 37H½.

(q) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or any other suitable location; provided, however, that no school building assistance funds authorized under chapter 70B shall be awarded to a commonwealth charter school for the purpose of constructing, reconstructing or improving a commonwealth charter school.

(r) The school committee of each district where a Horace Mann charter school is located shall develop a plan to disseminate innovative practices of the charter school to other public schools within the district subject to the provisions of any contract between the Horace Mann charter school and any third party provider.

The commissioner shall facilitate the dissemination of successful innovation programs of charter schools and provide technical assistance for other school districts to replicate such programs. Each charter school shall collaborate with its sending district on the sharing of innovative practices.

(s) A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools; provided, however, that sections 41 and 42 shall not apply to employees of commonwealth charter schools. Charter schools shall comply with the chapters 71A and 71B; provided, however, that the fiscal responsibility of a special needs student currently enrolled in or determined to require a private day or residential

school shall remain with the school district where the student resides. If a charter school expects that a special needs student currently enrolled in the charter school may be in need of the services of a private day or residential school, it shall convene an individual education plan team meeting for the student. Notice of the team meeting shall be provided to the special education department of the school district in which the child resides at least 5 days in advance. Personnel from the school district in which the child resides shall be allowed to participate in the team meeting concerning future placement of the child.

(t) Horace Mann charter schools shall be exempt from local collective bargaining agreements to the extent provided by the terms of its charter; provided, however, that employees of the Horace Mann charter school shall continue to be members of the local collective bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and benefits established in the contract of the local collective bargaining unit where the Horace Mann charter school is located. Employees of Horace Mann charter schools shall be exempt from all union and school committee work rules to the extent provided by the school's charter. Employees in Horace Mann charter schools shall be required to work the full work day and work year to the extent provided by the terms of the school's charter.

(u) Notwithstanding this section or any other general or special law to the contrary, for the purposes of chapter 268A: (i) a charter school shall be deemed to be a state agency; and (ii) the appointing official of a member of the board of trustees of a charter school shall be deemed to be the commissioner.

Members of boards of trustees of charter schools operating under the this section shall file a disclosure annually with the state ethics commission, the department and the city or town clerk wherein such charter school is located. The disclosure is in addition to the requirements of said chapter 268A and a member of a board of trustees must also comply with the disclosure and other requirements of said chapter 268A. The form of the disclosure shall be prescribed by the ethics commission and shall be signed under penalty of perjury. Such form shall be limited to a statement in which members of the board of trustees shall disclose any financial interest that they or a member of their immediate families, as defined in section 1 of said chapter 268A, have in any charter school located in the commonwealth or in another state or with a person doing business with a charter school.

Each member of a board of trustees of a charter school shall file such disclosure for the preceding calendar year with the commission within 30 days of becoming a member of the board of trustees, by September 1 of each year thereafter that the person is a member of the board and by September 1 of the year after the person ceases to be a member of the board; provided, however, that no member of a board of trustees shall be required to file a disclosure for the year in which he ceases to be a member of the board if he served less than 30 days in that year.

(v) Students in charter schools shall be required to meet the same performance standards, testing and portfolio requirements set by the board for students in other public schools.

(w) The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget. The 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. The school committee shall act on the budget request in conjunction with its actions on the district's overall budget. Each Horace Mann charter school shall receive in response to the budget request not less than it would have under the district's budgetary allocation rules. The board of trustees may appeal any disproportionate budgetary allocation to the commissioner, who shall determine an equitable funding level for the school and shall require the school committee to provide the funding.

Following the appropriation of the district's operating budget for the fiscal year, the amount approved by the local appropriating authority for the operation of each Horace Mann charter school shall be available for expenditure by the board of trustees of the school for any lawful purpose without further approval by the superintendent or the school committee. A Horace Mann charter school shall not expend or incur obligations in excess of its budget request; provided, however, that a Horace Mann charter school may spend federal and state grants and other funds received independent of the school district not accounted for in the charter school's budget request without prior approval from the superintendent or the school committee.

(x) Upon approval of a Horace Mann charter school by the board, the superintendent where the Horace Mann charter school is to be located shall reassign, to the extent provided by the terms of its charter, any faculty member who wishes to be reassigned to another school located within the district.

(y) Employees of charter schools shall be considered public employees for purposes of tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however, that in the case of a Horace Mann charter school, 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. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter 32 and service in a charter school shall be creditable service within the meaning thereof.

A charter school shall recognize an employee organization designated by the authorization cards of 50 per cent of its employees in the appropriate bargaining unit as the exclusive representative of all the employees in such unit for the purpose of collective bargaining.

(z) Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave to teach in a commonwealth charter school. A teacher may request a leave of absence for up to 2 years.

At the end of the second year, the teacher may either return to his former teaching

position or, if he chooses to continue teaching at the commonwealth charter school, resign from his school district position.

