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Charter School Technical Advisory 11-1 Charter Amendments

To: Charter School Leaders and Board Chairs
From: Mitchell D. Chester, Ed.D., Commissioner of Elementary and Secondary Education
Date: May 6, 2011
Subject: Charter Amendments

When a school receives its original charter and any subsequent renewals of that charter from the Board of Elementary and Secondary Education (Board), the state approves the charter school's broad academic and organizational plans for the next five years. Any substantive changes to those plans require the approval of the Commissioner of Elementary and Secondary Education (Commissioner) and/or Board for an amendment to the school's charter **before** the changes are implemented. Unless stated otherwise, the use of "charter school" in this document refers to both Horace Mann and Commonwealth charter schools.

This technical advisory replaces Technical Advisory 06-1 and has four purposes:

- To provide and clarify guidance to charter schools on the changes to their operations, as defined in 603 CMR 1.11, that require approval from the Commissioner or the Board for an amendment to the school's charter **before** the school implements the changes;
- To outline the process that a charter school must follow in making an amendment request;
- To communicate the information required in making an amendment request;
- To inform charter schools of changes at the school level and the board of trustees level that requires notification to the Charter School Office (CSO) but do not require a formal amendment.

I. What Changes in Charter School Operations Require Approval?

A. Major Amendments Requiring Approval by the Board or Commissioner

Under section 1.11(1) of the charter school regulations (603 CMR 1.00), "if a charter school plans to make a major change in its operations, the school's board of trustees shall submit in writing to the Board a request to amend its charter." Major changes in a charter school's

operations are defined as those that “fundamentally affect a school’s mission, organizational structure, or educational program.” Such changes include, but are not limited to, changes in a school’s:

- educational philosophy or mission;
- governance or leadership structure;
- contractual relationship with an education management organization that is providing or planning to provide substantially all the school’s educational services;
- curriculum models or whole-school change designs that are inconsistent with those specified in the school’s charter;
- location of facilities, if such change involves relocating or expanding to another municipality;
- district(s) specified in a regional school’s charter;
- maximum enrollment; or
- grades served.

Additional Major Amendment

If a charter school enrolls more than 20 percent of its total enrollment for two consecutive years from school districts not included in its original charter and the charter was granted after January 1, 2011, the charter school’s board of trustees must file an additional amendment request. The charter school statute at G.L. c. 71 § 89(n), as amended in January 2010, requires a charter school’s board of trustees to submit a request for an amendment to its charter that reflects its actual enrollment patterns.

Upon renewal of a charter school approved prior to January 1, 2011, the Board will establish a timeline of not less than five years for the charter school to comply with this requirement.

B. Minor Amendments Requiring Approval of the Commissioner

Under section 1.11(2) of the charter school regulations (603 CMR 1.00), “if a charter school plans to make a minor change in its operations, the school’s board of trustees shall submit in writing to the Commissioner a request to amend its charter.” Minor changes in a charter school’s operations are defined as those that “do not fundamentally alter a school’s organizational structure or educational program.” Such changes include, but are not limited to, changes in a school’s:

- bylaws;
- schedule (e.g. length of school year, school week, or school day);
- enrollment process;
- expulsion policy;
- corrections and clarifications involving the mission statement or other sections of the charter;
- school name;

- membership of the board of trustees (as specified under 603 CMR 1.05(2)(a)); or
- memorandum of understanding (for Horace Mann charter schools).

II. What is the Amendment Request Process?

A. Amendment Request Process

1. Amendment Request Deadlines

Charter amendment requests may be submitted at any time, with the following exception: **August 1** is the annual deadline for major amendment requests regarding:

- maximum enrollment increases;
- changes to grades served;
- districts specified in a school's charter; and
- changes in the location of facilities, if such changes involve relocating or expanding to another municipality.

The Commissioner and the Board will endeavor to approve or deny amendment requests within 60 days after they are reviewed by the CSO and are considered complete. Major amendments with an August 1 deadline, if approved, can be implemented no earlier than the subsequent school year. If the Commissioner denies a charter school's amendment request, the school's board of trustees may seek review of that decision by the Board (603 CMR 1.11(6)).

