|  |  |
| --- | --- |
| ESE logo | |
|  | **Guidance for Amendments to Commonwealth of Massachusetts**  **Virtual School Certificates** |
|  |
| The Commonwealth Virtual School Certificate Amendment Guidance is a resource to assist virtual school boards of trustees and leaders in meeting their obligations with respect to Massachusetts virtual school law and regulations.  December 2020 |
| **Massachusetts Department of Elementary and Secondary Education**  75 Pleasant Street, Malden, MA 02148-4906  Phone 781-338-3000 TTY: N.E.T. Relay 800-439-2370  [www.doe.mass.edu](http://www.doe.mass.edu) |
| ESE logo  This document was prepared by the  Massachusetts Department of Elementary and Secondary Education  Jeffrey C. Riley  Commissioner  **Board of Elementary and Secondary Education Members**  Ms. Katherine Craven, Chair, Brookline  Mr. James Morton, Vice Chair, Springfield  Ms. Amanda Fernández, Belmont  Mr. Matthew Hills, Newton  Ms. Darlene Lombos, Boston  Mr. Michael Moriarty, Holyoke  Mr. James Peyser, Secretary of Education, Milton  Mr. Paymon Rouhanifard, Brookline  Ms. Mary Ann Stewart, Lexington  Dr. Martin West, Newton  Jeffrey C. Riley, Commissioner  Secretary to the Board  The Massachusetts Department of Elementary and Secondary Education, an affirmative action employer, is committed to ensuring that all of its programs and facilities are accessible to all members of the public.  We do not discriminate on the basis of age, color, disability, national origin, race, religion, sex, gender identity, or sexual orientation.  Inquiries regarding the Department’s compliance with Title IX and other civil rights laws may be directed to the  Human Resources Director, 75 Pleasant St., Malden, MA 02148-4906. Phone: 781-338-6105.  © 2020 Massachusetts Department of Elementary and Secondary Education  *Permission is hereby granted to copy any or all parts of this document for non-commercial educational purposes. Please credit the “Massachusetts Department of Elementary and Secondary Education.”*  *This document printed on recycled paper*  Massachusetts Department of Elementary and Secondary Education  75 Pleasant Street, Malden, MA 02148-4906  Phone 781-338-3000 TTY: N.E.T. Relay 800-439-2370  www.doe.mass.edu  State Seal of Massachusetts | | |

**Table of Contents**

[**I.** **Introduction** 1](#_Toc57812359)

[**II.** **Certificate Amendment Requests** 1](#_Toc57812360)

[* School name 1*](#_Toc57812361)

[* Membership of the board of trustees 1*](#_Toc57812362)

[* Maximum enrollment 2*](#_Toc57812363)

[* Grades served 2*](#_Toc57812364)

[* Enrollment region 2*](#_Toc57812365)

[* Mission, purpose, and special focus 2*](#_Toc57812366)

[* Educational programs, instructional methodology, and services 3*](#_Toc57812367)

[* Governance or leadership structure 3*](#_Toc57812368)

[* Bylaws 3*](#_Toc57812369)

[* Schedule (length of school year, school week, or school day) 3*](#_Toc57812370)

[* Identity of software or curriculum providers 4*](#_Toc57812371)

[* Contractual relationships 4*](#_Toc57812372)

[* Support and storage of critical data 4*](#_Toc57812373)

[* Accountability Plan 4*](#_Toc57812374)

[* Expulsion policy 5*](#_Toc57812375)

[* Location of facilities 5*](#_Toc57812376)

[**III.** **Criteria for Approval of an Amendment Request** 5](#_Toc57812377)

[**IV.** **General Amendment Review Process** 6](#_Toc57812378)

[**V.** **Required Information for all final amendment requests** 8](#_Toc57812379)

[Appendix A: Template for CMVS Amendment Request Requiring Commissioner Approval 9](#_Toc57812380)

