

603 CMR 1.00: CHARTER SCHOOLS

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1.01: Purpose

The purpose of 603 CMR 1.00 is to provide uniform rules and procedures governing the establishment and operation of charter schools.

1.02: Definitions

As used in 603 CMR 1.00, unless the context clearly requires otherwise, terms shall have the following meanings:

Accountability Plan. A charter school creates an Accountability plan by the end of its first year of operation in accordance with guidelines issued by the Department. An Accountability Plan articulates the goals the school has set to measure its success.

Administrator. Any individual duly authorized by a charter school's board of trustees to manage the programs and operations of the charter school, or a network of schools, in accordance with its charter as well as federal and state laws and regulations.

Application Cycle. The period beginning with the availability of application information for charter schools and extending through the receipt of final charter school applications for review, ending no later than the following February when the Board of Elementary and Secondary Education makes final decisions on awarding new charters. The various stages of the application cycle occur in accordance with the schedule established by the Department of Elementary and Secondary Education.

Board. The Board of Elementary and Secondary Education or a person duly authorized by the Board.

Board of Trustees. Public agents authorized by the state to supervise and oversee a charter school or a network of charter schools. The boards of trustees shall be considered public employers for purposes of tort liability under M.G.L. c. 258. Boards of trustees of Commonwealth charter schools shall be considered public employers for collective bargaining purposes under M.G.L. c. 150E. In the case of Horace Mann charter schools, the school committee shall be considered the public employer for purposes of collective bargaining under M.G.L. c. 150E. A board of trustees may be authorized to hold more than one charter.

Campus. The location at which a charter school educates students. A charter school may have multiple locations under one charter.

Charter. A license issued by the Board under the provisions of M.G.L. c. 71, § 89, and 603 CMR 1.00, allowing the grantee to operate a charter school for a period of five years.

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Charter Applicant. As defined in M.G.L. c. 71, § 89(d), a charter applicant shall include but is not limited to:

- (a) a non-profit business or corporate entity;
- (b) two or more certified teachers; or
- (c) ten or more parents/guardians; provided, however, that for profit business or corporate entities shall be prohibited from applying for a charter. The charter school application may be filed in conjunction with a college, university, museum, or other similar non-profit entity, or any combination.

Charter School. A public school operated under a charter granted by the Board and refers to both Commonwealth and Horace Mann charter schools unless otherwise specified. A charter school is managed by a board of trustees and operates independent of any school committee. A Commonwealth charter school is considered a local education agency for all purposes. A Horace Mann charter school is a school or part of a school that operates under a charter approved and granted pursuant to 603 CMR 1.04. A Horace Mann charter school is considered a local education agency except for purposes of state aid, certain state and federal grant programs, collective bargaining, and any other purposes where such designation would conflict with law or regulation.

Commissioner. The Commissioner of Elementary and Secondary Education or the Commissioner's designee.

Department. The Department of Elementary and Secondary Education.

District. A city, town, or regional school district.

Memorandum of Understanding. A written agreement or agreements between or among a Horace Mann charter school, the school committee of the district in which the charter school is located, and the collective bargaining unit for the district that, at a minimum, defines any modifications of the relevant collective bargaining agreement(s), services, and facilities provided by the district to the charter school, and funding of the charter school by the district. The Memorandum of Understanding is a material term of the charter. The charter school must submit the Memorandum of Understanding to the Department for approval.

Network. Multiple charter schools overseen by a single board of trustees. Each charter school is granted its own charter.

Proven Provider. A Proven Provider is:

- (a) two or more persons who had primary or significant responsibility serving, for at least five years, in a leadership role in a school or similar program that has a record of academic success and organizational viability;
- (b) a non-profit education management organization or non-profit charter management organization, in operation for at least five years, that has a record of academic success and organizational viability;
- (c) the board of trustees of an existing charter school that has a record of academic success and organizational viability; or
- (d) an education management organization, charter management organization, or school support organization that has a record of academic success and organizational viability in operating or starting public schools with which an applicant proposes to contract.

Qualifications for Proven Providers are described in 603 CMR 1.04(4).

Recruitment and Retention Plan. A charter school's written plan to recruit and retain diverse students under the provisions of M.G.L. c. 71, § 89, and 603 CMR 1.00. For the purposes of a Recruitment and Retention plan, retention shall be defined as the charter school's ability to maintain enrollment of its students with low turnover and limited attrition.

Regional Charter School. A charter school with a charter designating it as "regional" is required to give preference in enrollment to students residing in a specified region containing more than one district.

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Sending District. A Massachusetts city, town, or regional school district in which a charter school student resides and where the student would otherwise attend a public school. If a charter school has a residential component, the sending district is the city, town, or regional school district in which the parent or legal guardian of the charter school student resides or, if no parent or legal guardian can be identified, the school district in which the student last attended school.

Sibling. Persons who have a common parent, either biologically or legally through adoption.

1.03: General Provisions

(1) Administrative Bulletins. The Board and the Department may issue advisories to interpret, implement, and provide guidance to charter schools.

(2) Waivers. The Board may waive provisions of 603 CMR 1.00 for good cause. If a charter applicant or charter school board of trustees makes a written request for a waiver, the Board may waive the applicability of one or more provisions of 603 CMR 1.00. These waivers shall be granted only under circumstances the Board deems exceptional and such waivers shall be granted only to the extent allowed by law. All such requests from the charter applicant or a board of trustees must:

- (a) be in writing, signed by the waiver applicant;
- (b) specify the provisions of 603 CMR 1.00 to be waived, the duration of the waiver, and the circumstances to which the waiver applies and the specific reason why a waiver is sought;
- (c) include a certification that the waiver applicant has made a good faith effort to comply with said provisions; and
- (d) be accompanied by supporting documentation considered sufficient by the Board to support the special circumstances or the need for relief.

If the granting of a waiver would have an impact on sending districts or the district of the town or city in which the charter school is located, the Commissioner shall provide the superintendent of each district notice and an opportunity to comment.

(3) Prohibitions. Private and parochial schools are not eligible for charter school status. Charter schools shall not charge students an application fee or tuition. Charter schools shall not charge their students any fee related to the provision of required educational programs. Charter schools shall not charge any public school or public school district for the use of their curriculum, subject to the restrictions contained in any contract between charter schools and third party providers. For-profit businesses or corporate entities may not apply for a charter.

(4) Immediate Closure. The Commissioner may order immediate closure of a charter school facility where the health, safety, or education of the school's students is at risk. Additionally, the Commissioner may order immediate closure of a charter school facility where fire, health, or safety codes, regulations, laws, or accessibility requirements are not met.

