



David P. Driscoll
Commissioner of Education

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Commissioner's Update

October 20, 2004

Dear Superintendents, and Leaders of Charter Schools and Collaboratives:

In this update are five announcements and three items recently posted at www.doe.mass.edu.

Crisis Planning in Schools

Preventing a school crisis is a priority that requires careful planning. To ensure that you have the resources and information necessary to establish sound plans to avert school crises, I want to provide you with important information and guidance from U.S. Deputy Secretary of Education, Eugene Hickock. Please review this critical information located at <http://www.doe.mass.edu/news/news.asp?id=2107>.

AYP Results

Regarding the AYP results released last week, I wanted you to know that despite my repeated efforts to promote the positive news, the media continues to focus on other aspects of the data. While we must take seriously the AYP determinations reported for subgroups and take the steps necessary to improve performance of all students, the overall progress in districts and schools everywhere is, nevertheless, remarkable.

Foundation Reserve

The first round of foundation reserve ("pothole") awards to school districts for 2005 is posted at <http://finance1.doe.mass.edu/>. These awards represent approximately 91% of the appropriation. Confirmation letters will be sent to superintendents and towns next week. The remaining funds will be allocated at a later date.

Reminder about Reporting Educator Misconduct

The Board of Education recently clarified the regulation requiring school superintendents and other administrators to report in writing to the Commissioner whenever a licensed educator is dismissed, not renewed or resigns after committing misconduct that might warrant revocation or limitation of the educator's license. For more information about this important requirement, please review this [memorandum](#).

Guide to Public Records

Public schools and school districts, like other governmental agencies, are subject to the public records law. The Secretary of the Commonwealth (Public Records Division) has published a helpful resource document called *A Guide to the Massachusetts Public Records Law*.

Please note that a recent amendment to the public records law, included in the Guide, exempts from public disclosure the home address and home telephone number of a public employee, unless the employee consents or the disclosure is otherwise authorized by law. For more information on this or any other aspect of the public records law, please review the Guide at <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>. Further, please consult with your legal counsel or contact the Public Records Division at (617) 727-2832.

Here are three items recently posted at www.doe.mass.edu:

1. Reporting Fall 2004 MELA-O Scores for Limited English Proficient Students



2. "A Review of the Charter School Application and Authorization Process"



3. Massachusetts Presidential Awards for 2005 Nomination Announcement and Application



All the best, and

Sincerely,

David P. Driscoll
Commissioner of Education

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Massachusetts Comprehensive Assessment System

Reporting Fall 2004 MELA-O Scores for Limited English Proficient Students


To: Superintendents and Directors of Charter Schools, Private Special Education Schools, Institutional Schools, and Educational Collaboratives

From: David P. Driscoll, Commissioner of Education

Date: October 20, 2004

As you recall from my ["Statewide Assessments for Limited English Proficient \(LEP\) Students in 2004-2005" memo](#), all LEP students enrolled in grades K-12 must participate in the Massachusetts English Language Assessment - Oral (MELA-O) this fall in order to assess their proficiency in Listening (Comprehension) and Speaking (Production).

Grades 3-12

MELA-O scores for students in grades 3-12 will be recorded on students' MEPA Answer Booklets according to instructions in the [MEPA Principal's Administration Manual](#) .

Grades K-2

MELA-O scores for LEP students enrolled in grades K-2 must be reported by districts via the Department's Security Portal **October 27 - November 19, 2004**. Full instructions on uploading scores and adding newly enrolled students will be posted at the Security Portal.

To assist districts in reporting these scores, the Department will post one file per district at DropBox Central in the MCAS File Exchange folder. Since the October 2004 SIMS submission is still in progress, the files that are posted will be based on June 2004 SIMS. Therefore, your file may not match your district's current LEP enrollment perfectly. Your file will contain the names and SASIDs of LEP students currently in grades 1 and 2 who were enrolled in kindergarten and grade 1 in your schools during the 2003-2004 school year. All requested information for LEP students currently enrolled in kindergarten must be completed. You will also provide all requested information for LEP students new to your district who enrolled in grades 1 and 2 this year. You will not be expected to provide scores for students who are no longer enrolled in your schools.

The following MELA-O scores must be reported, each on a scale of 0 to 5:

- Listening (one score)
- Speaking (one score for each subscore area listed below):
 - Fluency
 - Vocabulary
 - Pronunciation
 - Grammar

We will send an email to Superintendents and Principals on October 27 when the files are posted. Please contact your [District-Level Data Directory Administrator](#) to upload your district's data. If you have any questions about accessing the Security Portal, please contact the Department's Data Collection Unit at (781) 338-DATA (3282). If you have any questions about MELA-O, please contact the MEPA Service Center at (866) 812-6433.



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School Finance: Charter Schools

Review of the Charter School Application and Authorization Process

October 15, 2004

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I. Executive Summary

This report presents the results of a review conducted by two members of the Department of Education's senior staff, in response to concerns raised by legislators and others about the charter school application and authorization process. Those concerns focused on the process for granting charters to five Commonwealth charter schools in 2003 and 2004, and also related to the application and authorization process in general. The objectives of the study were to:

1. outline the process and standards required by the charter school statute and regulations for charter school applications and the granting of charters;
2. describe the process that was followed with respect to the review of applications and granting of charters to the five charter schools;
3. determine whether the decision of the Board of Education to grant a charter to each of the five charter schools was consistent with the letter and spirit of the requirements outlined in (1), above;
4. recommend additional steps, if any, that the Department and Board of Education should take with respect to the charters granted to the five charter schools; and
5. recommend additional steps, if any, that the Department and Board of Education should take to strengthen the procedures for the review of charter applications and the granting of charters.

