

# **INNOVATION INTERRUPTED**

## **HOW THE ACHIEVEMENT GAP ACT OF 2010 HAS REDEFINED CHARTER PUBLIC SCHOOLING IN MASSACHUSETTS**

*by Cara Stillings Candal*



**PIONEER INSTITUTE**  
PUBLIC POLICY RESEARCH

**White Paper No. 126**  
December 2014

## PIONEER'S MISSION

Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to improve the quality of life in Massachusetts through civic discourse and intellectually rigorous, data-driven public policy solutions based on free market principles, individual liberty and responsibility, and the ideal of effective, limited and accountable government.



**This paper is a publication of the Center for School Reform**, which seeks to increase the education options available to parents and students, drive system-wide reform, and ensure accountability in public education. The Center's work builds on Pioneer's legacy as a recognized leader in the charter public school movement, and as a champion of greater academic rigor in Massachusetts' elementary and secondary schools. Current initiatives promote choice and competition, school-based management, and enhanced academic performance in public schools.



**The Center for Better Government** seeks limited, accountable government by promoting competitive delivery of public services, elimination of unnecessary regulation, and a focus on core government functions. Current initiatives promote reform of how the state builds, manages, repairs and finances its transportation assets as well as public employee benefit reform.



**The Center for Economic Opportunity** seeks to keep Massachusetts competitive by promoting a healthy business climate, transparent regulation, small business creation in urban areas and sound environmental and development policy. Current initiatives promote market reforms to increase the supply of affordable housing, reduce the cost of doing business, and revitalize urban areas.



**The Center for Health Care Solutions** seeks to refocus the Massachusetts conversation about health care costs away from government-imposed interventions, toward market-based reforms. Current initiatives include driving public discourse on Medicaid; presenting a strong consumer perspective as the state considers a dramatic overhaul of the health care payment process; and supporting thoughtful tort reforms.

## TABLE OF CONTENTS

Executive Summary	5
Introduction	7
An Act Relative to the Achievement Gap: A Narrow Focus	8
The Trouble with Proven Providers	10
The Growth Model and the Movement	14
The Real Challenge Facing Charters Today	19
Conclusions and Recommendations	21
About the Author	23
Endnotes	24



## EXECUTIVE SUMMARY

Massachusetts charter schools are among the highest performing in the country, as measured by standardized test results. Despite this, the Commonwealth has created a difficult policy environment for growing new and existing charter schools, one that is defined by a statewide cap on the number of charter schools that can exist and a *Smart Cap*, enacted in 2010, which raised the cap on charter schools in certain underperforming districts.

Though generally heralded as a victory for charter school advocates, the 2010 cap lift came with several strings attached; applicants desiring to open charter schools in districts eligible for the cap raise must be deemed “proven providers” to be authorized, which means that they must be able to demonstrate a proven track record of serving populations of students similar to those they propose to serve in their charter applications. This proven provider clause, though a well intentioned attempt to ensure that any new charters authorized in the Commonwealth’s neediest districts would be effective, has significantly hampered the extent to which charter schools can fulfill one of their intended functions: to provide innovative educational options for students and families in Massachusetts. To date, all of the schools authorized under the *Smart Cap* in underperforming districts are replications of existing charter schools or schools operated by proven providers who have merely made tweaks to the programming they have traditionally offered.

In addition to hampering innovation in charter schooling, the Commonwealth has further constrained the capacity of the charter movement by establishing new regulations that define which school districts will be eligible for new charter schools under the *Smart Cap*. By incorporating what some have called unreliable student growth measures into the formula that determines which districts are among the lowest performing ten percent, the Board of Elementary and Secondary Education has ensured that many of

the communities in which charters schools are in high demand will either no longer be eligible for a cap increase or could fail to be eligible for a cap increase in the near future. Instead, many of the communities that will be eligible to establish new charter schools under the *Smart Cap* are small communities where growth is low but overall achievement is higher than in some of the urban districts that charters authorizers have traditionally sought to serve.

But the legislative and regulatory environment in Massachusetts cannot bear all of the blame for a stunted charter movement in the Commonwealth. Charter operators, for their part, have not only failed to submit charter applications that would offer innovative new programming, especially in communities where the statewide cap has not been reached, they have also consistently failed to advocate for their right to provide innovative programming; few if any charter operators objected to the proven provider clause of the 2010 legislation.

If Massachusetts charter schools are to continue to lead the nation, they must find a way to capitalize on the success of the movement thus far by working with the Commonwealth to continue to offer new schools operated by proven providers. At the same time, however, they must insist that new and potentially innovative charter operators are allowed the chance to exist and to flourish. By advocating for an approach to authorizing pioneered in Massachusetts, one that couples strong accountability for outcomes with limited regulation and a promise to close failing schools, the charter school movement would have the ability to deliver on the promise of its authorizing legislation, the promise to educate charter school students to the highest of standards and to do so in innovative ways that provide meaningful options for students and families.