[Appendix B: Instructions for Approval of New Board Member(s) [Year-Round] 11](#_Toc57812381)

[Appendix C: Template Letter to Request Approval of New Board Members 12](#_Toc57812382)

[Appendix D: Bylaws Checklist 13](#_Toc57812383)

# **Introduction**

A Commonwealth of Massachusetts Virtual School (CMVS) is established through a two-phase application process, and the Board of Elementary and Secondary Education (BESE) is responsible for granting a certificate of operation. When a CMVS receives its original certificate and any subsequent renewals of that certificate from the BESE, it is essentially approving the CMVS’s broad academic and organizational plans, or the material terms of the school for the duration of the certificate.

From time to time, a school’s academic or organizational plans that constitute the material terms of the certificate may require revision. Any substantive changes to those plans must be voted on by the school’s board of trustees and require the approval of the Commissioner of Elementary and Secondary Education (Commissioner) for an amendment to the school’s certificate **before** the changes are implemented.

This guidance is intended to provide support to CMVS seeking to amend the material terms of its certificate. The following information should help to:

* Identify for a CMVS, the kinds of changes[[1]](#footnote-1) that must be approved by the Commissioner prior to implementation;
* Outline the process that a CMVS must follow when requesting approval of an amendment; and
* Specify the information that must be included in an amendment request.

# Certificate Amendment Requests

The CMVS regulations require the virtual school’s board of trustees to vote on and submit to the Commissioner a written request to amend its certificate. The Commissioner may consider the school's compliance with applicable state, federal, and local law and the evidence the school has provided regarding the areas set forth in [603 CMR 52.10](http://www.doe.mass.edu/lawsregs/603cmr52.html?section=10) and [603 CMR 52.11(2)](http://www.doe.mass.edu/lawsregs/603cmr52.html?section=11) in reaching a determination regarding a virtual school's request to amend its certificate.

Changes requiring advance approval include, but are not limited to:

## School name

The name must contain the words “Commonwealth Virtual School”

## Membership of the board of trustees

A strong CMVS board defines the mission of the school, develops policies and changes them when appropriate, hires qualified staff to manage the school’s day-to-day operations, holds the staff accountable for meeting established goals, and formulates a long-range plan and accountability plan that ensures the school’s continued stability. In addition to its many other responsibilities, the CMVS board must ensure that the school is complying with all applicable state and federal laws and that the board itself is operating in accordance with the rules set out by all applicable Massachusetts laws and regulations. Finally, the CMVS board is responsible for operating the school in accordance with its certificate.

The CMVS board, leadership, and staff of the CMVS must possess a wide variety of skills and qualifications that enable them to develop, open, sustain, operate, and continuously improve an effective school. The CMVS board should be composed of at least five members to conduct business effectively and to provide efficient and effective governance and oversight. In addition, board members must, within a year of their appointment, complete an orientation concerning the responsibilities of their office as defined in the regulations. When recruiting board members, applicants should ensure they:

* + possess the experience and qualifications necessary to implement the proposal outlined in the CMVS certificate;
  + possess skills and experience in areas such as education, management, finance, development, and law;
  + demonstrate the capacity to oversee and sustain an excellent school; and
  + are able to manage public funds effectively and responsibly.

## Maximum enrollment

In reviewing requests to amend the CMVS’ maximum enrollment, the Department of Elementary and Secondary Education (Department) will consider available evidence to determine whether the CMVS is demonstrating the capacity to instruct and meet the needs of current students, including any programs specifically for students listed in the school’s enrollment preferences, as well as any criteria outlined in CMR 603 52.10 and 603 CMR 52.11(2). All such evidence will be assessed in reaching a determination regarding a virtual school's request to amend the maximum enrollment as documented in its certificate.

## Grades served

If the CMVS proposes to increase the grades served by the school, it will be required to respond to all relevant questions that a prospective CMVS would answer in completing an application for a certificate to operate a virtual school, in addition to criteria found in CMR 603 52.10 and CMR 52.11(2).

