# 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 – Helen Y. Davis Leadership Academy Charter Public School Probation |

This month, the Board of Elementary and Secondary Education (Board) will discuss and vote on my recommendation to place the charter of Helen Y. Davis Leadership Academy Charter Public School (DLA) on probation with the conditions described later in this memorandum.[[1]](#footnote-2) Due to a precipitous decline in enrollment over the past three years and the resulting impact on the school’s fiscal health, placing the school on probation signals the grave concerns of the Department of Elementary and Secondary Education (Department) regarding the school’s viability and ability to continue operating.

| Helen Y. Davis Leadership Academy Charter Public School | | | |
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| **Type of Charter** | Commonwealth | **Location** | Boston |
| **Regional or Non-Regional** | Non-Regional | **Districts in Region** | N/A |
| **Year Opened** | 2003 | **Year(s) Renewed** | 2008, 2013, 2018, 2023 |
| **Maximum Enrollment** | 216 | **Current Enrollment** | 86 |
| **Chartered Grade Span** | 6-8 | **Current Grade Span** | 6-8 |
| **Students on Waitlist** | 6 (March 2024)[[2]](#footnote-3) | **Current Age of School** | 21 |
| **Mission Statement:**  Our school develops develop high-achieving students of good character who use problem solving, communication, and interpersonal skills to inspire others and to catalyze educational, economic, and political advancement within their communities and the broader nation. | | | |

DLA received its charter in 2003 and opened in 2003, serving 78 students in grade 6. The school added a grade each year and reached the grade span in its charter, grades 6 through 8, during the 2005-06 school year.

DLA has been operating under conditions or probationary status repeatedly over the past 11 years due to significant and persistent concerns related to academic performance, governance, and finance. In February 2013, the Board renewed the school’s charter with three conditions related to governance. In January 2014, the Commissioner removed these conditions. In February 2018, the Board renewed the school’s charter and placed the school on probation with eight conditions. Four of these conditions related to governance, one condition related to finance, and three conditions related to academic performance. In January 2020, the Board removed the school from probation and removed five of the seven conditions. The Board extended the two remaining conditions, one related to governance and one related to academic performance and imposed a third condition related to governance and membership of the board of trustees. In June 2020, after MCAS tests were cancelled in spring 2020, Commissioner Riley extended the three conditions on the school’s charter, granting the school additional time to recruit board members and granting an additional year to demonstrate significant and sustained academic improvement.

In February 2023, Commissioner Riley renewed the charter of DLA, removed the two conditions related to governance, and extended the condition related to academic performance. Commissioner Riley also imposed a condition related to the school’s declining enrollment. On August 1, 2023, in response to the condition requiring the school to address enrollment concerns, the school’s board of trustees requested an amendment to add grades 9 through 12 without changing the school’s maximum enrollment.[[3]](#footnote-4) Commissioner Riley declined to recommend the amendment request to the Board for reasons that are described below.

After submission of the school’s enrollment on October 1, 2023, it became clear that the school’s enrollment had continued its precipitous decline. In early October, the Department requested an updated budget for FY2024 and cash flow projections based upon these new enrollment numbers and the anticipated tuition adjustments that would occur in the second half of the school year.[[4]](#footnote-5) The school was unable to provide adequate financial documentation. In response, the Department instituted several ongoing requirements for DLA in early November related to finances, board governance, and student enrollment. These requirements included the submission of updated FY2024 financials; board agendas, minutes, and materials for all board and committee meetings; monthly financial reports; weekly updates on student enrollment, attendance, and the school’s waitlist; and a narrative regarding the school’s capacity to meet expectations for Criterion 10 of the Charter School Performance Criteria, “Finance.”[[5]](#footnote-6)

In February 2024, DLA experienced additional turnover in school and board leadership. Since 2018, DLA has employed four different school leaders. The current interim executive director was the school’s principal from August 2023 until her appointment to school leader. The school terminated approximately six staff positions in December 2023 due to declining enrollment and revenues. Additionally, the board chair resigned in February 2024 along with two other board members. Board membership is currently at five approved members, one of whom is a non-voting member.[[6]](#footnote-7)

**Recommendation for Board Action**

I have serious concerns about the school’s financial solvency due to the impact of persistent under-enrollment over the past three years. Since 2019, DLA has struggled to enroll and retain students. Turnover in the school’s leadership and board has hampered the school’s capacity to focus its efforts on student enrollment and to assess the school’s current financial predicament. The board of trustees has failed to successfully govern DLA during this challenging period.

