

Redline version showing proposed amendments

603 CMR 1.00: Charter Schools – OFFICIAL REGULATIONS – last amended by Board of Education, January 25, 2005

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1.01: Scope, Purpose and Authority

(1) Purpose. The purpose of 603 CMR 1.00 is to provide uniform rules and procedures governing the establishment of charter schools.

(2) Authority. 603 CMR 1.00 is promulgated under the authority of M.G.L. c. 69, § 1B, c. 71, § 89.

1.02: Definitions

As used in 603 CMR 1.00, unless the context clearly requires otherwise, terms shall have the following meanings:

Administrator. Any individual duly authorized by a charter school's ~~B~~board of ~~T~~rustees to manage the programs and operations of the charter school in accordance with its charter as well as federal and state laws and regulations.

Application Cycle. The period beginning ~~in the summer~~with the availability of application information and extending through the receipt of final charter school applications for review, ending no later than the following February when the Board of Education makes final decisions on awarding new charters. The various stages of the application cycle occur in accordance with the schedule established by the Department of Education.

Board. The Board of Elementary and Secondary Education or a person duly authorized by the Board.

Board of Trustees. Public agents authorized by the state to supervise and control the charter school. The Boards of Trustees shall be considered public employers for purposes of tort liability under M.G.L. c. 258. Boards of trustees of Commonwealth charter schools shall be considered public employers for collective bargaining purposes under M.G.L. c. 150E. In the case of Horace Mann charter schools, the school committee shall be considered the public employer for purposes of collective bargaining under M.G.L. c. 150E.

Charter. A license issued by the Board ~~of Education~~ under the provisions of M.G.L. c. 71, § 89, and 603 CMR 1.00, allowing the grantee to operate a charter school for a period of five years.

Charter Applicant. A charter applicant shall include but is not limited to: individuals; groups; not-for-profit corporate entities; two or more certified teachers; or ten or more parents qualified under M.G.L. c. 71, § 89, to apply for a charter. An application for a charter school may be filed in conjunction with a college, university, museum, or other similar entity, or any combination thereof.

Charter School. A public school operated under a charter granted by the ~~Board of Education~~Board. This term encompasses Commonwealth and Horace Mann charter schools unless otherwise specified. A charter school is managed by a board of trustees and operates independent of any school committee. A Commonwealth charter school is considered a local education agency for all purposes. A Horace Mann charter school is a school or part of a school that operates under a charter approved by the local school committee and the local teachers' union and granted by the Board of Education. To the extent provided by the terms of their charters and a Memorandum of Understanding with the local district and collective bargaining unit, Horace Mann charter schools may be exempt from local collective bargaining agreements, provided that employees of the school will continue:

- (a) to be members of the local collective bargaining unit,
- (b) to accrue seniority, and
- (c) to receive at minimum, the salary and benefits established by the local collective bargaining agreement. Employees will be exempt from all union and school committee work rules to the extent provided by their charter and the Memorandum of Understanding with the local district and collective bargaining unit.

Commissioner. The Commissioner of Elementary and Secondary Education or his designee.

Department. The Department of Elementary and Secondary Education.

Memorandum of Understanding. An agreement between a Horace Mann charter school, the school committee of the district in which the charter school is located, and the collective bargaining unit for the district that, at a minimum, defines any modifications of the relevant collective bargaining agreement(s), services and facilities provided by the district to the charter school, and funding of the charter school by the district.

Regional Charter School. A charter school with a charter designating it as "regional" is required to give preference in enrollment to students residing in a specified region containing more than one municipalitydistrict.

Sending District. A Massachusetts city, town, or regional school district in which a charter school student resides and where the student would otherwise attend a public school. If a charter school has a residential component, the sending district is the city, town, or regional school district in which the parent or legal guardian of the charter school student resides or, if no parent or legal guardian can be identified, the school district in which the student last attended school.

1.03: General Provisions

(1) Administrative Bulletins. The Board and the Department of EducationDepartment may, from time to time, issue administrative bulletins to interpret, implement, and provide guidance on 603 CMR 1.00.

(2) Waivers. Upon written request from a charter applicant or charter school Board of Trustees, the Board of EducationBoard may waive the applicability of one or more provisions of 603 CMR 1.00, provided that all such requests ~~and~~ approvals:

- (a) are in writing, signed by the waiver applicant;
- (b) specify the provisions of 603 CMR 1.00 to be waived, the duration of the waiver, and the circumstances to which the waiver applies;
- (c) include a certification that the waiver applicant has made a good faith effort to comply with said provisions; and
- (d) are accompanied by supporting documentation considered sufficient by the Board of EducationBoard to support the special circumstances or the need for relief.