## INTRODUCTION

When the Massachusetts legislature passed *An Act Relative to the Achievement Gap* in 2010, its purpose was to “provide innovation into school districts and turnaround underperforming schools.” The *Act*, a response to the Obama’s administration’s *Race to the Top* competition, raised the cap on charter schools in the lowest performing 10 percent of school districts in the Commonwealth. In addition to this *Smart Cap*, the *Act* added new bureaucratic requirements for charter schools and created a third type of in-district charter school—Horace Mann III charters—which would have some of the autonomies of Commonwealth charter schools but still participate in district collective bargaining agreements.<sup>1</sup>

In accordance with emerging research<sup>2</sup> and support of charters at the federal level, the *Act* framed charter schools as important tools in the ongoing push to close the achievement gap. Immediately following the legislation’s passage, there was a great spike in the number of charter schools authorized compared to previous years.<sup>3</sup> There was also a cautious optimism that there would be an overall uptick in charter growth in the Commonwealth. But this initial optimism was tempered when just one year after the law’s passage, some communities, especially those where demand for charters is high, were once again bumping up against the cap.<sup>4</sup> Moreover, important questions were coming to light about the possible impacts of some of the new regulations included in the legislation.<sup>5</sup>

Since that time it has become increasingly clear that the legislation and the way its associated regulations have been implemented have contributed to a redefinition of the charter movement in Massachusetts. While it is important to point out that there are many districts in Massachusetts that have room for charter expansion, the *Smart Cap*, which applies in low-performing districts—many of which have come close to the state cap because of high charter demand—requires that any new charter

authorizers be certified as a “proven provider”. This requirement has prevented most of the new schools being authorized from fulfilling two of the main tenets of the movement: charter schools should act as laboratories for innovation in public education and they should help to increase the number of distinctive educational options available to families.

*The purposes for establishing charter schools are: (1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs and; (6) to hold teachers and school administrators accountable for students’ educational outcomes. Massachusetts Education Reform Act, Chapter 71, Section 89.*

Since 2010 charter schools have expanded in communities where student performance is low, and most of the charter schools that have expanded have done so in the context of replicating existing programs. As successful and necessary as these schools are, many of these established providers have very similar philosophies and pedagogical approaches to education.

This lack of new innovation in the sector is not a product of the legislation alone. Many strong charter operators are attracted to working with certain populations of students—mainly low-income and minority—and are committed to raising achievement through methods that work. Furthermore, researchers and charter advocates have time and again highlighted the success of Massachusetts’s urban charters as a reason to expand the movement, favoring an emphasis on standardized test data over a promise of enhanced

innovation and choice. This lack of attention to the overall health of the charter movement—a movement that should be focused on choice, innovation, and accountability as a way to close achievement gaps—could prove detrimental, especially in the face of new Board of Elementary and Secondary Education (BESE) regulations that stand to impact the extent to which all charters, proven providers included, can establish new programs in some of the Commonwealth’s lowest performing districts.

By factoring student growth on standardized tests into the formula for determining which districts are subject to the *Smart Cap*, the BESE has ensured that some of the districts that have traditionally been the focus of charter operators will no longer be eligible for new seats. Communities that will be eligible do have achievement gaps, but their demographics are less urban, less minority, and less poor than communities that are currently home the highest performing charters.<sup>6</sup> Their students, on the whole, also have better overall student achievement than many of the communities that charter schools currently serve. Finally, almost all the communities that are newly eligible for charter expansion are very small compared to the urban centers where charters have taken hold. This means, simply put, there will be many fewer students in need of charter schools in these communities and therefore fewer opportunities for charter expansion.<sup>7</sup>

To expand into communities where the *Smart Cap* applies, proven providers will also have to build upon existing programs instead of innovating in meaningful ways. This raises questions: Will a provider that is considered “proven” with one community and population of students be considered “proven” when it comes to an entirely different demographic? If a proven provider wants to tailor its programming to a community or population of students that is different from that which it currently serves, how different can a program be and still pass muster with the Commonwealth?

In the 2014-15 cycle, as a result of the new regulations, two charter school proposals were pulled from consideration because the communities fell out of the bottom 10 percent.<sup>8</sup> Although the state, under pressure, agreed in October 2014 to reconsider those proposals, some advocates feel that passage of the new formula marks a new era of antipathy toward charter schools in the Commonwealth, noting that the “state is doing great injury to charter schools and the communities that they want to serve.”<sup>9</sup>

Understandable as these sentiments may be, focusing only on the implications of the new BESE regulations fails to consider the nuances of the more general challenge Massachusetts charters face. If the movement is to thrive, it must find a way to get back to the beginning; Massachusetts charter schools were never supposed to be solely about closing achievement gaps. They were supposed to be about innovation *as a means of closing achievement gaps*, and through that innovation they were supposed to provide distinctive educational options for parents. Both the failure to lift the overall charter cap and the legislature’s focus on proven providers are preventing the movement from fulfilling its original purpose. The BESE regulations represent an added challenge for charter schools to consider as they assess what they are today compared to what they were meant to be.