## Enrollment region

In general, a statewide CMVS may enroll students from across the state, provided that not more than 2 percent of students statewide attend a CMVS. Enrollment of students in 6 individual online courses that last a full school year count as 1 student enrolled on a fulltime basis for the purpose of this requirement.

*Note: that the school committee of a sending district may, by vote, restrict enrollment of its students in a CMVS if the total enrollment of its students in virtual schools exceeds one percent of the total enrollment in its district; provided, however, that no student enrolled in a CMVS is compelled to withdraw as a result of that vote. Only full-time students count towards the one percent threshold (if necessary, the Department will publish an annual list of districts eligible to restrict future full-time enrollment).*

## Mission, purpose, and special focus

Amendment requests in this area include any proposed changes to programming for the students listed in the school’s enrollment preferences. The school must describe its capacity to instruct and meet the needs of these students and describe specific strategies and resources that will be used to serve their unique needs.

* Educational programs, instructional methodology, and services **for students that are inconsistent with those specified in the certificate**

This section includes material changes included, but not limited to, the school’s curriculum; delivery of instruction, including early reading instruction; formative and summative assessments.

## Governance or leadership structure

This section includes any proposed changes in the leadership structure of the school or the relationship between the board of trustees and the school’s leadership as they relate to curriculum, personnel decisions, budget allocation, and vendor selection.

## Bylaws

Proposed changes to the school’s bylaws must adhere to the “Bylaws checklist” found in **Appendix D**. The Department may revise this checklist from time to time to ensure best practices. The bylaws of every board of trustees must comply with state and federal laws and contain provisions including, but not limited to:

* + specific, reasonable limits on successive or total terms for members of the board of trustees;
  + the exercise of due diligence in assessing the suitability of candidates for board membership with respect to potential conflicts of interest and areas of skills and expertise that will be of value to the board of trustees, such due diligence to occur prior to a vote by the board of trustees to request the Commissioner to appoint the proposed members;
  + frequency of board meetings, which must occur at least quarterly;
  + compliance with the Commonwealth's open meeting law in M.G.L. c. 30A, including meeting all training requirements; and
  + compliance by members of the board of trustees with the Commonwealth's state ethics requirements, including meeting all training requirements, filing all required disclosures under M.G.L. c. 268A, and the filing of statements of financial interest under M.G.L. c. 268B.

## Schedule (length of school year, school week, or school day)

If the CMVS plans to change its schedule, or requirements for student learning time, the CMVS must submit a prospective amendment request. If the school wants to amend its schedule/student learning time, it must submit:

* A description of the school’s current and proposed school schedule, including the annual calendar and weekly school schedule reflecting any variations in the school day as appropriate to discern the changes proposed in the amendment.
* A description of how the CMVS will track student learning time, will define and monitor student attendance, and how the CMVS will verify that students are participating in classes and completing coursework. Additionally, the submission should describe how the CMVS will set attendance goals and address truancy.

Every CMVS must take appropriate and necessary steps to ensure that access to and engagement in the educational program is afforded to every enrolled student. The Department expects virtual schools to have strong protocols, tools, and practices because virtual learning takes place remotely and poses unique challenges.

Every CMVS must meet the [student learning time (SLT) requirements](https://www.doe.mass.edu/lawsregs/603cmr27.html?section=all) outlined in state law, unless it requests and is approved for a waiver of those requirements, supported by research-based evidence and best practices in the field. For more information about requesting a waiver, please see the information found on the [SLT waiver webpage.](https://www.doe.mass.edu/redesign/SLTwaiver.html)

If requesting a waiver to the SLT requirements, the school would also be required to request an amendment to the schedule as codified in the in the certificate.

## Identity of software or curriculum providers

This section includes proposed changes to significant third-party software or curriculum vendors that the CMVS intends to use or changes in the nature and purpose of the school’s partnership with each (e.g., provision of learning management system, curriculum, assessments, and/or services and supports for students or parents/guardians). As part of the approval process, the Department will look to see that the school has performed thorough due diligence, including the use of appropriate procurement protocols.

