*****Massachusetts Department of***

***Elementary and Secondary Education***

### 75 Pleasant Street, Malden, Massachusetts 02148-4906 Telephone: (781) 338-3000 TTY: N.E.T. Relay 1-800-439-2370

|  |  |
| --- | --- |
| Jeffrey C. Riley*Commissioner* |  |

# MEMORANDUM

|  |  |
| --- | --- |
| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:**  | Jeffrey C. Riley, Commissioner |
| **Date:**  | October 7, 2021 |
| **Subject:** | Charter Schools: Request by Mystic Valley Regional Charter School for Waiver Pursuant to 603 CMR 1.03 |

Mystic Valley Regional Charter School (MVRCS) requests a waiver of 603 CMR 1.11(2), the regulation requiring that “[a]ll charter schools will be evaluated on the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's charter and accountability plan.” The Board of Elementary and Secondary Education (Board) may grant a waiver of a regulation under exceptional circumstances. *See* 603 CMR 1.03(2).[[1]](#footnote-2) In this case, I recommend that the Board deny the requested waiver because a waiver is unnecessary, and because a waiver would require evaluation of this school on a basis different from every other charter school in Massachusetts.

**Waiver Request**

|  |
| --- |
| Mystic Valley Regional Charter School |
| **Type of Charter** | Commonwealth | **Location** | Malden |
| **Regional or Non-Regional** | Regional | **Districts in Region** | Everett, Malden, Medford, Melrose, Stoneham, Wakefield |
| **Year Opened** | 1998 | **Year(s) Renewed** | 2003, 2008, 2013, 2018 |
| **Maximum Enrollment** | 1,900 | **Current Enrollment** | 1,629[[2]](#footnote-3) |
| **Chartered Grade Span** | K-12 | **Current Grade Span** | K-12 |
| **Students on Waitlist** | 1,443[[3]](#footnote-4) | **Current Age of School** | 24 |
| **Mission Statement:** The Mission of the Mystic Valley Regional Charter School is to provide the opportunity of a world class education characterized by a well-mannered, disciplined and structured academic climate. Central to Mystic Valley's academic environment is the incorporation of selected core virtues and the fundamental ideals of our American Culture, which are embodied in the Declaration of Independence and the United States Constitution. |

In support of its request for a waiver of 603 CMR 1.11(2),[[4]](#footnote-5) MVRCS asserts that the [Charter School Performance Criteria](https://www.doe.mass.edu/charter/acct.html?section=criteria) (Criteria) of Department of Elementary and Secondary Education (Department) conflict with the school’s mission and approved accountability plan. The school’s request is attached.[[5]](#footnote-6) The school’s mission, quoted in full above, incorporates “selected core virtues and the fundamental ideals of our American Culture, which are embodied in the Declaration of Independence and the United States Constitution.” The school’s accountability plan, specifically the third objective states as follows.

**Objective:** The students at Mystic Valley will thoroughly understand the Declaration of Independence and the United States Constitution. As per its Charter and Strategic Plan, the school will maintain a thoroughly American identity. The school will celebrate American Exceptionalism and will embrace the melting pot theory by highlighting our citizens’ and students’ commonality, not their differences, within school programming.

The school asserts that its mission statement and accountability plan conflict with provisions of the [Criteria](https://www.doe.mass.edu/charter/acct.html?section=criteria) relating to cultural responsiveness and cultural proficiency. Therefore, MVRCS requests waiver of the regulation, 603 CMR 1.11(2), that requires evaluation of all charter schools based on “the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's charter and accountability plan.”

**Charter School Performance Criteria**

The Criteria provide additional detail for the three guiding areas of charter school accountability. These three areas are faithfulness to charter, academic program success, and organizational viability. The purposes of the Criteria are:

* to articulate the expectations for all aspects of charter school accountability, from the application process to the renewal process;
* to provide charter schools with clear guidance about how the Board, the Department, and the Commissioner of Elementary and Secondary Education (Commissioner) define charter school success and on what basis charter schools will be evaluated; and
* to clarify the connections between Massachusetts charter school accountability and state and federal accountability standards.

