*****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:**  | September 12, 2023 |
| **Subject:** | Commonwealth of Massachusetts Virtual Schools – Activities for 2023-2024 |

Between now and June 2024, the Board of Elementary and Secondary Education (Board) may take several votes related to its statutory role as an authorizer of Commonwealth of Massachusetts virtual schools (CMVSs). This memorandum summarizes the statutory framework for virtual schools and the Board's responsibilities.

**Legal Framework**

In January 2013, Chapter 379 of the Acts of 2012, “An Act Establishing Commonwealth Virtual Schools” (Act), was enacted, which added [G.L. c. 71, § 94](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section94). Section 94 authorizes the Board to adopt regulations governing publicly funded virtual schools and, through the Department of Elementary and Secondary Education (Department), to oversee the establishment and operation of CMVSs. The Board recently adopted amendments to these regulations at 603 CMR 52.00.

Massachusetts has two types of virtual schools, CMVSs and single district virtual schools. Only CMVSs receive a certificate granted by the Board.[[1]](#footnote-2) Two CMVSs currently operate under certificates the Board granted: Greater Commonwealth Virtual School and TEC Connections Academy Commonwealth Virtual School.

CMVSs are governed by a board of trustees and operate schools where teachers primarily teach from a remote location using the internet or other computer-based methods and where students are not required to be located at the physical premises of the school. The virtual school statute, at G.L. c. 71, § 94(k), funds a CMVS based upon the funding for school choice under G.L. c. 76, § 12B. The sending district is charged a set tuition, and the Department transfers the funds from the district to the CMVS.

**Board’s Responsibilities**

The Board is responsible for awarding certificates of three to five years to establish a CMVS and determining whether to renew certificates for subsequent terms. The Board has the sole authority to grant or renew certificates. Under the virtual school statute, the Board may grant up to ten certificates, provided that not more than two percent of students statewide attend a CMVS.

Additionally, when deficiencies are noted in the operations or academic performance of a CMVS, the Board has a range of actions it can take. These include imposing conditions, placing a school on probation, and revoking or not renewing a school's certificate.

**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 certificate for specific reasons. In practice, the Commissioner typically notifies the Board before taking any action related to conditions. If the situation is serious enough, the Commissioner may recommend that the Board place a school on probation with conditions.

The regulations for Commonwealth of Massachusetts Virtual Schools, at 603 CMR 52.10(2), require approval by the Commissioner for the following changes to the terms of a CMVS certificate:

* School name;
* Membership of the board of trustees;
* Maximum enrollment;
* Grades served;
* Enrollment region;
* Mission, purpose, and special focus;
* Educational programs, instructional methodology, and services for students that are inconsistent with those specified in the virtual school’s certificate;
* Governance or leadership structure;
* Bylaws;
* Schedule (length of school year, school week, or school day);
* Identity of software or curriculum providers;
* Contractual relationships with an individual or entity providing or planning to provide substantially all the virtual school's educational services;
* Support and storage of critical data;
* Accountability Plan;
* Enrollment policy and application for admission;
* Attendance policy;
* Expulsion policy; and
* Location of facilities, if such change involves relocating to or adding a facility in another municipality or school district.

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

The Department's Office of Charter Schools and School Redesign is the unit within the Center for Educational Options that supports the Commissioner and the Board with respect to CMVSs and other virtual schools. 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 to a pathway to success after high school.

### **CMVS Items for 2023-2024**

This summer, the Department received two proposals to establish new CMVSs. The proposals are currently under review. I will decide this month whether to invite these applicants to submit a final application.

Should we receive final applications, the statute governing CMVSs requires a public hearing on proposals to establish a new virtual school. At least one Board member must attend the hearing. In the past, the Department has held public hearings on proposed CMVSs at its offices and allowed remote participation of members of the public from across the state. We will ask two Board members to volunteer to attend any required public hearing, who will then report back to the full Board if I recommend any final applications for award of a certificate in February. I will be in contact with each of you regarding any hearings as soon as a 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 (alison.w.bagg@mass.gov); Ruth Hersh, School Redesign and Education Collaborative Manager (ruth.e.hersh@mass.gov; Regina Robinson, Deputy Commissioner (regina.m.robinson@mass.gov); or me.

Enclosures: Types of Virtual Schools

1. Single district virtual schools are locally created and controlled schools operated by a single district and overseen by a school committee. The school committee has final approval over whether and under what terms a single district virtual school operates, provided those terms comply with state and federal law. [↑](#footnote-ref-2)