Based on the study, we conclude that the decision of the Board of Education to grant a charter to each of the five schools was consistent with the charter school statute and regulations, in that (a) each school met the requirements of the statute, the regulations and the application process; (b) the Department of Education met its own procedural requirements in conducting the application review; and (c) the Board's decision in each case was supported by the record and was consistent with the approval standards. In light of the concerns that have been raised about the process, however, we make the following recommendations to the Department and Board of Education:

As to the five schools:

1. The Department of Education should monitor the progress of each of the five charter schools and present a status report to the Board of Education and the public no later than March 2005. For the two schools that are scheduled to open in 2005, the Department should focus particularly on the concerns that the Department identified during the 2004 application review process, which led the Commissioner to recommend and the Board to decide that those schools would benefit from an additional planning year before they open.

In general:

2. The Department should revise the interview process for charter application finalists, by making clear that the interview is not the time for the applicant to make substantive amendments to the final application, and by maintaining a written record of interviews that it conducts with final charter applicants. The Department should include that record with the final application materials that are provided to the Board of Education, local school officials and the public in a timely manner.
3. With respect to the requirement in G.L. c. 71, § 89(i) that at least three new charter schools must be located in districts whose students' MCAS performance is at or below the statewide average, the Department - through a unit separate from the Charter School Office - should conduct and report on the analysis of district performance in relation to proposed charter school locations as early in the application review process as possible.
4. The Department and the Board should consider adopting a policy that would give priority for new charters to schools that will serve students in districts that are low performing, either on an absolute basis or relative to similar districts.
5. The Department should, as early as possible in the application process, provide information to applicant groups, local school officials, the Board and the public about the net school spending caps in the affected communities in relation to existing and proposed charter schools in those communities.
6. With respect to the requirement in the application that an applicant demonstrate "tangible ties to the community," the Department and the Board should consider adopting a benchmark that a certain percentage of a charter school's trustees shall be residents of the community or communities that the charter school will serve.
7. The Department should ensure that at least one public hearing on each charter school final application is held in or within a convenient distance of the community or communities in which the charter school will be located.
8. The Department should provide to each member of the Board a copy of all of the written comments (or at least the letters from local school officials) submitted to the Department on each final application, as well as a summary of the comments.
9. The Department should continue to provide the materials relating to the proposed charter applications to the Board and to the public (particularly local school officials) as far in advance as possible of the dates on which hearings will be held, public comments are due, or charter decisions will be made. The Department should consider how it might expedite the preparation and posting of the materials without compromising the quality of the review process.
10. The Board should consider establishing a committee of its members to attend the public hearings on charter schools, review in detail the comments received from local school officials and other members of the public on final applications, and report to the Board before it votes on granting new charters. The Board as a whole would still receive, review and discuss all of the materials.
11. The Department should continue its careful attention to each school's recruiting practices and each school's compliance with its legal obligations to serve students with disabilities and English language learners.
12. The Department should strengthen its reporting on student attrition and enrollment policies in charter schools, by adding data on the number of students enrolled in each grade that the charter school serves, as well as stating the grades at which the school enrolls (or does not enroll) new students.

The detailed findings and recommendations are set forth in Sections V and VI of this report.

II. Study Background

The Massachusetts charter school statute, G.L. c. 71, § 89, was enacted as part of the Commonwealth's comprehensive Education Reform Act of 1993. In brief, charter schools are public schools that operate under a charter granted by the state Board of Education. (1) Each school is publicly funded and is governed by a board of trustees. Any student may apply for admission to a charter school, and if there are more applicants than seats available, selection is done by lottery, with preference given only to students residing in the town where the school is located and to siblings of current students. The charter is granted for a five-year term and may be renewed by the Board following a review of the school's performance. The Board also may revoke a charter for cause.

The law provides for two categories of charter schools - Commonwealth charter schools and Horace Mann charter schools. Commonwealth charter schools are completely independent of the local school district, while Horace Mann charter schools are established with the assistance of the local district and maintain some ties to the local district.

As of September 2004, Massachusetts has 56 charter schools in operation, with three additional schools scheduled to open in September 2005. The statute sets a statewide cap of 72 Commonwealth charter schools and 48 Horace Mann charter schools.

In June 2004, the Legislature included a section in the fiscal year 2005 state budget (St. 2003, c.149, s.312) that would have imposed a moratorium on the Board's authority to grant new charters, and at the same time would have suspended the charters of five schools: the Advanced Math and Science Academy Charter School (hereinafter, "AMSA"), the Community Charter School of Cambridge ("CCSC"), the KIPP Academy Lynn Charter School ("KIPP"), the Berkshire Arts and Technology Charter School ("BArT"), and the Salem Academy Charter School ("Salem"). (2) The legislation established a working group to review and make recommendations for changes to the funding mechanism for charter schools, and also directed the Department to conduct "a full review of the application and authorization process of the commonwealth charters named above to insure that the letter and spirit of the laws governing those processes have been followed by the department and the board of education."