The Criteria were first developed in 2005 and revised in 2010 and in 2018. The revisions are based on best practices from other charter school authorizers with high quality charter schools. The 2018 revision includes clear guidelines for charter schools to narrow persistent achievement, access, and opportunity gaps experienced by historically underserved students. The 2018 revision aligned the Criteria with expectations outlined in the Department’s [District Standards and Indicators](https://www.doe.mass.edu/accountability/district-review/district-standards-indicators.pdf#search=%22district%20standards%20indicators%22) and are consistent with the [Massachusetts Standards and Indicators for Effective Teaching Practice](http://www.doe.mass.edu/lawsregs/603cmr35.html?section=03) and the Massachusetts Curriculum Standards, in particular the [History and Social Science Curriculum Framework](https://www.doe.mass.edu/frameworks/hss/2018-12.pdf). *See also* [“Race, Racism, and Culturally Responsive Teaching in History and Social Science in Massachusetts: Frequently Asked Questions.”](https://www.doe.mass.edu/frameworks/hss/faq.pdf)

There are ten (10) Criteria that define expected performance in the three guiding areas of charter school accountability. The Criteria define cultural responsiveness and cultural proficiency as follows.

**Culturally proficient and culturally responsive**: Culturally proficient policies and practices enable staff members and students to interact effectively in a culturally diverse environment in which students’ backgrounds, identities, strengths, and challenges are respected. Cultural responsiveness is an approach to viewing culture and identity as assets, including students’ race, ethnicity, or linguistic assets, among other characteristics. Culturally responsive policies and practices acknowledge and actively draw upon diverse backgrounds, identities, strengths, and challenges of administrators, students, staff, and community as a way to deepen connections between the school and its community.

Three of the Criteria relate to cultural responsiveness and cultural proficiency. Criterion 6, addressing program delivery, states that “[t]he school delivers a high quality academic program that meets the needs of all students.” Criterion 7, addressing school climate and family engagement, states as follows.

The school creates safe, positive, healthy, culturally responsive, inclusive, and welcoming learning environments. These environments cultivate supportive, authentic relationships and a strong sense of belonging and connection, which value the diverse assets and voices of all students, staff, and families.

Criterion 8, addressing capacity, states that “[t]he school sustains a well-functioning organizational structure and creates a professional, inclusive, respectful, and welcoming working climate for all staff.”

**No Conflict**

There is no conflict between the Criteria and the school’s mission and accountability plan. In fact, the Criteria state that the “Department must ensure that the Criteria protect the autonomies that allow charter schools to determine the means by which they achieve student outcomes. Nothing in these Criteria shall be interpreted to require a charter school to adopt a particular model, mission, or program.”[[6]](#footnote-7) The school can focus on “selected core virtues and the fundamental ideals of our American Culture, which are embodied in the Declaration of Independence and the United States Constitution” and also be culturally responsive and proficient. The school can “maintain a thoroughly American identity” and view culture and identity as assets, including students’ race, ethnicity, and linguistic characteristics. The school can “celebrate American Exceptionalism and will embrace the melting pot theory by highlighting our citizens’ and students’ commonality, not their differences” while acknowledging and actively drawing upon diverse backgrounds, identities, and strengths. Indeed, during the most recent site visit, stakeholders at the school described some examples of instruction that reflect cultural proficiency.

There is no need for the Board to waive 603 CMR 1.11(2) requiring evaluation of all charter schools based on “the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's charter and accountability plan.” By its very terms, this regulation requires the Department to consider a charter school’s mission and accountability plan when evaluating a school. As noted above, the Criteria do not dictate a particular educational model. The Criteria, and other charter school authorizing practices, were crafted in a way to enable diverse models and different educational philosophies to meet Department expectations for performance.