Waivers of 603 CMR 1.00 shall be considered only under circumstances the Board of EducationBoard deems exceptional and shall be granted only to the extent allowed by law.

(3) Prohibitions. Private and parochial schools are not eligible for charter school status. Charter schools may not charge students an application fee or

tuition. Charter schools may not charge their students any fee related to the provision of required educational programs. Charter schools may not charge any public school for the use of their curriculum, subject to the restrictions contained in any contract between charter schools and third party providers. For-profit corporations may not apply for a charter.

1.04: Charter Application and Procedures for Granting Charters

(1) Charter Application Process. There shall be a two-stage application process leading to the granting of a charter. Applicants shall submit to the ~~Department of Education~~Department prospectuses and final applications in accordance with the schedule, application form, and guidelines established by the Department. Following the submission of prospectuses, the Commissioner will invite selected applicants to submit final applications.

(2) Local Approval of Horace Mann Applications. Teachers, parents, and others may petition school committees to convert, in whole or in part, a public school in the district to a Horace Mann charter school. A school committee shall notify the ~~Department of Education~~Department within ten days of receiving such a petition. The school committee shall send to the Department a written explanation of the action taken by the committee on a petition within 60 days of receiving said petition. Applications for Horace Mann charter schools shall describe in the charter application and a Memorandum of Understanding:

- (a) the elements of the local collective bargaining agreement that apply to employees of the school, other than those already mandated by law;
- (b) the services and facilities the school district will provide to the school; and
- (c) the school's first annual budget allocation from the district, consistent with the allocation for other public schools in the district.

A valid application for a Horace Mann charter school shall have the written approval of the local teachers' union and the school committee.

(3) Review Process.

- (a) The ~~Department of Education~~Department shall review each prospectus and each final application submitted by the required deadlines. Prospectuses and final applications will be reviewed and evaluated according to criteria outlined in 603 CMR 1.05 and in the charter school application itself. In addition, the ~~Department of Education~~Department will conduct interviews with all final applicants in order to better assess their qualifications to start a charter school.
- (b) Each applicant submitting a prospectus and a final application for a Commonwealth charter school shall also send a copy of the application to the superintendent of the school districts from which the applicant intends to draw students. The Board and the ~~Department of~~

~~Education~~Department shall hold a one or more public hearings on final applications and solicit and review comments on the application from the school committees of the school districts from which the applicant intends to draw students. Such hearings shall be held in locations convenient to the affected districts. At least one member of the ~~Board of Education~~Board shall attend each public hearings soliciting comment on the merits of pending applications.

- (c) The ~~Board of Education~~Board will grant new charters in February. The Board and ~~Department of Education~~Department may be assisted in this process by review panels comprised of individuals appointed by the Commissioner. Members of these panels may review applications but the reviewers' role shall be solely advisory.

(4) Granting of Charters.

- (a) The ~~Board of Education~~Board shall grant charters to approved charter applicants under M.G.L. c. 71, § 89, and under such conditions and at such time as the Board specifies under 603 CMR 1.05 (2).
- (b) A charter granted by the ~~Board of Education~~Board shall be effective for five years, beginning July 1st of the first year the school enrolls students, unless revoked pursuant to M.G.L. c. 71, § 89, and 603 CMR 1.12. If no students are attending a charter school within 19 months from the date the charter was granted, the charter will be null and void.
- (c) Should the ~~Board of Education~~Board elect to award fewer than the number of charters specified under M.G.L. c. 71, § 89, in any given cycle, the Board may grant those charters not awarded in any subsequent application cycles in addition to the number of charters scheduled to be awarded and notwithstanding any limitations on the number of new charters authorized in such year.
- (d) The ~~Board of Education~~Board may award any charter revoked or returned to the Board in subsequent application cycles in addition to the number of charters scheduled to be awarded and notwithstanding any limitations on the number of new charters authorized in such year.
- (e) The ~~Board of Education~~Board will use the most recent United States Census estimate to determine the population of a city or town proposed as the location for a charter school.