Please note that the timeline for processing an amendment is subject to the complexity of the issues involved and the schedules of the Commissioner and the Board. Charter schools are strongly encouraged to plan ahead regarding amendment requests, particularly those that propose major changes, and to consult with the CSO in advance when an amendment request is anticipated and prior to submitting the final request.

2. Review of Amendment Requests

The CSO manages the process of review for the Commissioner and the Board. Submission of an accurate amendment request that includes all of the required elements increases the efficiency with which the request can be processed. The CSO will work with the school regarding any necessary revisions or additional information if the request is submitted well ahead of any required deadline. If a Commonwealth charter school requests an amendment to increase maximum enrollment, grades served, the municipality of the school's location, or the districts specified in the school's region, the Department will send a copy of the request to the superintendent(s) of the affected district(s) and provide them with an opportunity to submit written comment to the Commissioner within 15 days.

Additionally, in September 2009, the Board delegated to the Commissioner the authority to

approve amendments that do not involve changes in grade span, maximum enrollment, or districts served, provided that the Commissioner reports to the Board on all such approvals and, provided, “that the Commissioner shall notify the Board in advance of all such intended actions, and a Board member may request that the Commissioner place the charter matter(s) on the agenda of the Board for discussion and action.”

3. Criteria for Approval or Denial of an Amendment Request

Section 1.11 of 603 CMR 1.00 contains several criteria that the Commissioner and the Board may consider in reaching a determination regarding a school’s request to amend its charter. First, “the Commissioner and the Board may consider a charter school’s compliance with applicable state, federal, and local law.” Second, the Commissioner and the Board may consider the 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. Third, a board of trustees seeking an amendment to increase maximum enrollment in districts performing in the lowest 10 percent statewide, under G.L. c. 71 § 89 in which the 9 percent net school spending cap is or would be exceeded, must qualify as proven provider based on the existing school and meet the performance criteria described in 603 CMR 1.05(2). The criteria used to evaluate requests for bylaws and enrollment processes can be found at: <http://www.doe.mass.edu/charter/governance/>

III. What Documentation is Required for Amendment Requests?

A. Required Documentation for all Amendment Requests:

All amendment requests¹:

- Must be submitted with the Charter School Amendment Cover Sheet. The template can be found at: <http://www.doe.mass.edu/charter/governance/>
- Must be submitted with the Charter School Amendment Request Letter signed by the chair of the board of trustees or a designee. The template can be found at: <http://www.doe.mass.edu/charter/governance/>
- Are submitted in hard copy and electronically, including documents with original signatures.
- Are submitted to the Department of Elementary and Secondary Education. Major amendment requests are addressed to the Board of Elementary and Secondary Education and copied to the Director of Charter Schools. Minor amendment requests are addressed to the Commissioner and copied to the Director of Charter Schools.

¹ All amendment requests, with the exception of changes in membership of the board of trustees, see the highlighted box below.

All amendment requests are submitted under the penalties of perjury and must provide complete information regarding the request.

If the school is a Horace Mann charter school, all amendment requests, except for a change in bylaws, must include a certification that the local school committee and teachers' union has approved the proposed changes. When applicable, Horace Mann major amendment requests must also include a copy of the school's current memoranda of understanding (MOU) with the local school district.

B. Required Documentation for Minor Amendment Requests

A full explanation of the minor amendment request should be included in the Charter School Amendment Request Letter, with the following requests requiring additional information:

- Approval of members of the board of trustees. (Please see highlighted box below.)
- Bylaws change requests must include a copy of the school's current bylaws with proposed changes clearly marked, and a completed bylaws checklist using the Criteria for Charter School Bylaws Checklist.
<http://www.doe.mass.edu/charter/governance/>
- Enrollment process requests must include a copy of the school's current enrollment policy with proposed changes clearly marked, and a completed enrollment policy checklist, using the appropriate (Horace Mann or Commonwealth) Criteria for Charter School Enrollment Policy Checklist.
<http://www.doe.mass.edu/charter/governance/>
- Expulsion policy changes must include a copy of the school's current expulsion policy for regular and special education students with proposed changes clearly marked, i.e. a red line version.
- Schedule change requests (length of year, school week, or school day) must include a transportation plan.