1.04: Applications for and Granting of Charters

(1) Charter Application Process. Applicants shall submit to the Department application materials in accordance with the schedule, application form, and guidelines established by the Department for each type of charter school. Each applicant submitting application materials for a Commonwealth charter school shall also send a copy of the application to the superintendent of the school district(s) from which the applicant is expected to enroll students.

(a) Horace Mann applications shall be accepted in three categories with the corresponding district approvals:

- 1. A Horace Mann I application may be submitted to create a new school, provided the application is submitted with the approval of the local collective bargaining unit and the school committee in the district in which it is located. All Horace Mann charters granted before January 2010 are considered Horace Mann I.

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2. A Horace Mann II application may be submitted as a conversion of an existing public school provided the application is submitted with the approval of the school committee. Horace Mann II applications may be submitted at any time but shall participate in the application process in accordance with guidelines issued by the Department, with similar periods of time for review and charter granting. Horace Mann II charter schools may not open until completion of the opening procedures process.
 3. A Horace Mann III application may be submitted to create a new school provided the application is submitted with the approval of the school committee. An agreement with the local collective bargaining unit is not required prior to Board approval of a Horace Mann III charter school.
- (b) All Horace Mann charter schools may be exempt from specified provisions of local collective bargaining agreements, provided that employees of the school will continue:
1. to be members of the local collective bargaining unit;
 2. to accrue seniority; and
 3. to receive at minimum, the salary and benefits established by the local collective bargaining agreement. Consistent with M.G.L. c. 71, § 89, Horace Mann charter school employees will be exempt from all agreed-upon provisions of the collective bargaining agreement and school committee policies to the extent provided by their charter and the Memorandum of Understanding with the local district or collective bargaining unit or as voted by teachers as defined in M.G.L. c. 71, § 89.
- (c) Applications for Horace Mann charter schools shall describe in the charter school application:
1. the type of Horace Mann charter the applicant seeks (I, II, III);
 2. the proposed opening date of the charter school;
 3. the elements of the local collective bargaining agreement that apply to employees of the school; and
 4. the Memorandum of Understanding under which the charter school proposes to operate.
- (d) The Memorandum or Memoranda of Understanding must be consistent with M.G.L. c. 71, § 89; 603 CMR 1.00; and any guidelines issued by the Department and must include at a minimum:
1. the services, both instructional and non-instructional, that the local school district will provide to the charter school;
 2. the facilities provided by the district;
 3. any waivers to applicable collective bargaining agreements; and
 4. financial information, including, but not limited to:
 - a. the basis for calculating tuition;
 - b. a method for determining the arrangements between the charter school and the district regarding costs of services;
 - c. the date of the charter school's first annual budget allocation from the district, consistent with the allocation for other public schools in the district and the basis on which future tuition allocations will be made;
 - d. the schedule for school district funds to be transferred into the charter school's bank account;
 - e. responsibility for securing federal and state entitlement grants for the charter school; and
 - f. the procedures to be used for resolving disputes.
- (2) Review Process. The Department shall review application materials submitted in accordance with deadlines established by the Department. The role of any reviewer is solely advisory. Application materials will be reviewed and evaluated in accordance with criteria outlined in 603 CMR 1.04 and the charter school application itself. In addition, the Department will conduct interviews with all final applicants in order to better assess their qualifications and capacity to start and operate a charter school.
- (3) Evaluation and Approval of Charter Applications. The Department reviews applications to ensure that the applicant has, at a minimum, demonstrated the capacity:
- (a) to further the purposes for establishment of charter schools specified in M.G.L. c. 71, § 89;

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- (b) to conform with M.G.L. c. 71, § 89, and all other applicable laws and regulations, including any guidelines the Board may issue, and including those related to English language learners and students with disabilities;
- (c) to meet its enrollment projections through demonstration of support for the proposed charter school in the communities from which students would be likely to enroll;
- (d) to implement its recruitment and retention plan;
- (e) to involve parents and guardians as partners in the education of their children;
- (f) to develop a proposed program that enhances options for students in the district(s) served;
- (g) to collaborate with and disseminate innovative practices to the school districts from which it draws students, if a Commonwealth charter, and with other schools in its district, if a Horace Mann charter;
- (h) to develop a management structure and plan which enables the charter school to achieve the goals and mission set forth in its charter, including information about proposed board members and the selection, roles, and responsibilities of the board of trustees;
- (i) to develop bylaws that govern the board of trustees consistent with M.G.L. c. 71, § 89; 603 CMR 1.00; and guidelines issued by the Department;
- (j) to develop a management structure and plan that enables the board of trustees to oversee a network of charter schools, including the roles and responsibilities of school leaders and administrators, if applicable;
- (k) to assure that students will meet the same performance standards and assessment requirements set by the Board for students in other public schools;
- (l) to develop an accountability plan that meets criteria established by the Department, at the end of the first year of the school's charter, establishing five-year performance objectives to help measure the school's progress and success in fulfilling the terms of its charter;
- (m) to administer its educational programs, school operations, and finances effectively;
- (n) to establish a process to provide to students, parents/guardians, the Board, other interested parties, and the public all information required by law and regulation, as well as to provide other information the Board may request;
- (o) to develop an enrollment policy consistent with M.G.L. c. 71, § 89, and 603 CMR 1.05;
- (p) to develop a recruitment and retention plan consistent with M.G.L. c. 71, § 89, and 603 CMR 1.05;
- (q) to ensure the thoroughness and accuracy of the charter school application;
- (r) to provide school facilities that comply with municipal building codes and other applicable laws and that are adequate to meet the school's program requirements;
- (s) to develop a board of trustees with the capacity to effectively govern the school and to effectively govern more than one school, if applicable; and
- (t) to build a network of charter schools, if applicable.

If a charter is granted, the drafts of documents submitted during the application process are subject to Department review and approval during the opening procedures process, and the additional requirements in 603 CMR 1.04(7).

(4) Qualifications to Achieve Proven Provider Status. In school districts performing in the lowest 10% statewide and in which the 9% net school spending cap is or would be exceeded, applications will be considered only from Proven Providers. The Commissioner will determine and grant proven provider status.

Applicants for Proven Provider status must meet the requirements in 603 CMR 1.02. The applicant must submit evidence, satisfactory to the Commissioner, to demonstrate a significant management or leadership role at a school or similar program that is an academic success, a viable organization, and relevant to the proposed charter school.