### **AN ACT RELATIVE TO THE ACHIEVEMENT GAP: A NARROW FOCUS**

*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% 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. An Act Relative to the Achievement Gap, 603 CMR 1.04(9).*

In the context of the Obama administration’s *Race to the Top* initiative, which gave preference



to states with a demonstrated commitment to expanding access to charter schools and leveraging them to close achievement gaps, the Massachusetts legislature in 2010 modestly raised its charter cap.<sup>10</sup> There were two main aspects of this increase in the number of charter school seats, also known as the *Smart Cap*. First, the cap would only be raised in the lowest performing 10 percent of districts in the Commonwealth; those districts would see the limit on charter school spending raised from 9 to 18 percent of net school spending. Second, new charters in districts subject to the increase would only be awarded to ‘proven providers,’ or charter operators with a track record of meeting a high bar for both helping students achieve and sound school governance.<sup>11</sup>

When the *Smart Cap* went into effect, existing and prospective charter providers clamored for the opportunity to establish new schools. At that time many communities, especially large urban centers like Boston, had reached or were very close to reaching the cap, which prevented districts from exceeding 9 percent of net school spending on charter schools. Because many of the districts that had reached the cap were also those where demand for charters was high, the 2010 legislation was generally seen as a boon to the movement.<sup>12</sup>

In the first application cycle after the legislation was passed, the Commonwealth received 63 applications for new charter schools (up from 20 applications the previous year), most of which were in districts subject to the higher cap. The same application cycle, the Board of Elementary and Secondary Education (BESE) authorized 16 new charter schools, 13 of which were Commonwealth charters and three of which were Horace Mann III.<sup>13</sup>

In the excitement that accompanied the nearly 10-year drought in charter growth in districts that were up against the cap, few charter school operators and advocates paused to think about the implications of the 2010 legislation. On one hand, the Act was an opportunity to establish

more charter schools and an acknowledgement of the success that many charters have had in closing achievement gaps. On the other hand, by so narrowly focusing charter expansion on such schools, the Act had the potential to redefine the charter movement as existing solely for the purpose of closing achievement gaps in low-income urban areas. It also had the potential to strip charters of some of their autonomy by forcing them to comply with new regulations. Specifically, clauses that limit charter expansion in low-performing districts to “proven providers,” that require charters to file recruitment and retention plans and to ‘backfill’ seats until specific dates have the potential to shape and limit the charter movement in undesirable ways.

In hindsight, not all of the 2010 regulations have hampered charters. New regulations around recruitment and retention, especially those requiring local school districts to share student information, have helped many charters consistently increase the number of English language learners and special education students that they serve. Despite moves on the part of some school districts to curtail the amount of student information that charters receive, many charters have made progress toward achieving demographic parity with surrounding districts.<sup>14</sup> As these schools increase the numbers of English language learner and special education students they serve, all while continuing to serve disproportionately high numbers of low-income and minority students, many also continue to outperform their district counterparts on tests of student achievement.

Similarly, a “backfill” provision requiring charters to fill available seats until mid-way through the school year has also helped to dispel myths that some charters are successful because they “cherry pick” students by forcing out those who don’t assimilate into school culture and winnowing down the student population only to those who “buy-in.” Recently, many charter schools have committed to backfilling all open seats in upper grades well beyond legal requirements.<sup>15</sup> This indicates that the schools are keen to serve as

many students as possible and to support students in adjusting to their new school and culture at any point during the year.

But other aspects of the legislation have had a much more dramatic impact on the charter movement. The proven provider clause of the 2010 regulations states that, in low-performing districts, only applicants that have demonstrated past success in operating schools will be awarded new charters.<sup>16</sup> In practice, this requirement is especially problematic. It prevents new, possibly effective, providers from serving students and limits options for families in certain communities to schools that are pedagogically and philosophically similar. As a part of the overall *Smart Cap*, it also rebrands the Massachusetts charter movement as narrowly focused on serving students in low-performing school districts.

### THE TROUBLE WITH PROVEN PROVIDERS

After the legislature passed An Act Relative to the Achievement Gap, it became the responsibility of the BESE to delineate how the law would be implemented. The BESE's current regulations<sup>17</sup> define a proven provider as:

- (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.

These regulations provide several different ways to qualify as a proven provider, though it is ultimately up to the commissioner of elementary and secondary education to determine whether applicants for new charter schools meet these and the other requirements for quality to which any charter school applicant would be subject.<sup>18</sup> In implementing these regulations the commissioner and the Department of Elementary and Secondary Education (DESE) look to understand, for example, the applicant's history of running an academically successful program, keeping student attrition rates low and graduation rates high, and whether the proposed organization is likely to remain viable over time.<sup>19</sup>

To date, most of the operators that have been deemed proven providers and ultimately authorized under the 2010 regulations have opted to replicate existing successful programs, either at new grade levels or in different communities. The student populations these new schools serve are similar to the original schools, though some "enroll higher percentages of English language learners."<sup>20</sup> A look at the first authorization cycle of authorization after the legislation passed speaks to this. Schools like Match (1 school) and Edward Brooke (2 schools) established middle and elementary schools. Others, like Excel Academy and KIPP, established high schools similar in culture and approach to the schools they were already operating. In KIPP's case, the program and curricula offered is based in the KIPP approach, though the founding group was different from founding groups in other communities and states.<sup>21</sup>