Governor Romney vetoed section 312, in large part because of concerns regarding the suspension of charters for schools that were preparing to open, and his veto subsequently was sustained by the Legislature. The Governor agreed, however, that legitimate policy questions had been raised about both the funding formula and the approval process, and he committed to addressing both issues. On July 26, Commissioner Driscoll announced that the Department would conduct a review of the application and authorization process for the five named schools substantially in accordance with the vetoed language.

The study was conducted by two members of the Department's senior staff: Rhoda Schneider, senior associate commissioner and general counsel; and Jeff Wulfson, associate commissioner for school finance. (3) Although they were assisted by other members of the Department staff, the findings and conclusions are theirs alone. The writers have neither sought nor received an endorsement of this report from the Commissioner or the Board.

III. Study Objectives and Scope

The objectives of this study were to:

1. outline the process and standards required by the charter school statute and regulations for charter school applications and the granting of charters;
2. describe the process that was followed with respect to the review of applications and granting of charters to the five charter schools;
3. determine whether the Board's decision to grant a charter to each of the five charter schools was consistent with the letter and spirit of the requirements outlined in (1), above;
4. recommend additional steps, if any, that the Department and Board should take with respect to the charters granted to the five charter schools; and
5. recommend additional steps, if any, that the Department and Board should take to strengthen the procedures for the review of charter applications and the granting of charters.

During the review we examined the record of the application and review process that led to the Board's decision to grant charters to the five charter schools, as well as the record of the Board's deliberation and decision as to each school. This record includes:

- the charter school's prospectus;
- the charter school's final application and any other relevant documents the applicant submitted;
- records of the review process conducted by the Department's Charter School Office, including records from the expert panels convened to review the applications;
- the public comments submitted in support of or opposition to each charter, both at public hearings and in written submissions to the Commissioner or the Board;
- the Commissioner's recommendation to the Board on each application; and
- the minutes of the Board meeting at which each charter was granted.

The review focused on the application and approval process for Commonwealth charter schools, both in general and as it relates to the five schools in question. Specifically excluded from this review are the following issues:

- the application and renewal process for Horace Mann charter schools, which differs significantly from the process for Commonwealth charter schools; [\(4\)](#)
- the charter renewal process;
- the funding mechanism for charter schools, which has been addressed by the Legislature and the Governor through a recent amendment to the charter school statute [\(5\)](#) and
- broader policy and legislative questions such as whether or not the Commonwealth should have charter schools.

As part of the review process, we solicited comments from public officials in the areas to be served by the five schools as well as from organizations involved with public education. We received comments from the following individuals and groups:

- Hon. Jarrett Barrios, State Senator and Chair of the Committee on Public Safety
- Rose Marie Boniface, Superintendent, Marlborough Public Schools
- Hon. Daniel Bosley, State Representative and Chair of the Committee on Government Regulations
- Catherine Boudreau, President, and Ann Wass, Vice President, Massachusetts Teachers Association
- Paul Dunphy, Citizens for Public Schools
- Thomas Fowler-Finn, Superintendent, Cambridge Public Schools
- Attorney Kay Hodge of Stoneman, Chandler & Miller, representing Hudson Public Schools, Maynard Public Schools, and Marlborough Public Schools
- Edward Philbin, Superintendent, Clinton Public Schools
- Hon. Michael Sullivan, Mayor of Cambridge
- Nancy Walser, Cambridge School Committee member.

We reviewed and considered all of the comments carefully. Some of the suggestions we

received are beyond the scope of this study, in that they would require legislative action to amend existing statutes. (6) Even so, all of the comments were constructive, and we thank everyone who took the time to submit their views on the questions that were posed.

IV. The Chartering Process

The charter school application process is governed by the enabling statute (G.L. c. 71, § 89; Appendix A) and regulations issued by the Board of Education (603 CMR 1.00; Appendix B). (7) Additional procedural requirements are established administratively by the Commissioner as part of the application process. These additional requirements must be consistent with the statute and regulations.

G.L. c. 71, § 89 (d) is the statement of legislative purpose for establishing charter schools in the Commonwealth. Accordingly, it provides an overall framework for the approval process. G.L. c. 71, § 89 (d) reads as follows:

d. The purposes for establishing charter schools are:

1. to stimulate the development of innovative programs within public education;
2. to provide opportunities for innovative learning and assessments;
3. to provide parents and students with greater options in choosing schools within and outside their school districts;
4. to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management;
5. to encourage performance-based educational programs;
6. to hold teachers and school administrators accountable for students' educational outcomes; and
7. to provide models for replication in other public schools.

Charter schools must be open to all students in their district or region, on a space available basis, without discrimination based on race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or academic achievement. G.L. c. 71, § 89 (l).

The charter school statute, at G.L. c. 71, § 89 (e) through (i), sets forth the basic requirements for charter applications and for the review process that culminates in the Board making the final determination on granting charter school status. The substantive and procedural requirements for a successful charter school application are detailed in the charter school regulations, at 603 CMR 1.04 and 1.05. The charter application, available on the Department's website at <http://www.doe.mass.edu/charter/app/default.html>, sets forth specific deadlines, format requirements, and review criteria used by the Department in the application process.

The procedural requirements include, among other things, a two stage selection process, expert review panels convened to assess the merits of each application, a public hearing, solicitation of comments from the school committee(s) of the town(s) the charter school will serve, and interviews with each group submitting a final application. The substantive requirements embody the general goals of charter schools as listed in G.L. c. 71, § 89, such as the goal of developing innovative curricula for replication in other public schools. They further require that each charter school be a financially viable organization, with effective management structures and adequate facilities.