- (a) The applicant shall submit a detailed description of role(s) and responsibilities at the successful school(s) or program(s).
- (b) The applicant shall submit data demonstrating success in student academic performance and evidence of academic program success, including but not limited to:
 1. Proficiency levels and growth measures on the Massachusetts comprehensive assessment system or equivalent assessments for all students and for one or more targeted subgroups as defined in M.G.L. c. 71, § 89(i)(3), which are similar to statewide averages in English Language Arts and mathematics for all students in Massachusetts in comparable grades, over no less than a three-year period for cohorts of students;

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2. Student performance on other standardized tests over no less than a three-year period for cohorts of students, if available, which demonstrates student achievement levels that are similar to statewide averages in English Language Arts and mathematics for all students in Massachusetts in comparable grades;
3. attendance, retention, and attrition data;
4. graduation and dropout data, if applicable; and
5. in-school and out-of-school suspension rates.

(c) The applicant shall submit evidence of organizational viability, which shall include but not be limited to effective governance, effective financial management, effective implementation of recruitment and retention plans, if applicable, and compliance with applicable laws and regulations.

(d) The applicant shall provide evidence to demonstrate that the successful school serves student population(s) similar to the population(s) to be served by the proposed charter, and that the program to be offered at the proposed charter is similar to, or represents a reasonable modification of the successful school.

(e) Applicants shall provide any other information as required by the Department.

For applicants with a current or previous relationship to a Massachusetts charter school, the Commissioner may consider all information related to such school's performance, including his evaluation in connection with each renewal of its charter.

(5) Public Comment. The Board and the Department shall hold a public hearing for final applications in the school district in which a proposed charter school is to be located in order to solicit and review comments on the application from the school committees of the school district(s) from which the applicant is expected to enroll students and the public at large. At least one member of the Board shall attend each public hearing soliciting comments on the merits of pending charter school applications and shall report to the Board on the public hearing.

(6) Granting of Charters.

(a) The Board shall grant charters to charter boards of trustees under M.G.L. c. 71, § 89, and under such conditions and at such time as the Board specifies under 603 CMR 1.04.

(b) The Board shall grant new charters in the month of February, except that for Horace Mann II schools as described in 603 CMR 1.04(1)(a)2., the Board may grant such charters at such other times as designated, dependent upon the intended opening date.

(c) A charter granted by the Board shall be effective for five years, beginning July 1st of the first fiscal year in which the charter school enrolls students, unless revoked pursuant to M.G.L. c. 71, § 89, and 603 CMR 1.12. If no students are attending a charter school within 19 months from the date the charter was granted, the charter will be null and void, unless a waiver and extension is granted by the Board according to the process outlined in 603 CMR 1.03(2).

(d) Should the Board elect to award fewer than the number of charters specified under M.G.L. c. 71, § 89 in any given cycle, the Board may grant those charters not awarded in subsequent application cycles in addition to the number of charters scheduled to be awarded and notwithstanding any limitations on the number of new charters authorized in such year.

(e) The Board may award any charter revoked or returned to the Board in subsequent application cycles in addition to the number of charters scheduled to be awarded and notwithstanding any limitations on the number of new charters authorized in such year.

(f) The Board will use the most recent United States Census estimate to determine the population of a city or town proposed as the location for a charter school.

(g) Private and parochial schools shall not be eligible for charter school status. If members of a charter applicant group are on the governing board or management of a private or parochial school that plans to close or closes around the time of seeking a charter, it creates a rebuttable presumption that the private or parochial school seeks charter status for the purpose of securing public funding. To rebut this presumption, the applicant group must establish facts sufficient for the Department to determine that funding is not the primary reason they are seeking a charter while the private or parochial school is closing. In making a determination, the Department will compare the governance, management, and other characteristics of the private or parochial school and the governance, management, and other characteristics of the charter school, including but not limited to curriculum, student body, staff, leadership, location, and the financial plan for the school.

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(7) Conditions for Opening New Charter Schools. Charters shall be awarded subject to the conditions listed in 603 CMR 1.04(3) and (7) and any additional conditions that the Board or Department may specify. The Board may temporarily waive such conditions and award a charter, provided that the applicant submits adequate written assurance that all such conditions will be met prior to the opening of the charter school. If a new charter school fails to comply with any such specified condition, the Commissioner may prohibit the school from opening.

Upon receiving a charter, the charter school must successfully complete the opening procedures process specified by the Department. This process begins with the awarding of a new charter by the Board and ends in the following June when the school submits a draft Accountability Plan to the Department. Opening procedures requirements include, but are not limited to, provision of the following:

- (a) the terms of the proposed contract, for review and approval, in such cases where the board of trustees intends to procure substantially all educational services from another person or organization;
- (b) policies and procedures including, but not be limited to, approved bylaws, an enrollment policy, and a recruitment and retention plan;
- (c) criteria and procedures for suspension and expulsion of students;
- (d) written documentation that criminal background checks have been performed as required by state law;
- (e) written documentation that the facilities to be used by the charter school are approved for use as a school by the building inspector in the municipality in which the building is located;
- (f) written documentation that the facilities occupied by the charter school have been inspected by the Fire Department of the municipality in which the facilities are located;
- (g) written documentation that approval under M.G.L. c. 148 has been secured from the licensing authority of the municipality in which the building is located if explosives or flammable compounds or liquids are used in connection with courses taught at the school; and
- (h) written documentation that the school is in compliance with all other applicable federal and state health and safety laws and regulations, including evidence of compliance with any required insurance coverage.

(8) Information for Distribution of Public Funds. Upon receiving a charter, all charter schools shall provide the Department with a federal tax identification number issued solely to the charter school, and banking information regarding a bank account solely in the name of the charter school, as required by the State Treasurer for the transfer of public funds.

(9) Lowest 10%. The Commissioner shall annually publish a ranking of all districts that are subject to charter school tuition charges, for the purpose of determining the lowest 10% as specified in M.G.L. c. 71, § 89(i)(2), and (i)(3). Such ranking shall be calculated by determining the average ranks for each district's English language arts, mathematics, and science composite performance index; the percentage of students scoring warning or failing in English language arts, mathematics, and science; the percentage of students scoring advanced in English language arts, mathematics, and science; and student growth percentiles for English language arts and mathematics, using statewide student performance scores released in the two consecutive school years immediately preceding the school year in which applications are submitted. These calculations shall use weighting consistent with the Department's approved methodology for the state accountability system. Districts without data for each component of the calculation will not be included. In the event that all statewide student performance scores were not released in the two consecutive school years immediately preceding the school year in which applications are submitted, such ranking shall be calculated for districts, including those that may lack data for some components, using the two most recent years in which statewide student performance scores were released. Additional charter school seats resulting from a district's designation in the lowest 10% may be awarded by the Board to a new charter applicant, to existing charter schools, or to any combination thereof. The Board may provisionally award seats to new charter applicants and to existing charter schools that will become available in future years pursuant to the schedule set forth in St. 2010, c. 12, § 9, provided, that if a district is no longer in the lowest 10%, any remaining provisional seats may not be used.