Even though they do not represent new concepts of schooling, many families and communities have benefited greatly from the schools that were established in the years following the increase in the number of seats allowed under the cap. Places like Boston enjoy such a wealth of proven

providers that in recent years the BESE has had to deny seats to some very qualified schools, such as Edward Brooke, because there were “more qualified applicants than seats available.”<sup>22</sup> The decision not to authorize Brooke has been cited as difficult not just for the school, but also for DESE, and underlines that the *Smart Cap* increase simply has not done enough for parents and families that desire a charter school education.<sup>23</sup>

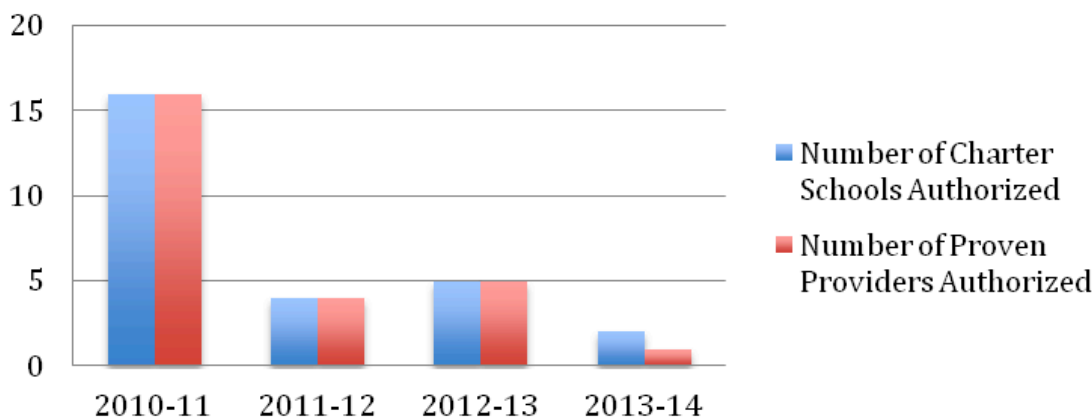
Moreover, the *Smart Cap* will continue to constrain the types of programming that can be offered in cities where charter school demand is high, as the department has to weigh several different factors when considering which proven providers will receive seats and which will not. For example, in 2013 Edward Brooke had also hoped to expand its offerings by establishing a high school. According to Jon Clark, Brooke’s co-director for operations, the organization was told “don’t bother to apply” – there would not be room under the cap to award high school seats to all of the qualified providers requesting them. For its part, the DESE acknowledges the balancing act it must undertake, which results in recommendations such as the one it made to Edward Brooke. While the DESE emphasizes that there is no formula for such decisions and that it tries to make its reasoning around the awarding of seats transparent, it also concedes that “there is definitely consideration as to types of programs being offered, the grade span, the

location, and the educational models” being proposed.<sup>24</sup>

The educational models proposed under the proven provider requirement are relevant to the growth and health of the overall charter movement, mainly because so many of them look the same. Many of the charter schools awarded additional seats under the *Smart Cap* attribute their success to what has come to be known as the *No Excuses* model, a philosophical and pedagogical approach “characterized by strict discipline, basic math and reading skills, instruction time, cold-calling in the classroom, and selective hiring (especially graduates of the Teach for America program).” These schools have proven particularly effective, especially at improving low-income and minority student achievement in Massachusetts and beyond.<sup>25</sup>

Ironically, when many of the first *No Excuses* schools were authorized in the 1990s, not only were they unproven, their approach to schooling was innovative—it was dramatically different than the approach used in most public schools at the time.<sup>26</sup> But by 2010, so many of these schools had proven effective at narrowing achievement gaps that their approach to schooling had become a brand. This begs the question: if today’s successful charter schools had been subject to a proven-provider hurdle 15 years ago, near the beginning of the charter movement, would many of these successful schools even exist?

**FIGURE 1. CHARTER SCHOOL AUTHORIZATION IN MA, 2010-11 TO 2013-14**



Information compiled from Massachusetts Department of Elementary and Secondary Education, Charter School Fact Sheet and Application History, <http://www.doe.mass.edu/charter/about.html>

The problem with the proven-provider clause of the 2010 legislation is not that it leads to authorization of the wrong schools or to schools that don't work; a cursory look at the schools authorized since 2010 provides ample evidence to the contrary. The problem is that in the context of an overall charter school cap, limiting growth in high-demand communities to organizations and people that are already well-established in the charter sector prevents new ideas from entering the space. While a requirement that schools in some communities have proven provider status can be framed as an effort to ensure quality and to ensure the right kinds of schools for students with the greatest need, the requirement itself also "narrows the breadth and nature of the charter sector to a statutorily 'protected class' of providers, a notion that is inherently anathematic to the intent and spirit of the lawmakers who enacted the authorizing charter legislation in 1993."<sup>27</sup>

Strangely enough, is *No Excuses* schools, those that charter detractors paint as successful only because the 'push out' students who don't conform to their strict school cultures, that continue to be deemed proven providers. Those who sought to constrain charter school growth with the *Smart Cap* have ultimately seen an increase in the very schools they might have most liked to prevent.<sup>28</sup>