1.05: Criteria for Assessment and Approval of Charter Applications, Awarding of Charters

- (1) Criteria for Assessment and Approval of Charter Applications. The ~~Department of Education~~Department will review charter applications to ensure that the applicant has demonstrated ability:

- (a) to further the purposes for establishment of charter schools specified in M.G.L. c. 71, § 89.
- (b) to conform with M.G.L. c. 71, § 89, and all other applicable laws and regulations, including any guidelines the ~~Board of Education~~Board may issue, and including those related to English learners and students with disabilities;
- (c) to assure that the charter school will meet its enrollment projections through demonstration of need and support for the proposed charter school in the communities from which students would be likely to enroll;
- (d) to demonstrate that the applicant will be able to provide educational models, including programs, curriculum, and teaching methods that can be replicated by other public schools;
- (e) to develop a management structure and plan which enables the charter school to achieve the goals and mission set forth in its charter, including the selection, role, and responsibilities of the ~~b~~Board of ~~t~~Trustees;
- (f) to assure that students will meet the same performance standards and assessment requirements set by the ~~Board of Education~~Board for students in other public schools;
- (g) to develop an accountability plan, at the end of the first year of the school's charter, establishing specific five-year performance objectives to help measure the school's progress and success in raising student achievement, establishing a viable organization, and fulfilling the terms of its charter;
- (h) to administer its educational programs, school operations, and finances effectively;
- (i) to establish a process to provide to students, parents, the ~~Board of Education~~Board, other interested parties, and the public all information required by law and regulation, as well as to provide other information the Board may request;
- (j) to develop an enrollment policy consistent with 603 CMR 1.06;
- (k) to ensure the thoroughness and accuracy of the charter school application; and
- (l) to demonstrate that the applicant has access to school facilities that are in compliance with municipal building codes and other applicable laws, affordable, and adequate to meet the school's program requirements.

(2) Conditions for Awarding Charters to Approved Applicants. Charters shall be awarded subject to the conditions listed in 603 CMR 1.05(2)(a) through (i), and any additional conditions that the ~~Board of Education~~Board may specify. The Board may temporarily waive such conditions and award a charter, provided that the applicant submits adequate written assurance that all such conditions will be met prior to the opening of the school. Failure to comply

with any specified condition prior to the opening of the school shall constitute grounds for placing a charter school on probation.

- (a) the charter applicant shall submit to the ~~Department of Education~~Department the names, home addresses, and employment, and educational histories for the proposed members of the ~~b~~Board of ~~t~~Trustees and a plan for the administration and management of the school, including the organization structure and by-laws;
- (b) in such cases where the charter school ~~b~~Board of ~~t~~Trustees intends to procure substantially all educational services under contract with another person, the ~~b~~Board of ~~t~~Trustees shall provide for the ~~Board of Education~~Board's approval the terms of said contract;
- (c) the charter applicant shall submit to the ~~Department of Education~~Department a copy of the school's ~~code of conduct outlining the~~ criteria and procedures for expulsion of students;
- (d) the charter applicant shall provide the ~~Department of Education~~Department with written documentation that a criminal background check has been performed on all employees of the school;
- (e) the charter applicant shall provide the ~~Department of Education~~Department with a copy of the school's enrollment policy;
- (f) the charter applicant shall provide the ~~Department of Education~~Department with written documentation that the facilities to be used by the charter school are approved for use as a school by the building inspector in the municipality in which the building is located;
- (g) the charter applicant shall provide the ~~Department of Education~~Department with written documentation that the facilities occupied by the charter school have been inspected by the Fire Department of the municipality in which the facilities are located;
- (h) if explosives or flammable compounds or liquids are used in connection with courses taught at the school, the charter applicant shall provide the ~~Department of Education~~Department with written documentation that approval under M.G.L. c. 148 has been secured from the licensing authority of the municipality in which the building is located; and
- (i) the charter applicant shall provide the ~~Department of Education~~Department with written documentation that the school is in compliance with all other applicable federal and state health and safety laws and regulations, including evidence of compliance with any required insurance coverage.

(3) Information for Distribution of Public Funds. Upon receiving its charter, a charter school shall provide the Department with a federal tax identification number issued solely to the charter school, and banking information regarding a bank account solely in the name of the charter school, as required by the State Treasurer for the transfer of public funds.

1.06: Charter School Enrollment

(1) Eligibility for enrollment may be consistent with the school's grade levels. Charter schools 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 a foreign language, or prior academic achievement.

(2) Charter schools may not administer tests to potential applicants or predicate enrollment on results from any test of ability or achievement. Requirements for enrollment in a charter school, including but not limited to attendance at informational meetings and interviews, shall not be designed, intended or used to discriminate.

(3) Schools shall give reasonable public notice, of at least one month, of all application deadlines.

