*****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

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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 13, 2022  |
| **Subject:** | Proposed Amendments: Regulations for Commonwealth of Massachusetts Virtual Schools, 603 CMR 52.00 |

This month, I will present to the Board of Elementary and Secondary Education (Board) proposed amendments to 603 CMR 52.00, the regulations for Commonwealth of Massachusetts Virtual Schools, for initial discussion and a vote to solicit public comment. The Board will discuss and take a final vote in the spring of 2023, following the public comment period.

[Section 94 of G.L. c. 71](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section94) permits the Board to award certificates for Commonwealth of Massachusetts Virtual Schools (CMVS) and authorizes Single District Virtual Schools (SDVS). This statute also authorizes the Board to adopt regulations and, through the Department, to oversee the establishment and operation of publicly funded virtual schools in the Commonwealth. On March 25, 2014, the Board adopted the regulations for Commonwealth of Massachusetts Virtual Schools, [603 CMR 52.00](https://www.doe.mass.edu/lawsregs/603cmr52.html). To date, the Board has not amended these regulations. The current regulations do not address the two types of CMVSs outlined in statute or SDVSs; they also contain some language that is not consistent with changes made to G.L. c. 71, § 94 since 2014.

In general, the proposed amendments

* clarify the two types of CMVS, both requiring a certificate issued by the Board;
* clarify the expectations for SDVSs consistent with the [Guidelines for Submission of Single District Virtual School Proposals](https://www.doe.mass.edu/cmvs/guidance/district-virtual-schools.docx) and the [Frequently Asked Questions about Single District Virtual Schools](https://www.doe.mass.edu/cmvs/sdvs/faq.docx);
* update the regulations to reflect the new SPEED Act, addressing the rights of military families;
* align the regulations with guidance on child safety; and
* make technical changes to conform the regulations to the statute.

The Board has granted two CMVS 1 certificates, one to the Greater Commonwealth Virtual School (GCVS), formerly known as Greenfield Commonwealth Virtual School, and one to the TEC Connections Academy Commonwealth Virtual School (TECCA). Each certificate outlines the material terms of the CMVS, including the maximum enrollment per school. The table below lists the grades served and the maximum enrollment for each of the CMVS currently operating in the Commonwealth.

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| **CMVS** | **Grades Served** |  **Maximum Enrollment**  |
| Greater Commonwealth Virtual School (GCVS) | K–12 |  1,200 |
| TEC Connections Academy (TECCA) Commonwealth Virtual School | K–12 |  3,000 |

The current regulations primarily address CMVSs that enroll and serve students statewide. The proposed amendments clarify that the statute refers to two types of CMVS, both of which require a certificate awarded by the Board. The first type serves students statewide, a CMVS 1. The second type, a CMVS 2, is established by a school district or group of districts and may only enroll and serve students who live in that school district or group of districts. Additionally, the statute specifies that those districts appoint the members of the board of trustees.

In addition to CMVSs, G.L. c. 71, § 94(s) allows school districts to create and operate virtual schools to serve only students who reside in that school district. These are referred to as SDVSs. A SDVS is distinct from a CMVS, and these schools do not require a certificate from the Board. Currently, there are seven SDVSs operating in the Commonwealth, all of which began operation in September 2021. The existing regulations do not address the establishment or operation of a SDVS. The table below lists the grades served and the enrollment data for each SDVS currently operating in the Commonwealth.

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| **Name of SDVS**  | **Grades Served**  | **October 2022 SIMS Enrollment Data** |
| Attleboro Virtual Academy | 9-12 | 40 |
| Brockton District Virtual School | K-12 | 173 |
| Chelsea Virtual Learning Academy | K-12 | 47 |
| Peabody P.R.E.P. (Personalized Remote Education Program) | K-12 | 94 |
| Pittsfield Public Virtual Academy (PPVA) | K-12 | 104 |
| The Springfield Virtual School | K-12 | 430 |
| Westfield Virtual School | K-12 | 79 |

Enclosed with this memorandum is a table that summarizes key features of the CMVS 1, CMVS 2, and SDVS virtual school models.

Lastly, the proposed amendments update the regulations to reflect statutory changes in G.L. c. 71, § 94, including changes due to provisions of the [SPEED Act, Chapter 154 of the Acts of 2022](https://malegislature.gov/Laws/SessionLaws/Acts/2022/Chapter154) and remove provisions that are obsolete because they were time-limited.