Further, based on its pre-enrollment report submitted on March 15, which forms the basis for charter school funding for the upcoming school year, the school has failed to attract sufficient enrollment to allay my concerns. It is unlikely that predicted enrollment for school year 2024-25 will permit the school to continue operations in a manner consistent with its charter or in a way that serves its students effectively. Based on this evidence, I recommend that the Board place the school on probation with conditions requiring the school to continue to submit ongoing enrollment, financial, and governance reports to the Department; to establish an escrow account to pay for closing procedures should the school close; demonstrate adequate demand, and to notify the school community that the school’s charter is on probation.

**Report on Conditions**

In February 2023, Commissioner Riley renewed the charter of DLA, removed the two conditions related to governance, and extended the condition related to academic performance. Commissioner Riley imposed an additional condition related to enrollment. A summary of the school’s progress toward meeting these conditions follows.

**Condition 1:** By December 31, 2024, the school must demonstrate that it is an academic success by providing evidence that the school has exhibited significant and sustained academic improvement in mathematics, English language arts, and science.

**Status: Ongoing**

In 2018, the first year implementing the statewide accountability system in its current form, DLA was in the 2nd percentile when compared to all other schools administering similar assessments. In 2019, the school was in the 11th percentile. In 2022, the next year the state determined accountability percentiles, the school was in the 33rd percentile.[[7]](#footnote-8) In 2023, the school required assistance or intervention due to low participation rates for students with disabilities. For the English language arts MCAS, 24 percent of DLA students met or exceeded expectations. For the mathematics MCAS, 20 percent of DLA students met or exceeded expectations and for science, 38 percent of grade 8 students met or exceeded expectations. Student growth percentiles for grades 6 through 8 were 45 for English language arts and 63 for mathematics. In 2023, the school made moderate progress toward targets and was in the 32nd percentile.

**Condition 2:** By August 1, 2023, the school must submit a plan approved by the board of trustees to address enrollment concerns which may include, but is not limited to, the submission of an amendment request to modify the grade levels served.

**Status: Met, with concerns noted**

The board of trustees of DLA submitted a charter amendment request on August 1, 2023, to add grades nine through twelve and to remove grade six from its grade span. Based on submission of the amendment request alone, the school technically met the condition imposed. The Department’s review of the amendment request, however, identified serious concerns regarding school operations and board oversight. Based upon information provided by school leadership during the amendment review process, the school is not operating programs for special education or for English language learners as required by state and federal law. Additionally, the review demonstrated that DLA was experiencing significant challenges related to organizational viability, including continued substantial under-enrollment and low demand, inadequate financial oversight, transitions at the board and school leadership level, and non-compliance with the board’s bylaws and with state regulations related to the number of trustees serving on its board of trustees. Based on the collected evidence, in February 2024, Commissioner Riley declined to recommend the school’s amendment request to the Board for consideration.

**Additional Evidence**

**Enrollment Concerns and Financial Issues**

For the past three years, DLA’s enrollment has declined precipitously below its maximum allowable enrollment of 216 students. The table below provides three enrollment data points since the 2019-20 school year: pre-enrollment,[[8]](#footnote-9) SIMS collection on October 1, and end of year enrollment.

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| **School Year** | **2019-20** | **2020-21** | **2021-22** | **2022-23** | **2023-24** |
| DLA pre-enrollment  (submitted March 15) | 216 | 216 | 216 | 190 | 175 |
| October 1, SIMS enrollment | 207 | 193 | 138 | 114 | 95 |
| End of Year Enrollment | 201 | 187 | 130 | 112 | 86[[9]](#footnote-10) |

During the past year, the school’s low enrollment created dire financial concerns. While the school’s enrollment decline began in the 2019-20 school year, federal Elementary and Secondary School Emergency Relief (ESSER)[[10]](#footnote-11) funds have provided a stabilizing revenue source. In the fall of 2023, DLA’s actual enrollment of 95 students and the resulting dramatic reduction in monthly tuition prompted the Department to request additional financial documentation and the school’s plan to maintain solvency. The school’s plan and financial documentation did not demonstrate capacity to navigate the change in funding.

The school’s FY2023 audit, received by the Department in November 2023, demonstrated a reduction in net assets of 25 percent and a further decline in the percent of the school’s program paid by charter school tuition to 62 percent, an indicator of high risk. The FY2023 audit further indicated a decrease in total assets due to DLA using existing cash to fund operations, an increase in liabilities, and an overall decrease in net position as a result of a deficit for FY2023. DLA did not adjust its planned spending, which resulted in a negative change in net position of $973,000 for FY2023. Additionally, the school’s FY2023 audit contained a finding of significant deficiency because a teacher was not properly enrolled in the Massachusetts Teachers’ Retirement System.

