*****Massachusetts Department of***

***Elementary and Secondary Education***

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| Jeffrey C. Riley*Commissioner* |  |

# MEMORANDUM

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| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:**  | Jeffrey C. Riley, Commissioner |
| **Date:**  | December 7, 2021 |
| **Subject:** | Charter Schools – Authorizing Activities for 2021-2022 |

Between now and June 2022, the Board of Elementary and Secondary Education (Board) will take a number of votes related to its statutory role as a charter school authorizer. Similar to prior years, this memorandum summarizes the statutory framework for charter schools and the Board's responsibilities as the state's sole charter school authorizer and provides a schedule of charter school items for the year.

**Legal Framework**

Charter schools are public schools that operate independently of traditional school districts. Across the nation, states with charter school programs have one or more charter authorizers including local school districts, municipal governments, universities, non-profit organizations, and state education agencies. In Massachusetts, the Board is the sole authorizer of charter schools.

Charter schools were first introduced to Massachusetts as part of education reform in 1993. The charter school statute is found at [G.L. c. 71, § 89.](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89) The charter school statute specifies that the purposes of 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.

Massachusetts has two types of charter schools, Commonwealth and Horace Mann. There are currently 72 Commonwealth charter schools and 6 Horace Mann charter schools in operation, serving over 50,000 students. The updated [[Charter School Fact Sheet](http://www.doe.mass.edu/charter/factsheet.xlsx)](https://www.doe.mass.edu/charter/factsheet.xlsx) reflects these new numbers.

Commonwealth charter schools are governed by boards of trustees, are completely independent of local districts, can draw students from many districts, and are funded by tuition payments transferred from sending districts based upon the number of district students attending the school. The charter school statute provides a schedule for reimbursement to school districts for increases in tuition payments to Commonwealth charter schools.

Horace Mann charter schools also are governed by boards of trustees and operate independently of school committees. Horace Mann charter schools, however, have a closer relationship with the local district. The local school committee and, in some cases, the local teachers' union, must approve the establishment of Horace Mann charter schools. The district must equitably fund the school. Typically, the district also provides some central administrative services pursuant to a memorandum of understanding negotiated with the charter school.

### **Board's Responsibilities**

As the sole charter school authorizer in Massachusetts, the Board is responsible for:

* awarding charters for terms of five years;
* approving major amendments to charters including, but not limited to, changes in the districts specified in a school's charter, maximum student enrollment, and grade span;
* approving contractual relationships with education management organizations; and
* determining whether charters should be renewed for subsequent five-year terms.

When deficiencies are noted in charter school operations or academic outcomes, the Board has a range of actions it can take, including imposing conditions on a charter, placing a school on probation, and revoking or not renewing a school's charter.

### **Commissioner's Responsibilities**

The Commissioner is responsible for making recommendations to the Board and providing the Board with the information needed to make well-informed decisions. The regulations authorize the Commissioner and the Board to impose or to remove conditions on a charter for specific reasons. In practice, the Commissioner typically notifies the Board before taking any action related to conditions. If the situation is serious enough to warrant a Commissioner recommendation for probation with conditions, that decision rests with the Board. Pursuant to the regulations at 603 CMR 1.10(2), the Commissioner is also responsible for granting the following amendments to the material terms of a school's charter:

* school name;
* mission;
* governance or leadership structure;
* educational programs, curriculum models, or whole-school designs that are inconsistent with those specified in the school's charter;
* bylaws;
* membership of the board of trustees;
* memoranda of understanding for Horace Mann charter schools;
* schedules (length of school year, school week, or school day);
* accountability plan;
* enrollment policy and application for admission;
* expulsion policy; and
* location of facilities, if such change involves relocating or expanding to another municipality.

At the recommendation of the Board's Charter School Committee in February 2013, the Board also delegated to the Commissioner the authority to renew charters, including renewing charters with conditions, provided such renewals do not involve probation. This delegation requires the Commissioner to notify Board members in advance of intended actions and provides Board members an option to request that the Commissioner place the matter before the full Board for discussion and action. As stated above, the Board continues to award new charters; to place a school on probation; to revoke or to not renew charters; to approve contractual relationships with education management organizations; and to grant charter amendments that change a school's grade span, maximum student enrollment, and the districts specified in the school's charter.

### **Office of Charter Schools and School Redesign**

The Department's Office of Charter Schools and School Redesign (OCSSR) is the unit within the Center for Educational Options that provides staff support to the Commissioner and the Board with respect to charter authorizing actions, innovation schools, virtual schools, educational collaboratives, and other school redesign initiatives. The mission of the office is to support and oversee the creation and sustainability of a variety of high-quality options for public schools—including, but not limited to, those that innovate in the areas of instructional practice, time, resources, and technology—to ensure that all students in the Commonwealth have equitable opportunities for success after high school.