(10) Seat Availability. In considering an application for the creation or expansion of a regional charter school, the board shall independently assess the availability of seats for each sending district within the proposed region, and may limit the number of students who may be enrolled from each such district.

1.05: Student Recruitment, Enrollment, and Retention

(1) Recruitment and Retention Plan. A charter school must develop a plan that includes deliberate, specific strategies the school will use to attract, to enroll, and to retain a student population that is demographically comparable to similar grades in schools from which the charter school enrolls students. Charter schools shall submit recruitment and retention plans for approval by the Department that meet the requirements of M.G.L. c. 71, § 89; 603 CMR 1.05; and any guidelines issued by the Department.

(2) Non-discrimination. Charter schools shall not discriminate on the basis of race, color, national origin, creed, sex, gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or a foreign language, or prior academic achievement. For purposes of 603 CMR 1.05, gender identity shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

(3) Enrollment Process and Applications for Admission.

(a) Enrollment Process. Charter schools may not administer tests to potential applicants or predicate enrollment on results from any test of ability or achievement. Charter schools may not use financial incentives to recruit students. Requirements for enrollment in a charter school, including but not limited to attendance at informational meetings and interviews, shall not be designed, intended, or used to discriminate. Charter schools may not require potential students and their families to attend interviews or informational meetings as a condition of enrollment.

(b) Application for Admission. Every charter school must submit its proposed application for admission, and any subsequent revisions, beyond changing dates indicated and correcting minor grammatical errors, to the Department for approval.

(c) Principal Application Deadlines. Charter schools may not set any principal application deadlines or hold any enrollment lotteries for student admissions for the upcoming school year until after January 1st. Every charter school shall conclude its principal enrollment process no later than March 15th of each year.

(4) Written Notice. Charter schools shall notify all applicants in writing of the rights of students with diverse learning needs to attend the charter school and to receive accommodations and support services, including students who may have disabilities, require special education, or are English language learners. Charter schools must include this notice as part of the school's application and enrollment materials. Every charter school must make information regarding the availability of services for students generally available in the school's outreach materials, through the student handbook, and on the school's website.

(5) Application Deadlines. Charter schools shall give reasonable public notice, of at least one month, of all application deadlines.

(6) Enrollment in Commonwealth Charter Schools. In conformance with M.G.L. c. 71, § 89, enrollment in Commonwealth charter schools shall be conducted as follows:

(a) In such cases where there are fewer spaces than eligible applicants, students shall be accepted for admission by a lottery process.

(b) A Commonwealth charter school shall provide an enrollment preference to:

1. Siblings of students already attending the school; and
2. Students who reside in the city or town in which a Commonwealth charter school is located or, in the case of a regional charter school, to students who reside within the charter school's region.

(c) If there are fewer spaces for admission to the charter school than eligible applicants, the charter school shall hold an enrollment lottery for all such applicants.

(d) The Department shall notify each Commonwealth charter school no later than February 15th of any limitation(s) on the number of students from a district that may be enrolled in charter schools for the upcoming school year.

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(e) A charter school may initiate a request once a year for a mailing to the students enrolled in each district specified in the school's charter, and a district may initiate a request once a year for a mailing to the students enrolled in any charter school serving that district. When such a request is made, the district or school, as the case may be, shall provide the names and addresses of students within 30 days, in electronic format, to an approved third party mailing service. Any vendor listed on the statewide procurement or master services agreement for mailing services shall be deemed approved for the purposes of 603 CMR 1.05(6)(e). The district or school must provide parents or guardians with the opportunity to request that such information be withheld. The cost of copying and mailing shall be borne by the charter school or district requesting the mailing. Neither school districts nor charter schools shall charge for the provision of the required names and addresses. Charter schools shall provide any such mailing in the prevalent languages of the district. A language shall be deemed a prevalent language if it is the primary language of 1% or more of the district's total enrollment.

(7) Enrollment in Horace Mann Charter Schools. In conformance with M.G.L. c. 71, § 89, enrollment in a Horace Mann charter school shall be conducted as follows:

- (a) In such cases where there are fewer spaces for admission than eligible applicants, students shall be accepted for admission from among applicants by lottery.
- (b) In order of priorities, a Horace Mann charter school shall provide an enrollment preference to:
 1. for the initial lottery, any students attending said school, or attending school in the school building previously occupied by said school, on the date that the final application is filed with the Board;
 2. for the initial lottery, siblings of any students attending said school, or attending school in the school building previously occupied by said school, on the date that the final application is filed with the Board;
 3. in all subsequent lotteries, siblings of students currently attending the school;
 4. students who are currently enrolled in the public schools of the district in which the Horace Mann charter school is located; and
 5. students who reside in the city or town in which the Horace Mann charter school is located.

(8) Repeat Enrollment Process. If the principal enrollment process fails to fill the available admission spaces, a school may repeat the process more than once, providing such process is fair and open and the school gives reasonable public notice at least one month prior to the application deadline. As spaces become available during the school year, a school may repeat the enrollment process to fill these openings and to meet the requirements of M.G.L. c. 71, § 89(n). No student entering an enrollment process may be admitted ahead of other eligible students who were previously placed on a wait list during a prior enrollment process, except in cases where enrollment preferences change or as described in 603 CMR 1.05(10)(b). The total number of students attending a charter school in a given school year cannot exceed the total number of students reported to the Department in the previous spring in accordance with 603 CMR 1.08(5).

(9) Public Lotteries. All lotteries for charter school seats shall be conducted in a public place with a neutral party drawing names and with reasonable public notice given at least one week prior to the lottery. Such lotteries may be conducted electronically; in such cases a neutral party shall certify that the process is fair and that selection is random.

(10) Waitlist. Charter schools shall place the names of students not selected in an enrollment lottery on a wait list in the order the names are drawn.

- (a) Schools shall maintain waitlists only for the school year for which the students applied, provided that a charter school may choose to maintain any waitlists that were established prior to March 31, 2014 until such waitlists are exhausted, provided that such maintenance is clearly articulated in the school's enrollment policy approved by the Department. Charter schools must keep accurate records of their wait list containing students' names (first, middle, last), dates of birth, cities or towns of residence, and grades levels of students who entered the lottery but did not gain admission. When an offer of admission is made, reasonable proof of current residency or sibling status may be required at the time an offer of admission is made.

