# MEMORANDUM

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| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:** | Russell D. Johnston, Acting Commissioner |
| **Date:** | May 15, 2024 |
| **Subject:** | Charter Schools: Amendment for Regional Charter School (Benjamin Banneker Charter Public School) |

Pursuant to the Charter School Regulations, 603 CMR 1.10(1), the Board of Elementary and Secondary Education (Board) must approve certain changes to the material terms of a school’s charter. This month, I recommend that the Board approve an amendment request recently submitted by a Cambridge charter school, Benjamin Banneker Charter Public School (BBCPS), to become a regional charter school serving the districts of Cambridge and Somerville. The school’s request, and my recommendation, are prompted by the following facts.

* BBCPS has been located in Cambridge since it opened in 1996.
* BBCPS is in the process of purchasing a former parochial school property that straddles the Cambridge-Somerville line, and plans to operate at that location starting in fall 2025.
* The charter school statute specifies that the municipality(ies) where a school is located is a material term of a school’s charter which impacts admission decisions.[[1]](#footnote-2)
* In accordance with G**.**L. c. 71, § 89 and 603 CMR 1.00, the new location of the school requires a technical amendment to the school’s charter based upon the new location in two municipalities. If the property were located solely in Cambridge, BBCPS would not be required to pursue this amendment to the school’s charter.
* As is explained below, even with approval of the proposed amendment, enrollment of Somerville students at BBCPS would be strictly limited due to net school spending caps.

The school’s request and my recommendation are described in more detail below, in preparation for a discussion and vote at the Board’s meeting on May 21.

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| **Benjamin Banneker Charter Public School[[2]](#footnote-3)** | | | |
| **Type of Charter** | Commonwealth | **Location** | Cambridge |
| **Regional or Non-Regional** | Non-Regional | **Districts in Region** | N/A |
| **Year Opened** | 1996 | **Years Renewed** | 2001, 2006, 2011, 2016, and 2021 |
| **Maximum Enrollment** | 350 | **Current Enrollment** | 346 (October 2023)[[3]](#footnote-4) |
| **Chartered Grade Span** | PK-6 | **Current Grade Span** | PK-6 |
| **Students on Waitlist** | 46 (March 2023)[[4]](#footnote-5) | **Current Age of School** | 18 years |
| **Mission Statement:**  The Benjamin Banneker Charter Public School is a K1 through grade 6 Science, Technology, Engineering and Mathematics (STEM) school serving all students. The school is founded on the belief that all students are able to develop academic mastery, regardless of race, socioeconomic status, culture, native language, gender or sexual orientation. The staff of caring, dedicated, and highly qualified professionals integrate language and fine arts into the standard-based STEM curricula and use authentic data to monitor every student’s growth and achievement. | | | |

**School’s Request**

BBCPS is currently located in Cambridge and is in the process of purchasing a property for the school that will become the school’s permanent location. The new location for the school includes facilities and land located in Cambridge and Somerville.[[5]](#footnote-6) The school reports several benefits to the new property and facilities, including additional space for educational programming, family engagement, and school community activities, as well as playgrounds and athletic fields for physical education and extracurricular activities. Prior to occupancy in fall 2025, BBCPS will provide to the Department the necessary documentation related to fire, health, and safety requirements to establish readiness to serve the school community in the new space, in accordance with 603 CMR 1.08(11).[[6]](#footnote-7)

**Net School Spending Cap in Somerville**

BBCPS does not currently enroll residents of Somerville and has enrolled very few Somerville residents in the past eight years, ranging from zero to four students. Additionally, Somerville is approaching its net school spending (NSS) cap of 9 percent and was closed to requests for significant new enrollment during this year’s charter application and amendment processes. There are limited unused seats under Somerville’s current NSS cap[[7]](#footnote-8) based upon Department estimates and projections completed in May 2023. BBCPS cannot substantially increase its Somerville enrollment.[[8]](#footnote-9) Therefore, I will impose an enrollment sub-cap on Somerville of 10 students[[9]](#footnote-10) if the Board grants the school’s amendment request.[[10]](#footnote-11)

**Department Review**

The Charter School Regulations at 603 CMR 1.10 contain several criteria to consider in determining whether to grant a school’s request to amend its charter. The Department considers the following factors when reviewing amendment requests:

* the charter school’s compliance with applicable state, federal, and local law;
* affirmative, credible 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;
* affirmative, credible evidence regarding the success of the school’s academic program;
* affirmative, credible evidence regarding the viability of the school as an organization;
* the merits of the school’s amendment request when judged against the criteria outlined in the Department’s Charter Amendment and Notification Guidelines and the Charter School Performance Criteria;  and
* public comment received regarding the request.

