*****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:** | May 17, 2023 |
| **Subject:** | Charter Schools: Delegation of Authority to Commissioner to Approve Proposed Contracts with Education Management Organizations for Excel Academy Charter School, UP Academy Charter School of Dorchester, and Worcester Cultural Academy Charter Public School |

Under the charter school statute, G.L. c. 71, § 89(k)(5), the Board of Elementary and Secondary Education (Board) must approve contracts between charter schools and the entities from which they intend to procure substantially all educational services. The Board can delegate the approval of such contracts to the Commissioner under G.L. c. 15, § 1F, para. 3,[[1]](#footnote-1) and has done so on several occasions. The review and approval typically occur during the spring and summer months. I recommend that the Board vote at its meeting on May 23 to delegate to the Commissioner approval of the contracts of three charter schools.

Excel Academy Charter School and UP Academy Charter School of Dorchester are seeking to update their existing management contracts due to recent renewals of their charters.[[2]](#footnote-2) Worcester Cultural Academy Charter Public School, a recently chartered school, is seeking to enter into a new contract for management services, as described in its charter application.

In similar situations involving other charter schools in previous years, the Board has voted to delegate the approval of such contracts to the Commissioner because of the timing of this work.

Charters seeking renewal typically wait until a favorable outcome to begin revising their educational services contracts. Similarly, newly granted charter schools that seek to contract with a management organization begin such work after charter granting in February based upon the draft contract included in the charter application. Because the review and eventual approval of such contracts will likely occur during the summer, I recommend that the Board vote to authorize the Commissioner to approve the contracts upon satisfactory completion of my review. I will notify the Board once I have taken action to approve the three contracts.

Prior to approval, the Department of Elementary and Secondary Education (Department) reviews the technical and legal aspects of each proposed management contract and requires or recommends changes as appropriate. Each contract must include a delineation of the roles and responsibilities of the education management organization and the school; a description of how the board of trustees of the charter school will monitor the academic performance and fiscal activity of the school; performance evaluation measures, including those for student academic performance; the total fees for management services; a description of payment structures; delineation of authority over hiring and firing; and the conditions and procedures for the contract's renewal and termination.

Once provisional approval is issued, the board of trustees of the charter school then votes to approve the contract and to submit an executed contract to the Department for final approval.

As in previous years, I recommend that the Board delegate to the Commissioner approval of the contracts following completion of my review. A motion for delegation is attached. If you have any questions or require additional information, please contact Alison Bagg, Director, at 781-338-3218; Cliff Chuang, Senior Associate Commissioner, at 781-338-3222; or me.

1. Section 1F, para. 3, of G.L. c. 15 states as follows.

   The board may delegate its authority or any portion thereof to the Commissioner whenever in its judgment such delegation may be necessary or desirable. The Commissioner shall exercise such delegated powers and duties with the full authority of the board. [↑](#footnote-ref-1)
2. Because UP Academy Charter School of Dorchester is a Horace Mann charter school, the board of trustees must also obtain approval of the local teachers’ union and the school committee for the new contract pursuant to G.L. c. 71, § 89(c) and (i)(1), and 603 CMR 1.10(4). [↑](#footnote-ref-2)