

# Charter School Consensus Study

## *Fundamentals*

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## I. Charter Schools and Public Education in Massachusetts

### A. Why were charter schools established?

According to the Massachusetts General Laws, charter schools were established in Massachusetts for the following purposes<sup>1</sup>:

- *“to stimulate the development of innovative programs within public education;*
- *to provide opportunities for innovative learning and assessments;*
- *to provide parents and students with greater options in choosing schools within and outside their school districts;*
- *to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management;*
- *to encourage performance-based educational programs;*
- *to hold teachers and school administrators accountable for students’ educational outcomes;*
- *to provide models for replication in other public schools.”*

### B. What is a Commonwealth charter school?

A Commonwealth charter school is a public school governed by a board of trustees that operates independently of any school committee under a five-year charter granted by the Board of Elementary and Secondary Education. It has the freedom to organize around a core mission, curriculum, theme, and/or teaching method, to control its own budget, and to hire (and fire) teachers and staff. In return for this freedom, a Commonwealth charter school must attract students and produce positive results within five years or its charter will not be renewed.<sup>2</sup>

### C. What are Horace Mann charter schools?

Horace Mann charter schools operate under an agreement with school districts as well as a charter from the state. Employees of a Horace Mann charter school remain members of the local collective bargaining unit, continue to accrue seniority, and receive, at a minimum, the salary and benefits established by the local collective bargaining agreement. Renewals of Horace Mann charters must be approved by the local school committee and the teachers’ union as well as by the state. There are three types of Horace Mann charter schools, each with a particular set of requirements for collective bargaining and school district supervision<sup>3</sup>.

- *Horace Mann I* must have the charter application approved by the local school committee and the local teacher’s union in addition to the Board of Elementary and Secondary Education.
- *Horace Mann II* is a conversion school approved by a majority of its faculty.
- *Horace Mann III* can be chartered without the approval of the local collective bargaining unit.

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<sup>1</sup> Massachusetts General Laws, Ch. 71, Section 89: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89>

<sup>2</sup> Dept of Education: Questions and Answers about Charter Schools, updated May, 2015: <http://www.doe.mass.edu/charter/new/2015-2016QandA.docx>

<sup>3</sup> DESE Laws and Regulations: 603 CMR 1.00: <http://www.doe.mass.edu/lawsregs/603cmr1.html?section=all>

**D. How many charter schools are in there Massachusetts?**

The state has granted 108 charters since 1994; 78 are currently operating.

Number of charter schools in Massachusetts in 2015-2016<sup>4</sup>

<b>2016-2017 Operating Status</b>	<b>#</b>
Operating Commonwealth charter schools	69
Operating Horace Mann I charter schools	4
Operating Horace Mann II charter schools	0
Operating Horace Mann III charter schools	5
<b>Total currently operating charter schools:</b>	<b>78</b>
Charters approved but not yet open:	2
<b>Total active charters:</b>	<b>80</b>
Charters granted but closed or never opened since 1994:	28
<b>Total charters granted by state since 1994:</b>	<b>108</b>

The next chart shows that there are 38 available slots for Horace Mann charters and 16 available open slots for Commonwealth charters.

Number of charter schools currently allowed under cap<sup>5</sup>:

	<b>Commonwealth</b>	<b>Horace Mann</b>	<b>Total</b>
Operating Charters	69	9	78
Charters Counting toward Cap	56	10	66
Cap (Maximum Allowed)	72	48	120
Available*	16	38	54

\* Two additional charters have been approved but are not yet operating (not included).

<sup>4</sup> DESE: Charter School Enrollment Data, pg 3, <http://www.doe.mass.edu/research/reports/2016/02CharterReport.pdf>

<sup>5</sup> The Commonwealth of Massachusetts Department of Elementary and Secondary Education Massachusetts Charter Schools Fact Sheet, <http://www.doe.mass.edu/charter/factsheet.pdf>

Summary Statistics<sup>6</sup>:

Summary Statistics	#
Maximum enrollment allowed by currently authorized charters	51,860
# of students attending charter schools in 2015-2016 on Oct. 1, 2015	40,200
% of 2015-2016 PK-12 public school population enrolled in charter schools	4.2%
% of 2015-2016 PK-12 Boston public school population enrolled in charter schools	18%
# of charter applications received since 1994	258

### **E. How does Massachusetts limit the number of charter schools?**

The state limits the number of charter schools in two ways: by the number of charter schools and by the percentage of each school district's budget that can be spent on charter school tuition.

Massachusetts law currently permits 120 charter schools—72 Commonwealth charter schools and 48 Horace Mann charter schools. "Commonwealth charters do not count toward the numerical cap of 72 if they are awarded to 'proven providers' to establish schools in districts in the lowest 10% of student performance where enrollment would cause tuition payments to exceed 9% of the district's net school spending."<sup>7</sup>

- The net spending cap limits the tuition payments to charter schools from district schools to 9% of the district budget and to 18% of the district budget for districts scoring in the lowest 10% in the state. (Net spending is the total amount a school district spends, including state aid, local tax contribution to school budget, and any additional amount a locality allocates to schools.)

State law also requires approval for new charter schools to be based on:

- In any one year, the Board [of Elementary and Secondary Education] may approve only one regional Commonwealth charter school application to be located in a district where overall student performance on the MCAS was in the top 10 percent in the preceding year.
- The Board may not approve a Commonwealth charter in any community with a population of less than 30,000, unless it is a regional charter school.
- At least two charters approved in any year must be granted for charter schools located in districts where overall student performance on the MCAS is in the lowest 10 percent statewide in the two years prior to the charter application.

While the state has not reached the total number of Commonwealth charter schools allowed, six cities have reached the cap limit that is based on the percentage of their net spending on charters: Lawrence, Lowell, Fall River, Everett, Franklin, and Malden. Seven others are too close to their spending cap to allow new charter schools: Boston, Holyoke, Chelsea, Cambridge, Greenfield, North Adams, and Somerville.

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<sup>6</sup> Ibid.  
<sup>7</sup> Ibid.