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(b) In cases where the enrollment of a student, who is not a sibling of another currently enrolled student, from the waitlist would exceed the district charter tuition cap, the student should be skipped over but kept on the waitlist. In cases where the enrollment of a student who is a sibling of a student already attending a charter school would exceed the district charter school tuition cap, the sibling may be enrolled with the Commonwealth of Massachusetts providing tuition for the sibling, subject to appropriation.

(c) In conformance with M.G.L. c. 71, § 89, charter schools shall, when a student stops attending the school for any reason, fill vacant seats up to February 15th, excluding seats in the last half of the grades offered and grades 10, 11, and 12. If a school has an odd number of grades, more than half of grades offered shall be included in grades for which the school must fill vacant seats. A vacancy not filled after February 15th moves into the subsequent grade, to be filled the following September if such grade is not in the last half of the grades offered and is not grades 10, 11, or 12. Seats for students who have accepted an offer of admission in the charter school but have never attended are exempt from 603 CMR 1.05(10)(c).

(11) Integrated Enrollment Process. A school may integrate its enrollment process with that of the school district(s).

(12) Maximum Age and Thresholds. Each charter school shall specify age thresholds for kindergarten and maximum ages for high school programs, consistent with state and federal law.

(13) Multiple Campuses Under Single Charter. A charter school that operates multiple campuses under a single charter may assign students, in accordance with the charter school's enrollment policy, to a specific campus for reasons of geographic proximity, student safety, or program delivery.

1.06: Boards of Trustees and Staff

(1) Responsibilities of Board of Trustees. The board of trustees of a charter school holds the charter of the school and governs the school. Every board of trustees shall have a least five members. Boards of trustees are state governmental bodies. Boards of trustees must fulfill their fiduciary responsibilities, including but not limited to, the duty of loyalty and duty of care, as well as the obligation to oversee the school's budget. Boards of trustees shall not exercise managerial powers over the day-to-day operations of the school. Boards of trustees must ensure that schools operate in accordance with their charter, including any approved amendments. Boards of trustees must ensure that schools operate in compliance with all applicable state and federal laws. The responsibilities of boards of trustees shall include, but are not limited to the following:

- (a) Successfully completing the opening procedures process in accordance with M.G.L. c. 70, § 89; 603 CMR 1.00; and any guidelines issued by the Department;
- (b) Requesting the Commissioner's appointment of any new trustees;
- (c) Submitting the timely annual report;
- (d) Submitting the timely annual independent audit;
- (e) Hiring, evaluating, and removing, if necessary, qualified personnel to manage the charter school's day-to-day operations and holding these administrators accountable for meeting specified goals;
- (f) Approving and monitoring progress towards meeting the goals of the school's Accountability Plan;
- (g) Adopting and revising school policies, including plans for student recruitment and retention;
- (h) Responding to complaints in writing as required by 603 CMR 1.09; and
- (i) Ensuring that members of the board receive an orientation and training regarding their duties and obligations as members of a board of trustees.

(2) Bylaws. The bylaws of every board of trustees must comply with state and federal laws and contain provisions including, but not limited to:

- (a) specific, reasonable limits on successive or total terms for members of the board of trustees;

1.06: continued

- (b) the exercise of due diligence in assessing the suitability of candidates for board membership with respect to potential conflicts of interest and areas of skills and expertise that will be of value to the board of trustees, such due diligence to occur prior to a vote by the board of trustees to request the Commissioner to appoint the proposed members;
- (c) frequency of board meetings, which must be held in Massachusetts, and occur at least quarterly;
- (d) compliance with the Commonwealth's open meeting law in M.G.L. c. 30A, including meeting all training requirements;
- (e) compliance by members of the board of trustees with the Commonwealth's state ethics requirements, including meeting all training requirements, filing all required disclosures under M.G.L. c. 268A, and the filing of statements of financial interest under M.G.L. c. 71, § 89(u); and
- (f) if the board includes one or two employees of the school as members of the board of trustees, the bylaws must explicitly identify these positions.

(3) Board of Trustees Training. Every member of the board of trustees shall, within one year of appointment, complete orientation concerning the responsibilities of their office, as determined by the Commissioner, and any other training required by other state agencies.

- (4) Charter School Staff. Charter school teachers hired after August 10, 2000 must either:
- (a) take and pass, within their first year of employment at a charter school, the Massachusetts Tests for Educator Licensure; or
 - (b) be already licensed to teach in Massachusetts.

1.07: Funding

(1) Horace Mann Charter Schools. Horace Mann charter schools shall be funded through the local school district under the terms of the Memorandum of Understanding. A Horace Mann charter school shall submit a budget request to the local school district annually, in accordance with the budget schedule of the local school district and no later than April 1st. Such budget request shall be submitted to the superintendent and school committee of the district in which the charter school is located. The school committee shall act on the charter school budget request in conjunction with its approval of the district's overall budget. The board of trustees of the Horace Mann charter school may expend such allocation as it sees fit without any further approval by the superintendent or school committee. A Horace Mann charter school's budget allocation shall be consistent with the allocation of other public schools in the district. In the case of budget reductions in the school district, a Horace Mann charter school's budget may not be reduced disproportionately to other schools in the district. The Horace Mann charter school board of trustees shall follow the dispute resolution procedures outlined in the Memorandum of Understanding. The board of trustees may appeal a disproportionate budget allocation to the Commissioner. The Commissioner then shall determine an equitable funding level for the charter school and, if appropriate, shall require the school committee to provide such funding.

(2) Commonwealth Charter Schools. Every operating Commonwealth charter school shall receive tuition payments from each school district whose students attend the charter school. Such tuition payments shall be equal to the appropriate charter school tuition rate, as determined in accordance with 603 CMR 1.07(2)(a), multiplied by the number of students attending the charter school from the sending district in the current year. If any students attend the charter school for less than the full school year, the tuition payment shall be reduced based on the number of days of enrollment. Such tuition payments shall be paid in accordance with 603 CMR 1.07(2)(d).

- (a) Foundation Budget and Commonwealth Charter Schools. For each sending district, a separate foundation budget dollar amount and charter school tuition rate shall be calculated as follows for each charter school to which the district sends students.