(aa) Notwithstanding section 59C, the internal form of governance of a charter school shall be determined by the school's charter.

(bb) A charter school shall comply with all applicable state and federal health and safety laws and regulations.

(cc) The students who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on similar terms and conditions as transportation is provided to students attending local district schools if the transportation is requested by the charter school. In providing the transportation, the school committee shall accommodate the particular school day and school year of the charter school; provided, however, that in the event that a school committee limits transportation for district school students, the school district shall not be required to provide transportation to any commonwealth charter school beyond the limitations. A charter school and the sending district shall meet to plan bus routes and charter school starting and ending times in order to assist the district with cost effective means of transportation.

Schools operating under a charter granted after January 1, 1997, and all charter schools operating during fiscal year 1999 and thereafter, shall not receive funds for transportation above the amount actually required by such charter school for the provision of transportation services to eligible students. If the sending district provides an alternative method of transportation for students enrolled in the sending district's public schools, it shall not be assessed for transportation costs which exceed the per pupil cost of said alternative. Costs for transportation shall be included only if transportation is provided for students in the same program and grade level as those in the charter school. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section 12B of chapter 76.

A regional charter school as designated by the board, and whose charter provides for transportation of all students from charter municipalities shall also be reimbursed by the commonwealth under section 16C of chapter 71 for transportation provided to pupils residing outside the municipality where the charter school is located, but no reimbursement for transportation between the charter school and home shall be made on account of any pupil who resides less than 1.5 miles from the charter school, measured by a commonly traveled route. If a charter school provides its own transportation, the school shall coordinate and collaborate with the sending district to provide cost effective means of transportation. All such transportation shall be determined in advance of the approval of the district's final budget for a fiscal year; provided, however, that a commonwealth charter school shall be required to determine such transportation in the first year of its operation as soon as practicable.

(dd) A charter granted by the board shall be for 5 years. The board shall develop procedures and guidelines for revocation and renewal of a school's charter; provided, however, that a charter for a Horace Mann charter school shall not be renewed by the

board without a majority vote of the school committee and local collective bargaining unit in the district where said charter school is located; provided, however, that a commonwealth charter shall not be renewed unless the board of trustees of the charter school has documented in a manner approved by the board that said commonwealth charter school has provided models for replication and best practices to the commissioner and to other public schools in the district where the charter school is located.

When deciding on charter renewal, the board shall consider progress made in student academic achievement, whether the school has met its obligations and commitments under the charter, the extent to which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in paragraph (3) of subsection (i) and the extent to which the school has enhanced its plan as necessary.

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. When deciding on charter renewal, the board shall take into account the annual attrition of students. The board shall also consider innovations that have been successfully implemented by the charter school and the evidence that supports the effectiveness of these practices. Upon renewal of its charter, a school shall update and enhance its recruitment and retention plan as necessary to account for changes in enrollment.

(ee) The board may revoke a school's charter if the school has not fulfilled any conditions imposed by the board in connection with the grant of the charter or the school has violated any provision of its charter. The board may place conditions on a charter or may place a charter school on a probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.

(ff) Commonwealth charter schools shall be funded as follows: the commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the tuition amounts calculated separately for each district sending students to the charter school. Tuition amounts for each sending district shall be calculated by the department using the formula set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that would be expended in the district if the students attended the district schools. The tuition amount shall be calculated separately for each district sending students to a charter school, and for each charter school to which a district sends students. Each district's per pupil tuition amount for each charter school to which it sends students shall include a per pupil foundation budget component, adjusted to reflect the actual net school spending in the sending district.

In calculating the per pupil foundation budget component, the department shall calculate a foundation budget for the students from each sending district attending the charter school in the previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the department shall not include in said calculation the assumed tuitioned-out special education enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2. The per pupil foundation budget component shall be the district's foundation budget for the charter school, as so calculated, divided by the number of students attending the charter school from the

sending district in the previous fiscal year. The per pupil foundation budget component shall be calculated separately for each charter school to which a district sends students. The foundation budget for a charter school shall be the sum of the foundation budgets for the charter school for each district sending students to the charter school.

In adjusting the per pupil foundation budget component, the department shall calculate for each sending district an above foundation spending percentage, which shall be the percentage by which the district's actual net school spending exceeds the foundation budget for the district, as calculated pursuant to the provisions of chapter 70. The department shall further calculate the percentage of actual net school spending reported by the sending district associated with tuition costs for tuitioned-out special education students, including education that occurs in educational collaboratives, and with spending on health care costs for retired employees, for any district for which such costs are included in net school spending, and shall reduce the district's above foundation spending percentage proportionately. The per pupil foundation budget component for each charter school to which the sending district sends students shall be increased by said adjusted above foundation spending percentage.

The total tuition amount owed by a sending district to a charter school shall be the per pupil tuition amount as defined above, multiplied by the total number of students attending the charter school from that district in the current fiscal year.