The number of charter schools has grown considerably since the original Education Reform legislation of 1993. That legislation authorized a total of 25 charter schools with the following stipulations:

- There should not be more than 5 in Boston, 5 in Springfield, and not more than 2 in any other city or town.
- “Under no circumstances shall the total number of students attending charter schools in the commonwealth be allowed to be greater than three-quarters of one percent of the total number of students attending public schools in the commonwealth.”

How many charter schools should operate in the state and in any one city or town has been the subject of heated debate. Here is the summary of the November ballot question, as filed with the Attorney General:

*“This proposed law would allow the state Board of Elementary and Secondary Education to approve up to 12 new charter schools or enrollment expansions in existing charter schools each year. Approvals under this law could expand statewide charter school enrollment by up to 1% of the total statewide public school enrollment each year. New charters and enrollment expansions approved under this law would be exempt from existing limits on the number of charter schools, the number of students enrolled in them, and the amount of local school districts’ spending allocated to them.*

*If the Board received more than 12 applications in a single year from qualified applicants, then the proposed law would require it to give priority to proposed charter schools or enrollment expansions in districts where student performance on statewide assessments is in the bottom 25% of all districts in the previous two years and where demonstrated parent demand for additional public school options is greatest.*

*New charter schools and enrollment expansions approved under this proposed law would be subject to the same approval standards as other charter schools, and to recruitment, retention, and multilingual outreach requirements that currently apply to some charter schools. Schools authorized under this law would be subject to annual performance reviews according to standards established by the Board.*

*The proposed law would take effect on January 1, 2017.”<sup>8</sup>*

#### **F. What options do Massachusetts parents have for public schools?**

Parents may send their child to district schools, Commonwealth charter schools, Horace Mann charter schools, Innovation schools, Pilot schools, or Vocational Technical schools, all public schools for which parents do not pay tuition. Parents may also have the option to select schools in other districts that participate in the inter-district school choice program.

#### **G. What is the judicial and legislative background for charter schools?**

In June 1993, in *McDuffy v. Secretary of the Executive Office of Education*<sup>9</sup>, the Massachusetts Supreme Judicial Court ruled that Massachusetts had a constitutional responsibility “to provide an

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<sup>8</sup> From Mass.gov, “15-31 summary,” accessed August 30, 2016: <http://www.mass.gov/ago/docs/government/2015-petitions/15-31-summary.pdf>

<sup>9</sup> Education Laws and Regulations: The State Constitutional Mandate for Education: The McDuffy and Hancock Decisions [http://www.doe.mass.edu/lawsregs/litigation/mcduffy\\_hancock.html](http://www.doe.mass.edu/lawsregs/litigation/mcduffy_hancock.html)

education for all its children, rich and poor, in every city and town through the public schools.” The complaint, on behalf of children in poorer communities, charged the state had violated the education clause of the state Constitution. That clause, written in 1780, stated, “ it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish... the public schools and grammar schools in the towns.”

[The Massachusetts Education Reform Act of 1993](#)<sup>10</sup>, which had been in the works for about two years, was signed into law days after the court ruled, creating far-reaching changes in almost every aspect of education at the state and local levels. The Education Reform Act of 1993 stated:

*“Section 1. It is hereby declared to be a paramount goal of the commonwealth to provide a public education system of sufficient quality to extend to all children including a limited English proficient student as defined in section 1 of chapter 71A, and also, including a school age child with a disability as defined in section 1 of chapter 71B the opportunity to reach their full potential and to lead lives as participants in the political and social life of the commonwealth and as contributors to its economy. It is therefore the intent of this title to ensure: (1) that each public school classroom provides the conditions for all pupils to engage fully in learning as an inherently meaningful and enjoyable activity without threats to their sense of security or self-esteem, (2) a consistent commitment of resources sufficient to provide a high quality public education to every child, (3) a deliberate process for establishing and achieving specific educational performance goals for every child, and (4) an effective mechanism for monitoring progress toward those goals and for holding educators accountable for their achievement.”*

The law was based in large part on a 1991 report, “[Every Child a Winner](#)<sup>11</sup>,” by the Massachusetts Business Alliance, which encouraged the state to help all students succeed. The Education Reform Act set up several school improvement tools, including high curriculum standards, a statewide assessment system to measure progress toward achieving those standards, a graduation requirement based on a minimum level of achievement, an accountability system for schools and districts, professional licensure changes, and a new school finance system. Charter schools were authorized as one part of that law.

About 10 years ago, both Massachusetts and the nation began to focus more intently on the student achievement gap between economically advantaged communities and economically disadvantaged communities. To address the achievement gap, the federal government created the [Race to the Top](#)<sup>12</sup> grant program for states in 2009.

In response, in 2010, Massachusetts passed [An Act Relative to the Achievement Gap](#)<sup>13</sup>, to close achievement gaps, increase access to innovation, provide options for intervention, and expand successful charter schools, especially in underperforming districts. “The law provided educators with new ‘rules and tools,’ including the power to intervene with a turnaround school program, to open new high performing charter schools in the lowest performing districts, and to innovate through in-district charter schools and Innovation schools that are still accountable to school districts. These reforms were designed to create a renewed sense of urgency around the need to

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<sup>10</sup> Massachusetts General Laws, Ch. 71, Section 89: <http://archives.lib.state.ma.us/actsResolves/1993/1993acts0071.pdf>

<sup>11</sup> Massachusetts Business Alliance: Every Child a Winner: <http://www.mbae.org/uploads/13102003114120EveryChildAWinner.pdf>

<sup>12</sup> U.S. Dept of Education: Race to the Top: <http://www2.ed.gov/programs/racetothetop/index.html>

<sup>13</sup> Commonwealth of Massachusetts, Act 2010, Ch. 12, An Act Relative to the Achievement Gap: <https://malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter12>

close persistent achievement gaps by expanding proven strategies for reform. In addition, they were designed to position Massachusetts to qualify for federal Race to the Top stimulus funds.”<sup>14</sup>

The law raised the limits on charter school enrollments in districts where performance is in the lowest 10% of districts statewide. Charter school regulations under this act affirmed the expectation that charter schools would increase the diversity of their student population to be comparable to the communities the charters serve.