* Contractual relationships with an individual or entity providing or planning to provide substantially all of the virtual school’s educational services

All proposed contractual changes with these individuals or entities must be approved by the Department. If the CMVS proposes to contract with new individuals or entities, they must summarize each proposed partner’s expertise; how the partnership will enhance, complement, and/or support the guiding principles and core values of the CMVS; describe how each partner was vetted and selected over other potential partners; provide evidence that the partner has demonstrated positive academic results and responsible fiscal management, and identify where and how the proposed partner has implemented its services.

## Support and storage of critical data

The CMVS must retain the capacity to support and store all critical student, program, and staff data for expedient retrieval and analysis in compliance with federal and state laws. The student information system should be compliant with the [school interoperability framework (SIF)](http://www.doe.mass.edu/infoservices/data/sif/) and the CMVS must be able to meet [reporting requirements](http://www.doe.mass.edu/commissioner/checklist.html).

## Accountability Plan

The CMVS must establish an accountability plan that sets rigorous, measurable goals for student learning outcomes, organizational viability, and faithfulness to mission, based on the program defined in the school’s certificate. The CMVS reports progress towards the Accountability Goals in the Annual Report. The goals must be annual, rigorous, measurable, and outcome based.

* **Enrollment policy and application for admission**

Proposed changes to the school’s enrollment policy, application for admission, and enrollment preferences, (e.g. students with medical needs requiring a home or hospital setting; who have been expelled; who are pregnant or have a child; with physical or other needs that make it difficult for them to physically attend a school; who seek academic work not available in their school; who are gifted and talented; in institutionalized settings; who are over-age for their grade; who have or are at risk of dropping out; with social and emotional needs that make it difficult for them to physically attend a school; who feel bullied or cannot attend school because the students’ safety is at risk; and in rural communities) **must** adhere to the law and Department guidance.

*Note: Regardless of the students the CMVS seeks to attract, it cannot discriminate on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or academic achievement.*

## Expulsion policy

Proposed changes to the school’s expulsion policy must be consistent with the [Student Discipline Regulations](http://www.doe.mass.edu/lawsregs/603cmr53.html).

## Location of facilities

If such change involves relocating to or adding a facility in another municipality or school district.

# **Criteria for Approval of an Amendment Request**

The Department manages the process of review for the Commissioner. Department staff review all requests **prior** to asking the Commissioner for approval. Submission of an accurate amendment request that includes all of the required elements as described in these guidelines increases the efficiency with which the request can be processed.

In accordance with 603 CMR 52.10, the following factors are considered during the review of CMVS certificate amendment requests:

* the school’s compliance with applicable state, federal, and local law;
* affirmative, credible evidence of the existing school's success in each of the three accountability areas as documented in the Virtual School Performance Criteria (Criteria): academic program success, organizational viability, and faithfulness to the terms of its certificate. Examples of evidence include accountability documentation such as summaries of review and accountability review reports.
* In the case of a school with conditions on its certificate, an amendment will be considered, only when the school has made progress towards meeting the conditions.

In general, the Commissioner will consider requests for changes to maximum enrollment and grades served in the school’s certificate only after the school undergoes a comprehensive evaluation by the Department after the school’s first certificate renewal.

Additionally, any CMVS under one or more conditions is unlikely to be considered by the BESE until the school has made progress towards meeting the conditions and the Commissioner has recommended removal of conditions. CMVS are encouraged to consult with the Department **prior** to submission to ensure the request meets the standards for consideration by the commissioner and the BESE.

# **General Amendment Review Process**

As indicated, the Department has established a process for the review of amendments to CMVS certificates in order to ensure timely and transparent review and approval. While there are several variables that affect the effective date for implementation purposes, in general, there are two categories of CMVS certificate amendments which also result in a differentiated process:

* amendments subject to provisional approval by the Department prior to a vote by the board of trustees; and
* amendments that do not require provisional approval prior to a vote by the board of trustees.