NOTE: Membership Changes to the Board of Trustees:

When a charter school's board of trustees votes to accept new members, and before those individuals may take official action, the following steps must be taken to receive approval of the new members from the Commissioner:

The chairperson of the board, or an individual authorized by the board, must submit a letter to the CSO to request approval, from the Commissioner, of the new member(s). The letter must include a statement that the charter school's board of trustees voted to accept the new member(s) on [date] at a meeting held in compliance with the Massachusetts Open Meeting Law. A *Template Letter to Request Approval of New Board Members* can be found at:
<http://www.doe.mass.edu/charter/governance/>

The letter must include the signature of either the chairperson of a charter school's board of trustees or an individual authorized by the board of trustees.

A copy of each proposed board member's resume must be submitted with the letter requesting approval.

New board members must also submit financial disclosure forms for the preceding calendar year. This form is signed under the penalty of perjury. Ideally, the original form should be submitted along with the letter requesting approval. However, the form must be submitted no later than 30 days after the request for approval of the new board member(s). This financial disclosure form can be found on the Department's website at <http://www.doe.mass.edu/charter/governance/>. Since board members must file a disclosure for the prior calendar year, be sure to note the accurate year.

C. Required Contents for Major Amendment Requests

Major amendment requests must include the additional information as designated below for each type of amendment. Please provide the information in a document separate from the Amendment Cover Sheet and the Amendment Request Letter. Upon review, the CSO may also request additional clarifying information. Schools are encouraged to contact the CSO with questions prior to submission of a major amendment request.

In general, the Department will consider requests for maximum enrollment increases, changes to grades served, and districts specified in the school's charter only after the school undergoes a comprehensive evaluation by the CSO as part after the school's first charter renewal.

1. Educational Philosophy or Mission

For substantial changes in educational philosophy or mission, the CSO may require additional information to the amendment request.²

a. Educational Philosophy

- Describe the school's current educational philosophy and the reasons for the requested change.
- Describe how the proposed educational philosophy is aligned with the school's mission and will be integrated into the current educational program.
- Describe how the proposed educational philosophy will serve the diverse needs of individual students.
- Provide research to demonstrate that the proposed educational philosophy will result in high academic achievement for the school's student population.

²Please note: corrections or clarifications of the mission statement or charter that do not fundamentally affect the school's mission, organizational structure, or education program are considered minor amendments.

b. Mission

- Describe why the school has proposed a significant change to its mission.
- Describe how the proposed change in mission alters the original mission of the school.
- Describe how the proposed change in mission will affect the school's educational program and operation.

2. Governance or Leadership Structure

- Include the school's current organizational chart. Provide a narrative description that clarifies the school's current reporting structure to the board of trustees and the reporting structure and relationship of the school's leader(s) and administration regarding teachers, specialists, and other staff members.
- Include the school's proposed organizational chart. Describe the proposed reporting structure to the board of trustees and the reporting structure and relationship of the school's leader(s) and administration regarding teachers, specialists, and other staff members. Discuss what motivated the proposed change.
- If the school contracts with an educational management organization (EMO), describe how that EMO is involved in the governance or leadership of the school.

3. Change in Contractual Relationship with an EMO

a. If the school is proposing to enter into or alter a relationship with an EMO:

- Identify the EMO.
- Include a brief summary of the EMO's history, a description of how it implements its program, past results (including student academic achievement and financial status) of its school management efforts, and its educational philosophy. There should be evidence that the entity has demonstrated positive academic results and responsible fiscal management.
- Explain how and why the EMO was selected, what due diligence has been conducted, and how contracting with this EMO will assist the school in meeting the needs of the community(ies) served by the school.
- Describe the respective roles and responsibilities of the school's board of trustees and the EMO for the financial management and oversight of the school, and the internal controls that the board will put into place, including a plan to monitor the performance of the entity to hold them accountable.
- Include a draft of the proposed contract. The contract must include a delineation of the roles and responsibilities of the other entity and the school, a description of how the charter school board of trustees will monitor the academic performance and fiscal activity of the school, performance evaluation measures (including student academic performance), the total fee paid for management services, a description of the payment structure, clarification of authority over hiring and

firing, and the conditions and procedures for the contract's renewal and termination.

b. If the school is proposing to sever a relationship with an EMO:

- Submit a copy of the current contract with the EMO.
- Describe the current services provided by the EMO.
- Describe the process and reasons for the termination of services.
- Provide detailed information on how the school has planned for and will implement all changes required by severing the contract.