Both the Education Reform Act of 1993 and the Achievement Gap Act of 2010 establish equity as an overarching goal for education reform. Equity is a broad concern for fairness, and its component parts in this legislation involve:

- Equal opportunity: “a consistent commitment of resources sufficient to provide a high quality public education to every child.”
- Equal access: “that each public school classroom provides the conditions for all pupils to engage fully in learning as an inherently meaningful and enjoyable activity without threats to their sense of security or self-esteem,”
- Equity in expected learning outcomes: “a deliberate process for establishing and achieving specific educational performance goals for every child, and an effective mechanism for monitoring progress toward those goals and for holding educators accountable for their achievement.”<sup>15</sup>

For more information about the recent history of education reform in Massachusetts, please look at [Building on 20 Years of Massachusetts Education Reform](#)<sup>16</sup>, a state publication.

#### **H. How are charter schools organized?**

A charter school has the freedom to organize around a core mission, curriculum, theme, and/or teaching method, to control its own budget, and to hire and fire teachers and staff. It does not need to have unionized teachers; it can extend the school day; and core subject teachers do not need to be licensed<sup>17,18</sup>. (See page 17, Section III.C. for an explanation of the difference in licensing requirements for teachers.)

Charter schools must follow the same state educational standards, administer the same state tests, and abide by almost all the same state and federal laws and regulations as other public schools in the Commonwealth. Charter schools, however, are not subject to local school district rules and may operate without collective bargaining agreements. Charter schools are accountable to the State Board of Elementary and Secondary Education, not to local school districts or school committees.

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<sup>14</sup> [https://www.tbf.org/~media/TBFOrg/Files/Reports/RTTTRReport\\_Nov2011.pdf](https://www.tbf.org/~media/TBFOrg/Files/Reports/RTTTRReport_Nov2011.pdf), “Toward Closing the Achievement Gap: A One-Year Progress Report on Education Reform in Massachusetts”, published by the Race To The Top Coalition.

<sup>15</sup> Massachusetts General Laws, Chapter 69, Section I

<sup>16</sup> [Building on 20 Years of Massachusetts Education Reform](#), Prepared for the Massachusetts Board of Elementary and Secondary Education, Mitchell D. Chester, Ed. D. Commissioner, November 2014

<sup>17</sup> DESE: Mass. Charter Schools: About Charter Schools: <http://www.doe.mass.edu/charter/about.html>

<sup>18</sup> Dept of Education: Questions and Answers about Charter Schools, updated May, 2015: <http://www.doe.mass.edu/charter/new/2015-2016QandA.docx>

## II. Charter School Accountability

### A. Who authorizes charter schools?

The state is solely responsible for the authorization of Commonwealth charter schools; local school districts have no authority<sup>19</sup> but do have the opportunity to comment during the authorization process. The state authorizes Horace Mann charter schools after the local school committee approves the application.

Massachusetts is one of 21 states that have only one or a few authorizers; in most cases those authorizers are either state education agencies or independent charter boards. In Massachusetts, it is the state Board of Elementary and Secondary Education. The National Association of Charter School Authorizers (NASCA) notes that, while many of that board's policies for authorization are not codified in law, "Massachusetts's charter schools have a generally laudable performance record and the authorizer voluntarily employs many of NACSA's recommended practices."<sup>20</sup> NASCA praises Massachusetts's for being "strongly focused on academic rigor and equity of access."<sup>21</sup> Having the state as the sole authorizer means charter schools are not accountable to their local communities, but the state created charter schools to be independent of local districts.

Other states take many different approaches to authorizing charter schools. Seventeen states, including California and Florida, use local school districts as the charter authorization bodies. States that have school districts as the authorizer may also have independent charter boards for appeals of district decisions. NACSA notes that some states with this authorizing approach actually approve more charter schools than states using state agencies, independent boards or higher education institutions as authorizers. Five states allow multiple charter school authorizers, including school districts, independent charter boards, state education agencies, non-profit entities, and colleges and universities.<sup>22</sup>

For all of these approaches to authorizing charter schools, NACSA reports outcomes vary widely depending on state laws and accountability standards. The association recommends strong accountability standards be written into law. Massachusetts' relatively low NASCA rankings reflect that while Massachusetts uses good authorization practices, they are not codified in law.

Much of the publicity about problems with charter schools nationally reflects problems from lax authorization and oversight—from John Oliver's recent report on his HBO show citing, among other things, a Florida charter that did not have physical school buildings,<sup>23</sup> to a New York Times report on charter schools bribing children to attend in Detroit where the number of charters is unchecked.<sup>24</sup> Massachusetts has avoided such problems with its authorization and oversight process.

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<sup>19</sup> MGL 71 section 89 (c)

<sup>20</sup> National Assn. of Charter School Authorizers 2014 State Policy Analysis:

<sup>21</sup> Ibid.

<sup>22</sup> National Association of Charter School Authorizers: ON THE ROAD TO BETTER ACCOUNTABILITY: An Analysis of State Charter School Policies: <http://www.qualitycharters.org/wp-content/uploads/2015/08/State-Policy-Analysis.pdf>

<sup>23</sup> "Charter Schools," Last Week Tonight with John Oliver, HBO, August 21, 2016. [https://www.youtube.com/watch?v=l\\_hSPGAY7I](https://www.youtube.com/watch?v=l_hSPGAY7I)

<sup>24</sup> Kate Zernike, "A Sea of Charter Schools in Detroit Leaves Students Adrift," New York Times, June 28, 2016.