(4) In conformance with M.G.L. c. 71, § 89, enrollment in Commonwealth charter schools shall be conducted as follows:

- (a) in such cases where there are fewer spaces than eligible applicants who reside in the city or town in which a Commonwealth charter school is located, or who are siblings of students already attending said charter school, the charter school shall hold an enrollment lottery for all such applicants;
- (b) if there are more spaces available than eligible applicants from the city or town in which said Commonwealth charter school is located and who are siblings of current students, and there are more eligible applicants from outside of that city or town than spaces available, the charter school shall hold an enrollment lottery;
- (c) the ~~Department of Education~~ Department shall notify each Commonwealth charter school no later than February 15th of any limitation on the number of students from a district that may be enrolled in charter schools for the upcoming school year; and
- (d) Charter schools shall place names of students not selected in an enrollment lottery on a waiting list in the order the names were drawn. Students on the waiting list may be enrolled as space becomes available. In cases where the enrollment of a student, who is not a sibling of another previously enrolled student, from the waiting list would exceed the district charter tuition cap, the student should be skipped over but kept on the waiting list. In 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 said sibling, subject to appropriation.

- (5) In conformance with M.G.L. c. 71, § 89, enrollment in a Horace Mann charter school shall be conducted as follows:
- (a) priority shall be given first to any students actually enrolled in said school on the date that the final application is filed with the ~~Board of Education~~Board and to their siblings. In such cases where there are fewer spaces in a Horace Mann charter school than eligible applicants who were enrolled in said school, the charter school shall hold an enrollment lottery;
 - (b) if there are more spaces available than eligible applicants from the school, and there are more applicants than spaces available who reside in the ~~city or town~~district in which the charter school is located and who are currently enrolled in the public schools of the district in which the Horace Mann charter school is located, the charter school shall hold an enrollment lottery for all such applicants; and
 - (c) if there are more spaces available than eligible applicants from the school or district, and there are more applicants than spaces available who reside in the ~~city or town~~district in which the Horace Mann charter school is located, the charter school shall hold an enrollment lottery for all such applicants.
- (6) If the principal enrollment process fails to produce an adequate number of enrolled students, a school may repeat the process more than once, if necessary, providing such process is fair and open, with reasonable public notice given at least one week prior to the application deadline. As spaces become available during the school year, a school may repeat the enrollment process to fill these openings. No student entering an enrollment process may be admitted ahead of other eligible students who were previously placed on a waiting list during a prior enrollment process, except in cases described in 603 CMR 1.06 (4)(d). 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 in accordance with 603 C.M.R. 1.09(4).
- (7) All lotteries shall be conducted in public, with a disinterested party drawing names, and with reasonable public notice given at least one week prior to the lottery.
- (8) A school may integrate its enrollment process with that of the school district, provided that the enrollment application is submitted in conjunction with the local school district and such district maintains an intra-district school choice enrollment program.

(9) A school shall specify age thresholds and ceilings for kindergarten and/or high school programs, respectively.

1.07: Charter School Staff

Charter school teachers hired after August 10, 2000 must either:

- (1) take and pass, within their first year of employment at a charter school, the Massachusetts Tests for Educator Licensure; or
- (2) be already certified to teach in Massachusetts.

1.08: Charter School Funding

(1) Horace Mann charter schools shall be funded through the local school district under the terms of the Memorandum of Understanding. A Horace Mann charter school shall submit a budget request annually, in accordance with the budget schedule of the local school district and no later than April 1st, to the superintendent and school committee of the district in which the charter school is located. The school committee shall act on the charter school budget request in conjunction with its approval of the district's overall budget. A Horace Mann charter school's budget allocation shall be consistent with the allocation of other public schools in the district. In the case of budget reductions in the school district, a Horace Mann charter school's budget may not be reduced disproportionately to other schools in the district. The charter school board of trustees may appeal any disproportionate budget allocation to the ~~Commissioner of~~ Education Commissioner, who shall determine an equitable funding level for the school and shall require the school committee to provide such funding.

(2) Each operating Commonwealth charter school shall receive tuition payments from each school district whose students attend the charter school. Such tuition payments shall be equal to the appropriate charter school tuition rate, as determined in accordance with 603 CMR 1.08 (3), multiplied by the number of students attending the charter school from the sending district in the current year. For students who attend the charter school for less than the full year, the tuition payment shall be reduced based on the number of days of enrollment. Such tuition payments shall be paid in accordance with 603 CMR 1.08 (6).

(3) For each sending district, a separate foundation budget dollar amount and charter school tuition rate shall be calculated as follows for each charter school to which the district sends students.

- (a) The foundation budget dollar amount shall be calculated, based on the foundation budget factors used for the distribution of Chapter 70 aid in the current year, provided that the out-of-district special education

tuition component of the foundation budget shall be excluded from the calculation. The student data for this calculation shall be the foundation enrollment information reported by the charter school as of October 1 of the prior school year. The tuition rate shall equal the foundation budget dollar amount divided by the number of students. If no students attended a particular charter school from a particular sending district in the prior year, then the sending district's average foundation budget per pupil will be used as the tuition rate.