Moreover, waiving this regulation would require evaluation of this school on a basis different from every other charter school in Massachusetts, a basis that is far from clear. Charter schools are not private schools; they are public entities accountable to the Commonwealth. Charter schools are subject to the authority and oversight of the Board, Commissioner, and Department.

For these reasons, I recommend that the Board deny the request of MVRCS to waive 603 CMR 1.11(2). A motion is attached.

If you have any questions regarding this matter or require additional information, please contact Alison Bagg, Director (781-338-3218); Cliff Chuang, Senior Associate Commissioner (781-338-3222); or me.

Enclosures:

Waiver Request of MVRCS, with Attachments

Motion

1. 603 CMR 1.03(2) provides as follows.

**Waivers:** The Board may waive provisions of 603 CMR 1.00 for good cause. If a charter applicant or charter school board of trustees makes a written request for a waiver, the Board may waive the applicability of one or more provisions of 603 CMR 1.00. These waivers shall be granted only under circumstances the Board deems exceptional and such waivers shall be granted only to the extent allowed by law. All such requests from the charter applicant or a board of trustees must:

(a) be in writing, signed by the waiver applicant;

(b) specify the provisions of 603 CMR 1.00 to be waived, the duration of the waiver, and the circumstances to which the waiver applies and the specific reason why a waiver is sought;

(c) include a certification that the waiver applicant has made a good faith effort to comply with said provisions; and

(d) be accompanied by supporting documentation considered sufficient by the Board to support the special circumstances or the need for relief.

If the granting of a waiver would have an impact on sending districts or the district of the town or city in which the charter school is located, the Commissioner shall provide the superintendent of each district notice and an opportunity to comment. [↑](#footnote-ref-2)
2. This is the number as of October 1, 2020. Source: [Profiles](https://profiles.doe.mass.edu/profiles/student.aspx?orgcode=04700105&orgtypecode=6&) [↑](#footnote-ref-3)
3. This is the number as of June 2021. Source: [Massachusetts Charter School Waitlist Initial Report for 2021-22](https://www.doe.mass.edu/charter/enrollment/fy2022/waitlist.html) [↑](#footnote-ref-4)
4. 603 CMR 1.11(2) provides as follows.

**Renewal Guidelines:** The Department shall issue guidelines describing the evaluation process to be followed in reviewing applications for charter renewal, including protocols for renewal inspections and performance criteria. The decision by the Board to renew a charter shall be based upon the presentation of affirmative evidence regarding the faithfulness of the school to the terms of its charter, including the extent to which the school has followed its recruitment and retention plan and has disseminated best practices in accordance with M.G.L. c. 71, § 89(dd); the success of the school's academic program; and the viability of the school as an organization. The Department will gather evidence regarding these issues from the renewal application and from other information, including but not limited to, a school's annual reports, financial audits, test results, site visit reports, and the renewal inspection report. All charter schools will be evaluated on the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's charter and accountability plan. Evidence of academic success for all students is essential for charter renewal. [↑](#footnote-ref-5)
5. While MVRCS also requests waiver of “the requirement that the [s]chool undergo a Core Criteria Review” and “all aspects of the Performance Criteria as revised in 2018 and thereafter that conflict with the [s]chool’s [c]harter,” these requests are not a request for a waiver of regulatory provisions. These issues are in fact the subject of the lawsuit recently filed by MVRCS. Therefore, these requests are not before the Board. [↑](#footnote-ref-6)
6. The Criteria were developed to ensure that key purposes of charter schools, “to stimulate the development of innovative programs within public education; … to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management,” are preserved. *See* G.L. c. 71, § 89(b)(i) and (iv). The Criteria are also designed to enable a variety of educational models, such as Montessori, competency-based, dual language-immersion programs, to provide affirmative evidence of success for academic and non-academic outcomes. [↑](#footnote-ref-7)