**Amendments subject to provisional approval by the Department**

All amendments to policies approved by a board of trustees that require alignment to published Department guidance require **provisional approval** by the Department prior to a board of trustees’ final vote, requesting Commissioner approval of the amendment.

Provisional approval ensures that all changes maintain alignment with current Department requirements and guidance. The Department works with school representatives to ensure the timeline for provisional approval takes into consideration the meeting schedule of the school’s board of trustees. Depending upon the policy under revision and the degree to which the school has aligned its policy with Department guidance, the process for provisional approval may involve consultations with Department staff over a period of several weeks via phone and email, and a number of additional revisions to the proposed policy. Schools are encouraged to align the following policies as closely as possible to the Department’s criteria prior to submission for provisional approval. Provisional approval is required for changes to:

* Accountability Plan;
* Bylaws;
* Contractual relationships with an individual or entity providing or planning to provide substantially all of the virtual schools’ educational services;
* Enrollment policy and application for admission;
* Expulsion policy; and
* Schedule.

**Amendments that do not require Department review prior to board of trustees’ approval:**

While all other amendments to terms of the school’s certificate may be voted upon by the board of trustees and submitted directly to the Department for Commissioner approval, we strongly advise consultation with the Department. Schools are encouraged to contact Department staff at [virtualschools@mass.gov](mailto:virtualschools@mass.gov) and set up time to speak directly and discuss any questions or concerns prior to submission.

As stated above, we encourage the CMVS representatives to have prior discussion with the Department, consultation is not required for proposed changes to:

* School name
* Membership of the board of trustees;
* Maximum enrollment;
* Grades served;
* Enrollment region;
* Mission, purpose, special focus;
* Educational programs, instructional methodology, and services for students that are inconsistent with those specified in the virtual school's certificate; Governance or leadership structure;
* Identity of software or curriculum providers;
* Support and storage of critical data; or
* Location of facilities, if such change involves relocating to or adding a facility in another municipality or school district.

**Differentiated timelines for amendment requests subject to Commissioner approval:**

The Department will accept most amendment requests throughout the year, effective the date of final approval by the Commissioner or a subsequent date as provided in the Commissioner’s approval letter.

The timeline for processing any amendment is subject to the complexity of the issues involved and the schedule of the Commissioner and Department staff. CMVSs are strongly encouraged to consult with the Department prior to submitting an amendment request, particularly one that proposes a significant change.

*Note: Certain amendments can only be implemented at the start of a new fiscal year rather than mid-year or mid-process. Changes to maximum enrollment, for example, shall only be effective on July 1 of any year if all approvals have been secured plan accordingly.*

**Monthly appointment of trustees by the Commissioner:**

The Commissioner will appoint new members of a school’s board of trustees on a monthly basis throughout the year in order to accommodate any additions or resignations of trustees. Commissioner appointment is required for all trustees before they can participate in meetings of the board of trustees. Please see **Appendix B** for additional information.

**Vote by board of trustees to approve changes:**

As a precaution, the Department recommends that the board of trustees include in all votes to amendment the certificate, language authorizing the school to work with the Department to make minor technical changes to the request **if** such changes are necessary to meet the requirements of statute or regulations. Such a precaution is typically useful in the case of school policies subject to a Department checklist or addressing technical errors and eliminates the need for a second vote by the board of trustees for non-substantive changes to the request.

