**603 CMR 4.03(6)(a) Public Comments Summary for Vocational Education Admissions – June 2021**

The Department received a total of 33 comments, including group comments from:

The Education Working Group of the Progressive Democrats of Massachusetts, Brockton Interfaith Community and Restoration Church Action Ministry, Massachusetts Advocates for Children, American Federation of Teachers Massachusetts, Massachusetts Business Alliance for Education, Gateway Cities Legislative Caucus, Black Educators’ Alliance of Massachusetts, Inc., Revere Youth in Action, Massachusetts Teachers Association and members of its Career Technical Education Committee, Massachusetts Municipal Association, Massachusetts Association of Vocational Administrators, Vocational Education Justice Coalition, Lawyers for Civil Rights Boston, Whittier Regional Education Association, Inquilinos Boricuas en Acción, North Atlantic States Carpenters Training Fund, United Interfaith Action of Southeastern MA, Inc., Pioneer Valley Project, La Colaborativa, Citizens for Public Schools, and Massachusetts Communities Action Network.

**Proposed Amendment in whole, highlighting changes based on public comment:**

(6) Admission of Students

(a) Vocational technical schools and vocational programs at comprehensive high schools shall develop and implement an admission policy that is consistent with federal and state law and any relevant guidelines issued by the Department or the U.S. Department of Education. Vocational schools and programs shall condition admission on a student having been promoted to the grade that they have been admitted to enter. Vocational schools and programs whose admission policies include selective criteria may apply the criteria only when there are more applicants than available seats. Such criteria may not consider a student’s record of excused absences from school, or minor behavior or disciplinary infractions. For purposes of 603 CMR 4.03(6)(a), a “minor behavior or disciplinary infraction” means any student conduct other than conduct for which suspension or expulsion was imposed pursuant to M.G.L. c.71 §37H or §37H1/2, or for which suspension or expulsion for more than 10 days was imposed pursuant to M.G.L. c.71 §37H3/4. Resident students who meet the minimum requirements for admission shall be admitted prior to acceptance of any non-resident students seeking the same program.

Beginning with the 2021-22 school year, each school and program shall ~~annually~~ submit its admissions policy to the Department by ~~August 15~~October 1, and shall annually publish it in its Program of Studies, post a copy on the school website, and provide a copy to each student applicant and their parent/guardian. Vocational schools and programs shall ensure that all admissions materials are in both English and the primary language of the home, if such primary language is other than English.

Each policy shall include the following:

1. The process for application and admission to the school, as well as admission to particular programs within the school, including any criteria, lotteries, or other processes to be used in selecting students;

2. A plan that includes deliberate, specific strategies to promote equal educational opportunities and attract, enroll, and retain a student population that, when compared to students in similar grades in sending districts, has a comparable academic and demographic profile;

3. A description of the exploratory program, if such program is required by 603 CMR 4.03(4)(e); and

4. A process for prospective students and parents/guardians to appeal to the superintendent or their designee the decision to deny the prospective student admission to the school or program. The superintendent or their designee shall maintain documentation as to the specific admission requirements that were used to deny admission, and shall provide such documentation to the Department or to the prospective student's parent/guardian upon request.

Vocational schools and programs that use selective criteria shall not use criteria that have the effect of disproportionately excluding persons of a particular race, color, national origin, sex, gender identity, sexual orientation, religion, or disability unless they demonstrate that (1) such criteria have been validated as essential to participation in vocational programs; and (2) alternative equally valid criteria that do not have such a disproportionate adverse effect are unavailable. Selective criteria shall be approved annually by the school’s board of trustees or school committee. The superintendent of the vocational school or program shall submit an annual attestation to the Department that the admissions policy of the school or program complies with federal and state law and any relevant guidelines issued by the Department or the U.S. Department of Education.

Vocational technical schools and programs shall maintain a record of all students who apply for admission, enroll in the school, or are placed on a waitlist, and their score on admission criteria, if used, to facilitate an analysis and evaluation of the admissions system and its compliance with 603 CMR 4.03(6). The school or program shall provide such information to the Department upon request.

The Department ~~may intervene in~~ will take actions it deems necessary to address cases where the admissions policies and practices of vocational technical schools and programs do not comply with applicable state and federal laws and regulations, and order compliance actions, including revisions to, or replacement of, existing admission policies. Such intervention may include a requirement that such vocational technical schools and programs institute an admissions lottery.

Sending districts shall offer vocational schools and programs opportunities to provide middle school students with information about vocational programs and careers on-site at their middle schools, as well as through mail and email. Sending districts may not count middle school student tours of vocational schools or programs during the school day as unexcused absences if the vocational school or program confirms the student’s participation, and may not unreasonably withhold student access to tours of vocational schools and programs during the school day.