[http://www.nytimes.com/2016/06/29/us/for-detroits-children-more-school-choice-but-not-better-schools.html?\\_r=0](http://www.nytimes.com/2016/06/29/us/for-detroits-children-more-school-choice-but-not-better-schools.html?_r=0)

#### **B. What is the basis for the decision to award a charter?**

The Board of Elementary and Secondary Education bases its final decision on the application, an interview, a public hearing in the district, and written comments from the public. The state solicits input from all school committees in districts from which the proposed charter would draw students and from adjoining districts as well. A hearing on the final application is held in the district where the proposed school would be located. The decision is based on whether the applicant group has demonstrated the capacity and ability to establish and operate a successful charter school, in accordance with the criteria set forth in the charter statute<sup>25</sup> and the charter school regulations<sup>26</sup>. The charter school must attract students and produce positive results within five years or its charter will not be renewed.

Massachusetts has an additional requirement for applicants for charters in school districts that have been in the lowest 10% on MCAS tests for the two consecutive previous years and in which the net spending cap is therefore expected to be raised from 9% to 18% of district school budgets. Those applicants must meet a state definition for “Proven Provider” of charter school education, defined as:<sup>27</sup>

- 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;
- 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;
- the board of trustees of an existing charter school that has a record of academic success and organizational viability; or
- an education management organization or charter management organization that has a record of academic success and organizational viability in operating or starting public schools and with which an applicant proposes to contract.

For more detailed information on how charters are awarded, see [Questions and Answers about Charter Schools](#)<sup>28</sup>.

#### **C. How does Massachusetts hold charter schools accountable?**

The Department of Elementary and Secondary Education (DESE) is the agency responsible for ensuring that the state is educating all of our public school students. This requires monitoring and supporting public schools across Massachusetts. DESE requires all public schools to make progress toward narrowing student proficiency gaps.<sup>29</sup>

Commonwealth charter schools are accountable to the Board of Elementary and Secondary Education, through annual reports and application for renewal. Charter schools must meet specified goals, and charters are subject to renewal every five years.<sup>30</sup>

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<sup>25</sup> G.L. c. 71, § 89

<sup>26</sup> 603 CMR 1.04

<sup>27</sup> Dept. of Education: Questions and Answers about Charter Schools, updated May, 2015:  
<http://www.doe.mass.edu/charter/new/2015-2016QandA.pdf>

<sup>28</sup> *ibid*

<sup>29</sup> M.G.L. c. 69, § 1B; c. 69, §§ 1J and 1K, as amended by St. 2010, c. 12, § 3; c. 71, § 38G.;  
[http://profiles.doe.mass.edu/state\\_report/accountability.aspx](http://profiles.doe.mass.edu/state_report/accountability.aspx)

<sup>30</sup> Mass. Dept. of Educ.: Accountability: Accountability Guide: <http://www.doe.mass.edu/charter/acct.html?section=guide>

Accountability requirements and reporting by charter schools and district schools are an aid to the state in school evaluation and support parents in deciding which schools to choose for their children.

The state is responsible for:

- review and approval of all charter school applications
- monitoring and supporting the operation of charter schools
- decisions on charter school renewal applications

According to DESE:

*“In order for a charter to be renewed, The Board of Education is obligated ... to conduct an ongoing review of charter schools and, in the fifth year of a school's operation, decide whether its charter should be renewed. Specifically, the renewal of a public school charter is based on affirmative answers to three questions:*

1. *Is the academic program a success?*
2. *Is the school a viable organization?*
3. *Is the school faithful to the terms of its charter?”<sup>31</sup>*

#### **D. What are the challenges for the state in providing oversight for charter schools?**

DESE Commissioner Mitchell D. Chester identified “a secure and sustainable fiscal footing” to ensure adequate oversight as an issue that needs to be addressed:

*“Given the timing and fiscal circumstances under which the 2010 Act was adopted, much of the funding to support the evolution in DESE’s core work came from federal sources... It is now critical that we work with the state board, Governor, and legislative leaders to position the agency’s core work on a secure and sustainable fiscal footing.”<sup>32</sup>*

The National Association of Charter School Authorizers supports the need for adequate financial resources for the authorizing process in its Principles & Standards:

*“A Quality Authorizer...Determines the financial needs of the authorizing office and devotes sufficient financial resources to fulfill its authorizing responsibilities in accordance with national standards and commensurate with the scale of the charter school portfolio.”<sup>33</sup>*

#### **E. Are there any gaps in the DESE’s oversight of charter schools?**

A 2014 [State Auditor’s Report](#)<sup>34</sup> identified issues for DESE related to both charter schools and district schools:

*“DESE does not ensure the reliability of data submitted to it by schools and districts. Without sufficient oversight and monitoring by DESE of the accuracy of schools’ reported data, there is an increased risk that unreliable or inaccurate data will be used by DESE, other state agencies, the Legislature, researchers, parents, and others in their decision-making.”*

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<sup>31</sup> *ibid* <http://www.doe.mass.edu/charter/acct.html>

<sup>32</sup> Building on 20 Years of Massachusetts Educational Reform, November 2014, Prepared for Massachusetts Board of Elementary and Secondary Education by Commissioner Mitchell D. Chester, pp 21, published by DESE

<sup>33</sup> National Association of Charter School Authorizers: Principles & Standards 2015, [www.qualitycharters.org](http://www.qualitycharters.org)

<sup>34</sup> Official Audit Report – Issued December 18, 2014: The Department of Elementary and Secondary Education’s Oversight of Charter Schools For the period July 1, 2009 through June 30, 2013: <http://www.mass.gov/auditor/docs/audits/2014/201351533c.pdf>

The auditor's report concluded:

*"For the most part, DESE has implemented effective internal controls over the monitoring of Commonwealth charter schools in the areas tested. In addition, DESE has addressed all the findings in our prior audit that were followed up on during this audit. However, our audit identified issues with certain aspects of DESE's administration of charter schools, including the following:*

- The reliability and accuracy of charter school information in DESE's data systems are questionable.*
- The extent to which the charter school system has provided a successful mechanism for developing and disseminating replicable innovation models is not determinable.*
- DESE was inconsistent in its decisions regarding whether to impose conditions for school charter renewal. Further, based on unaudited information we were able to obtain and analyze during our audit, we noted that improvement might still be needed in addressing concerns regarding inadequate representation of high-needs student populations."<sup>35</sup>*

It's important to note that the Auditor's Report covered the period from 2009 to 2013. Many of the issues raised may have been addressed in the past three years. For example, in August 2016, DESE released a revised version of its charter school renewal inspection protocol.<sup>36</sup>

#### **F. What is the school district's responsibility for Commonwealth charter schools?**

The local district responsibility for Commonwealth charter schools is limited to tuition and transportation. Please see Funding Massachusetts Charter Schools for more detail.