The application process itself consists of ten discrete steps over a six-month period:

- In August, prospective applicants must file a letter of intent with the

Department.

- In September, each applicant must submit a prospectus, which describes the basic elements of the applicant's plan and includes various legal certifications. A copy of the prospectus must be sent to the superintendents in the school districts from which the school intends to draw students.
- Each prospectus is reviewed and evaluated by reviewers from within and outside the Department. (8) Based on the evaluations, the Commissioner selects applicant groups that are invited to submit final applications.
- Final applications are submitted to the Department in November.
- A copy of the final application must be sent to the superintendents in the school districts from which the school intends to draw students. These superintendents are invited to submit written comments to the Board of Education regarding the application and the impact of the proposed school on their district. (9)
- Review panels convened by the Department, again consisting of both Department staff and external reviewers, evaluate and score each application.
- While the applications are being reviewed, the Department holds public hearings in various locations around the Commonwealth to hear comments on the final applications from local officials and the general public. In June 2003, the Board of Education amended the charter school regulations to specify that at least one member of the Board must attend each hearing, and the hearings held since that date have met that requirement.
- In January, each applicant group that submitted a final application is interviewed by a group of Department staff members. The interview questions are based on issues and comments from the review panels.
- In early February, the Commissioner transmits his recommendations to the members of the Board of Education, along with a written summary of each application and of the comments received.
- The Board of Education discusses and votes on the Commissioner's recommendations at its February meeting.

In connection with this review of the charter school application and authorization process, the Department's Charter School Office at our request prepared a summary of the process that was followed with respect to each of the five charter schools. The summaries for each school are attached to this report as Appendix C (AMSA), Appendix D (BArT), Appendix E (CCSC), Appendix F (KIPP) and Appendix G (Salem).

V. Discussion of Issues; Findings and Recommendations

Based on our review of the record and of the comments submitted, we have identified a number of issues deserving of discussion.

A. Evaluation of Charter Applications

In general, we found that the Department's evaluation of the charter applications was a rigorous and well-documented process. As noted in several of the respondents' comments, the applications sometimes lack specificity on issues such as facility plans, staffing, and enrollment projections, but this is to be expected considering that the schools are not scheduled to open for at least ten months from the date the application is filed. It would be unreasonable to expect absolute certainty on these issues, given the difficulty in obtaining final commitments prior to the granting of the charter. After a charter is granted, the Department monitors the school's progress towards meeting the conditions of its charter.

A more significant concern, however, relates to the interview process that takes place in January, particularly with respect to the interview of the AMSA group in January 2004. In general, the interview is an opportunity for the Department to hear from the applicant group in person about their charter proposal, to question them about any weaknesses or ambiguities in the final application, and to ask for clarification. The goal is to get as complete a picture as possible of the

charter school proposal, so that the Commissioner, the Board and the public have all the information necessary to judge it on its merits. The Department does not maintain a formal written record of these interviews, although salient points that come up in the interview may be included in the information presented to the Commissioner and the Board.

In the January 30, 2004, interview with the group presenting the AMSA proposal, staff of the Department's Charter School Office questioned the group about specific weaknesses that had been identified in the final application. According to the Charter School Office, the applicant group responded adequately in the interview, including submitting a written plan describing how the school would meet its obligations under the special education law. As a result of the interview process, the applicant group was able to clarify its application, and presumably its own understanding, in regard to the Department's expectation that the charter school will comply with the special education law. The problem is that this took place after the final application had been submitted and public hearings on it had been held, leading to the perception that the final application was not final and that the applicant could amend it outside of the public process.

Findings and Recommendations

We find that the AMSA interview process was not a violation of the charter school law or regulations. It resulted in a clarification of the application rather than a substantively new proposal. Furthermore, the clarification affirms the school's legal obligations, and will benefit the students, including students with disabilities, who will be served by the charter school.

Nevertheless, to dispel questions about the integrity of the application and review process in the future, we believe the Department should make clear that the interview is not the time for the applicant to make substantive amendments to the final application. If a final application is fundamentally flawed, the Department should (as it typically does) provide feedback to the applicant group and invite them to submit a stronger application in the future. Once a final application has been filed, only minor, non-substantive amendments should be allowed.

In addition, the Department should maintain a written record of interviews that it conducts with final charter applicants, and include that record with the final application materials that are provided to the Board of Education, local school officials, and the public in a timely manner. This will make the process more transparent and informative for all interested parties.

B. Factors Related to the Host Community

Much of the disagreement over the awarding of charters appears to be related not to the educational quality of the applicant's proposal, but rather to the issue of where the school will be located. Applicants are asked to provide "compelling reasons why the school is needed in the proposed area of service," but nowhere in the statute, the regulations, or the application documents is there a clear policy statement as to what would constitute such compelling reasons. Consequently, the evaluation of applications on this criterion is understandably vague.

The purposes for establishing a charter school enumerated in the statute [\(10\)](#) really fall into two broad categories: providing an opportunity to demonstrate innovative educational ideas and methods, coupled with accountability for results; and providing more school choice for parents and students. In theory, the first goal is community-independent. New and effective educational methods and strategies can be demonstrated anywhere, although perhaps they are most needed in districts with a high number of students in low performing

schools. In contrast, the second goal is more community-specific, as one would expect that the parents who are seeking more educational choices would be the driving force behind establishing a new school. In practice, of course, most applications have elements of both.