### **Schedule of Charter School Authorizing Agenda Items for 2021-2022**

Attached for your information is the Schedule of Charter School Items for September 2021 through June 2022, including information about pending requests for charter amendments and charter renewal decisions that may require Board approval. The schedule will be updated as needed during the year.

### **Renewals of Charters**

### The 2021-2022 school year marks the 27th year of charter school operation in Massachusetts and 14 schools are scheduled for charter renewals. During the fall of 2021, the Department will collect evidence from all 14 schools related to the statutory requirements for renewal. The Department continues to rigorously evaluate charter school performance based on the charter school performance criteria and the expectations for renewal in the charter school statute. Massachusetts charter authorizing practices have been recognized as some of the strongest in the nation; the Department will continue to uphold these practices and will adapt them as needed due to health and safety considerations. Please see the attached article from the August issue of Phi Delta Kappan, “Charter schools and equity: the power of accountability” by Helen Ladd and Edward Fiske, which profiles the Department’s work in this area. I will inform you of my intended renewal actions and recommendations during the winter.

**Commitment to Growth of High-Quality Charter Schools**

Massachusetts has one of the most successful charter school sectors in the nation. Over our
27-year history of charter authorizing, Massachusetts has earned its reputation of holding charter applicants and schools seeking an expansion to a high standard for approval. Our standard relies on the approval criteria set forth in the charter school statute, regulations, and guidance, and sets an expectation that all new or expanding charter schools authorized by the Board will substantially meet the criteria and have a high likelihood of success. I fully support the continued establishment and growth of high-quality charter school options by groups with a commitment to excellence and innovation in public education and the capacity to deliver on that promise.

This summer, the Department received two proposals to establish a new Commonwealth charter school. The Department performed a review and based on the evidence compiled, I invited one group to submit a final application later this month. I will inform you of my recommendation regarding this charter application in February.

The Department also received seven requests from charter schools seeking to amend the terms of their charters. Two schools seek to expand enrollment and to add new grade spans, three schools seek to expand enrollment, one school seeks to consolidate the three charters of a charter school network,[[1]](#footnote-2) and one request seeks to correct an existing charter region to include operating school districts only.[[2]](#footnote-3) When deciding whether to allow a school to amend its charter, the Commissioner and the Board consider evidence regarding the success of the school's academic program, its organizational viability, its faithfulness to the terms of its charter, and the availability of seats under current caps. As always, we will review the amendment requests according to the processes and criteria in the statute and regulations.

### **Public Hearings on Charter Applications**

The charter school statute requires the Board to hold public hearings in the city or town where a charter school proposes to locate and requires at least one Board member to attend each hearing. These hearings usually occur in December. As we have done in the past, we will ask for two Board members to volunteer for the hearing on the proposed new charter school, so that backup is available in the event of an unexpected last-minute absence. The members who attend the hearing will report back to the full Board when the final application is discussed in February. I will be in contact with each of you regarding the hearing as soon as the schedule is finalized.

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If you have any questions regarding these matters or require additional information, please contact Alison Bagg, Director of Charter Schools and School Redesign (781-338-3218); Alyssa Hopkins, Assistant Director of Charter Schools and School Redesign (781-338-3219); Cliff Chuang, Senior Associate Commissioner for Educational Options (781-338-3222); or me.

Enclosures: [Charter School Fact Sheet](http://www.doe.mass.edu/charter/factsheet.html)

 Schedule of Charter School Items, September 2021-June 2022

[“Charter schools and equity: the power of accountability”](https://kappanonline.org/charter-schools-equity-power-accountability-massachusetts-ladd-fiske/) by Helen Ladd and Edward Fiske, *Phi Delta Kappan,* Aug. 23, 2021

1. Consolidation permits two or more separate charter schools within a network of charter schools to operate as a single charter school under one charter with multiple campuses. The Board has previously granted the consolidation requests of five former networks of charter schools. A charter school network exists when multiple charter schools operate under individual charters and a single board of trustees oversees all of the schools. [↑](#footnote-ref-2)
2. Pursuant to G.L. c. 71, § 89, and 603 CMR 1.00, Commonwealth charter schools provide enrollment preference and receive tuition funding based upon the public school district serving the town or city where a student resides. The public school district, rather than town or city, defines the charter region of a Commonwealth charter school. In 2001, Holden, a non-operating district, was added to the charter region of Abby Kelley Foster Charter Public School; the regional school district that serves Holden residents is Wachusett Regional School District. The school’s request seeks to align the school’s charter region with the requirements of the charter school statute. [↑](#footnote-ref-3)