1.07: continued

1. The foundation budget dollar amount shall be calculated, based on the foundation budget factors used for the distribution of Chapter 70 aid in the current year, provided that the out-of-district special education tuition component of the foundation budget shall be excluded from the calculation. The student data for this calculation shall be the foundation enrollment information reported by the charter school as of October 1st of the prior school year. The tuition rate shall equal the foundation budget dollar amount divided by the number of students. If no students attended a particular charter school from a particular sending district in the prior year, then the sending district's average foundation budget per pupil will be used as the tuition rate.
 2. Each tuition rate shall be increased by the ratio of the sending district's current year budgeted net school spending, as reported on schedule 19 of the Department's end of year pupil and financial returns, to the sending district's total current year foundation budget. Amounts reported on schedule 19 for out-of-district special education tuition and retired teachers' health insurance shall be excluded from this calculation.
 3. Each tuition rate shall be increased by a per pupil capital needs component calculated in accordance with M.G.L. c. 71, § 89(ff), and each year's general appropriations act.
- (b) Facilities. Any amounts appropriated under line item 7010-0030 for the purpose of per pupil facilities aid for Commonwealth charter schools shall be used to reimburse sending districts for the capital component of the tuition payments, as calculated in 603 CMR 1.07(2)(a)3., but shall not affect the payments due to Commonwealth charter schools.
- (c) Tuition Rate. For each sending district, the sum of its tuition payment to each Commonwealth charter school, less any charter school capital facility reimbursement received pursuant to 603 CMR 1.07(2)(b), shall be used as the district's "total charter school tuition payment" for the purposes of M.G.L. c. 71, § 89(i), and shall be used as the district's "total charter school tuition amount" for the purposes of M.G.L. c. 71, § 89(gg).
- (d) Tuition Payment. The State Treasurer shall make monthly payments to Commonwealth charter schools. In making such payments, the Commonwealth shall reduce each sending district's M.G.L. c. 70 allocation by an amount sufficient to meet its charter school obligations for the month. If there are insufficient M.G.L. c. 70 funds to meet a district's obligation, the Commonwealth shall reduce other state aid allocated to the applicable cities and towns. If there are insufficient state aid funds of any kind to meet a district's obligation, the Board shall recommend to the Governor and legislature that a supplemental appropriation be made to pay any remaining obligation to the charter school(s). The Department shall notify both the Commonwealth charter school and the sending district(s) of the amount of these tuition payments.
- (e) Monthly Payments. The first five monthly payments to Commonwealth charter schools shall be based on each charter school's pre-enrollment report, filed with the Department pursuant to 603 CMR 1.08(5). The remaining monthly payments of each fiscal year shall be based on updated enrollment reports, submitted to the Department by each charter school. Failure to submit a required enrollment report or charter school claim form may result in the withholding of some or all of a charter school's monthly payment. Although each monthly payment is intended to equal approximately one twelfth of the projected annual amount, payments from December through June shall include adjustments to correct any over- or under-payments in earlier months of the fiscal year.
- (3) Transportation.
- (a) All students who reside in the school district in which a charter school is located shall be provided transportation by the district, provided that either:
 1. transportation is provided to district students in the same grade; or
 2. transportation is required by the student's individualized education program. If a district provides an alternative means of transportation for its students in a particular grade, such as public transportation passes, it may do so for charter school students in that grade. A district may not limit transportation to charter school students based upon attendance zones or other geographic subdivisions of the district. The district shall accommodate the school day and school year specified in the school's charter, provided that the charter school shall make reasonable accommodations in setting its daily starting and ending times to foster cost-efficient transportation arrangements.

1.07: continued

(b) A charter school shall annually notify the district in which it is located of its projected transportation needs no later than February 1st prior to the start of the school year, provided that newly chartered schools shall provide such notification as soon as practicable following receipt of its charter. Charter schools shall update their projected transportation needs by April 1st based on pre-enrollment data.

(c) If a district and a charter school are unable to reach agreement on the district's provision of transportation for all or some of the students attending said school, the charter school may provide its own transportation. The school shall make every reasonable effort to provide such transportation in the most cost effective manner possible, including but not limited to collaboration with the district. The school shall be reimbursed by the district for the actual costs incurred by the school or for the district's average per pupil cost for all in-district student transportation, whichever is less. Said reimbursements shall be subject to the Commissioner's approval and shall be paid through the Department's charter tuition payment process.

(4) Surplus Determination. Every Commonwealth charter school shall maintain a separate fund on its books of account for tuition revenue. The Commissioner, in consultation with the State Auditor, shall prescribe supplemental reports for the purpose of calculating the school's cumulative unspent tuition revenue, and such reports shall be submitted as part of the school's audited financial statements. Commonwealth charter schools are permitted to retain a reasonable surplus as working capital for the upcoming fiscal year equal to no more than 25% of the prior year's tuition payments plus 20% of the budgeted operating and capital expenses for the upcoming year. Payments of excess cumulative tuition revenue due to sending districts and the Commonwealth shall be made by the Commissioner through adjustments to monthly tuition payments and monthly distribution of charter 70 aid.

(5) Capital Plan and Reserves. A charter school may establish and periodically update a capital plan identifying current and future capital projects. The Commissioner shall prescribe the information to be reported for each such project as part of the school's annual report. A charter school may establish a separate capital reserve account for each project identified in its capital plan, and may make payments into said accounts. Funds in a capital reserve account may only be used for the project or purpose for which the account was established, provided, that such funds may be transferred to another capital reserve account or to the school's operating fund with the prior approval of the Commissioner.

1.08: Reporting Requirements and Ongoing Review

(1) Annual Report. A charter school shall submit an annual report to the Board and the local school committee and make available to every parent or guardian of its enrolled students and to every parent or guardian who expresses interest in enrolling in that charter school. Each charter school shall make the annual report available on its website. A network, as defined by 603 CMR 1.00, may submit a combined annual report provided that information for each school is reported discretely within the annual report to ensure that it complies with M.G.L. c. 71, § 89; 603 CMR 1.00; and any guidelines issued by the Department. The annual report shall be issued no later than August 1st of each year for the preceding school year. The annual report shall include the following information:

- (a) a financial statement setting forth by appropriate categories the unaudited revenue and expenditures for the year just ended, and a balance sheet setting forth the charter school's assets, liabilities, and fund balances or equities;
- (b) a capital plan identifying future planned capital projects and the amounts held in reserve for such projects;
- (c) a report on the school's implementation of its recruitment and retention plan for the relevant year;
- (d) an updated recruitment and retention plan for the upcoming school year that complies with guidelines issued by the Department;
- (e) projections of income and expenses for the upcoming school year;
- (f) discussion of progress made toward achievement of the goals of the charter and accountability plan;

1.08: continued

- (g) evidence that the charter school is developing or has provided models for replication and best practices in education; and
- (h) such other information as the Board may require in guidelines.

(2) Site Visits. The Department may send evaluation teams to visit each charter school on an annual or on an as-needed basis to corroborate and augment the information provided in the annual report. The Department may conduct other site visits as necessary. Site visit teams may also gather any other evidence relevant to the school's performance. The written reports from these site visits shall become part of the charter school's record, along with any response that the school submits.