The statute requires that the Board, in each year that it awards charters, approve a minimum number of schools to be located in districts with below-average performance. Specifically, G.L. c. 71, § 89(i) states, "Not less than three of the new charters approved by the board in any year shall be granted for charter schools located in districts where overall student performance on the statewide assessment system...is at or below the statewide average in the year preceding said charter application." Since the statute authorizes the Board to grant charters for schools in higher performing school districts as well as in low performing districts, a key question for the Department to consider in reviewing an application for a charter school in a high performing district is what, if anything, the applicant must demonstrate in terms of community need.

Another issue related to the community base for a charter school is the requirement in the charter school application that an applicant demonstrate "tangible ties to the community." This phrase is vague, and has led to unproductive disputes on whether the individuals who are proposing a charter school are or are not members of a particular community. If this factor is to be considered in the application process, which we believe is appropriate, it should be measurable. We offer a recommendation below.

Finally, we note that many of the comments presented, both in the public comment process on these schools and in the letters we received in connection with this study, relate to the fiscal impact of a charter school on the host community's local school district. While acknowledging that there is a fiscal impact, we believe the Department is correct in not including that as an evaluation criterion. The financing system for charter schools, and the judgment as to what is an acceptable level for a community to bear, have been established by the Legislature. As noted earlier, the funding mechanism for charter schools has been addressed by the Legislature and the Governor through a recent amendment to the charter school statute (G.L. c. 71, § 89 (nn), as amended by St. 2004, c. 352, § 31). The statutory amendment is an effort to address the concerns that have been raised about the funding formula. [\(11\)](#)

Findings and Recommendations

In 2003 and 2004, the years under review in this study, the charters that the Board granted met the statutory requirement in G.L. c. 71, § 89(i) with respect to at least three being located in districts whose students' MCAS performance was at or below the statewide average. We recommend that in the future, the Department - through a unit separate from the Charter School Office - should conduct the analysis of district performance in relation to proposed charter school locations as early in the application review process as possible. This is particularly important in light of the trend of fewer charter applications each year. The Department should include this information in the record that goes to the Board and the public.

Even beyond the three-school minimum required by the statute, we recommend that the Department and the Board consider adopting a policy that would give priority for new charters to schools that will serve students in districts that are low performing, either on an absolute basis or relative to similar districts. Such a priority would be consistent with the initiative to improve student performance statewide and particularly in low performing districts.

One issue related to funding has been raised specifically in relation to CCSC: the question whether the creation of the school, and its projected enrollment of students from Cambridge, would cause the district's total charter school tuition

payment to exceed the statutory cap of 9% of the district's net school spending. (G.L. c. 71, § 89 (i).) While it appears that this question was raised and addressed fairly late in the process, we find that the Board's decision to grant a charter to CCSC was mindful of and consistent with the 9% cap. We recommend, however, that in the future the Department provide information as early as possible in the application process to applicant groups, local school officials, the Board and the public about the net school spending caps in the affected communities in relation to existing and proposed charter schools in those communities, to strengthen informed decision-making.

With respect to the requirement in the application that an applicant demonstrate "tangible ties to the community," we recommend that the Department and the Board consider setting a measurable benchmark, for example, by requiring that a certain percentage of a charter school's trustees shall be residents of the community or communities that the charter school will serve. Unlike school committee members, the trustees of a charter school are not required by law to be residents of the community, nor would such a requirement be advisable given the unique nature of charter schools. Even so, the "tangible ties to the community" criterion would be more meaningful if the Department and Board set a benchmark for local community-based representation on each charter school board.

C. Public Hearing Process

Part of the charter school application process involves the solicitation of public comments on each final application, both in writing and through one or more public hearings. G.L. c. 71, § 89 (g) provides, "Before final approval to establish a Commonwealth charter school, the Board of Education shall hold a public hearing on said applications, and solicit and review comments on the application from the local school committee for the school district in which said charter school is to be located." Besides holding focused public hearings on the applications, the Board provides time on its regular meeting agenda at the February meeting (as it does at all of its regular meetings) to hear statements from the public before it discusses and votes on any matter.

Because of the number of charter applications that are submitted each year, the Department has elected to hold regional hearings, each of which covers several proposed applications. As a result, hearings are not always held in the community where the charter school will be located. For example, the hearings on the AMSA, CCSC, and KIPP applications were held in Worcester, Plymouth, and Malden; the hearings on the BArT and Salem applications were held in Pittsfield, Lexington, and Boston.

It would be useful to clarify and explain the purpose of the public hearings. In our opinion, the purpose is to allow local school and municipal officials, parents and other members of the public to comment on the application and on the need for the charter school. The hearing is not intended to be a plebiscite on whether the charter should be granted or not. Widespread support is not a requirement for granting a charter, and in fact if it were, few if any charters would be granted. [\(12\)](#) The Department certainly needs to evaluate in each case whether a sufficient number of parents will enroll their children at the school. A charter school that fails to attract enough parents and students is not a viable organization, and if it is granted a charter it is unlikely to survive. That, however, is a different issue. We believe it would be inconsistent with the statutory framework for the Department or the Board to reject a charter application simply because of vocal opposition.

Findings and Recommendations

We find that the public hearings that the Department held on the five schools met the requirements of the charter school statute and regulations. Because of

the importance of the public process, however, we recommend that in the future the Department should ensure that at least one hearing on each charter school final application is held in or within a convenient distance of the community or communities in which the charter school will be located.

