**Minutes of the Regular Meeting**

**of the Massachusetts Board of Elementary and Secondary Education**

**Tuesday, February 12, 2019, 8:33 a.m. – 11:17 a.m.**

**Department of Elementary and Secondary Education**

**75 Pleasant Street, Malden, MA 02148**

**Members of the Board of Elementary and Secondary Education Present:**

**Paul Sagan**, Chair, Cambridge

**James Morton**, Vice-Chair, Boston

**Katherine Craven**, Brookline

**Ed Doherty**, Boston

**Amanda Fernandez,** Belmont

**Maya Mathews**, Student Advisory Council, Newton

**Margaret McKenna**, Boston

**Michael Moriarty**, Holyoke

**James Peyser**,Secretary of Education

**Mary Ann Stewart**, Lexington

**Martin West**, Newton

**Jeffrey C. Riley**,Commissioner of Elementary and Secondary Education

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Chair Sagan convened the meeting at 8:33 a.m. and members introduced themselves. Commissioner Riley noted the statewide education conference on March 19, 2019 at UMass Amherst and invited members to attend if their schedules permit.

**Public Comment:**

* Jackie Etheridge, Excel Academy alumna and current employee, addressed the Board on Excel Academy Charter School.
* Marissa Barreiro, Excel Academy alumna and current employee, addressed the Board on Excel Academy Charter School.
* Nicholas Sklodowska, Excel Academy alumnus and current employee, addressed the Board on Excel Academy Charter School.
* Isabelina Rodriguez, Ed.D., Executive Director, addressed the Board on Paulo Freire Social Justice Charter School.
* Rhonda Soto, founding board member, addressed the Board on Paulo Freire Social Justice Charter School.
* Matthew Wilson, Executive Director, MASSCreative, addressed the Board on the draft updated Arts Curriculum Framework.
* Corey Spaulding, parent, addressed the Board on issues relating to the safety of her child and finances in the Massachusetts public schools.

**Approval of Minutes**

**On a motion duly made and seconded, it was:**

**VOTED:** **that the Board of Elementary and Secondary Education approves the minutes of the January 14, 2019 Special Meeting and the January 22, 2019 Regular Meeting.**

The vote was unanimous.

**Charter Schools – Outcome of the Charter School Application Process**

Commissioner Riley explained that since the charter school law was amended in 2010, this Board has increased the number of children attending high quality public schools through the granting of new charters and the expansion of existing charters. He noted the Board has also closed charter schools that have not fulfilled their promise to their communities, and as a result, Massachusetts has one of the strongest charter school sectors in the country. Commissioner Riley explained the Board’s decision to open, expand, or close a charter school relies on three factors: faithfulness to the charter, academic program success, and organizational viability. He said today’s agenda includes several charter school items and he is recommending the Board approve the addition of seats to Excel Academy Charter School and a charter amendment for the Paulo Freire Social Justice Charter School with specific expectations for school improvement.

Commissioner Riley said with respect to new charter applications, the Department received three prospectuses in the summer of 2018 and after the first round of reviews, he invited two groups to submit final applications, which were received in October. He said one was for the Equity Lab Charter School in Lawrence and this group withdrew its application on January 31, 2019, before his final determination. Commissioner Riley said the second application was for the Wildflower Montessori Charter School in Haverhill, and although this proposal had strong elements, it does not yet substantially meet our approval criteria. He added that specific concerns include governance, management, and special education. He introduced Cliff Chuang, Senior Associate Commissioner; Alison Bagg, Director, Office of Charter Schools and School Redesign; and Alyssa Hopkins, School Development Manager, to provide more details. The Commissioner said he is not recommending the Wildflower proposal at this time and the Department will invite the applicant group to debrief a detailed review of their proposal.

Commissioner Riley said this is an unusual year in that no new charters are going forward, and the reason is that the only charter application remaining did not substantially meet our criteria. The Commissioner said some people might assume incorrectly that the vote on Question 2 stopped the charter school process. In fact, he said, the voters declined to raise the statutory cap but did not undo the current law, which we will continue to follow faithfully.