Perhaps more problematic, however, than the homogeneity of the schools that have been deemed proven providers, is that the Commonwealth cannot account for applicants who might have applied to operate schools but did not, knowing they could not attain proven provider status. It stands to reason that some of those applicants might have been both successful and innovative. As Ed Kirby, formerly of the BESE's Charter school office from 1997 to 2000, notes:

[T]he proven provider clause of the 2010 legislation is simply bad public policy. The statutory language represents a bureaucratic aversion to risk that is well intended but is constraining the charter initiative far

too narrowly and will in the long run dramatically disserve MA families. What Massachusetts should do to mitigate the risk of low-performing charters is to continue to hold a high bar for entry for all charter founders and close low-performing schools when they persistently fail. The state should do all that it can to enable proven providers to open as many schools as parents demand, but at the same time it must eliminate its caps on charter growth generally and get back in the business of encouraging and supporting new school founders who are not proven providers.<sup>29</sup>

Having worked with charter schools at a time when no provider was proven and the philosophy of charter schooling was more focused on authorizing different approaches and closing schools when they didn't work, Kirby sees in today's policy environment a redefinition of the charter movement that limits charter schooling. His view is confirmed by a *Race to the Top* Coalition analysis of the 2010 law, which describes the "spirit of the legislation" in terms of high-performing charters and low-performing districts. The same analysis only mentions charter school innovation as it relates to the creation of in-district charter schools in the same urban centers—the Horace Mann III schools that were established by the 2010 legislation.<sup>30</sup>

Of course it is not clear that the proven provider clause alone is limiting innovation. It could be that charter operators and advocates are not willing to push the envelope of innovation—to take a gamble on a new idea—in the current policy environment. DESE answers the charge that the proven provider clause has changed the purpose of the charter movement by acknowledging "as a statute, it does narrow the possibilities for innovation." However, Associate Commissioner Cliff Chuang also points out that the statute can be interpreted as having some room for innovation—room on which charter operators have not capitalized. Chuang notes that the proven provider regulation does allow for "a proposed program that is similar to or represents a reasonable modification of the successful



school” and that his office has encouraged existing successful schools to “experiment with their model” once they have achieved proven provider status. In practice, Chuang suggests, the department would be willing to green light a proposed innovation so long as it felt the innovation could be justified as ‘reasonable’ per the legislation.<sup>31</sup>

There are other factors that also play into a proven provider’s ability to offer innovative programming, such as the requirement that a proven provider proposes to serve a student population similar to the one with which it has previously achieved success. Strictly interpreted, this could mean that a provider who has had success with low-income and minority students in a large urban center would not be a proven provider for middle-class students in a rural community. It is important to note that the department has allowed for proven providers who have achieved success in large urban centers like Boston to establish programs in communities with slightly different demographics, such as the Gateway Cities of New Bedford and Lawrence. The schools that have been authorized, however, have either been relatively faithful in their replication of existing programming or, as in the case of Match Charter Public School and Lawrence Community Day,<sup>32</sup> partnered to enhance their ability to serve a student demographic different from that which they have served in the past. In this case, Match Education was seeking Community Day’s expertise in helping better serve the large numbers of English language learners it hoped to recruit.<sup>33</sup> Such partnerships, however, have not been very common.

Thus it seems that the department’s interpretation of the BESE’s regulations is not the main limiting factor in deterring the kind of innovation that once existed in the charter sector. Although there have been innovative proposals for schools that have not received proven provider status, such as a Chinese immersion school in Boston that was removed from consideration in early rounds prior to proven provider determinations,

the department has not denied throngs of applicants since 2010. Arguably, this is because the content of the law itself has reframed the purpose of charter schooling in a way that deters innovation. According to Chuang:

. . . [T]here aren’t people pounding down the doors in communities at cap that we have had to turn away. I don’t think that there are any models that haven’t been able to be green-lighted because they have had to reach proven provider status in order to move ahead—there have been models that might have promise in terms of innovation but don’t meet the quality bar, in terms of our criteria to move ahead, but it hasn’t been because of proven provider status, to my knowledge. Of course, there is no way to know who might have applied who didn’t, knowing they couldn’t get seats.

The idea that providers are not willing to apply if they do not feel they have a good chance at being authorized could be just as dangerous to the health of the charter movement as a failure to increase the charter cap or lift it entirely in low-performing school districts. This has been a problem in the Commonwealth for some time. For example, once it became clear that the 2000 increase in the cap (the last before 2010) would do little to allow for meaningful charter school growth in Massachusetts, advocates worried that prospective charter operators, especially those with innovative track records, would move away from Massachusetts to more charter-friendly states.

Former Board of Elementary and Secondary Education Chair James Peyser pointed out as long ago as 2008 that the founders of some of Boston’s most successful charter schools had moved to New York in search of a more favorable environment in which to operate new schools.<sup>34</sup> Ed Kirby, who was not only a member of the Commonwealth’s first Charter School Office but also the former deputy director of K-12 education at the Walton Family Foundation, an organization with national reach in the charter school sector, echoes Peyser’s concern and

describes that he has witnessed the brain drain in practice.

“Massachusetts enabled some of the strongest charter school leaders in the nation to start their first schools here—people like Brett Peiser (founder of Boston Collegiate), or Evan Rudall and John King (founders of Roxbury Prep). But far too many of these leaders have had to leave Massachusetts for states like New York that are willing to support their aspirations to serve tens of thousands of more students.”