Further findings and recommendations about the Board's involvement with public hearings and public comments are included in Section D, below.

D. The Roles of the Department and the Board in the Charter Approval Process

A number of comments suggested that a pro-charter bias in the Department and the Board results in superficial scrutiny and a push to award as many charters as possible. In fact, that assertion is not supported by the data. In 2002-03, 37 letters of intent and 25 prospectuses were filed with the Department, and the Board ultimately granted only five charters. In 2003-04, 20 letters of intent and 14 prospectuses were filed, and only four charters were granted. Indeed, eleven years after the enactment of the charter school law, only 51 of the 72 authorized Commonwealth charters have been issued. The record shows that the standards are high and the approval process is rigorous.

With respect to the Department, it is certainly correct to observe that the Charter School Office acts to assist charter schools and to encourage their establishment and successful operation, at the same time that it plays a regulatory and monitoring role in reviewing applications for initial charters and renewal of charters. Such a dual role combining technical assistance and accountability is fairly common throughout government, but requires ongoing vigilance to ensure that the roles do not overlap in particular situations. (See Section A above, concerning application amendments.)

Some respondents questioned whether Department staff members and external reviewers who have experience in charter schools should be involved in the review of applications. We disagree with the suggestion that charter school experience may lead a reviewer to be less than rigorous in the review process, and in fact the statistics above indicate that not many proposals survive the process. A reviewer with experience in a charter school or any other public school is likely to scrutinize a proposal very carefully, precisely because s/he is familiar with the operational as well as theoretical aspects of schooling.

With respect to the Board, questions have been raised about whether certain Board members may have a conflict of interest in participating in charter school matters. Upon their appointment and periodically thereafter, all Board members are advised about the requirements and ethical standards of the Massachusetts conflict of interest law. Individual Board members whose outside activities or employment may raise questions under the law have requested and received legal opinions from the State Ethics Commission and have acted in accordance with the advice the Ethics Commission has provided. We expect that all Board members will continue to be attentive to their responsibilities under the conflict of interest law.

The Board's role is to decide on the granting of charters under the standards set forth in the statute and regulations, based on its review of the materials and recommendations presented by the Commissioner and other relevant information, including the public comments. The Board relies on the Department staff as professional educators and the Commissioner as chief executive officer and chief state school officer to do a thorough review of each application and to make a recommendation based on whether the application meets the standards. The Board makes its decision in an open meeting, providing the public with the opportunity to be heard before the decision as well as the opportunity to observe the Board's deliberations and hear its reasoning.

It is difficult for Board members to manage the large volume of information inherent in the charter awarding process. The regulations require that at least one Board member attend each public hearing. The Department staff provides the Board with a competent yet necessarily brief summary of the application, the review, and the public comments. The full record is available to all Board members who wish to read it, but the volume of documents and the press of other business can make that option impractical.

Findings and Recommendations

We find that in reviewing and acting on the applications for the five schools, the Department and the Board acted in accordance with the requirements of the statute and regulations. G.L. c. 71, § 89 (g) states that, "Before final approval to establish a commonwealth charter school, the board of education shall hold a public hearing on said applications, and solicit and review comments on the application from the local school committee for the school district in which said charter school is to be located." In the case of the five schools, the Board did hold public hearings and did solicit and review comments on the applications submitted by local school officials. The Department provided a summary of the comments to all Board members and made available the full comments to members upon request, satisfying the purpose of this section of the statute.

Because of the importance of the public process, we recommend that the Department and Board strengthen their procedures as follows.

First, the Department should provide to each member of the Board a copy of all of the written comments (or at least the letters from local school officials) submitted to the Department on each final application, as well as a summary of the comments. The Department could encourage respondents to submit their own executive summary with their letter of comment if they wish to do so.

Second, the Department should continue to provide the materials relating to the proposed charter applications to the Board and to the public (particularly local school officials) as far in advance as possible of the dates on which hearings will be held, public comments are due, or charter decisions will be made. Timely release of all relevant information enhances the quality of decision-making. The Department is, of course, constrained by the need to conduct a thorough review process, including holding public hearings and soliciting and reviewing comments from local school officials, within a very short timeframe set by the statute. (13) For the Department to do its due diligence and have all the materials ready for the Board and the public weeks ahead of the Board's vote is a difficult task. The Department has managed it well, and should consider whether any additional steps can be taken that would expedite the preparation and posting of the materials without compromising the quality of the review process.

Third, the Board should consider establishing a committee of its members to attend the public hearings on charter schools, review in detail the comments received from local school officials and other members of the public on final applications, and report to the Board before it votes on granting new charters. The Board as a whole would still receive, review and discuss all of the materials. Both the Board and the public would have the benefit of knowing that the committee members have firsthand knowledge of the public hearings and have examined the public comments carefully. This step would help the Board to manage its responsibilities.

E. Other Issues Relating to the Applications

The respondents raised a few additional concerns relating to substantive provisions of some of the charter applications. Generally these are beyond the scope of this study; it is not our charge to re-evaluate the merits of each

application, and in any event the review process was thorough and consistent with the law. Two points, however, are worthy of note.

First, concerns were raised about the extent to which some applicant groups understand and are prepared to carry out the charter school's obligations to educate students with disabilities and students who are English language learners. This issue requires continuing attention, both in the application process in the future and through reporting and accountability for each charter school that is established. Charter schools must be open to all students on a space available basis, and may not discriminate on any of the bases set forth in G.L. c. 71, § 89 (l), including race, national origin, sex, ethnicity, sexual orientation, disability, proficiency in English or a foreign language, or academic achievement.