Chair Sagan noted this is the second year in a row that Wildflower applied for a charter. He asked the panel to talk about the shortcomings and strengths of the application, to provide direction to this applicant and others.

Ms. Hopkins clarified that the first time the Wildflower group sought a charter, they did not get past the prospectus stage, whereas this year they were invited to submit a final application based on the improvements they made per feedback that the Department had provided in the first year. She noted the composition of the applicant group has changed so it is not the same applicant group as last year. Ms. Hopkins said the applicant group is just beginning to develop the necessary knowledge and capacity to implement all aspects of the proposed school design, including governance and management. Mr. Chuang added the board of trustees of a charter school has to have independence from any educational management organization (EMO) and have the autonomy and management capacity as a public entity to oversee the contract with the EMO. He said this applicant group is still in the early stages of development with respect to public management and governance.

Mr. West asked if it typically takes two or more years of applying to get a charter. Mr. Chuang said it is not by design and cited two examples of charters that the Board awarded to a first-time applicant group. He noted that because of the high standards for awarding a charter in Massachusetts as well as various provisions built into the state law, fewer applicants now can meet the criteria. Secretary Peyser asked if the model of distributed leadership that this applicant group proposed was problematic. Mr. Chuang said the model was an attractive aspect of the application, but its uniqueness heightens the need for clear governance and management by the board of trustees and clarity in the relationship between the public board and the private foundation partners.

**Excel Academy: Expansion Request**

Commissioner Riley said he is recommending that the Board approve an expansion request of 56 seats for Excel Academy Charter School. He noted that the school has a consistent record of MCAS success, low student attrition, and high demand from families based on the waitlists each year. Commissioner Riley said an important point for him is that the school is making meaningful reductions in its out-of-school suspension rates.

Ms. Stewart asked about the school’s financial statements. Mr. Chuang said the school has a long record of managing its funding well and while the cash flow may vary at times because of school building projects, the school is fiscally healthy.

Mr. Doherty said with all due respect to the Commissioner and the panel from Excel Academy, he would vote against the motion. He referred to a letter of opposition from Chelsea School Superintendent Mary Bourque and said he does not believe the Board should override the superintendent’s judgment unless there are compelling circumstances. Ms. McKenna said she is encouraged by the school’s reduction in its use of student suspensions but is still concerned about its discipline policies and the fact that compared to district schools, charter schools tend to have more teachers who lack educator licenses and teaching experience. Commissioner Riley thanked Mr. Doherty and Ms. McKenna for their comments. He said while he respects Supt. Bourque’s views, he is still very supportive of the 56-seat expansion for this charter school.

Vice-Chair Morton said the Board faces a dilemma in these situations and asked if there could be another funding source for charter schools. Chair Sagan responded that the funding system for charters, including reimbursement to districts for charter school tuition, is a legislative creation and the Board has to apply the law. Vice-Chair Morton said he feels a moral imperative to push the issue because the funding question continues to produce this dilemma as the Board is called upon to make these decisions. Chair Sagan said he agrees, but today the Board has a qualified applicant with a recommendation from the Commissioner under the system that we have, and it would be unfortunate to hold 56 students hostage to the debate.

Secretary Peyser noted that the funding formula for charter schools is similar to what happens if a student moves to a school in another district: the state money follows the student, so if the student leaves the Chelsea schools, those funds would leave Chelsea too. Secretary Peyser said more important than the funding debate is that Excel is one of the highest performing urban schools in Massachusetts and the country, and if the Board opposes an incremental increase to one of the best urban schools in the country, that would be a huge disservice.

Mr. Moriarty said families are at the heart of this, and all need good educational options for their children. He said charter public schools are a mechanism that allows parents with the least resources to have some agency, as middle-class parents do. Ms. Stewart said she found Supt. Bourque’s letter compelling and said she respectfully disagrees with Chair Sagan’s reference to “holding students hostage.” She said she would like the Board to discuss the financial impact that charter schools have on districts and has asked for that topic to be included on a future agenda.