This is not to suggest that the Commonwealth has lost all its effective schools and leaders. The schools that remain continue to set a bar for academic excellence that is increasingly cited by researchers as a model for education reform.<sup>36</sup> However a case can be made that many of the schools, networks and leaders that remain have missions focused on specific student populations and, because of this, have allowed themselves to be defined in accordance with the spirit of the 2010 law.

Many Massachusetts charters, in large cities especially, are devoted to urban education and closing the black-white achievement gap. This is, of course, an incredibly worthy and important mission, one in which the schools deserve the Commonwealth’s support to fulfill. However, the mission itself often overshadows the tools that charter schools once used to achieve it; educational innovation and choice are features of charter schooling that have helped the Commonwealth’s best schools achieve excellence. Too often, established, high-performing schools do not highlight the importance of choice and innovation. Notes Jon Clark of Edward Brooke, “We will always do what is best for kids but we fear that we may no longer be able to attract top talent.”<sup>37</sup>

This implicit acceptance of the reframing of the charter movement has put charter schools and networks in a difficult position. A failed push in the summer of 2014 to raise the charter cap will prevent these schools from meaningful expansion

in communities, like Boston, that are again close to the cap. Perhaps more problematic for these providers, however, are new BESE regulations that redefine which communities will be subject to a cap increase.

## THE GROWTH MODEL AND THE MOVEMENT

If the 2010 *Smart Cap* increase was accompanied by a cautious optimism about the potential for charter school expansion, that optimism has now all but vanished. After the number of charters authorized in low-performing districts peaked in 2011, there was a relative lull in charter applications and approvals.<sup>38</sup> This was in part because of a moratorium on charter applications in cities such as Boston and Lawrence; Commissioner of Elementary and Secondary Education Mitchell Chester did not want the cities to reach the *Smart Cap* too soon.<sup>39</sup>

Then, in July 2014, the Massachusetts Senate rejected legislation that would have raised the statewide charter cap. The House had approved the bill, though by the time it reached the Senate amendments were attached that even made the bill impossible for many charter school advocates to support.<sup>40</sup>

The prevailing sentiment among charter supporters is that 2014 has been a year of victories for those who would like to slow or even halt charter school growth in Massachusetts.<sup>41</sup> Charter detractors have not only succeeded by stopping the cap from being increased or lifted entirely in some districts; according to Marc Kenen, executive director of the Massachusetts Charter Public School Association, a bigger win for charter opponents is a major change in the way that the Commonwealth will calculate which districts are subject to the *Smart Cap*. One of the main consequences of the new formula, which is coming into stark relief in the fall of 2014, is that charter school expansion in the Commonwealth will be dramatically slowed, at least in the immediate future. Says Kenen, “If Boston reaches its cap soon, it won’t be because the district is in

the bottom 10 percent, it will be because of the new paradigm—the new formula for determining the lowest achieving districts.”<sup>42</sup>

Since the passage of *An Act Relative to the Achievement Gap*, the lowest performing 10 percent of Massachusetts school districts have been determined based on student achievement results alone. In June 2014, Commissioner Mitchell Chester proposed and the BESE approved a new formula that takes into account both overall student achievement (75 percent) and the amount of growth that students in a district have achieved (25 percent).<sup>43</sup>

*Regardless of the achievement-to-growth ratio that the Board adopts, this will be the first time that growth is a factor in the identification of the lowest ten percent of districts for the purposes of the charter cap statute. . . The 2010 Achievement Gap Act included an increase in the cap on charter school seats in the lowest 10 percent of districts. The Board adopted regulations at the time to define the calculation of the lowest performing districts, based on a two-year average of achievement for English language arts (ELA) and mathematics . . . Having examined analyses of the impact of the changes of the weighting of achievement-to-growth, I am recommending a change [for the state’s overall accountability system] from the current four-to-one ratio (80/20) to a three-to-one (75/25). . .*  
*From Commissioner Chester’s Memo to the BESE, June 20, 2014.*

According to BESE Vice-chair Harneen Chernow, by adopting the new accountability formula that includes student growth the board was operating on the notion that “student growth is a key component of school improvement” and should therefore be rewarded. In thinking through whether and how to revamp the formula, she notes, the BESE was not only considering the benefits of having one transparent accountability system for all Massachusetts districts<sup>44</sup> but one that incorporated the kinds of gains that the Act of 2010 was conceived to realize in the state

accountability model. Explaining her reasoning for supporting the new formula, Chernow says:

Looking at the data, I saw that achievement on MCAS corresponds absolutely with the socio-economic status of a district. . . But when we looked at the data around growth, and where the greatest growth was, we saw a very different picture. From my perspective, a goal of the state’s accountability system is growth—we are evaluating teachers based on growth, so why aren’t we incorporating that into district accountability determinations as well? We are looking at where there is improvement and innovation and change and where districts are responding to need by doing good things. Our goal should be to support and reinforce these outcomes. This was the whole accountability piece—(the formula) was not just about determining the bottom 10 percent. The goal was to have one streamlined accountability system that was more transparent for schools, and parents and everyone to understand . . .”<sup>45</sup>