The superintendents of Cambridge Public Schools and Somerville Public Schools were invited to submit comment on the school’s request. No comment was received.

**Recommendation**

I have reviewed the school’s request, and it is reasonable and consistent with the charter school statute and regulations. The charter school statute mandates such an amendment because the school’s new location will be in both Cambridge and Somerville. Overall, the submitted amendment request, the renewal of the school’s charter in 2021, and the Department’s accountability records indicate that the school’s academic program is a success, that the school is a viable organization, and that it has been faithful to the terms of its charter. I recommend that the Board amend the charter of BBCPS to make it a regional charter school serving Cambridge and Somerville. I will impose an enrollment sub-cap on Somerville of 10 students because of the limited ability to enroll students living in Somerville under its 9 percent NSS cap.[[11]](#footnote-12) A motion for approval is attached for your consideration.

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Regina Robinson, Deputy Commissioner; Alison Bagg, Director of the Office of Charter Schools and School Redesign; and Alyssa Hopkins, Assistant Director will join us for the discussion at the meeting on May 21 to respond to your questions.

Attachments:

Correspondence from Benjamin Banneker Charter Public School

Motion

1. The charter school statute at G**.**L. c. 71, § 89 (n), specifies that “[p]reference for enrollment in a commonwealth charter school shall be given to students who reside in the city or town in which the charter school is located.” [↑](#footnote-ref-2)
2. BBCPS was recognized by the U.S. Department of Education as a Blue Ribbon School in 2023. [↑](#footnote-ref-3)
3. BBCPS does not currently enroll any Somerville residents. [↑](#footnote-ref-4)
4. One resident of Somerville was placed on the waitlist for the 2023-2024 school year. [↑](#footnote-ref-5)
5. The school is in the process of purchasing the former Matignon High School property at 1 Matignon Road, Cambridge. The school reported plans to close on the property this spring. The school provided documentation related to the property and the buildings showing that they are located in both Cambridge and Somerville. [↑](#footnote-ref-6)
6. 603 CMR 1.08(11) “Notification of New Circumstances: The charter school shall notify the Department in writing immediately of any change in circumstances that may have a significant impact on a charter school's ability to fulfill its goals or mission as stated in its charter. These include, but are not limited to:

   (c) changes in location of the school's facilities within the same municipality and documentation of the school's compliance with state and federal laws, including, but not limited to, all fire, health, and safety laws and accessibility requirements for new facilities or renovations to existing facilities…” [↑](#footnote-ref-7)
7. The charter school statute establishes limits on the amount of tuition that school districts can transfer to Commonwealth charter schools in any given year. The limits are expressed as a percentage of a district's NSS. Chapter 70 of the General Laws defines NSS, which represents the district's spending on school operations from state and local funds. The majority of school districts are subject to a 9 percent NSS cap for charter school tuition, [↑](#footnote-ref-8)
8. If charter enrollment for Somerville were to exceed statutory limits, the Department would prorate per pupil tuition across all of the charter schools enrolling students who reside in Somerville to prevent charter school tuition from exceeding NSS caps. [↑](#footnote-ref-9)
9. The Department has utilized sub-caps to assist in managing enrollment within NSS caps. A sub-cap is an administrative limit at a particular charter school on the total number of students that can be enrolled from a particular district. These sub-caps operate in a fashion similar to maximum enrollment limits. These sub-caps set limits for the total enrollment from relevant districts, but do not guarantee tuition for the specified number of students. The goal, when setting sub-caps, is to avoid proration of tuition while permitting Commonwealth charter schools to enroll students up to the relevant NSS caps. There are currently nine charter schools with sub-caps. [↑](#footnote-ref-10)
10. 603 CMR 1.10 (2)(l) “Amendments Requiring Commissioner Approval: If a charter school plans to change the terms of its charter, the school’s board of trustees shall vote on and submit to the Commissioner a request in writing to amend its charter. Changes requiring approval by the Commissioner before they can be implemented include: …. (l) Location of facilities, if such change involves relocating to or adding a facility in another municipality or school district, in a district already specified in the school's charter.” [↑](#footnote-ref-11)
11. No more than a total of 10 Somerville residents may enroll at the school each year. If more than 10 students enroll, tuition will be prorated to the enrollment sub-cap. [↑](#footnote-ref-12)