*Note****:*** *The Commissioner must approve all amendments prior to implementation.*

# **Required Information for all final amendment requests**

The following must be submitted to Office of Charter School and School Redesign:

* *Amendment Request Cover Letter* - A cover letter addressed to the Commissioner. The letter should briefly explain the content of the amendment (e.g., enrollment policy, maximum enrollment, contract with a provider, etc.), indicate why the amendment should be approved, and should detail any specific concerns (e.g., if the request is not approved, what will happen) and detail other information the CMVS would like to share with the Department, as applicable. Please see **Appendix A** for the Template for CMVS Amendment Request Requiring Commissioner. ***Final Document***
* *Final amendment -* A copy of the final amendment approved by the board of trustees:
  + As needed, a copy of the revised, final document (i.e. enrollment policy, bylaws, contract, expulsion policy, schedule/calendar, accountability plan, organizational chart). ***Final Document***
  + A copy of the current CMVS certificate with proposed final changes clearly marked (e.g., in “track changes”). ***Final Draft – Word Version only****.*
* *Board of Trustees vote* - Evidence of the CMVS formal vote (e.g., approved board meeting minutes) on the final amendment to the CMVS certificate. ***Acting in good faith, the school can submit the minutes once finalized, to facilitate the process.***

Final documents must be submitted electronically. Only final documents may be submitted electronically in Portable Document Format (PDF).

**Submit requests by mail and email to:**

Attention: Office of Charter School and School Redesign

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street

Malden, MA 02148

**AND**

[virtualschools@mass.gov](mailto:virtualschools@mass.gov)

# **Appendix A**

# **Template for CMVS Amendment Request Requiring Commissioner Approval**

*[School Letterhead]*

*[School Address]*

*[Date]*

Commissioner of Elementary and Secondary Education

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street

Malden, MA 02148

Dear Commissioner,

On behalf of the *[insert school name]* Board of Trustees, I respectfully request your approval of an amendment to change our certificate to *[insert the proposed change, making sure to summarize what is in the current certificate and what is proposed – this could be a paragraph or more if a complicated request or multiple requests]*. These changes to our certificate will be effective *[upon the approval of the Commissioner of Elementary and Secondary Education or a later effective date selected by the school]*.

The *[insert school name]* Board of Trustees wishes to make this change because *[insert reasons or explanation; this could be a paragraph or more if a complicated request – and may reference any attachments to further support reasoning]*.

The *[insert school name]* Board of Trustees voted to approve this request on *[insert date]* at a meeting held in compliance with Massachusetts Open Meeting Law G.L. c. 30A,

§§ 18-25. At that meeting, the Board of Trustees authorized me to submit this request on their behalf *[only if the undersigned is the school leader or another individual other than the Board chairperson]*.

The *[insert school name]* Board of Trustees also authorized the school to work with the Department to make minor technical changes to the amendment request if such changes are necessary to meet the requirements of statute or regulations, and are codified in Department guidance that was not followed in our submission. The *[insert school name]* Board of Trustees agrees to permit such minor technical changes to the policy submitted for approval, and to support any additional consultation and coordination with the Department that will be required to align our policy with requirements. *[This above paragraph is only required if the request submitted for approval is related to the board bylaws, accountability plan, enrollment policy and application for admission, or expulsion policy, which all require provisional approval by the Department prior to a vote by the board of trustees. The process for provisional approval can exceed several weeks depending upon the revisions required and the needs of the school. If the revisions to these documents did not receive provisional approval prior to seeking Commissioner approval, the Department will likely require additional revisions to the submitted document in order to align with requirements.]*

The *[insert school name]* is an academic success, is a viable organization, and is faithful to the terms of its certificate. *[The following can be a paragraph or more, but should focus on the positive highlights in each of those three areas – examples might include recent renewal without conditions, MCAS absolute and trend performance, strong and stable leadership, financial strength, and achievement of commitments made in its certificate – and can reference any attachments that support these statements]*.

The *[insert school name]* Board of Trustees requests your approval of this amendment as soon as possible. *[Many CMVS amendments are reviewed and considered monthly. More complicated amendments might take longer. Please consider these factors in your planning and consultations with the Department regarding the timing of decisions.]*

Please contact [*insert contact name, email, and phone number*] if you have any questions about this request.