Chair Sagan said he was sorry if anyone felt his characterization of the situation was too strong, and he clarified that his concern is the law provides an opportunity for families to have choice in local public schools, and voting no would mean denying that opportunity to many deserving families. He added the Board could advocate for more funding and in the meantime carry out its responsibility under the law, rather than effectively freezing the process. Mr. Doherty said the Board’s responsibility is to provide the best opportunity for all students in the Commonwealth, and if a decision on a charter school helps 56 students and potentially hurts 6500, then the Board would be acting responsibly to oppose the expansion.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education, in accordance with General Laws chapter 71, section 89, and 603 CMR 1.00, hereby amends the charter granted to the following school, as presented by the Commissioner:**

**Excel Academy Charter School (enrollment increase from 1,344 to 1,400)**

**Locations: Boston and Chelsea**

**Districts in Region: Boston and Chelsea**

**Maximum Enrollment: 1,400, with a limit of 748 seats from Boston**

**Grades Served: 5-12**

**Effective school year: FY2020**

**Excel Academy Charter School shall be operated in accordance with the provisions of General Laws chapter 71, section 89; 603 CMR 1.00; and all other applicable state and federal laws and regulations and such additional conditions as the Commissioner or the Board of Elementary and Secondary Education may from time to time establish, all of which shall be deemed conditions of the charter.**

The motion passed 7–4. Vice-Chair Morton, Mr. Doherty, Ms. McKenna, and Ms. Stewart voted in opposition.

**Paulo Freire Social Justice Charter School: Report on Probation and Request to Amend Charter**

Commissioner Riley explained that the Board renewed the charter of the Paulo Freire Social Justice Charter School and placed the school on probation in January 2018, and on January 11, 2019, he provided the Board a report on the school’s progress in meeting the conditions, which included concerns about low enrollment, the school’s financial health, and governance. The Commissioner said he was unable to make a recommendation at the January 2019 meeting because he did not have all the information needed; now that he has received the information, he is recommending the Board extend probation and impose a new set of conditions on the school’s charter. He added it was disconcerting to have to wait for some of this information and he will report to the Board if the school does not meet the conditions in timely fashion.

Mr. Moriarty said he will support the Commissioner’s recommendation but had the Commissioner recommended closure of the school, he would have voted for that too. Mr. Moriarty said while Dr. Rodriguez’s appointment is promising, the school also needs leadership from a fully committed and capable board of trustees.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education, in accordance with General Laws chapter 71, section 89, and 603 CMR 1.00, hereby amends the charter granted to the following school, as presented by the Commissioner, and hereby extends probation with a new set of conditions on the school’s charter as recommended by the Commissioner.**

**Paulo Freire Social Justice Charter School (enrollment decrease from 500 to 320; remove Northampton and Westfield from districts served)**