**The key proposed revisions are as follows.**

* Clarify that there are two types of CMVS. Each type requires a certificate issued by the Board and is governed by a board of trustees.
	+ A CMVS 1 may enroll students who live anywhere in Massachusetts or may limit enrollment to students who live in certain districts in Massachusetts.
	+ A CMVS 2 is formed by a single school district, under an agreement entered into by more than one school district, or by an education collaborative. A CMVS 2 may enroll only students who live in the school district that formed the CMVS, in the school districts that signed the agreement, or in the school districts that are members of the education collaborative that formed the CMVS 2. (52.02)
* Include a definition for SDVS, “A virtual school that is authorized by a school committee under M.G.L. c. 71, § 94(s), whose teachers primarily teach using the internet or other computer-based methods and whose students are not required to be located at the physical premises of the school. A SDVS is operated within and by a single school district and only enrolls students who reside in that district.” (52.02)
* Add a requirement that CMVS applications require a daily visual check-in for students in addition to providing synchronous learning opportunities with teachers in which students are required to participate and to share their knowledge. (52.04 (n))
* Remove obsolete language regarding number of certificates available for Board issue in early application cycles because it is no longer relevant. (52.04 (4))
* Remove obsolete language regarding possible conditions for new CMVSs. This language was previously included because of special legislative language regarding the virtual school founded by Greenfield. The language is no longer relevant, and the Board does not award conditional certificates. (52.04 (4))
* Include that the opening procedures requirements for a CMVS include attendance policy, including but not limited to daily visual check-in for students. (52.04 (5))
* Align the enrollment conditions section to the statutory changes due to provisions of the SPEED Act, Chapter 154 of the Acts of 2022, <https://malegislature.gov/Laws/SessionLaws/Acts/2022/Chapter154>, addressing the rights of students in military families. (52.05(5) and 52.13(6))
* Clarify expectations regarding districts’ purchase of online courses for individual students from a CMVS, as outlined in the legislative language in G.L. c. 71, §§ 94(b)(15), 94(k), and 94(q), regarding the selling of courses by a CMVS to school districts. The proposed language includes, “Districts Purchasing Online Courses for Individual Students Through a CMVS.” Districts, including charter schools and educational collaboratives, may purchase individual online courses for individual students. Students accessing individual online courses remain enrolled in and continue to receive services from their current school district. Districts must include a visual component as part of the daily “live check-in.” (52.05(13))
* Explain in the section on “Enrollment from School Districts Establishing a Commonwealth of Massachusetts Virtual School” that all students enrolled in any kind of CMVS count towards the 2 percent threshold of the total number of students permitted to attend CMVS in the Commonwealth. (52.05(14))
* Describe the different appointing authorities for the members of the boards of trustees of a CMVS 1 and of a CMVS 2. For a CMVS 1, the Commissioner (or the Board, if specified in the Terms of Certificate) appoints the members of the boards of trustees from among the individuals proposed by the applicant group. For a CMVS 2, the school committee(s) of the district(s) or the member school committees of the collaborative that formed the CMVS 2 appoint the members of the board of trustees and inform the Commissioner of such appointments within ten days of appointment. (52.06(1) and 52.06(2)(b))
* Clarify that both types of CMVS, CMVS 1 and CMVS 2, are funded through payments from sending districts at a per pupil tuition rate set by the Board. (52.07)
* Refine language about annual report requirements. (52.08)
* Add attendance to the list of material terms of the certificate that require advance approval to change. (52.10(2))
* Add a section on Single District Virtual Schools to clarify expectations about the proposal process, review process, feedback criteria, school committee approval, enrollment, and school codes and reporting. (52.13)

A redlined version of the regulations is attached, along with a motion to solicit public comment on the proposed amendments. With the Board’s approval, the Department will solicit public comment on the proposed amendments. After reviewing any comments that are received and determining whether further changes are needed, I plan to bring the amended regulations back to the Board in the spring of 2023 for final adoption.

If you have any questions regarding this recommendation or require additional information, please contact Alison Bagg, Director of Office of Charter Schools and School Redesign; Cliff Chuang, Senior Associate Commissioner for Educational Options; Ruth Hersh, Manager of Education Collaboratives and Virtual Schools; or me.

Enclosures: Types of Massachusetts Virtual Schools

 603 CMR 52.00 Strikethrough version of the regulations showing proposed

 amendments

 Motion