The sending district's total charter school tuition amount for purposes of the following paragraphs shall be the sum of the district's tuition amounts for each charter school to which the district sends students, calculated using the provisions of this section. The receiving charter school's total charter school tuition amount shall be the sum of the tuition amounts calculated for the charter school for each district sending students to the charter school.

If a charter school student previously attended a private or parochial school or was home schooled, the commonwealth shall assume the first year cost for that student and shall not reduce the sending district's chapter 70 aid for that student's tuition in that fiscal year.

The state treasurer is hereby authorized and directed to deduct a district's total charter school tuition amount, as calculated herein, from the total state school aid, as defined in section 2 of said chapter 70, of the district in which the student resides prior to the distribution of said aid. In the case of a child residing in a municipality which belongs to a regional school district, the charter school tuition amount shall be deducted from said chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of said chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said excess amount.

The state treasurer is hereby further authorized and directed to disburse to the charter school an amount equal to the charter school's total charter school tuition amount as defined above.

If more than 1 charter school is managed by a single network or board of trustees,

funding shall not be transferred among individual schools within the network unless such schools are located in the same school district.

The department shall, subject to appropriation, provide funding to charter schools for a portion of the per pupil capital needs component included in the charter tuition amount and shall reimburse the sending school districts for said costs. In fiscal year 2011 and thereafter, such funding shall not be less than the per pupil amount provided in fiscal year 2010.

(gg) Any district whose total charter school tuition amount is greater than its total charter school tuition amount for the previous year shall be reimbursed by the commonwealth in accordance with this paragraph and subject to appropriation; provided, however, that no funds for said reimbursements shall be deducted from funds distributed pursuant to chapter 70. The reimbursement amount shall be equal to 100 per cent of the increase in the year in which the increase occurs and 25 per cent in the second, third, fourth, fifth and sixth years following.

(hh) If the unencumbered amount of cumulative surplus revenue from tuition held by a charter school at the end of a fiscal year, less (i) the amount of the fourth quarter tuition payment, (ii) the amount held in reserve for the purchase or renovation of an academic facility pursuant to a capital plan, and (iii) any reserve funds held as security for bank loans, exceeds 20 per cent 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 per cent 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. At the end of each fiscal year, the commissioner shall certify the amounts described above and the amount, if any, by which it exceeds 20 per cent of the school's operating budget and its budgeted capital costs for the succeeding fiscal year, and shall report such amount to the school committee of the sending district or districts and the applicable board of selectmen or city council by December 1 of each year. A charter school shall annually make any payment required by this subsection no later than December 31.

(ii) No teacher shall be hired by a commonwealth charter school who is not certified pursuant to section 38G unless the teacher has successfully passed the state teacher test as required in said section 38G.

(jj) Each charter school shall submit an annual report, no later than August 1, to the board, the local school committee, each parent or guardian of its enrolled students and each parent or guardian contemplating enrollment in that charter school. The annual report shall be in such form as may be prescribed by the board and shall include, but not be limited to:

- (i) discussion of progress made toward the achievement of the goals set forth in the charter; and
- (ii) a financial statement setting forth by appropriate categories the revenue and expenditures for the year just ended and a balance sheet setting forth the charter school's assets, liabilities and fund balances or equities.

The department shall promulgate regulations creating a reporting requirement for a charter school's net asset balance at the end of the fiscal year; provided, however, that said regulations shall require, without limitation, the following: the revenue and expenditures for the year just ended with a specific accounting of the uses of public and private dollars; how the capital needs component of the charter school's tuition was spent; compensation and benefits for teachers, staff, administrators, executives, and board of trustees; the amount of any and all funds transferred to a management company; the sources of any surplus funds, specifically whether they are private or public; how any surplus funds were used in the previous fiscal year; and the planned use of any surplus funds in the upcoming fiscal year on in future fiscal years.

Each charter school shall keep an accurate account of all its activities and all its receipts and expenditures and shall annually cause an independent audit to be made of its accounts. Such audit shall be filed annually on or before January 1 with the department and the state auditor and shall be in a form prescribed by the state auditor. The state auditor may investigate the budget and finances of charter schools and their financial dealings, transactions and relationships, and shall have the power to examine the records of charter schools and to prescribe methods of accounting and the rendering of periodic reports.

(kk) The commissioner shall collect data on the racial, ethnic and socio-economic make-up of the student enrollment of each charter school in the commonwealth. The commissioner shall also collect data on the number of students enrolled in each charter school who have individual education plans pursuant to chapter 71B and those requiring English language learners programs under chapter 71A. The commissioner shall file said data annually with the clerks of the house and senate and the joint committee on education not later than December 1.

(ll) Individuals or groups may complain to a charter school's board of trustees concerning any claimed violations of the provisions of this section by the school. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the board which shall investigate such complaint and make a formal response.

(mm) The board shall promulgate regulations for implementation and enforcement of this section.