4. Curriculum Models or Whole-School Change Design

- Describe the process that was used to determine a change was needed and how the choice was made regarding the proposed curriculum model or whole-school design.
- Provide an outline of the curriculum/design that will be used, including the content and skills to be taught in the core content areas at each grade level.
- Describe the process and procedures that will be used to evaluate whether the curriculum is effective and successfully implemented.
- Describe the process that will be used to align the curriculum to the Massachusetts curriculum frameworks (CF).
- Describe how the amendment request is consistent with the school's mission and educational program.
- Describe how will the school's culture and norms will be maintained or changes that will occur as a result of the proposed change(s).
- Provide details of the implementation of the curriculum model or whole-school change design in terms of daily or weekly organization of students and faculty (e.g. multi-grade, tracking, team-teaching, etc.)

5. Location of Facilities (if relocating or expanding to a new municipality)

- Provide a layout and description of the proposed charter school facility. Include the number and size of classrooms, common areas, and recreational space.
- Describe the financing plans and proposed budget for acquisition of a facility and any necessary renovations to meet the school's needs, all local building requirements, and to meet accessibility requirements. (Please note: any financing to be obtained by the school that extends beyond the charter term must be approved by the Commissioner. See Technical Advisory 05-1 at http://www.doe.mass.edu/charter/tech_advisory/05_1.html for information on making the request.)
- Describe how transportation services will be provided to all eligible students. Please note: charter schools must notify the district(s) providing transportation no later than February 1st prior to the start of the school year of all transportation needs, including any changes resulting from the granting of an amendment.

6. District(s) Specified in a Charter School's Region

a. Description of the Community(ies) to be Served:

- Indicate whether this request is made in the context of 20% or more of students in the charter school enrolling, in the previous two years, from districts other than those the school is chartered to serve.
- Describe the reason for the selection of the community(ies) and the school's ability to serve this community.
- Describe how this amendment enhances or expands the educational opportunities currently available to the targeted student population.
- Describe how the school has assessed parental support within the existing school and the proposed district(s) to be added to the school's region.

b. Transportation:

- Describe how transportation services will be provided to all eligible students.

7. Maximum Enrollment or Grades Served

NOTE: Information on Requests for Changes in Maximum Enrollment – Proven Provider:

After completion of the April 1, Pre-Enrollment Report each year, the Department projects the number of additional seats available for each district in the Commonwealth under the net school spending (NSS) cap, including those districts in which the cap is raised. The estimated number of additional seats available in each district is printed annually in the Application for a Massachusetts Public School Charter found at www.doe.mass.edu/charter/. The Department reserves a sufficient number of estimated additional seats available in each district to allow for fluctuations in NSS projections.

Any charter school considering an amendment request to increase maximum enrollment should contact the CSO for information about those districts requiring a charter school's board of trustees to qualify as a proven provider. The Commissioner will evaluate whether a board of trustees qualifies as a proven provider based on the performance of the existing school compared to the state and the district in which the school is located. This requirement applies to regional charter schools when any district within the school's region is performing in the lowest 10% statewide and if the 9% net school spending (NSS) cap is or would be exceeded by the request.

The Department's Data Analysis and Reporting unit conducts the proven provider qualification analysis including, but not limited to, academic performance, graduation rates, suspension rates, student mobility, and demographic comparisons.

Unless otherwise indicated, schools applying to amend their maximum enrollment and/or grades served must address all of the following criteria:

a. Maximum Enrollment without Change in Grades Served:

- Indicate how many additional seats are requested.
- Indicate, in a table, the distribution of new students in the school by grade and the implementation timeline, projecting a five-year enrollment pattern, or more if necessary, to project the maximum enrollment requested.

b. Change in Grades Served:

- Indicate the proposed new grades and the total grade span of the school if the amendment is granted.
- Indicate, in a table, the distribution of students in the school and the implementation timeline over a five-year period, or more if necessary, to project the full grades served.

c. Description of the Community(ies) to be Served:

- Describe how this amendment enhances or expands the educational opportunities currently available to the targeted student population.
- Describe how the charter school has determined a need to increase maximum enrollment and/or increase the grade span.