Chernow’s point of view was shared by many board members, some of whom advocated for an even heavier weighting of growth scores in the achievement-to-growth model.<sup>46</sup> The BESE was considering the model not just in relation to the charter cap statute but primarily for the state’s overall accountability system, and the commissioner apprised the board of the possible ramifications of weighting growth too heavily. In a memo to the BESE preceding the meeting in which they would approve the new formula, Chester noted, “I am not recommending a larger increase in the weighting of growth, because it would start to distort the identification of schools and districts most in need of our assistance.”<sup>47</sup>

Critics charge that even a 25 percent growth weighting leads to the “distortion” that Chester mentions, especially in light of the consequences for charter schools under the *Smart Cap*. But through the new formula, the Board has been able to realize its goal of “rewarding” districts that have made gains. In late September the DESE announced that eight districts, some of which have long been considered some of the

Commonwealth’s lowest performers in terms of absolute student achievement, will move out of the bottom 10 percent.<sup>48</sup> At least six of these districts will be subject to a freeze or a dramatic slow-down in charter school expansion under the *Smart Cap*.<sup>49</sup>

Among the districts that have moved into the bottom 10 percent are communities such as Florida and Chicopee.<sup>50</sup> Many of the new

communities are more suburban and rural than those in which most charter schools currently operate. Their residents are also, on the whole, of a higher socio-economic status. And while these communities do suffer from achievement gaps, some have higher overall student achievement (though less growth) on MCAS than communities that exited the bottom 10 percent.<sup>51</sup>

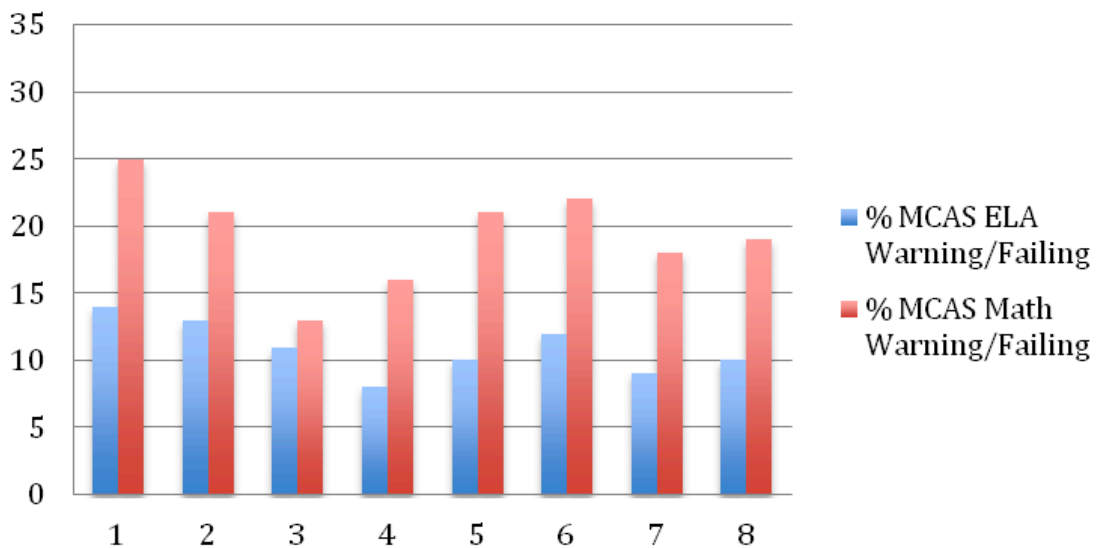
**TABLE 1. DISTRICTS MOVING IN AND OUT OF THE BOTTOM 10 PERCENT**

	Total District Enrollment	African American and Hispanic		MCAS Performance CPI			MCAS Growth SGP	
		#	%	Average ELA and Math	ELA	Math	ELA	Math
<i>Districts Moving into the Bottom 10%</i>								
Spencer-E Brookfield	1,844	144	7.8	<b>80.0</b>	85.3	74.7	46.0	41.0
Chicopee	7,779	2,707	34.8	<b>79.7</b>	83.9	75.4	45.0	47.0
Taunton	7,870	1,684	21.4	<b>79.5</b>	84.6	74.4	42.0	36.0
Dennis-Yarmouth	3,044	469	15.4	<b>79.3</b>	84.2	74.3	47.0	39.0
Palmer	1,469	98	6.7	<b>77.8</b>	83.0	72.5	39.0	41.0
Wareham	2,745	371	13.5	<b>77.0</b>	80.5	73.5	41.0	39.0
Florida	95	3	3.2	<b>76.8</b>	79.0	74.5	30.0	32.0
Greenfield	1,733	225	13.0	<b>76.5</b>	81.2	71.7	37.0	39.0
<b>Total</b>	<b>26,579</b>	<b>5,701</b>	<b>21.5</b>					
<i>Districts Moving out of the Bottom 10%</i>								
Provincetown	109	29	26.6	<b>85.3</b>	90.3	80.3	77.5	52.0
Haverhill	7,147	2,251	31.5	<b>77.4</b>	81.6	73.1	50.0	48.0
Somerville	4,940	2,594	52.5	<b>76.4</b>	80.7	72.1	59.0	60.0
Fitchburg	5,010	2,570	51.3	<b>73.5</b>	77.9	69.1	54.0	49.0
Hawlemont	98	9	9.2	<b>73.0</b>	74.0	71.9	40.5	56.0
Worcester	24,562	12,895	52.5	<b>71.7</b>	77.1	66.3	53.0	47.0
Brockton	17,011	11,789	69.3	<b>71.3</b>	75.9	66.7	54.0	52.0
Lawrence	13,504	12,464	92.3	<b>71.0</b>	72.9	69.1	52.0	57.0
<b>Total</b>	<b>72,381</b>	<b>44,601</b>	<b>61.6</b>					