(b) Each tuition rate shall be increased by the ratio of the sending district's current year budgeted net school spending, as reported on schedule 19 of the Department's end of year pupil and financial returns, to the sending district's total current year foundation budget. Amounts reported on schedule 19 for out-of-district special education tuition and retired teachers' health insurance shall be excluded from this calculation.

(c) The Department shall annually calculate the statewide average of district expenditures per pupil for the acquisition, construction, and improvement of school buildings, and for the acquisition of land for such buildings, and for debt service thereon, and shall add such capital component to each of the tuition rates calculated above.

(4) Any amounts appropriated under line item 7010-0030 for the purpose of per pupil facilities aid for Commonwealth charter schools shall be used to reimburse sending districts for the capital component of the tuition payments, as calculated in 603 CMR 1.08(3)(c), but shall not affect the payments due to Commonwealth charter schools.

(5) For each sending district, the sum of its tuition payment to each Commonwealth charter school, less any charter school capital facility reimbursement received pursuant to 603 CMR 1.08(4), shall be used as the district's "total charter school tuition payment" for the purposes of G.L. c.71 s.89(i) and shall be used as the district's "total charter school tuition amount" for the purposes of G.L. c.71 s.89(o).

(6) The State Treasurer shall make quarterly payments to Commonwealth charter schools. In making such payments, the Commonwealth shall reduce each sending district's M.G.L. c. 70 allocation by an amount sufficient to meet its charter school obligations for the quarter. If there are insufficient M.G.L. c. 70 funds to meet a district's obligation, the Commonwealth shall reduce other state aid allocated to the applicable cities and towns. If there are insufficient state aid funds of any kind to meet a district's obligation, the ~~Board of Education~~ Board shall recommend to the Governor and legislature that a supplemental appropriation be made to pay any remaining obligation to the charter school(s).

(7) The ~~Department of Education~~Department shall notify both the Commonwealth charter school and the sending district(s) of the amount of these M.G.L. c. 70 reductions.

(8) The first quarterly payment to Commonwealth charter schools shall be based on each charter school's pre-enrollment report, filed with the ~~Department of Education~~Department pursuant to 603 CMR 1.09(4). The remaining three quarterly payments of each fiscal year shall be based on updated enrollment reports, submitted to the ~~Department of Education~~Department by each charter school. Although each quarterly payment is intended to equal approximately one quarter of the projected annual amount, payments in the later quarters of each fiscal year shall include adjustments to correct any over- or under-payments in earlier quarters.

(9) In its first year of operation, a Commonwealth charter school may be paid its first quarterly payment within 45 days after the start of the Commonwealth's fiscal year. The remaining three payments shall occur at the end of the Commonwealth's second, third, and fourth fiscal quarters. After its first year of operation, a Commonwealth charter school shall receive all of its quarterly payments, including its first quarter payment, at the end of the Commonwealth's fiscal quarters. The timing of all payments to charter schools is subject to the timely enactment of the Commonwealth's annual budget.

~~(11)~~(10) In order to facilitate the acquisition of cash-flow financing, ~~charter schools~~ may be eligible for advance certification of quarterly payments, issued by the Board of Education and the Secretary of Administration and Finance. At least five days prior to the close of each fiscal quarter, the Commissioner of Education and the Secretary of Administration and Finance will certify to eligible charter schools the amount the Commonwealth will pay to such schools at the end of the subsequent quarter, barring a failure of the school to continue operations or a suspension or revocation by the Board of Education of the school's charter. To be eligible for advance certification a charter school shall submit to the Board of Education, prior to each quarterly certification, financial data necessary to ascertain the school's financial stability and solvency. Such data shall include an updated month-by-month cash flow statement for the current fiscal year and any other data that the Commissioner of Education may specify. If a charter school receiving advance certification of its quarterly payments ceases operations or if its charter is suspended, revoked, or not renewed, the actual quarterly payment by the Commonwealth to the charter school may be less than the certified amount, if a lesser amount is sufficient to satisfy any outstanding loan balances to any secured party holding a perfected security interest. The Commissioner of Education may, at his discretion, provide a good faith estimate of the tuition payments expected to be made to a Commonwealth charter school during the current fiscal year.

provided that such estimate shall not represent a commitment or obligation of the Commonwealth.

(11) Transportation. School districts shall provide transportation to charter School students on the same basis as it is provided to ~~regular public school~~ attending public schools operated by ~~in~~ the district. In providing such transportation, districts shall accommodate the particular school year and school day of the charter school, in accordance with M.G.L. c. 71, § 89. If a district and a charter school cannot reach agreement about the service to be provided, and if the charter school finds an alternative that costs the same as or less than the average cost of transportation per student in the district, the charter school may provide its own transportation services to students eligible for transportation. In such cases, the costs for such services will be deducted from a district's M.G.L. c. 70 account on a quarterly basis as described in 603 CMR 1.08(6), based on estimated and actual expenditures for transportation.