d. Educational Philosophy and Evidence of Academic Program Success:

- Describe how the educational program meets the diverse needs of individual students.
- Provide evidence to support the conclusion that the school's instructional approach has led to improved student performance. (Proven Provider Request: If the amendment is submitted in conjunction with proven provider qualifications, information does not need to be repeated here.)

e. Curriculum (if requesting an increased grade span):

- Describe the process used to develop curriculum for the increased grade span and a timeline for curriculum development and implementation.
- Provide an outline of the curriculum that will be used in the new grade levels, including the content and skills to be taught in the core content areas at each new grade level.
- Describe the process and procedures used to evaluate whether the curriculum is effective and successfully implemented.
- Describe the process that will be used to align curriculum to the Massachusetts curriculum frameworks (CF).

f. School Characteristics:

- Describe how the amendment request is consistent with the school's mission and educational program.

- Describe how the school’s culture and norms will be maintained.
- Describe the implementation of the educational program in terms of daily or weekly organization of students and faculty (e.g. multi-grade, tracking, team-teaching, etc.)

g. Enrollment, Recruitment, and Retention:

- Describe how the school has determined that there is sufficient parent support to fill existing and proposed seats at the school.
- Describe how the school involves parents/guardians as partners in the education of their children.
- Describe the school’s implementation of its recruitment and retention plan and any revisions that may be required to implement this request.
- Describe the school’s current activities regarding student retention.
- Describe the grade levels at which students will be admitted to the school and the required age for kindergarten admission (if applicable).

h. Capacity:

- Describe how the staff and board of trustees will implement the request effectively and evaluate its success.
- Provide information regarding the board’s process and experience evaluating the school leader, developing the annual budget, monitoring the school’s finances, and conducting long-term financial and strategic planning.

i. Facilities and Transportation:

- Describe the facility that will be used to meet the school’s needs and how it is accessible and able to accommodate all students.
- Describe how transportation services will be provided to eligible students, including those who are physically challenged.

j. School Finances:

- Describe the financial resources that are necessary to implement the school’s expansion.
- Describe the projected sources of revenue that will ensure the fiscal viability of the school and the successful implementation of the proposed change(s).
- Describe any changes to the school’s capital plan that are required to implement this request, if applicable.

k. Action Plan for Implementation:

- Provide details of the proposed strategies that will lead to a successful implementation of the proposed changes. Include: a timeline, action(s) to be taken, designated point person, and start date and projected completion date.

1. If the school contracts with an EMO:

- Describe how the EMO’s educational philosophy and academic program consistent with the school’s mission.
- Describe how the EMO has demonstrated positive academic results and responsible fiscal management.
- Describe the respective roles and responsibilities of the school’s board of trustees and the EMO for the financial management and oversight of the school, and the internal controls in place that allow the board of trustees to monitor the performance of the EMO to hold them accountable.
- Describe evidence of a clearly defined, performance-based relationship between the EMO and the school’s board of trustees.

IV. What Changes Require Notification to the Department?

A. Notifications to the CSO That Do Not Require an Amendment

A number of changes at a charter school may not require an amendment request but **do require** that the school inform the CSO in a timely fashion. These include changes in:

- individuals holding school leadership positions, such as an executive director or principal;
- location of the school’s facilities within the same municipality;
- documentation of the school’s compliance with state and federal laws, including but not limited to all fire, health, and safety laws and accessibility requirements, for a move to new facility or for renovations to the same facility;
- officers of the school’s board of trustees;
- individuals resigning from the board of trustees; or
- general contact information (phone number, mailing address, and email) for the school and the school’s board of trustees.

B. Notifications to the Department of Changes to Key Personnel and School Contact Information

In addition to notifying the CSO of changes in leadership and contact information, charter schools must also update the Department’s central Directory Administration system as needed. This is an online system used by all public schools and districts to identify key personnel and contact information. The Directory Administration database is used by many different offices in the Department to distribute important information, and some of the information is also made available to the public on the School Profiles page of the Department’s website. Therefore, it is essential that this information be kept up to date. Charter schools can view, add, update, and delete their own information in the Directory Administration database through the Department’s

security portal. Schools should contact the Department's data collection unit at 781-338-DATA or data@doe.mass.edu with any questions about this process.