Sincerely,

*[Insert individual name and signature]*

C: *[School or Board personnel as appropriate]*

*[Office of Charter Schools and School Redesign]*

Enclosures

# **Appendix B**

# **Instructions for Approval of New Board Member(s) [Year-Round]**

When a CMVS’s board of trustees votes to accept new members, and before those individuals may take official action, the following steps must be taken through the Board Member Management System to receive approval of the new members from the Commissioner:

* All requests for the approval of new board members first require entering the proposed board member’s name and preferred email address, at a minimum, into the Board Member Management System by a system user.
* The system user must upload the request for approval to the individual record of the proposed new member(s) within the Board Member Management System.
* The letter must include a statement that the CMVS's board of trustees voted to accept the new member(s). See **Appendix C** for **A Template Letter to Request Approval of New Board Members.**
* The letter must include the signature of either the chairperson of a CMVS’s board of trustees or an individual authorized by the board of trustees.
* The system user must upload a copy of the proposed board member’s resume to the individual record of the proposed new member(s) within the Board Member Management System with the letter requesting approval.
* System users of the Board Member Management System will be able to monitor the status of the approval request from within the Board Member Management System.
* When a new board member, or a member returning after a period of non-service, is approved, the individual will receive notifications regarding conflict of interest and open meeting law information via the Board Member Management System. In addition, once the trustee is approved, The Department’s ethics liaison enters the new member into the Statement of Financial Interest (SFI) System, and the new member is required to submit the SFI annually.

*Note***:** *Board members who have previously been approved by the Commissioner for service on a specific CMVS board of trustees may be renewed for a concurrent subsequent term on the board in accordance with term limits set in the bylaws of the board of trustees without additional Commissioner action for additional terms of service on the same CMVS board of trustees if the terms are concurrent. Individuals who seek to return to board service, after any period of non-service, are required to be approved by the Commissioner regardless of prior appointment to a board of trustees. Boards of trustees are required to comply with the term limits described in their board bylaws. Schools are required to notify the Department via the Board Member Management System when individuals occupying officer positions change, and when members leave the school's board of trustees, whether it is a resignation, the expiration of a term, or a removal.*

# **Appendix C**

# **Template Letter to Request Approval of New Board Members**

*[School Letterhead]*

*[School Address]*

*[Date]*

Commissioner of Elementary and Secondary Education

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street

Malden, MA 02148

To Whom It May Concern:

On [*date*], the Board of Trustees of [insert school name] voted in accordance with Open Meeting Law to accept [*name of proposed board member*] and [*name of proposed board member*] as members of the [*insert school name*] Board of Trustees, pending approval from the Commissioner of Elementary and Secondary Education.

I have submitted this request and each individual’s current resume via the Board Member Management System for review and approval. I have created a record for each individual within the Board Member Management System, which includes their contact information, specifically their preferred email address at a minimum, in order for the individual to receive the required Disclosure of Financial Interest form for the previous calendar year. I am aware that the individual(s) seeking approval must complete and submit the required Disclosure of Financial Interest form in order for the Commissioner to consider the request for approval. Providing that these members are approved, our Board will then consist of [*total number*} approved members. All Board members, their positions, and current terms are listed below.

**Name Position Current Term**

Thank you and I look forward to hearing from you regarding their status.