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| **Summary of major themes from all public comment sources** |
| **Category of Comment** | **Summary of Themes in Public Comment Received** | **DESE Response** |

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| **Institute a statewide lottery for all CVTE program admissions, and prohibit ranking students for admission.** | * Several commenters applauded the use of the two-part test for criteria that have disparate impacts on protected classes of students, but expressed concern that CVTE schools/programs will have too much latitude under the proposed regulation to determine their admissions policies, and stated that a lottery system is the only fair option.
* For example, Vanessa Calderón-Rosado, CEO of Inquilinos Boricuas en Acción, acknowledged that “[t]he most important step forward in the Commissioner’s recommendations” is that CVTE schools/programs “shall not use criteria that have the effect of disproportionately excluding persons in protected classes, unless they can demonstrate that (1) the criteria have been validated as essential to participation and (2) alternative, equally valid criteria that do not have such a disproportionate adverse effect are unavailable.” However, Dr. Calderón-Rosado expressed concern that protected classes of students “would continue to be disproportionately excluded…through continued inclusion of aspects of ranking students[,]” and proposed using a “lottery or similar method” instead.
* Tara Parrish, Executive Director of the Pioneer Valley Project, suggested that vocational schools should not be permitted “to select their own criteria,” and that the state should impose “clear and strong regulations” that apply to all CVTE schools/programs.
* Susan Krieger, a Newton resident, commented that “[t]he single criterion for admission to voc-ed schools should be promotion to 9th grade, with a lottery held for all students that apply.”
* Sandy Wright, Co-Director of Revere Youth in Action, shared her concerns regarding students who “no longer even consider vocational education as an option,” and urged “anti-racist vocational education” to benefit all students.
* Peter Enrich, Emeritus Professor at Northeastern University School of Law, is concerned there is a lack of assurance that submitted admissions policies will comply with the requirements of civil rights laws.
 | DESE appreciates commenters’ concerns regarding compliance with the two-part standard for selective admissions criteria that is set forth in federal civil rights guidelines. To address this concern, DESE will include an attestation for CVTE schools/programs to submit annually that would require them to attest that they have reviewed any criteria that they intend to use pursuant to state and federal laws, and that they are in compliance. In this way, DESE can continue its results-focused approach and hold schools/programs accountable if data review finds a disparate impact on protected classes of students. This approach is similar to attestations that DESE already requires in other circumstances. And finally, if any individual students are denied entry to a CVTE school/program, DESE’s proposal gives such students a right of appeal. DESE acknowledges and appreciates the comments concerning the utility of a lottery for CVTE admissions. Under DESE’s proposed regulation, CVTE schools/programs remain permitted to institute lotteries for admission. DESE continues to believe that mandating an admissions lottery for every vocational school and program is not in students’ best interests. With its proposed regulation, DESE is taking a comprehensive approach to CVTE admissions that is data-driven and results-focused. There are many strands to DESE’s analysis of diversity, equity, and inclusion in Massachusetts CVTE, including the availability of seats, program offerings, and regional agreements. Admissions is one such strand. The amendments would replace regulations that impose a strict set of criteria for admissions. By eliminating these constraints and requiring schools to have deliberate, specific strategies to promote equal educational opportunities and meet civil rights guidelines, DESE is also issuing them a challenge. The state is shifting its focus to access and results. DESE will be collecting and publishing CVTE admissions and enrollment data, as well as student outcome data, and they will be publicly available. DESE will highlight schools that are successful in attracting and retaining diverse student populations and will intervene with schools that are not meeting their obligations – and that intervention may include requiring a vocational school to institute an admissions lottery. A lottery is random, and as a statewide solution, would fail to account for a number of factors that may be important to student admissions. For example, students may demonstrate their career interests in a variety of ways – through their application, recommendations, interviews, etc. A lottery would fail to take this important information into account. Additionally, because a lottery is random, it could result in CVTE student populations that are even less representative of their sending communities.Further, while a lottery could give every applicant an equal chance of receiving an offer of admission, it would not address which students apply to a vocational school. DESE’s proposed regulation takes a more comprehensive approach to diversity, equity and inclusion, beginning with middle school outreach and reaching all the way to student outcome data after high school graduation. DESE has examined CVTE admissions policies in other states, and its proposed regulation would bring Massachusetts in line with what other states are doing – namely, permitting CVTE schools/programs to set their own admissions policies, provided that they comply with applicable federal and state law. DESE’s proposed regulation contains appropriate safeguards and accountability measures, including robust data reporting requirements. DESE will collect, analyze, and report on the data over the coming years and based on the results, will determine if any further changes are needed.  |