#### **G. Who is responsible for the operation of charter schools?**

Charter schools in Massachusetts are governed by boards of trustees. The Board of Trustees, which technically holds the school's charter, functions much like a local school committee, although not accountable to local district voters. The board sets the mission, develops policy, formulates long range plans and hires the people who manage the day-to-day operations of the school. In addition to ensuring that the school operates in accordance to the charter, boards are also responsible for ensuring that the school follows all state and federal regulations.<sup>37</sup>

Massachusetts is one of 27 states that does not specify charter school board composition. Massachusetts requires that such boards have at least five members and that all charter schools must submit the resume and Disclosure of Financial Interest Form of potential new board members to DESE. DESE must approve all charter school board members before they are allowed to serve.<sup>38</sup> An [Annenberg report](#)<sup>39</sup> estimates that only 33 of the 82 Massachusetts charter schools have boards that include parents (as identified in their annual reports), and almost all of

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<sup>35</sup> "The Department of Elementary and Secondary Education's "Oversight of Charter Schools," Office of the State Auditor, Dec. 18, 2014., p. 4.

<sup>36</sup> DESE: Charter School Renewal Inspection Protocol Revised August 2016:  
<http://www.doe.mass.edu/charter/guides/RenewInspect.pdf#search=%22reponse%22>

<sup>37</sup> DESE: Massachusetts Charter School Governance: Obligations and Responsibilities of Trustees:  
[www.doe.mass.edu/charter/governance/?section=trustees](http://www.doe.mass.edu/charter/governance/?section=trustees)

<sup>38</sup> Creating and Sustaining High-Quality Charter School Governing Boards pp 7 <http://files.eric.ed.gov/fulltext/ED536003.pdf>

<sup>39</sup> Annenberg Institute: Whose Schools? An Examination of charter school governance in Massachusetts:  
<http://annenberginstitute.org/sites/default/files/product/859/files/WhoseSchools.pdf>

these are in schools that serve predominantly white students. There is no requirement for any other local district representation on charter school boards. Please see this report for a further analysis of the composition of boards of trustees of Massachusetts charter schools.

Charter school board members are considered public agents authorized by the state just like district school committee members. Therefore they are required to follow open meeting laws and submit annual financial disclosures to the State Ethics Commission, DESE and the city or town clerk where the school is located. Board members must annually review the conflict of interest law and complete the state's online Conflict of Interest Law Training every two years. Charter school board and committee meetings must follow the state open meeting law.<sup>40</sup>

There are many similarities between district school committees and charter school boards of trustees. Both require a significant volunteer time commitment. Governance rather than management is the function of both. District school committees hire a superintendent to oversee the day-to-day management of the district and schools. Charter schools hire a head of school or, in some cases, an Education Management Organization (EMO) to handle the day-to-day management of the charter school.

DESE states: "While for-profit education management organizations (EMO) may not hold the charter for a charter school in Massachusetts, state law explicitly allows charter school boards of trustees to procure education management services from non-profit and for-profit entities. The Board [of Education] must approve all contracts between charter school boards of trustees and EMOs for substantially all educational services, prior to the contract taking effect. The application for a charter contains criteria that require the applicant to describe why the particular entity was selected, to specify what due diligence the applicant group performed in choosing the entity, and to provide a draft of a management contract."<sup>41</sup>

Non-profit management organizations are often called charter management organizations (CMO). EMOs have contracted with both district and charter schools.<sup>42</sup>

There is a question whether there should be limits on the number of charter schools that can be operated by the same EMO in a city, region or state. Opponents of EMO networks argue that those networks are merely replicating formula schools rather than innovating, that they become, in effect, competing school districts, and that they could ultimately replace rather than improve district schools. Proponents argue that EMOs are implementing formulas that have proven successful and determining whether those practices can be replicated on a wider basis. They add that EMOs provide a practical way to make successful schools available to more students.

As of 2010, there were only two EMOs and one CMO in Massachusetts, according to the National Alliance for Public Charter Schools.<sup>43</sup>

#### **H. What information are charter schools legally bound to share with the government and public?**

No later than August 1 of each year, each charter school must submit an annual report to the Department of Elementary and Secondary Education and to its local school committee, and also

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<sup>40</sup> Massachusetts Charter School Governance, [www.doe.mass.edu/charter/governance/?section=trustees](http://www.doe.mass.edu/charter/governance/?section=trustees)

<sup>41</sup> DESE Questions and Answers about Charter Schools, 2015-2016: <http://www.doe.mass.edu/charter/new/2015-2016QandA.docx>

<sup>42</sup> *Trends and Best Practices for Education Management Organizations*. [https://www.wested.org/online\\_pubs/PP-03-02.pdf](https://www.wested.org/online_pubs/PP-03-02.pdf)

<sup>43</sup> CMO and EMO Public Charter Schools: A Growing Phenomenon in the Charter School Sector; [http://www.publiccharters.org/wp-content/uploads/2014/01/NAPCS-CMO-EMO-DASHBOARD-DETAILS\\_20111103T102812.pdf](http://www.publiccharters.org/wp-content/uploads/2014/01/NAPCS-CMO-EMO-DASHBOARD-DETAILS_20111103T102812.pdf)

make the annual report available to the public . This report provides a picture of the recently completed academic year as it relates to the school's accountability plan objectives and evidence regarding the three areas guiding charter school accountability (faithfulness to the charter, success of the academic program, and organizational viability).