1.09: Ongoing Review of Charter Schools

(1) Annual Report. A charter school shall submit to the ~~Board of Education~~ Board and the local school committee and make available to every parent or guardian of its enrolled students and to every parent or guardian who expresses interest in enrolling in that charter school, an annual report. The annual report shall be issued no later than August 1st of each year for the preceding school year. The annual report shall include the following information:

- (a) 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;
- (b) projections of income and expenses for the upcoming school year;
- (c) discussion of progress made toward achievement of the goals of the charter and accountability plan;
- (d) evidence that the charter school is developing or has provided models for replication and best practices in education; and
- (e) such other information as the ~~Board of Education~~ Board may require in guidelines.

(2) Site Visits. The ~~Department of Education~~ Department may send evaluation teams to visit each charter school on an annual basis to corroborate and augment the information provided in the annual report in accordance with guidelines issued by the Department. Site visit teams may also gather any other evidence relevant to the school's performance. The written reports from these site visits shall become part of the charter school's record, along with any written addendum that the school wishes to submit in response to a report.

(3) Financial Audits. In accordance with M.G.L. c. 71, § 89, each charter school shall have an independent audit conducted of its accounts, consistent with generally accepted auditing principles, and consistent with any guidelines the ~~Department of Education~~Department may issue. Audits shall be filed annually on or before January 1st with the ~~Department of Education~~Department and the State Auditor.

(4) Enrollment Reports. Each charter school shall conclude its principal enrollment process no later than March 15th of each year, and shall file a pre-enrollment report annually with the ~~Department of Education~~Department in accordance with deadlines established by the Department. The Department will report to districts the aggregate number of students who are anticipated to attend charter schools during the upcoming school year from their districts and the total enrollment for each charter school. No charter school shall receive tuition payments that exceed the total enrollment for that charter school as it was reported to the Department.

In their pre-enrollment reports, charter schools must notify the Department of:

- (a) the school's total enrollment for the subsequent academic year;
- (b) the projected number of students, by grade, to be enrolled in the charter school from each sending district for the subsequent academic year, and
- (c) the number of students, by grade, from each sending district on the waiting list, who, as a result, may be enrolled in the charter school in the subsequent academic year.

Each charter school shall also submit reports no later than October 15th and March 1st of actual enrollment as of October 1st and February 15th, respectively.

The report shall be filed on a form provided by the ~~Board of Education~~Board.

(5) Additional Reports. The charter school shall be responsible for filing any data reports or school returns as required under public school law and regulations, in accordance with guidelines published by the ~~Department of Education~~Department ensuring that charter schools are not asked for the same data more than once.

(6) As required by the Department, the charter school shall submit written documentation that the school remains in compliance with all building, health, safety, and insurance requirements established as conditions for charter granting in 603 CMR 1.05 (2) and that all related inspections and approvals are current.

(7) Notification of New Circumstances. The charter school shall notify the ~~Department of Education~~Department in writing immediately of any change in circumstances that may have a significant impact on a charter school's ability to

fulfill its goals or mission as stated in its charter. Within 30 days after receiving such notice, the Commissioner shall determine whether any remedial action is required, and shall recommend such action to the ~~Board of Education~~Board. Such actions may include suspension or revocation of the charter or placing the charter school on probation under 603 CMR 1.12.

(8) Additional Information. At the discretion of the ~~Board of Education~~Board, charter schools may be required to submit additional information other than that specifically required by 603 CMR 1.00.

(9) Signatory Authorization. Any information supplied to the ~~Board of Education~~Board, the Commissioner, or the ~~Department of Education~~Department by the charter school under 603 CMR 1.00 shall be signed by an individual given signatory authorization by the charter school ~~b~~Board of ~~t~~Trustees. All such information is submitted under penalty of perjury.

1.10: Complaint Procedure

(1) A parent, guardian or other individuals or groups who believe that a charter school has violated or is violating any provision of M.G.L. c. 71, § 89, or 603 CMR 1.00 may file a complaint with the charter school's ~~b~~Board of ~~t~~Trustees.

(2) The ~~b~~Board of ~~t~~Trustees shall respond no later than 30 days from receipt of the complaint in writing to the complaining party.