| **Do not institute a statewide lottery for CVTE admissions.** | * Amanda Crosby, writing for the Whittier Regional Education Association, agreed with giving schools the ability to set data-informed admissions policies, and cautioned against a statewide lottery, because “[n]o two communities or districts are the same and this flexibility will allow districts to meet the needs of their specific communities.”
 | No change. |
| **Define “minor” disciplinary infractions.** | * DESE’s proposed regulation prohibits CVTE schools and programs from considering “minor” disciplinary infractions as a basis for admission. Some commenters have asked that DESE define “minor” within the regulation itself.
* Margaret Coppe, former teacher and school committee member, and member of the Progressive Democrats of Massachusetts Education Subcommittee, commented that the proposed language on discipline as a criterion is “vague.”
* Lauren Sampson and Woo Jin No, writing for Lawyers for Civil Rights Boston, likewise noted that the proposed regulation does not define “minor,” and districts may define “minor” disciplinary infractions differently.
 | DESE acknowledges that including a definition of “minor” in the regulation itself, rather than in guidance as planned, would be helpful to families, schools, and other interested parties. Accordingly, DESE has revised the proposed regulation to include the phrase: For purposes of 603 CMR 4.03(6)(a), a “minor behavior or disciplinary infraction” means any student conduct other than conduct for which suspension or expulsion was imposed pursuant to M.G.L. c.71 §37H or §37H1/2, or for which suspension or expulsion for more than 10 days was imposed pursuant to M.G.L. c.71 §37H3/4. |
| **Include “low-income household” in the categories of students that may experience disparate impact of access to CVTE.** | * Edward Lambert, Jr., Executive Director of the Massachusetts Business Alliance for Education, suggested that students from low-income households be included among legally-protected categories when it comes to analyzing for potential disparate impact of access to CVTE.
 | No change.Although economic disadvantage is not a protected class under state or federal law in the ways that race, sex, disability, and other classes of students are, DESE will continue to collect, report, and monitor data regarding economic disadvantage in CVTE schools/programs.  |
| **Prohibit all CVTE schools and programs from using specific criteria.** | * Some commenters identified specific criteria that they believe should be prohibited by regulation.
* For example, Lisa Guisbond and Dan French, Executive Director and President of Citizens for Public Schools, state that neither discipline nor attendance should be used in admissions because they are “racially biased criteria that negatively impact all protected classes.”
* Peter Piazza, a Somerville resident, agreed that neither discipline nor attendance should be used.
* The Vocational Education Justice Coalition suggested prohibiting consideration of discipline, attendance, and grades.
 | No change.The federal civil rights guidelines permit the use of selective admissions criteria within limits, and DESE’s proposed regulation includes these limits. Specifically, if any criteria have the effect of disproportionately excluding students in protected classes, the school or program must validate the criteria as essential to participation, and must determine that no non-discriminatory equally valid criteria are available.  |
| **Apply proposed regulatory changes only to schools whose demographic disparities are significant.** | * Greater Lawrence Technical School teacher Peter Leonard suggested that “only…those districts that have significant demographic disparities from their sending communities” be subject to the proposed admission regulation, to “reduce the compliance burden to those schools that do not have a problem and allow more efficient oversight by the state.”
 | No change. While DESE will apply the proposed regulation to all CVTE schools/programs, its compliance activity and intervention will be driven by the data.  |
| **Neutral, third party stakeholders should review all of the proposed admissions policies.** | * The Gateway Cities Legislative Caucus recommended that admissions policies be sent to “impartial stakeholders from outside the district and at the Department for Elementary and Secondary Education (DESE) for a neutral assessment.”
 | No change. DESE’s proposed regulation requires that school committees vote on admissions criteria annually. DESE would encourage each school committee to engage stakeholders in reviewing and commenting on its proposed vocational admissions policy. |
| **Extend all proposed regulatory deadlines.** | * The Massachusetts Association of Vocational Administrators (MAVA) suggested that the deadline to submit admission policies to DESE be extended by a full year, from August 15, 2021 to August 15, 2022.
* MAVA further suggested that admission policies be voted on by school committees and submitted to DESE every three years, rather than annually.
* MAVA also suggested that the annual deadline for CVTE schools/programs to submit their admission policies to DESE be extended from August to November.
 | DESE has kept CVTE schools/programs informed of its consideration of these regulatory changes for approximately three years. Delaying for an additional year could have negative effects on another year of incoming ninth graders. In the interest of streamlining administrative activities, DESE has revised the proposed regulation in the following way: * DESE has moved the initial submission deadline from August 15 to October 1, 2021, to allow ample time for planning and stakeholder engagement, provided that this date is before the school begins the admission cycle for the incoming class of SY2022-2023. A school/program may request an extension from DESE, provided that the proposed extension date is before the school begins the admission cycle for the incoming class of SY2022-2023.