**Locations: Holyoke through FY19; Chicopee pending approval by the Commissioner**

**Districts in Region: Chicopee, Holyoke, South Hadley, West Springfield**

**Maximum Enrollment: 320**

**Grades Served: 9 -12**

**Effective school year: FY2020**

1. **Until further notice, Paulo Freire Social Justice Charter School must submit to the Department of Elementary and Secondary Education (Department), at** [**charterschools@doe.mass.edu**](mailto:charterschools@doe.mass.edu) **or 75 Pleasant St., Malden, MA, 02148, board and committee meeting agendas, materials, and minutes prior to each board meeting at the same time that these items are sent to the school’s board members. The documents must reflect adherence to the Open Meeting Law. Additionally, if board materials do not already include this information, the school must also submit monthly financial statements (including, but not limited to, statement of revenues and expenses, a balance sheet, bank account statements, and a cash flow statement including actual and projected revenues and expenses).**
2. **By March 15, 2019, Paulo Freire Social Justice Charter School must submit evidence to the Department that it has provided the school community with notice of the school’s renewal and that the school’s charter has been placed on probation with conditions that the school must meet. The school must inform parents/guardians, teachers, staff, board members, students, and other community members of the school’s current status.**
3. **Until further notice, the school must submit weekly enrollment updates to the Department.**
4. **The school must maintain the current escrow account to pay for any potential closing, legal, and audit expenses associated with closure, should that occur.**
5. **By April 1, 2019, the school must submit to the Department for approval an updated comprehensive action plan (action plan) for improving academic performance. Such action plan must include a needs assessment aligned to the 2018 statewide accountability results for PFSJCS. The action plan must also specify the evidence-based strategies the school will use to improve performance in mathematics, English language arts, and science for all student subgroups. The action plan must set clear and specific implementation benchmarks, with a clear timetable and deadlines for completion of key tasks, sufficient to allow the school's board of trustees and the Department to monitor implementation. The school must provide evidence that it has shared its improvement plan with the school’s community including, but not limited to, students, parents, and staff.**
6. **By April 1, 2019, the school must develop and submit for Department approval a transportation plan to provide transportation services to all of its students in the region it serves.**
7. **By May 1, 2019, the school must demonstrate the readiness of the proposed facility in Chicopee for occupancy including, but not limited to, the completion of all building and safety inspections, submission of certificates of occupancy and inspection, and completion of all tasks and modifications necessary to use the proposed facility as a public school.**
8. **By June 15, 2019, the school must develop and submit for Department approval a financial management plan that explains how the school will ensure that it has the appropriate capacity to meet Criterion 10: Finance from the Charter School Performance Criteria.**
9. **By November 1, 2019, the school must demonstrate enrollment sufficient to meet its growth plan, pre-enrollment, and FY20 budget.**
10. **The school must submit its annual fiscal audit and Charter School End of Year Financial Report by the due dates required in the charter school statute or Department guidelines.**
11. **By December 31, 2019, the school must demonstrate that it is an academic success by providing evidence that the school has exhibited significant and sustained academic improvement in English language arts, mathematics, and science.**

**Paulo Freire Social Justice Charter School shall be operated in accordance with the provisions of General Laws chapter 71, section 89; 603 CMR 1.00; and all other applicable state and federal laws and regulations and such additional conditions as the Commissioner or the Board of Elementary and Secondary Education may from time to time establish, all of which shall be deemed conditions of the charter.**

The motion passed 10–1. Vice-Chair Morton voted in opposition.

**Alma del Mar Charter School-New Bedford Partnership: Progress Report**

Commissioner Riley said he has seen good progress over the last few weeks by the parties to the New Bedford Public Schools-Alma del Mar Charter School collaboration. He said the leaders from the district and charter school have been meeting to develop a memorandum of understanding (MOU), the Department has been working to support their efforts, and he is optimistic that the MOU will be finalized within the 45-day window. He noted there is an unfortunate narrative by some outside forces who are trying to undo this because they do not believe in any compromise. Commissioner Riley said the Department is supporting the local partners as they negotiate the MOU and draft necessary legislative language. He said he will keep the Board informed as this proceeds and will report again to the Board at the March meeting.

**Draft Updated Arts Curriculum Framework**

Chair Sagan invited Associate Commissioner Ron Noble and Craig Waterman, Assistant Director of Instructional Policy, to answer questions about the draft updated Arts Curriculum Framework and the proposed motion to release the draft for public comment.

Secretary Peyser expressed his strong support for guiding principle four but said it is not fully embodied in the standards that follow; in particular, he suggested giving more guidance to educators about the breadth and depth of exposure students should have to the arts across the different domains. He recommended seeking feedback on this question during the public comment period.

Ms. McKenna asked when the standards would take effect. Mr. Noble said following the same trajectory as other frameworks, if the Board adopts the standards in June 2019, then school year 2019-20 would be a planning year and school year 2020-21 would be the first year of implementation. Ms. McKenna said she is enthusiastic about the standards but concerned that teachers and districts need support through professional development and funding. She added that teacher preparation institutions also need time and support to meet new standards. Mr. Waterman said the Department will be hiring an arts content lead to support schools and educators. Mr. Moriarty said he is equally concerned about teachers’ readiness to implement the new grade 8 civics course and how to help educators know the details and find the best practices and resources. Ms. Stewart suggested the Board have a broader discussion on funding and support for districts. Chair Sagan said he will consider the topic for a future meeting.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education, in accordance with Chapter 69, Sections 1D and 1E of the Mass. General Laws, authorizes the Commissioner to solicit public comment on the draft updated Massachusetts Arts Curriculum Framework.**

The vote was unanimous.