(3) Financial Audits. In accordance with M.G.L. c. 71, § 89, every charter school shall have an independent audit conducted of its accounts, consistent with generally accepted government auditing standards and any guidelines issued by the Department. Audits shall be filed annually by November 1st with the Department and the Office of the State Auditor. Districts are required to assist Horace Mann charter schools to the fullest extent possible in providing them in a timely fashion with the financial, payroll, and personnel records required for a complete audit. A network, as defined by 603 CMR 1.00, may submit a combined annual independent audit report, provided that each entities' financials are discretely presented within the audit report to ensure that it complies with M.G.L. c. 71, § 89; 603 CMR 1.00; and any guidelines issued by the Department.

(4) End of Year Financial Report: Every charter school shall submit an end of year financial report based on audited financial figures in accordance with guidelines issued by the Department.

(5) Enrollment Reports. Every charter school shall file a pre-enrollment report annually in accordance with deadlines established by the Department. Every charter school must keep accurate records related to enrollment including, but not limited to, applications for admission, the lottery process, and wait lists. The Department will report to districts the aggregate number of students who are selected for admission for the upcoming school year from their districts and the total enrollment for each charter school. No charter school shall receive tuition payments that exceed the total enrollment for that charter school as it was reported to the Department in the school's pre-enrollment report. In their pre-enrollment reports, charter schools must notify the Department of:

- (a) the school's total enrollment for the subsequent academic year; and
- (b) the projected number of students selected for admission, by grade and district of residence, for the subsequent academic year.

(6) Waitlist Reports. In accordance with M.G.L. c. 71, § 89(n); 603 CMR 1.05; and any guidelines established by the Department, every charter school shall submit to the Department, no later than June 1st, the list of students who entered the lottery but did not gain admission. The information provided must include, but is not limited to, students' names (first, middle, last), dates of birth, towns of residence, and grades. Every charter school must update this waitlist data as required by the Department.

(7) Enrollment Claim Forms. Each charter school shall submit reports of actual enrollment as of October 1st and March 1st. The reports shall be filed in accordance with guidelines and deadlines established by the Department.

(8) Additional Information and Reports. In addition to the requisite submissions as articulated in 603 CMR 1.00, charter schools must supply any additional information, data, or reports required by the Department or Board.

(9) Compliance. Every charter school shall submit written documentation related to compliance with building, health, safety, and insurance requirements and related to all such inspections and approvals are current.

1.08: continued

(10) Investigations. Every charter school shall notify the Department in writing of all significant matters within two business days. Significant matters include, but are not limited to, all communications made or received by or on behalf of the school with any government audit, investigative, or law enforcement agency.

(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:

- (a) changes in individuals holding school leadership positions, such as an executive director or principal;
- (b) a delay in implementing a minor or major amendment;
- (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;
- (d) changes in officers of the school's board of trustees;
- (e) individuals resigning from the board of trustees;
- (f) changes in general contact information (phone number, mailing address, and email) for the school and the school's board of trustees; and
- (g) significant decreases in enrollment (more than 10% lower than any previously reported figure).

(12) Signatory Authorization. All information supplied to the Board, the Commissioner, or the Department by the charter school shall be signed by an individual with signatory authority. All such information is submitted under penalty of perjury.

1.09: Complaint Procedure

(1) A parent, guardian, or other individuals or groups who believe that a charter school has violated or is violating any provision of M.G.L. c. 71, § 89, or 603 CMR 1.00 may file a complaint with the charter school's board of trustees.

(2) The board of trustees shall respond in writing to the complaining party no later than 45 days from receipt of the complaint.

(3) The board of trustees shall, pursuant to a complaint received under 603 CMR 1.09, or on its own initiative, conduct reviews to ensure compliance with M.G.L. c. 71, § 89, and 603 CMR 1.00. The charter school and the specific individuals involved shall cooperate to the fullest extent with such review.

(4) A complaining party who believes a complaint pursuant to 603 CMR 1.09(1) has not been adequately addressed by the charter school board of trustees may submit the complaint in writing to the Commissioner, who shall investigate such complaint and make a written response.

(5) In the event the charter school is found in violation of M.G.L. c. 71, § 89, or 603 CMR 1.00, the Commissioner or Board may take such action deemed appropriate including, but not limited to, suspension or revocation of the charter, or referral of the matter to the District Attorney, the Office of the Attorney General, or other appropriate agencies for action.

(6) A parent, guardian, or other individuals or groups who believe that a charter school has violated or is violating any state or federal law or regulation regarding special education may file a complaint directly with the Department.

1.10: Amendments of Charters

Requests to amend the material terms of a school's charter must be voted on by the board of trustees and approved by the Commissioner or the Board before change is implemented.

1.10: continued

(1) Amendments Requiring Board 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 Board a request in writing to amend its charter. Changes requiring approval by the Board before they can be implemented include:

- (a) Districts specified in the school's charter;
- (b) Maximum enrollment;
- (c) Grades served; and
- (d) Contractual relationships with an education management organization providing or planning to provide substantially all the school's educational services.

(2) 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:

- (a) School name;
- (b) Mission;
- (c) Governance or leadership structure;
- (d) Educational programs, curriculum models, or whole-school designs that are inconsistent with those specified in the school's charter;
- (e) Bylaws;
- (f) Membership of the board of trustees;
- (g) Memoranda of Understanding for Horace Mann charter schools;
- (h) Schedule (length of school year, school week, or school day);
- (i) Accountability Plan;
- (j) Enrollment policy and application for admission;
- (k) Expulsion policy; and
- (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.

(3) Consideration of Amendment Requests. The Commissioner and the Board may consider a charter school's compliance with applicable state, federal, and local law and evidence regarding the three areas set forth in 603 CMR 1.11(2) in reaching a determination regarding a school's request to amend its charter.

(4) Horace Mann Charter Schools.

- (a) Amendments by a Horace Mann charter school to its bylaws and members on its board of trustees shall be voted on by the school's board of trustees and the request submitted in writing to the Commissioner. Such changes require approval by the Commissioner before they can be implemented and do not require approval of the local collective bargaining unit and local school committee.
- (b) All other amendments, as described in 603 CMR 1.10(1) and (2), by Horace Mann I and III require the approval of the local collective bargaining unit and the local school committee prior to the submission of such requests to the Department. All other amendments by a Horace Mann II require approval of a majority of the school's faculty and the local school committee prior to the submission of such requests to the Department.