**Mismanagement of the Charter School**

Evidence collected by the Department during the past year demonstrates that in the school’s 21st year of operation, the school’s board lacks the systems, institutional knowledge, and capacity to govern the school effectively. In February, three members of the board resigned, including the chair of the board, leaving four members.[[11]](#footnote-12) Soon after, the school’s executive director resigned, and the board of trustees hired the principal as the interim executive director. During this year, the board has demonstrated an inability to oversee and govern the school due to a lack of effective communication between the board members, school leadership, and the school community; a lack of understanding of the role of a public governing body; an inability to produce requested data to monitor finances; a lack of adherence to the Open Meeting Law and the school’s bylaws; and an inability to properly monitor the fiscal health of the school and the school’s failure to comply with federal and state requirements regarding the provision of special education and English language learner education.

**Conditions Imposed with Probation**

Based on the evidence presented above, I recommend that the Board vote to place DLA on probation and impose the conditions that follow on the school’s charter:

1. **Until further notice**, DLA must submit to the Department of Elementary and Secondary Education (Department), at [charterschools@mass.gov](mailto:charterschools@mass.gov), full board and committee (finance, governance)meeting agendas, materials, and minutes at the same time that these items are sent to the school’s board members. The documents and the school’s website, where meeting notices are posted, must reflect adherence to the Open Meeting Law.
2. **Until further notice**, the school must submit to the Department weekly updates on the total number of students enrolled, the weekly attendance rate, and the total number of students on its waitlist, by 5 p.m. on Friday of every week. Weekly updates submitted to the Department must also be submitted to the school’s board of trustees.
3. **Until further notice,** by 5 p.m. on Friday of every week, DLA must submit to the Department weekly reports on applications for admission received by the school and the number of prospective and currently enrolled students planning to attend DLA during the 2024-2025 school year. DLA must submit the number of applications collected in total and by grade; the total number of students who have applied only to DLA in total and by grade, as submitted through the Boston Charter Public Schools Online Application System; the number of offers of admission accepted by prospective students, in total and by grade; and the number of currently enrolled students who have confirmed that they plan to attend DLA during the 2024-2025 school year, in total and by grade. Weekly reports submitted to the Department must also be submitted to the school’s board of trustees.
4. **Until further notice,** the school must submit to the Department monthly financial reports, including a statement of revenues and expenses, a balance sheet, and a cash flow statement. The cash flow statement must reflect all considerations in revenue and expenditures, including grants, lines of credit, debt obligations, and fundraising. Statements submitted to the Department must also be submitted to the school’s board of trustees.
5. By **May 24, 2024**, the school must submit evidence to the Department that it has provided the school community with notice that the school’s charter has been placed on probation with conditions that the school must meet. The school must inform parents/guardians, teachers, staff, board members, students, and other community members of the school’s current status and post the notice on its website.
6. By **May 24, 2024**, the school must demonstrate actual enrollment levels sufficient to meet its FY2025 budget and the financial requirements for operating the school’s educational program as envisioned in the school’s charter. The Department reviewed enrollment evidence for FY2025 on site at DLA on May 9,2024. By May 24, 2024, the Department will verify DLA’s enrollment evidence. Should the school fail to provide sufficient evidence, the Commissioner and the Board will consider revoking the school’s charter.
7. By **May 27, 2024**, the school must establish an escrow account in an amount determined by the Department in consultation with the school to pay for any potential closing, legal, and audit expenses associated with closure, should that occur.
8. By **May 31, 2024**, all members of the board of trustees must participate in training on the Open Meeting Law offered by the Massachusetts Office of the Attorney General.
9. By **December 31, 2024**, the school must demonstrate that it is an academic success by providing evidence of significant and sustained academic improvement in mathematics, English language arts, and science.
10. All corrective actions related to 2024 Tiered Focused Monitoring (TFM) reports issued by the Office of Language Acquisition and the Office of Public School Monitoring must be fully implemented and all noncompliance corrected as soon as possible and, in any event, no later than the deadlines for corrective action imposed by the Office of Language Acquisition and the Office of Public School Monitoring.

In addition to meeting the terms of probation, DLA, like all charter schools, must comply with the terms of its charter. Failure of DLA to meet the probationary conditions placed on its charter within the timelines specified may result in immediate suspension and revocation of the school’s charter.

I will review and report to the Board on DLA’s success or lack of success in meeting the terms of probation. Based upon this review, I will recommend that the Board act as appropriate with respect to the school’s charter including, but not limited to, removal of probation, continuation of conditions, or suspension and revocation of the school’s charter.