(3) The ~~b~~Board of ~~t~~Trustees shall, pursuant to a complaint received under 603 CMR 1.10, or on its own initiative, conduct reviews to ensure compliance with M.G.L. c. 71, § 89, and 603 CMR 1.00. The charter school and the specific individuals involved shall cooperate to the fullest extent with such review.

(4) A complaining party who believes the complaint has not been adequately addressed by the charter school ~~b~~Board of ~~t~~Trustees may submit the complaint in writing to the ~~Commissioner of Education~~Commissioner, who shall investigate such complaint and make a written response.

(5) In the event the charter school is found in non-compliance with M.G.L. c. 71, § 89, or 603 CMR 1.00, as a result of a complaint or upon investigation, the Commissioner or ~~Board of Education~~Board may take such action as it deems appropriate, including but not limited to suspension or revocation of the charter under 603 CMR 1.13, or referral of the matter to the District Attorney or the Office of the Attorney General for appropriate legal action.

(6) A parent, guardian or other individuals or groups who believe that a charter school has violated or is violating any state or federal law or regulation

regarding special education may file a complaint directly with the ~~Department of Education~~Department.

1.11: Amendments to Charters

(1) If a charter school plans to make a major change in its operations, the school's ~~b~~bBoard of ~~t~~trustees shall submit in writing to the ~~Board of Education~~Board a request to amend its charter. Major changes are defined as those that fundamentally affect a school's mission, organizational structure, or educational program. Such changes include, but are not limited to:

- (a) Educational philosophy or mission;
- (b) Governance or leadership structure;
- (c) Contractual relationships with an education management organization providing or planning to provide substantially all the school's educational services;
- (d) Curriculum models or whole-school designs that are inconsistent with those specified in the school's charter;
- (e) Location of facilities, if such change involves relocating or expanding to another municipality;
- (f) Districts specified in the school's charter;
- (g) Maximum enrollment; or
- (h) Grades served.

(2) If a charter school plans to make a minor change in its operations, the school's ~~b~~bBoard of ~~t~~trustees shall submit in writing to the Commissioner a request to amend its charter. Minor changes are defined as changes that do not fundamentally alter a school's organizational structure or educational program. Such changes include, but are not limited to:

- (a) Bylaws;
- (b) Schedule (length of school year, school week, or school day);
- (c) Enrollment process;
- (d) ~~Code of conduct~~Expulsion policy;
- (e) Corrections and clarifications involving the mission statement or other sections of the charter;
- (f) School name; or
- (g) Membership of the ~~b~~bBoard of ~~t~~trustees (as specified under 603 CMR 1.05(2)(a)); or
- (h) Memorandum of Understanding (for Horace Mann charter schools).

(3) The Commissioner and the ~~Board of Education~~Board may consider a charter school's compliance with applicable state, federal, and local law and the evidence the school has provided regarding the three areas set forth in 603 CMR 1.12(3) in reaching a determination regarding a school's request to amend its charter.

- (4) The ~~Board of Education~~Board or the Commissioner shall endeavor to approve or deny amendment requests within 60 days after receiving complete requests. An amendment request for a change to a Horace Mann charter school's operations requires the approval of the local teachers' union and the local school committee.
- (5) If a Commonwealth charter school seeks an amendment to change its maximum enrollment (including grades served), the municipality of its location, or the districts specified in its region; the Department will provide a copy of the request to the superintendents of the affected districts and provide them notice of their right to submit written comment to the Commissioner within 15 days.
- (6) Should the Commissioner deny an amendment request, the charter school's ~~Board of Trustees~~Board may seek review of the Commissioner's decision by the ~~Board of Education~~Board.

1.12: Renewal of Charters

A charter school seeking renewal of its charter shall proceed as follows:

- (1) The charter school shall submit its application for renewal of a charter under 603 CMR 1.00 no earlier than March 1st of the third school year and no later than August 1st after the end of fourth school year. The ~~Board of Education~~Board will review renewal applications pursuant to the criteria set forth in 603 CMR 1.05 and M.G.L. c.71, § 89. For renewal applications received on or before August 1st, the ~~Board of Education~~Board shall notify the charter applicant of the decision to renew or not to renew the charter and the reasons therefore no later than March 1st following receipt of the renewal application. In the event the renewal is denied, the charter school shall have all rights of review as provided in M.G.L. c. 30A and 801 CMR 1.00.
- (2) The charter school may apply for renewal of its charter under renewal application guidelines established by the ~~Board of Education~~Board. Applications for the renewal of Horace Mann charters must be submitted with the approval of the local teachers' union and the local school committee.
- (3) The Department shall issue guidelines describing the evaluation process to be followed in reviewing applications for charter renewal, including protocols for renewal inspections. The decision by the Board to renew a charter shall be based upon the presentation of affirmative evidence regarding the success of the school's academic program; the viability of the school as an organization; and the faithfulness of the school to the terms of its charter. The Department will gather evidence regarding these issues from the renewal application and from other information,

including but not limited to, a school's annual reports, financial audits, test results, site visit reports, and renewal inspection. All charter schools will be evaluated on the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's charter and accountability plan.