Some respondents suggest that a charter school should be required to accept and maintain a student body that reflects the demographics of the district in which it is located. This would be contrary to the open admissions and non-discrimination requirements of the statute. Moreover, since charter schools are schools of choice, students are not compelled to apply for admission or to enroll or remain once they have been admitted. The important questions for the school and the Department to address are whether the school actively recruits students from all parts of the community, including students with disabilities and English language learners, and whether the school understands and complies with its legal obligations to provide programs and services for those students.

A second concern relates to the AMSA application, although it may be relevant to other new and existing charter schools as well. Specifically, the concern is that AMSA, a school that proposes eventually to serve students in grades 6-12, states in its application that it does not plan to accept students who apply for admission after grade 7. The applicant group's rationale is that the multi-year structure of courses at the school will make it "virtually impossible" for students enrolled in grades 8 and higher in district schools to catch up with their peers at AMSA. The final application projects attrition in the student body at the rate of about 15%. Since the school will not replace students who leave in the upper grades, the application forecasts that in year 6 of the school's operation, 138 students would be enrolled in grade 6 and 61 students would be enrolled in grade 12.

We believe the concern about this enrollment policy - and similar enrollment policies that may exist in other charter schools - is justified. While it is permissible under the charter school statute for a charter school to "limit enrollment to specific grade levels" (G.L. c. 71, § 89 (l)), regular public schools in the community or communities served by a charter school cannot legally deny admission to students who transfer in after the typical entry year (for example, after grade 9 for a high school). A charter school's restriction on enrolling new students in upper grades, while permissible under the charter school statute, is likely to cause skepticism about the school's claims of academic success and the replicability of its educational model.

Findings and Recommendations

We find that the charter school applications met the requirements of the law with respect to the issues identified in this section. We recommend, however, that the Department continue its careful attention to each school's recruiting practices and each school's compliance with its legal obligations to serve students with disabilities and English language learners.

We further recommend that the Department strengthen its reporting on student attrition and enrollment policies in charter schools. In its reports to the Board and the public, the Department currently includes data on the charter school's student demographics in comparison to the local school district and the state.

We recommend that the Department expand these reports by adding data on the number of students enrolled in each grade that the charter school serves, as well as stating the grades at which the school enrolls (or does not enroll) new students. This information would strengthen the accountability system for charter schools and would assist the Board and the public in understanding the factors that may contribute to a charter school's success or lack of success.

VI. Conclusion and Summary of Recommendations

Based on our review, we conclude that the decision of the Board of Education to grant a charter to each of the five schools was consistent with the charter school statute and regulations, in that (a) each school met the requirements of the statute, the regulations and the application process; (b) the Department of Education met its own procedural requirements in conducting the application review; and (c) the Board's decision in each case was supported by the record and was consistent with the approval standards.

In the discussion above, we have noted a number of areas where the current process for awarding charters could be improved. While questions have been raised about various aspects of the application review and approval process, they do not provide a basis for overturning or rescinding the Board's action in granting the five charters. The Board acted within its statutory authority and discretion, and its action is supported by the record. In these circumstances, the governmental action enjoys a presumption of validity, and there are no grounds on which to overturn the settled and reasoned decisions of the Board.

In light of the concerns that have been raised about the process, however, we make the following recommendations to the Department and the Board:

As to the five schools:

1. The Department should monitor the progress of each of the five charter schools and present a status report to the Board and the public no later than March 2005. For the three schools that opened this fall (BARt, KIPP and Salem), the Department should monitor their progress as it does with all new charter schools in their first year of operation. For the two schools that are scheduled to open in 2005 (AMSA and CCSC), the Department should focus particularly on the concerns that the Department identified during the 2004 application review process, which led the Commissioner to recommend and the Board to decide that those schools would benefit from an additional planning year before they open.

In general:

2. The Department should revise the interview process for final applicants. First, the Department should make clear that the interview is not the time for the applicant to make substantive amendments to the final application. If a final application is fundamentally flawed, the Department should (as it typically does) provide feedback to the applicant group and invite them to submit a stronger application in the future. Once a final application has been filed, only minor, non-substantive amendments should be allowed. In addition, the Department should maintain a written record of interviews that it conducts with final charter applicants, and include that record with the final application materials that are provided to the Board, local school officials and the public in a timely manner.
3. With respect to the requirement in G.L. c. 71, § 89(i) that at least three new charter schools must be located in districts whose students' MCAS performance is at or below the statewide average, the Department - through a unit separate from the Charter School Office - should conduct the analysis of district performance in relation to proposed charter school locations as early in the application review process as possible. The Department should include this information in the record that goes to the Board and the public.