The report contains details about mission and key design elements, efforts to disseminate educational advances to sending public school(s), student performance data, changes in program delivery or organizational structure of the schools, the method used to evaluate teachers and information on finances. Financial information includes: unaudited statement of revenues, expenses, and changes in net assets (income statement); statement of net assets (balance sheet); approved school budget for coming year; and capital plan. The charter school also reports on recruitment and retention plan, school and student data, and the school accountability plan<sup>44</sup>. This report must be available online. For details on reporting requirements, see the [Massachusetts DOE website](#)<sup>45</sup>.

State law mandates that charter schools report on the racial, ethnic and socio-economic make-up of the student enrollment, the number of students enrolled in each charter school who have individual education plans, and those requiring English language learner programs<sup>46</sup>. All charter schools must have at least one licensed English language learner teacher.

In addition, charters must have a qualified certified public accounting firm conduct an audit of the charter school's financial statements each year.

#### **I. Whom do charter schools serve?**

By law, charter schools are open to all students, on a space available basis, and 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, or proficiency in the English language or a foreign language, or academic achievement. Any student can apply to any charter school<sup>47</sup>.

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<sup>45</sup> Massachusetts DOE: Education Laws and Regulations: 603 CMR 1.00: Charter Schools  
<http://www.doe.mass.edu/lawsregs/603cmr1.html?section=08>

<sup>46</sup> see MGL Ch 71 Sect 89 CHARTER SCHOOLS, section kk at  
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89>

<sup>47</sup> see MGL Ch 71 Sect 89 CHARTER SCHOOLS, section m at  
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89>

**J. What are the demographics of charter school students?**

Charter school demographics (2015-2016)<sup>48</sup>

2015-2016 Student Demographics	Mass. Charter	Mass. District	Boston Charter	Boston District
First Language not English	25%	19%	31%	48%
Limited English Proficient	11%	9%	14%	30%
Special Education	14%	17%	16%	20%
Economically Disadvantaged	36%	27%	45%	49%
African-American	29%	8%	52%	32%
Asian	5%	7%	3%	9%
Hispanic	30%	18%	35%	41%
White	32%	64%	8%	14%
Males	48%	51%	48%	52%
Females	52%	49%	52%	48%
Total number of students	39,969	913,460	12,094	53,530
Percentage of students (in Mass.; in Boston)	4%	96%	18%	82%

There are several things to take into account when comparing demographics between charter schools and district schools:

- Statewide averages are deceptive when comparing demographics because charter schools draw more students from urban areas.
- Statewide student demographics and charter school student demographics are not directly comparable because many Massachusetts students do not live near enough to a charter school for a charter to be a viable choice.

For these reasons, the appropriate population of comparison is between the charter school and its sending (or feeder) districts.<sup>49</sup> For instance in a study by Center for Research on Educational Outcomes (CREDO) at Stanford University, [Charter School Performance in Massachusetts](#)<sup>50</sup>:

- The percent of students in poverty were found to be similar between charters and their feeder schools: 33% in district schools, 46% in feeder schools, and 47% in charters.

<sup>48</sup> From the DESE website: [http://profiles.doe.mass.edu/state\\_report/enrollmentbyracegender.aspx](http://profiles.doe.mass.edu/state_report/enrollmentbyracegender.aspx), [http://profiles.doe.mass.edu/state\\_report/enrollmentbygrade.aspx](http://profiles.doe.mass.edu/state_report/enrollmentbygrade.aspx), [http://profiles.doe.mass.edu/state\\_report/classsizebyraceethnicity.aspx](http://profiles.doe.mass.edu/state_report/classsizebyraceethnicity.aspx), <http://www.doe.mass.edu/charter/factsheet.pdf>  
 NOTES on table: (1) Boston students are included in the calculations for Massachusetts demographics. (2) Boston numbers are an aggregation from the same DESE tables that the Massachusetts number come from.

<sup>49</sup> Massachusetts Charter Schools & Their Feeder Districts: A Demographic Analysis, Fall 2004 The Rennie Center for Education and Research Policy: <http://massinc.org/research/massachusetts-charter-schools/>

<sup>50</sup> CREDO, "Charter School Performance in Massachusetts", pg 12, Table 1: [https://credo.stanford.edu/documents/MAReportFinal\\_000.pdf](https://credo.stanford.edu/documents/MAReportFinal_000.pdf)

# Charter School Consensus Study

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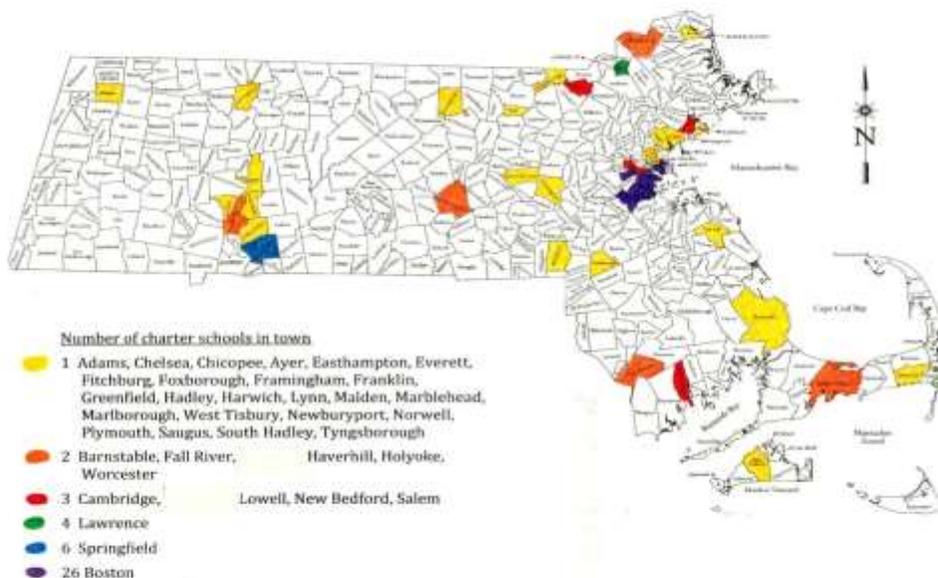
- The percentage of black students varied between charters and their feeders: 8% in district, 12% in feeders, and 26% in charters.