The Department recognizes the potential disruption to students, families, and staff that probation and the possibility of closure present. The circumstances at DLA have created a dire situation for the school’s fiscal viability. If the school cannot demonstrate that it has sufficient enrollment demand and resulting tuition revenue to provide its students with the education promised in its charter, I will bring a recommendation to the Board to revoke the charter in June 2024 to ensure timely communication with families and effect an orderly closure over the summer. During this time, I urge the DLA board to consider the school’s condition and act to serve the best interests of its students.

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

1. [603 CMR 1.12](https://www.doe.mass.edu/lawsregs/603cmr1.html?section=12) states as follows.

   (1) **Conditions:** The Board or Commissioner may impose conditions on a school's charter for violations of law or failure to make progress with student achievement, failure to adhere to and enhance its recruitment and retention plan, failure to comply with the terms of its charter, or failure to remain viable. (2) **Probation:** The Board may place a charter school on probation if in its judgment the imposition of a condition alone would be insufficient to remediate the problem. The Board may impose conditions on the school's charter that require the school to address specific areas of concern. Placing a school on probation signals concern about the school's viability and permits the Board to suspend a school's charter immediately if the school fails to remedy the causes of its probation. The Department may require a charter school on probation to establish an escrow account in an amount determined by the Department in consultation with the charter school to pay for closing, legal, and audit expenses associated with closure should that occur. [↑](#footnote-ref-2)
2. As of the submission deadline of March 2024 for reporting waitlists, DLA reported six students on their waitlist. All six of these students reside in districts, Lynn and Randolph, that are at or above their net school spending (NSS) caps. Lynn and Randolph are not districts in DLA’s charter; due to the NSS caps, DLA must place these students on a waitlist. [↑](#footnote-ref-3)
3. The Board has previously granted all seats available under the 18 percent NSS cap in Boston based on current net school spending and current charter school enrollment. As a result, Boston was closed to significant new enrollment during the charter amendment processes for FY2024. DLA could submit only a request to amend its grade span or to become a regional charter school. [↑](#footnote-ref-4)
4. Tuition payments for Commonwealth charter schools for December through May are decreased when enrollment reported in October SIMS is lower than the enrollment report provided by the charter school prior to the start of the school year. [↑](#footnote-ref-5)
5. **Criterion 10: Finance** The school maintains sound and stable finances and operates in a financially sound and publicly accountable manner. Key indicators include but are not limited to:

   1. The school maintains a sound and stable financial condition and demonstrates a history of positive net assets, adequate cash flow to sustain operations and support the academic program, as evidenced by performance on key financial indicators reported in the Massachusetts Charter School Financial Dashboard.

   2. The school develops an annual budget that can be sustained by enrollment and other sources of historically stable revenue. The school uses all available allocated funding effectively to support student performance, opportunities, and outcomes. Student performance has been used to set budget priorities.

   3. The school uses an accurate accounting system and engages in appropriate budgetary planning, budget oversight, and budget revision.

   4. The school has and maintains appropriate internal controls that are documented in written fiscal policies and procedures.

   5. The school follows generally accepted accounting principles as evidenced by independent financial audits with unqualified audit opinions and limited findings that the school quickly corrects. [↑](#footnote-ref-6)
6. The bylaws of the board of trustees provide that the executive director is a non-voting member of DLA’s board. [↑](#footnote-ref-7)
7. Due to the COVID-19 pandemic, the Department did not implement all aspects of the statewide accountability in 2020 through 2022. The Department did not issue accountability determinations for the 2019-20 school year due to the cancellation of state assessments and school closures related to COVID-19. The Department also did not issue accountability determinations in 2021. In 2022, the Department produced some of the information associated with annual accountability determinations, including school accountability percentiles. In 2023, the Department implemented the full accountability system for the first time since 2019. Further information about the statewide accountability system may be found [here](https://www.doe.mass.edu/accountability/lists-tools/default.html). [↑](#footnote-ref-8)
8. All charter schools submit a pre-enrollment data report to the Department by March 15 of each year to establish the first five monthly tuition payments as well as the maximum number of students upon which total tuition will be calculated for the upcoming school year. The pre-enrollment reports must be based on actual enrollment data, such as applications for admission, admission lottery results, and accepted offers of admission. [↑](#footnote-ref-9)
9. End of Year enrollment is typically verified and reported by June at the end of each school year. DLA reports enrollment numbers each week to the Department. As of March 22, 2024, DLA enrolled 86 students. [↑](#footnote-ref-10)
10. The Elementary and Secondary School Emergency Relief (ESSER) Funds, authorized under section 18003 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), provided districts with emergency relief funds to address the impact of COVID-19, on elementary and secondary schools. [↑](#footnote-ref-11)
11. The bylaws of the DLA board require a minimum of seven members. State regulations require a minimum of five members. 603 CMR 1.06(1). [↑](#footnote-ref-12)