4. The Department and the Board should consider adopting a policy that would give priority for new charters to schools that will serve students in districts that are low performing, either on an absolute basis or relative to similar districts.
5. The Department should, as early as possible in the application process, provide information to applicant groups, local school officials, the Board and the public about the net school spending caps in the affected communities in relation to existing and proposed charter schools in those communities, per G.L. c. 71, § 89 (i).
6. With respect to the requirement in the application that an applicant demonstrate "tangible ties to the community," the Department and the Board should consider adopting a benchmark that a certain percentage of a charter school's trustees shall be residents of the community or communities that the charter school will serve.
7. The Department should ensure that at least one public hearing on each charter school final application is held in or within a convenient distance of the community or communities in which the charter school will be located.
8. The Department should provide to each member of the Board a copy of all of the written comments (or at least the letters from local school officials) submitted to the Department on each final application, as well as a summary of the comments. The Department could encourage respondents to submit their own executive summary with their letter of comment, if they wish to do so.
9. The Department should continue to provide the materials relating to the proposed charter applications to the Board and to the public (particularly local school officials) as far in advance as possible of the dates on which hearings will be held, public comments are due, or charter decisions will be made. The Department should consider whether any additional steps can be taken that would expedite the preparation and posting of the materials without compromising the quality of the review process.
10. The Board should consider establishing a committee of its members to attend the public hearings on charter schools, review in detail the comments received from local school officials and other members of the public on final applications, and report to the Board before it votes on granting new charters. The Board as a whole would still receive, review and discuss all of the materials.
11. The Department should continue its careful attention to each school's recruiting practices and each school's compliance with its legal obligations to serve students with disabilities and English language learners.
12. The Department should strengthen its reporting on student attrition and enrollment policies in charter schools. The Department should expand its reports on charter schools by adding data on the number of students enrolled in each grade that the charter school serves, as well as stating the grades at which the school enrolls (or does not enroll) new students.

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Appendices

- A. Charter School Statute: Massachusetts General Laws c. 71, § 89 - Excerpts: [[WORD](#) | [PDF](#)]
- B. Charter School Regulations (603 CMR 1.00) - Excerpts: [[WORD](#) | [PDF](#)]
- C. Summary of Charter Process for AMSA: [[WORD](#) | [PDF](#)]
- D. Summary of Charter Process for BArT: [[WORD](#) | [PDF](#)]
- E. Summary of Charter Process for CCSC: [[WORD](#) | [PDF](#)]
- F. Summary of Charter Process for KIPP: [[WORD](#) | [PDF](#)]
- G. Summary of Charter Process for Salem: [[WORD](#) | [PDF](#)]



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- › American History Teacher of the Year
- › Christa McAuliffe Fellowship
- › Fulbright Memorial Fund
- › George Washington Scholars
- › Master Teacher Program
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- › National Teachers Hall of Fame
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Educator Recognition Programs

2005 Presidential Awards for Mathematics and Science Teaching

To: Superintendents, Principals, Teachers, and Other Interested Parties

From: David P. Driscoll, Commissioner of Education



Date: October 2004

I am pleased to announce that nominations are open for the Presidential Awards for Mathematics and Science Teaching (PAMST). The PAMST Program was established in 1983 by the White House and is sponsored by the National Science Foundation (NSF). The program identifies outstanding mathematics and science teachers, kindergarten through 12th grade, in each state and the four U.S. jurisdictions. These teachers will serve as models for their colleagues and will be leaders in the improvement of science and mathematics education.

The 2003 competition began alternating between teachers of grades K-6 and teachers of grades 7-12. Teachers of grades 7-12 mathematics and science are currently eligible for nomination for the 2005 Presidential Awards. Teachers of grades K-6 will be eligible for the 2006 Presidential Awards.

In order to apply for the 2005 PAMST, a teacher must be nominated. Anyone (e.g. principals, teachers, students, and other members of the general public) may nominate a teacher. Self-nominations will not be accepted.

Each Presidential Awardee will receive a \$10,000 award from the National Science Foundation and gifts from donors. Each Awardee will also be invited to attend, along with a guest, recognition events in Washington, D.C., in March 2006.

I have attached a **nomination form**   that I hope you will copy and widely distribute. **The deadline for nominations is Monday, April 4, 2005.** For further information, contact Deborah Walker at djwalker@doe.mass.edu or call (781) 338-3347. Nominations should be submitted to Deborah Walker at the Massachusetts Department of Education.

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2005 Massachusetts Nomination Form

I nominate the following teacher for the 2005 Presidential Award:

Teacher's Name			<input type="checkbox"/> Grades 7-12 Mathematics <input type="checkbox"/> Grades 7-12 Science
School Name			Content Area (Algebra, Physics, etc)
School Address			Telephone Number
City	State	Zip	E-Mail Address

I can be contacted at:

Name			
Mailing Address			Telephone Number
City	State	Zip	E-Mail Address

How did you come to know the nominee's work? Attach additional page if needed.

How did you hear about the Presidential Awards?

Eligibility

<input type="checkbox"/> Magazine Ad <input type="checkbox"/> Newsletter or List-serv announcement <input type="checkbox"/> Web site <input type="checkbox"/> Brochure <input type="checkbox"/> Previously won the Presidential Award/was a State Finalist <input type="checkbox"/> Know a previous Presidential Awardee/State Finalist <input type="checkbox"/> Media coverage of Awardee/State Finalists <input type="checkbox"/> Other _____	<ul style="list-style-type: none"> Nominees must be assigned to grades 7-12 mathematics and/or science classrooms in a public or private school in Massachusetts; They must have at least five years teaching experience in grades 7-12 in mathematics and/or science prior to application; They must be assigned, at least half time during the school year, to classroom teaching of grades 7-12 mathematics or science, or to grades 7-8 self-contained classrooms; and They must be full-time employees of their school district. Awardees from previous years are NOT eligible.
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Please submit this nomination to **Deborah Walker**
 Massachusetts Department of Education
 350 Main Street
 Malden, MA 02148