One of the current concerns about charter schools is that public schools are becoming more segregated. As the 2013 CREDO study noted, although there were slightly more black students in the feeder schools in Boston than the district schools, the percentage of black students in charters is much higher than in their feeder schools.

### K. Where are charter schools located?

Charter Schools by Location, 2015-2016<sup>51</sup>

Location Type	#
Boston	22
Urban-not-Boston	38
Suburb	14
Rural	4
<b>Operating Total</b>	<b>78</b>



Note: Map developed for this report by LWVMA from information on DESE website

<sup>51</sup> DESE Charter Schools Fact Sheet, <http://www.doe.mass.edu/charter/factsheet.pdf> <http://www.doe.mass.edu/charter/factsheet.pdf>

### III. Other issues

#### A. How do charter school admissions work?

Charter schools are open to all students, and charters are obligated to take all students from the district the charter serves who apply. If more students apply to a charter school than there are seats available, there is a lottery to fill the available seats. During the lottery, preference is given first to siblings of students in the school and then to students in the sending districts as specified in the charter, and finally all other students who apply. Students not accepted into the school in the lottery are placed on a waitlist based on the lottery drawing.

According to DESE, there were 32,646 unique students on waitlists for Massachusetts charter schools on March 15, 2016<sup>52</sup>; of these, 23,601 had newly applied for the 2015-16 school year (the remainder had applied prior to March, 2014); 10,308 students were on waitlists for Boston charter schools (including prior applicants). Of the state's 78 charter schools, 74 had waitlists.

A [2013 study](#)<sup>53</sup> that looked only at grades 6 and 9 found that:

*"While many students apply to Boston charters, a majority of applicants are offered a seat at one of the charter schools. Importantly, many of these offers do not occur on the night of the charter school lottery, but as late as the summer, as charter schools fill empty spots. About half of middle school students who apply are offered a seat. In high school, almost 70 percent of applicants are offered a seat. About two-thirds of charter middle school applicants and 40 percent of high school students who are offered a school seat accept it."*

#### B. What is the role of discipline in charter schools?

Discipline and retention are complicated issues. All charter schools are not alike. While some charter schools may follow a "no-excuses" discipline approach, others have been a model for providing flexible learning environments for students.

*"Enrolling mainly poor and minority students, these [no-excuses] schools feature high academic standards, strict disciplinary codes, extended instructional time, and targeted supports for low-performing students. The strenuous and regimented style is controversial amongst some scholars, but others contend that the No Excuses approach is needed to rapidly close the achievement gap."*<sup>54</sup>

Over the past few years, the state has begun to address the issues of suspensions and expulsions<sup>55</sup> in all public schools, particularly the disproportional use of suspensions and expulsions for students with disabilities and/or students of color. The initial group of schools the state will be working with because of excessive use of suspensions and expulsions includes 25 schools in 18 districts. This group includes 10 charter schools.<sup>56</sup>

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<sup>52</sup> DESE: Massachusetts Charter School Waitlist Initial Report for 2016-2017 (FY17)  
<http://www.doe.mass.edu/charter/enrollment/fy2017Waitlist.html>

<sup>53</sup> Charter School Demand and Effectiveness, by Sarah R. Cohodes for the Boston Foundation: <http://economics.mit.edu/files/9248>

<sup>54</sup> No Excuses Charter Schools: A Meta-Analysis of the Experimental Evidence on Student Achievement  
<http://www.uaedreform.org/downloads/2014/12/no-excuses-charter-schools-a-meta-analysis-of-the-experimental-evidence-on-student-achievement.pdf>

<sup>55</sup> Session Law: 2012: Act 222: <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter222>

<sup>56</sup> DESE: Massachusetts School Districts Team Up to Address Suspensions and Expulsions, press release, June 13, 2016:  
<http://www.doe.mass.edu/news/news.aspx?id=21719>

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**C. Are charter school teachers certified, licensed and evaluated in the same way as district school teachers?**

Teachers in Commonwealth charter schools must meet the same requirements as district schools, except for licensure, but the timing for their certification is different.<sup>57</sup> Teachers in Horace Mann charter schools are required by state law to hold an appropriate Massachusetts teaching license because they are, for collective bargaining purposes, employees of a school district.

Teachers in district schools must be certified at the time of hire. Newly hired Commonwealth charter school teachers who are not already licensed to teach in Massachusetts have one year to take and pass the Massachusetts Tests for Educator License to meet initial certification requirements.

The licensure component of the federal Highly Qualified definition is waived for Massachusetts Commonwealth charter school teachers (with the exception of English as a Second Language teachers) because it is not a requirement in accordance with the state charter school statute and regulations. The Highly Qualified licensure component requires that district teachers acquire an advanced degree or an approved substitute after five years of teaching. Additional professional development is required when reapplying for continued certification each five subsequent years.

District and charter school teachers are both evaluated with the same standards and indicators. These appear in 603 CMR 35.00.<sup>58</sup> Some charter school proponents claim that it is easier for a charter school to fire a chronically underperforming teacher.

**D. How is Massachusetts doing academically?**

Comprehensive education reform in Massachusetts has been highly successful on a statewide basis. On the National Assessment of Educational Progress (NAEP), Massachusetts has had the highest test scores of all states for several years.<sup>59</sup> However, these scores are very uneven across the state, with certain districts performing well below the statewide averages.

Percent of students, proficient or higher, of MCAS exam results for English Language Arts (ELA) and math in selected districts in 2014, 8<sup>th</sup> grade<sup>60</sup>:

District	ELA	MATH
Statewide	79%	52%
Boston	63%	37%
Springfield	46%	15%
Concord	95%	78%

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<sup>57</sup> Massachusetts Charter Schools, Technical Advisory 07-01 - Amended February 2011: Teacher Qualifications in Massachusetts Charter Schools <http://www.doe.mass.edu/charter/guidance/2007-1.html>

<sup>58</sup> DESE: 603 CMR 35.00 Evaluation of Educators: Final Regulations on the Evaluation of Educators, <http://www.doe.mass.edu/lawsregs/603cmr35.html>

<sup>59</sup> Jeremy Fox, "Mass. Students Are Again Tops in National Testing", Boston Globe, October 28, 2015.