(4) Charters that are renewed shall be for five years from the expiration of the previous charter under such conditions as the ~~Board of Education~~Board may establish under 603 CMR 1.05 (2). Charters of schools that do not file renewal applications shall expire at the end of the fifth year of the charter school's operation, subject to 603 CMR 1.13.

1.13: Charter Revocation, Probation, Suspension, and Non-Renewal

- (1) The ~~Board of Education~~Board may suspend or revoke (hereinafter, "revoke") a charter for cause, including but not limited to:
- (a) a material misrepresentation in the application for approval of the charter;
 - (b) failure to comply substantially with the terms of the charter, with any of the applicable provisions of M.G.L. c.71, or with any other applicable law or regulation;
 - (c) financial insolvency;
 - (d) misappropriation, conversion, mismanagement, or illegal withholding of funds or refusal to pay any funds that belong to any person otherwise entitled thereto and that have been entrusted to the charter school or its administrators in their fiduciary capacities;
 - (e) fraud or gross mismanagement on the part of charter school administrators or ~~b~~Board of ~~t~~Trustees;
 - (f) criminal convictions on the part of the charter school or its ~~b~~Board of ~~t~~Trustees; or
 - (g) failure to fulfill any conditions imposed by the ~~Board of Education~~Board in connection with the grant of a charter.
- (2) Before the ~~Board of Education~~Board revokes a charter, it shall notify the charter school in writing that the Board intends to revoke the charter. In the case of a Horace Mann charter, the Board shall also notify the district in which the school is located. Except in an emergency, the Board shall send the notice 60 days before the revocation takes effect.
- (3) Upon receiving a notice of intent to revoke a charter, or notice of an emergency revocation where the health, safety or education of the school's students is at immediate risk, the school shall have all rights of review as provided in M.G.L. c. 30A, § 13, and 801 CMR 1.00. All requests for hearings, where hearings are provided by said statutes, shall be in writing, addressed to the ~~Board of~~

~~Education~~Board, and must be received within 15 days of receipt by the charter school of the notice of intent to revoke a charter.

- (4) The ~~Board of Education~~Board may place a charter school on probation, rather than revoke its charter, in order to allow for the implementation of a remedial plan approved by the Board. If after 60 days, or such longer period as the Board may specify, said plan is unsuccessful in remedying the problem or alleviating the causes of the probation, the Board may summarily revoke the charter.
- (5) The Department may also impose certain conditions on a school's charter for violations of law or failure to comply with the terms of the school's charter.
- (6) The ~~Board of Education~~Board may withhold payments to any charter school placed on probation or whose charter has been suspended, revoked, or not renewed or that has failed to comply with conditions imposed by law or under 603 CMR 1.13(5).
- (7) Charter schools must comply with the closing procedures established by the Department.
- (8) Upon the revocation, non-renewal, or voluntary return of a Commonwealth charter, title to all of the property of the charter school shall immediately vest in the Commonwealth, subject to the rights of any secured party holding a perfected security interest in the property of such charter school. Any funds remaining after the satisfaction of the charter school's obligations shall be deposited in the General Fund. 603 CMR 1.13(6) shall not apply to the extent the charter school or any other interested party demonstrates that charter school property was purchased solely by, or solely with funds paid to the school by, persons or entities other than the Commonwealth, in which case ownership of the property shall be transferred to such persons or entities, unless otherwise voted by the ~~b~~Board of ~~t~~Trustees.
- (9) Upon the revocation, non-renewal, or voluntary return of a Horace Mann charter, title to all of the property of the charter school shall immediately vest in the school district in which the school is located, subject to the rights of any secured party holding a perfected security interest in the property of such charter school. This regulation shall not apply to the extent the charter school or any other interested party demonstrates that charter school property was purchased solely by, or solely with funds paid to the school by, persons or entities other than the district or Commonwealth, in which case ownership of the property shall be transferred to such persons or entities, unless otherwise voted by the ~~b~~Board of ~~t~~Trustees.

1.14: Severability Clause

If any section or portion of a section of 603 CMR 1.00, or the applicability of 603 CMR 1.00 to any person, entity or circumstance is held invalid by a court, the remainder of 603 CMR 1.00 or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

603 CMR 1.00: M.G.L. c. 69, § 1B; c. 71, § 89.