In future years, school committees must still vote annually to approve CVTE school/program admission policies, and CVTE schools/programs must submit their attestations to DESE annually. However, a CVTE school/program will need to submit its admissions policy to DESE in future years only if it has been revised, or upon request from DESE.  |
| **Shorten regulatory deadlines.** | * Lisa Guisbond and Dan French, Executive Director and President of Citizens for Public Schools, suggested that CVTE schools/programs should be required to submit their admissions policies to DESE by March 31, rather than August 15.
 | No change.Requiring CVTE schools/programs to submit policies to DESE nearly 5 months earlier than the proposed deadline would be a significant burden on schools, particularly to the extent that it overlaps with the busy season of admitting their newest classes of students.  |
| **Clarify that students seeking admission must have earned the opportunity to be admitted.** | * MAVA suggested adding language to the admissions regulation clarifying that schools will be selecting students that have “have earned the opportunity or demonstrated their ability to benefit from a vocational technical education.”
* Similarly, Roger Bourgeois (retired Superintendent-Director of Essex Tech and Greater Lowell) suggested that the regulations include language about students’ “ability to benefit” from CVTE, indicating that some students may struggle to earn both their industry credentials and their high school diploma.
 | No change.While seats in CVTE schools/programs may be limited, including the proposed language in DESE’s regulations may discourage students from applying, under the belief that they have not “earned” it. Furthermore, it is both speculative and potentially harmful to pre-determine which students will be able to manage their technical courses and academic work.  |
| **For purposes of data collection and analysis, DESE should compare admitted students to different pools.** | * MAVA recommended that DESE not compare admitted students to the pool of students in sending districts’ public schools, because it may not account for privately-educated students, or for regional agreements.
* By contrast, Lisa Guisbond and Dan French, Executive Director and President of Citizens for Public Schools, and the Vocational Education Justice Coalition suggest that the focus should not be on the pool of students in sending districts, but rather on students in protected classes who do not gain admission.
* Lauren Sampson and Woo Jin No, writing for Lawyers for Civil Rights Boston, requested that DESE include “additional explanations or examples as to the appropriate comparator.”
 | No change.DESE acknowledges that sending districts may have privately-educated students who subsequently gain admission to, and attend, CVTE schools/programs. DESE will account for these instances where relevant to DESE’s intervention in CVTE admissions. Although DESE’s data analysis will focus on comparing admitted students to the pool of students in sending districts, DESE will be collecting and reviewing data concerning students who apply to a CVTE school/program and do not gain admission. DESE will assess discrepancies in these data sets and will work with such CVTE schools/programs on how best to address this issue. DESE will assist CVTE schools/programs with data comparisons, and will include additional explanatory information in published guidance.  |
| **Additional language is needed to increase middle school student access to information about CVTE schools/programs.** | * MAVA and Mr. Bourgeois suggested adding language clarifying that sending districts shall offer CVTE schools/programs opportunities to provide “all” middle school students with “tours and access to the vocational technical and agricultural school districts,” and that parent/guardian/student email addresses be “unblocked.”
 | DESE has revised the proposed regulation to promote access of middle school students and their families to information about CVTE opportunities, including a prohibition against unreasonably denying middle school students access to tours of CVTE schools/programs. DESE does not control email usage by students or their parents/guardians. Commenters who are concerned that middle schools are unreasonably blocking CVTE schools/programs from providing information to students should send the details to DESE so that DESE can address this.  |
| **DESE should review all CVTE schools’/ programs’ admission policies before they may be permitted for use.** | * Several commenters suggested that DESE review all CVTE admission policies up front, rather than shifting focus to monitoring schools’ compliance.
* For example, Vanessa Calderón-Rosado, CEO of Inquilinos Boricuas en Acción, commented that DESE should review all vocational admissions policies, using a rigorous review procedure, by October 2021, and require schools to reform policies as needed before they begin admitting students this fall, for the upcoming SY 2022-2023.
* Likewise the Vocational Education Justice Coalition suggested that DESE “shall review and respond to all proposed admission policies no later than October 15 of the year in which the policies are to be utilized.”
* Gladys Vega, Executive Director of La Colaborativa, requested that the Board explain in a detailed plan how admissions policies will be reviewed and civil rights standards enforced.
 | No changes.For the past two decades, DESE has approved CVTE admissions policies before they were put into action in schools. To gain approval, those policies had to comply with state-prescribed admissions models, namely: lottery, first-come first-served, or use of selective criteria. Nearly every school employed selective criteria, which DESE’s regulations explicitly limited to academics, discipline, attendance, and counselor recommendation, with an optional student interview. It became clear over time that a data-driven, results-oriented focus would promote better results for students. Consequently, DESE is shifting its practice to focus on results, consistent with federal guidelines and the practices used in other states. DESE will collect robust data from CVTE schools, monitor student progress and outcomes, and intervene where necessary to bring schools into compliance. DESE intends to hold CVTE schools/programs to high standards, both with respect to the quality of the education they provide, as well as to their diversity, equity, and inclusion practices. It is for this reason that the regulation, among other things, requires these schools to create “[a] plan that includes deliberate, specific strategies to promote equal educational opportunities and attract, enroll, and retain a student population that, when compared to students in similar grades in sending districts, has a comparable academic and demographic profile.” |
| **Require sending districts to provide CVTE schools/programs with home language preferences for applicants and their families.**  | * MAVA suggested that sending districts be required to provide CVTE schools/programs with home language preferences for applicants and their families.
 | No change. DESE will address the topic of home language preferences in guidance.  |
| **Require CVTE schools/programs to solicit potential alternative admissions criteria from outside entities.** | * The Vocational Education Justice Coalition suggested including language in the regulation that requires CVTE schools/programs to “widely solicit…potential alternative criteria from school staff, students, parents, and advocates and organizations that represent students, including, in the case of regional schools, those within sending schools and districts.”
 | No change. DESE will encourage CVTE schools/programs to collaborate with stakeholders, including sending districts, as they review and revise their admissions policies. |
| **Add a requirement that students who do not meet minimum criteria have an opportunity to explain why they should still be considered.**  | * The Vocational Education Justice Coalition suggested adding language to the regulation that requires CVTE schools/programs to provide students who fail to meet validated admissions criteria with a full opportunity (written submission, interview, written/oral communication from others) to explain why they should nonetheless be considered for admission, and require schools to consider this information.
 | No change.The proposed regulation includes an appeal process through which students denied admission may appeal to the superintendent (or their designee) of the CVTE school/program. The school/program must provide documentation to DESE and to the prospective students’ parent/guardian upon request.  |