<sup>60</sup> DESE website, 2014 MCAS Report (DISTRICT) for Grade 8 All Students [http://profiles.doe.mass.edu/state\\_report/mcas.aspx](http://profiles.doe.mass.edu/state_report/mcas.aspx); note: we chose 8<sup>th</sup> grade because it is the last grade in which students are not given multiple chances to take the test; 2014 was the most recent year available.

#### **E. How do charter schools in Massachusetts compare academically to district schools?**

Statistical research is converging on several results in the comparison of charter school and district school performance: (1) some Boston Commonwealth charter schools dramatically outperform their feeder schools, and (2) on average, there is little difference in performance between charter schools and district schools in the remainder of the schools throughout the state.

Performance in these studies is defined as improvement in reading and math test scores. Current research is looking at other outcomes, including college entrance and employment post-K1-12.

A [2013 CREDO](#)<sup>61</sup> study showed that Massachusetts charter schools performed better, on average, than district schools. However, in [2015 CREDO](#)<sup>62</sup> looked at urban vs. non-urban school districts and found that all of this difference was attributable to the differences in performance within the urban schools. In the other parts of the state, charters performed similarly to district schools.

Other researchers have compared the improvement in test scores of those students who were accepted by a charter school in a lottery vs. those who were not accepted. These studies find that students who are accepted into charter schools outperform those students who were not accepted<sup>63</sup>.

##### **Critiques:**

- The CREDO study does not adequately take selection bias into account: Those families who applied to charter schools may have been more supportive of their child's education or otherwise differed in ways that could not be measured. Therefore we might expect that charter school students would do better than the comparison group, on average, because of factors related to family rather than school.
- For the lottery studies: Those schools with waitlists long enough for a statistical comparison are likely to be the best of the charter schools, and the results may not be generalizable to a wider population. In other words, the results of these studies may not reflect the educational attainment throughout the school district.

However, both study designs have similar results.

#### **F. How are innovations being shared among schools?**

A 2014 State Auditor's Report<sup>64</sup> said that "though it is required by law to facilitate this process [of disseminating innovative programs], DESE has not adequately documented that it has done so and has not taken action to broadly disseminate charter school innovative best practice information itself since 2009." The report included the following recommendations:

- *"In collaboration with charter and district schools, DESE should establish detailed guidance regarding standards and expectations for the development, dissemination, and replication of innovative programs and best practices"*
- *"During the charter renewal process, DESE should ensure that charter schools meet all the requirements for the development of innovative programs and best practices and should"*

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<sup>61</sup> Charter School Performance in Massachusetts, by Center for Research on Educational Outcomes (CREDO), Feb. 28, 2013: [https://credo.stanford.edu/documents/MAReportFinal\\_000.pdf](https://credo.stanford.edu/documents/MAReportFinal_000.pdf), pg 15

<sup>62</sup> Urban Charter School Study Report on 41 Regions, by CREDO, 2015: <https://urbancharters.stanford.edu/download/Urban%20Charter%20School%20Study%20Report%20on%2041%20Regions.pdf>

<sup>63</sup> Accountability and Flexibility in Public Schools: Evidence from Boston's Charters and Pilots: by Atila Abdulkadiroglu, 2011: <http://qje.oxfordjournals.org/content/126/2/699.full.pdf+html?sid=54e0fd46-d49d-4b46-8933-489244b5c00f>

<sup>64</sup> The Department of Elementary and Secondary Education's Oversight of Charter Schools for the period July 1, 2009 through June 30, 2013, Commonwealth of Massachusetts Office of the State Auditor Suzanne M. Bump, Official Audit Report – Issued December 18, 2014, pp 1-2 <http://www.mass.gov/auditor/docs/audits/2014/201351533c.pdf>

*establish corrective action requirements for charter schools that do not effectively fulfill this statutory purpose.”*

According to the auditor’s report, communication issues, time, and money are barriers to effective dissemination:

- *“Twenty-nine of 44 districts responding to the survey, and 12 of 19 charter schools, said that in addition to the absence of established communication arrangements, there were barriers to district charter relationships, such as a lack of time and money.*
- *Charter school respondents also commonly perceived traditional public schools as uninterested in collaboration and vice versa.”*

DESE has an online guide to dissemination of best practices<sup>65</sup> and maintains an archive of best practices from charter schools on its website. The list includes Whale of a Mystery Science Curriculum, Improving Student Achievement in Mathematics: A School-wide Approach, Training Urban Teachers, Using Community Resources to Enhance the Teaching of History, Charter School and District Collaboration, and Raising Student Achievement School-wide.<sup>66</sup>

The Boston Compact models an innovative way in which district, charter, and Catholic parochial schools can collaborate together. Working together since 2011, the Compact is working toward a second set of collaborative goals to “put the needs of all students before the needs of any school” to address the achievement gap and the needs of families.” In 2013, the partners launched Boston Schools Hub, a website where families can search all district, charter, and Catholic schools by neighborhood or grade. The Compact is now exploring the potential of a citywide enrollment process that would provide families with one place to apply to district and charter schools. The Compact partners have worked to reduce funds currently used for transportation in order to maximize spending on classroom instruction. Through the Compact, charter schools agreed to align their busing schedules with the district’s timetable. Collaboration under the auspices of the Compact has resulted in BPS leasing three previously closed school buildings to charter schools. Catholic schools also have been key partners, renting temporary space to charter schools as they renovate permanent homes.<sup>67</sup>

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<sup>65</sup> DESE: Charter Schools: A Guide to the Dissemination of Best Practices: <http://www.doe.mass.edu/charter/bestpractices/>

<sup>66</sup> DESE: Charter Schools: Best Practices Archives: <http://www.doe.mass.edu/charter/bestpractices/Archives.aspx>

<sup>67</sup> The Boston Compact, <http://www.bostoncompact.org/cross-sector-operations-2/>

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