Chair Sagan announced a break at 10:05 a.m. He reconvened the meeting at 10:12 a.m.

**Amendment to Competency Determination Regulations on High School Science and Technology/Engineering, 603 CMR 30.00, for Classes of 2023 and 2024**

Commissioner Riley introduced Jeff Wulfson, Deputy Commissioner; Michol Stapel, Associate Commissioner; and Lucy Wall, Legal Counsel. Ms. Stapel explained the proposed amendments would establish an interim competency determination (CD) standard in high school science and technology/engineering for students in the classes of 2023 and 2024, who will be the first two classes of students to take next-generation assessments in science. Ms. Stapel said the interim standard will require students to meet a similar level of achievement on the next-generation tests as the current level of achievement required to meet the CD standard on the legacy tests. She added the amendments also remove references in the regulations to specific science tests, clarifying that the Board would decide in the future which high school science subject-matter tests would continue to be offered.

Chair Sagan said some people thought that removing the language about specific science subject-matter tests meant that certain tests would be phased out. Ms. Stapel said that was a misunderstanding; while most of the public comment voiced opposition to the idea of phasing out the technology/engineering and chemistry tests, the changes to the regulations do not phase out or eliminate those tests. Ms. Stapel said the Department did not receive any comments on the proposal to establish an interim CD standard for students in the classes of 2023 and 2024.

**VOTED: that the Board of Elementary and Secondary Education, in accordance with G.L. c. 69, § 1B, and having solicited comment in accordance with the Administrative Procedure Act, G.L. c. 30A, § 3, hereby adopts the amendments to the Competency Determination Regulations, 603 CMR 30.00, as presented by the Commissioner.**

**The amendments establish an interim passing standard for students in the classes of 2023 and 2024 in science and confer to the Board the authority to determine the subjects that will be tested for high school science and technology/engineering. The proposed amendments also update outdated language and references in the regulations.**

The vote was unanimous.

**Governor’s FY2020 State Education Budget Proposal and House Bill 70: An Act to Promote Equity and Excellence in Education**

Commissioner Riley introduced Deputy Commissioner Jeff Wulfson; Bill Bell, Senior Associate Commissioner/CFO; and Robert O’Donnell, Director of School and District Finance, to review the Governor’s FY2020 House 1 education budget proposal and House Bill 70. Mr. Bell acknowledged the staff at the Department and the Executive Office of Education who played a significant role in preparing the proposals. Mr. O’Donnell presented an overview of House 1 and the accompanying comprehensive school finance bill, House 70: An Act to Promote Equity and Excellence in Education.

Mr. O’Donnell discussed the new goals for foundation budgets and gave examples of rates at full implementation and the impact of House 1 rate changes on FY20 aid. He reviewed various aspects of the bill including the new rate structure for English learners and the proposed restructuring of charter school tuition reimbursements to districts. Mr. Bell discussed the House 1 education budget including line items for special education circuit breaker and transportation reimbursement, school and district assistance, and Department-administered programs including teacher certification, adult basic education, student assessment, and curriculum. He summarized the budget process through late June when the Legislature approves the FY20 budget and sends it to the Governor for his final review and approval. Deputy Commissioner Wulfson explained that House 70, along with other school finance bills, is on a parallel track with the budget.

Ms. McKenna said she hopes the Board will talk more about achievement gaps and how the state could do more to address them through initiatives such as high quality early childhood education and summer learning. Chair Sagan said the Board has asked the Commissioner to present his plan for closing achievement gaps. In response to a question from Ms. Stewart, Chair Sagan said the Board will likely hold a joint meeting with the Board of Higher Education in FY20 and may also hold a joint meeting with the Board of Early Education and Care.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education adjourn the meeting at 11:17 a.m., subject to the call of the Chair.**

The vote was unanimous.

Respectfully submitted,

Jeffrey C. Riley

Commissioner of Elementary and Secondary Education

and Secretary to the Board