(5) Comment. If a Commonwealth charter school seeks an amendment to change its maximum enrollment, grades served, the municipality or school district of its location, or the districts specified in its region, the school shall send a copy of its amendment materials to the superintendent of the school districts from which the school enrolls or is expected to enroll students and certify to the Department that it has done so. The Department will solicit and review comments on the amendment request from the superintendents of the affected districts.

(6) Proven Provider. Boards of trustees seeking amendment requests to increase maximum enrollment in districts performing in the lowest 10% statewide, under M.G.L. c. 71, § 89, and in which the 9% net school spending cap is or would be exceeded, must meet the performance criteria described in 603 CMR 1.04(4).

1.10: continued

(7) More than 20%: In accordance with M.G.L. c. 71 § 89(n), if more than 20% of the school's total enrollment for two consecutive years comes from school districts not included in its original charter, the school's board of trustees must file an amendment request to reflect its actual enrollment patterns.

(8) Review. Should the Commissioner deny an amendment request, the charter school's board of trustees may seek review of the Commissioner's decision by the Board.

1.11: Renewal of Charters

A charter school seeking renewal of its charter shall proceed as follows:

(1) Renewal Application. The charter school shall submit its application for renewal of a charter under 603 CMR 1.00 no earlier than March 1st of the third school year of the relevant charter and no later than August 1st after the end of the fourth school year of the relevant charter. The Board will review renewal applications pursuant to the criteria set forth below and in and M.G.L. c. 71, § 89. For renewal applications received on or before August 1st, the Department shall notify the charter applicant of the decision to renew or not to renew the charter and the reasons therefore no later than March 1st following receipt of the renewal application.

The charter school may apply for renewal of its charter under renewal application guidelines issued by the Department. Applications for the renewal of Horace Mann charters must be submitted with the certification of a majority vote of the school committee and local collective bargaining unit.

(2) Renewal Guidelines. The Department shall issue guidelines describing the evaluation process to be followed in reviewing applications for charter renewal, including protocols for renewal inspections and performance criteria. The decision by the Board to renew a charter shall be based upon the presentation of affirmative 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 in accordance with M.G.L. c. 71, § 89(dd); the success of the school's academic program; and the viability of the school as an organization. The Department will gather evidence regarding these issues from the renewal application and from other information, including but not limited to, a school's annual reports, financial audits, test results, site visit reports, and the renewal inspection report. All charter schools will be evaluated on the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's charter and accountability plan. Evidence of academic success for all students is essential for charter renewal.

(3) Term of Charter. Charters that are renewed shall be for five years from the expiration of the previous charter under such conditions as the Board may establish under 603 CMR 1.04(7) and any additional conditions that the Board or Commissioner may specify. If a school fails to comply with any specified conditions, the Commissioner may recommend to the Board that the school be placed on probation or that the charter be revoked as described in 603 CMR 1.12. Charters of schools that do not file renewal applications shall expire at the end of the fifth year of the charter school's operation, subject to 603 CMR 1.12.

1.12: Conditions, Probation, Suspension, Revocation, and Non-renewal

(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.

1.12: continued

(3) Suspension or Revocation. The Board may suspend or revoke a charter for cause including, but not limited to:

- (a) lack of evidence of academic success;
- (b) failure to comply substantially with the terms of the charter, with any of the applicable provisions of M.G.L. c. 71, § 89, or with any other applicable law or regulation;
- (c) a material misrepresentation in the application for approval or renewal of the charter;
- (d) financial insolvency;
- (e) misappropriation, conversion, mismanagement, or illegal withholding of funds or refusal to pay any funds that belong to any person otherwise entitled thereto and that have been entrusted to the charter school or its administrators in their fiduciary capacities;
- (f) fraud or gross mismanagement on the part of charter school administrators or board of trustees, including but not limited to, mismanagement of the educational program and failure to provide a healthy and safe environment for students;
- (g) criminal convictions on the part of the charter school administration or members of its board of trustees; or
- (h) failure to fulfill any conditions imposed by the Board in connection with the grant or renewal of a charter.

(4) Notification. Before the Board revokes a charter, it shall notify the charter school in writing that the Board intends to revoke the charter. A vote of intent to revoke or a vote to not renew a charter shall operate as a notice of the action and does not operate as an order to show cause. In the case of a Horace Mann charter, the Board shall also notify the district in which the school is located. Except in the case of an immediate suspension, the Board shall send the notice 60 days before the revocation takes effect.

(5) Hearing. Upon receiving a notice of intent to revoke a charter, notice of non-renewal, or notice of suspension where the health, safety, or education of the school's students is at immediate risk, the school shall have the rights provided in M.G.L. c. 30A, § 13, and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*. Where hearings are provided by statutes, all requests for hearings shall be in writing, addressed to the Board, and must be received within 15 days of receipt by the charter school of notice. At such hearing, the school shall bear the burden of proof and present its case first.

(6) Withhold Payment. The Board may withhold payments to any charter school that fails to comply with conditions imposed on its charter, that has been placed on probation, or whose charter has been suspended, revoked, or not renewed.

(7) General Fund. Upon the revocation, non-renewal, or voluntary return of a Commonwealth charter, title to all of the property of the charter school shall immediately vest in the Commonwealth, subject to the rights of any secured party holding a perfected security interest in the property of such charter school. Any funds remaining after the satisfaction of the charter school's obligations shall be deposited in the General Fund.

(8) Closing Procedures. Charter schools must comply with the closing procedures established by the Department. Charter schools must begin planning for closure and compliance with closing procedures immediately upon issuance of a notice of intent to revoke the school's charter, a notice of non-renewal, or a notice of suspension.

If the Commissioner determines that the board of trustees of a charter school needs additional expertise in fulfilling, or it fails to fulfill, its obligations under the closing procedures established by the Department, the Commissioner may appoint an individual or entity to assist with an orderly closure of the charter school. Such individual or entity may be paid out of the school's remaining funds, including the escrow account specified in 603 CMR 1.12.

(9) Debts and Liabilities. Upon closure of a charter school, the Commonwealth, the Board, and the Department assume no liability for any portion of any obligations, debts, or loans, or other liabilities of the board of trustees or of the charter school.

1.12: continued

(10) Property. Upon the revocation, non-renewal, or voluntary return of a Horace Mann charter, title to all of the property of the charter school shall immediately vest in the school district in which the school is located, subject to the rights of any secured party holding a perfected security interest in the property of such charter school.

1.13: Severability Clause

If any section or portion of a section of 603 CMR 1.00, or the applicability of 603 CMR 1.00 to any person, entity or circumstance is held invalid by a court, the remainder of 603 CMR 1.00 or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

603 CMR 1.00: M.G.L. c. 69, § 1B, and c. 71, § 89.