Sincerely,

*[Insert individual name and signature]*

C: *[School or Board personnel as appropriate]*

*[Office of Charter Schools and School Redesign]*

# **Appendix D**

# **Bylaws Checklist**

# 

| *Use this checklist to guide the development of the proposed virtual school’s bylaws.* | |
| --- | --- |
| **Check (X)** | **Criteria** |
|  | 1. State the name and purpose of the CMVS and that it is a public school. |
|  | 1. State that the name of the CMVS must include the words “commonwealth virtual school” as part of its name. |
|  | 1. Cite M.G.L. c. 379 |
|  | 1. State that the board of trustees holds the certificate granted by the Massachusetts Board of Elementary and Secondary Education. |
|  | 1. State that the board of trustees of a virtual school is a public entity, which operates independently of a school committee. |
|  | 1. Remember that the bylaws should not refer to the CMVS as a non-profit corporation, a charitable organization, a 501(c) (3), or use descriptions indicating that the school is anything other than a public entity. |
|  | 1. State that the individual board members are considered special state employees. |
|  | 1. State that the board is a public employer for the purposes of tort liability (M.G.L. c. 258) and for collective bargaining purposes (M.G.L. c. 150E). |
|  | 1. State that the board of trustees may not discriminate against potential members on the basis of race, color, national origin, creed, ancestry, ethnicity, age, gender identity, religion, marital status, sexual orientation, or non-disqualifying handicap or mental condition. |
|  | 1. Specify that public notice be given of the date, time, and location of all meetings in accordance with the law pertaining to the open meetings of governmental bodies. |
|  | 1. Specify that detailed, accurate records of every meeting be adopted and kept in accordance with the law pertaining to the open meetings of governmental bodies. |
|  | 1. Stipulate the situations under which an executive session may take place. |
|  | 1. State that trustee participation occurs in person for the purpose of a quorum or vote. The board may include language addressing remote participation provided such language is consistent with M.G. L. c. 30A, § 20(d); 940 CMR 29.10; and guidelines issued by the Office of the Attorney General. |
|  | 1. Specify the minimum (at least five) and maximum number of trustees required on the board. |
|  | 1. Specify that action by the board requires a majority vote of a quorum of seated trustees and, to the degree required, specify the situations for which approval may require a special majority. |
|  | 1. Define the number of years that shall constitute a board member’s term. |
|  | 1. Set a specific, reasonable, limit on successive or total terms that a member may serve. |
|  | 1. State that a formal vote of the board of trustees is required to accept all new members. |
|  | 1. Expressly require a voting employee representative in the board’s composition if the school intends to have any paid employee member(s) serve on the board. |
|  | 1. Specify the number and titles of officers (e.g., chair, vice-chair, secretary, and treasurer). |
|  | 1. Describe the responsibilities of each officer. |
|  | 1. Describe a process for electing officers. |
|  | 1. State that the board complies with the state conflict of interest law, M.G.L. c. 268A. |
|  | 1. State that board members must disclose any financial interest or business transactions that they (or any immediate family member) have in any school district in Massachusetts or elsewhere with the State Ethics Commission, Department of Elementary and Secondary Education, and the city or town clerk within 30 days of joining the board and by September 1 annually, including the year after service is completed (unless service is less than 30 days in that year). |
|  | 1. State that the board of trustees shall request the appointment of a trustee to the board only where the board has no reason to know that the trustee has a financial interest under M.G.L. c. 268A which may preclude a majority of the board from participating in deliberations or voting on certain matters that are expected to come before the board. The board must exercise due diligence prior to determining that a proposed trustee does not have such a financial interest. |
|  | 1. Specify that the school’s fiscal year begins on July 1 (and ends on June 30 of the following calendar year). |
|  | 1. Specify a process for making amendments to the bylaws, subject to the approval of the board of trustees and the Department of Elementary and Secondary Education. |
|  | 1. Describe the procedure for responding to any complaints filed with the board of trustees. |
|  | 1. Prohibit the board of trustees from exercising managerial powers over the day-to-day operations of the CMVS. |
|  | 1. State the ability of the board of trustees to select, appoint, evaluate, and/or remove only the school leader. |
|  | 1. Specify the process through which a trustee may resign and/or be removed from the board. |
|  | 1. Require that the board of trustees meet at least quarterly. |
|  | 1. Require an annual meeting of the board of trustees. |
|  | 1. Describe the process for the formation of committees and/or task forces. |

1. The kinds of changes that require approval by the Commissioner and/or the BESE are defined in [603 CMR 52.10.](http://www.doe.mass.edu/lawsregs/603cmr52.html?section=10) [↑](#footnote-ref-1)