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| **Additional public comments not related to regulatory language** |
| **Category of Comment** | **Summary of Themes in Public Comment Received** | **DESE Response** |

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| **Concern with the quality of education at Madison Park** | * Judith Kauffman Baker, a former Madison Park teacher, commented on the “severely insufficient quality instructional space” at the school, and the need for “distinctive leadership…outreach to the community, [and] strong career path emphasis starting as early as grade 5.”
 | DESE appreciates Ms. Kauffman Baker’s comments, and thanks her for her input regarding Madison Park.  |
| **Capacity for vocational education** | * Margaret Coppe, former teacher and school committee member, and member of Progressive Democrats of Massachusetts Education Subcommittee, stated her concern about the “lack of seats for students wishing to select a vocational technical education,” while acknowledging this “is in the hands of the legislature in its budget process.”
* The MTA Career Technical Education Committee suggested “a requirement that vocational technical high schools receive the necessary funding to hire more staff to support students when a lottery admissions policy is implemented.”
 | DESE will continue to work with CVTE facilities to maximize their use of existing resources, including through more efficient admissions policies and implementation of “second-shift” or “after-dark” CVTE programs, while working with the Administration and the Legislature through the budget process.  |
| **Public posting** | * Ms. Coppe further requested that DESE post all CVTE schools’/programs’ admissions policies, once received.
 | DESE appreciates the utility of collecting CVTE schools’/programs’ admission policies in one location and will examine the feasibility of doing so on DESE’s website.  |
| **Enforcement regarding CVTE schools/programs with known admissions issues** | * The Massachusetts Municipal Association commented that DESE should not wait for years of new data concerning admissions for schools with known admissions issues.
 | DESE appreciates the need for timely and targeted intervention where needed in CVTE schools/programs. |
| **Additional resources for middle school students** | * The MTA Career Technical Education Committee suggested that middle school students receive more education in technology and engineering, STEM education in summer programs, career exploration programs, and after school programs.
 | DESE supports the ideas to introduce middle school students to STEM earlier in their education, as well as extra-curricular STEM programs. |