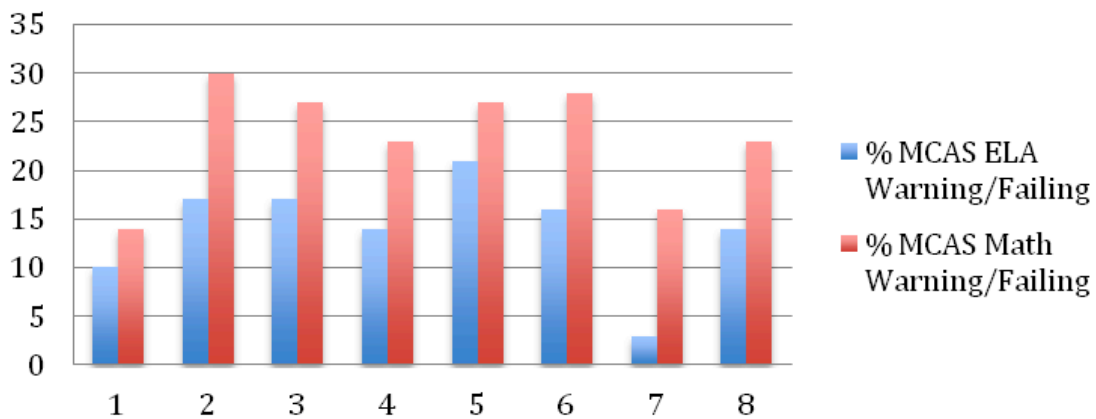
Information compiled by Bruce Bean, Data Manager, The Community Group, Lawrence. Data publicly available from Massachusetts Department of Elementary and Secondary Education, School and District Profiles, <http://profiles.doe.mass.edu/>



**FIGURE 2. MCAS WARNING/FAILING, DISTRICTS MOVING INTO LOWEST 10%**



**FIGURE 3. MCAS WARNING/FAILING, DISTRICTS MOVING OUT OF LOWEST 10%**



Information for both figures compiled from Massachusetts Department of Elementary and Secondary Education, School and District Profiles, <http://profiles.doe.mass.edu/>

One of the immediate ramifications of the new formula could be that no Commonwealth charter schools will be authorized in 2015, something that has not happened since the 1995-96 application cycle, just prior to the first post-Education Reform Act statewide cap increase.<sup>52</sup> Brockton and Fitchburg, two communities where operators had proposed Commonwealth charter schools that DESE had moved to the next round of the process, have exited the bottom 10 percent under the BESE's new formula. As a result, the charter proposals in those communities were removed from consideration. The DESE

is currently reconsidering applications in those districts at the urging of charter backers.<sup>53</sup>

And should improvement, despite low overall student achievement, continue in some of the Commonwealth's most traditionally troubled districts, the state could see large urban centers where demand for charter schools is high subject to a halt or significant slowdown in charter expansion. Boston, for example, came close to exiting the bottom ten percent in 2013-2014. If continued improvement in student achievement, which supporters and detractors of the new

formula agree should be the goal, occurs, the city could see another moratorium on charters.<sup>54</sup>

Should this happen, notes Jon Clark of Edward Brooke, it would be a disservice to the more than 4,000 families on Brook’s waitlists.<sup>55</sup> Whether a district has shown improvement, Clark notes, “when you zoom in on the performance of African American students specifically in K-12 schools, it’s shameful that we wouldn’t provide better opportunities.”<sup>56</sup>

Clark’s comments underscore the inherent difficulty of trying to “reward” both growth and overall achievement in the context of a model that views charter schools as turnaround tools. While growth is an important goal, just because a district is showing improved academic achievement does not mean that its students are performing well. It is important, therefore, as the authors of one recent study point out, to “take an angle-wide view,” one that considers improvement but looks at overall academic achievement to determine how well students are actually being prepared.<sup>57</sup>

Indeed, the state’s current “growth” model can result in some real oddities:

Consider two grade 8 students in 2014. Both students scored 254 on the grade 6 ELA test and 250 on the grade 8 ELA test. The first student, however, scored 240 on the grade 7 ELA test and the second student scored 262 on the grade 7 ELA test. The first student has a 2014 Student Growth Percentile (SGP) of 78 and the second student has a 2014 SGP of 3. Both students were proficient on the MCAS all three years, but the second year difference creates tremendous SGP differences. It is hard to see how these two students have such different “growth”.<sup>58</sup>

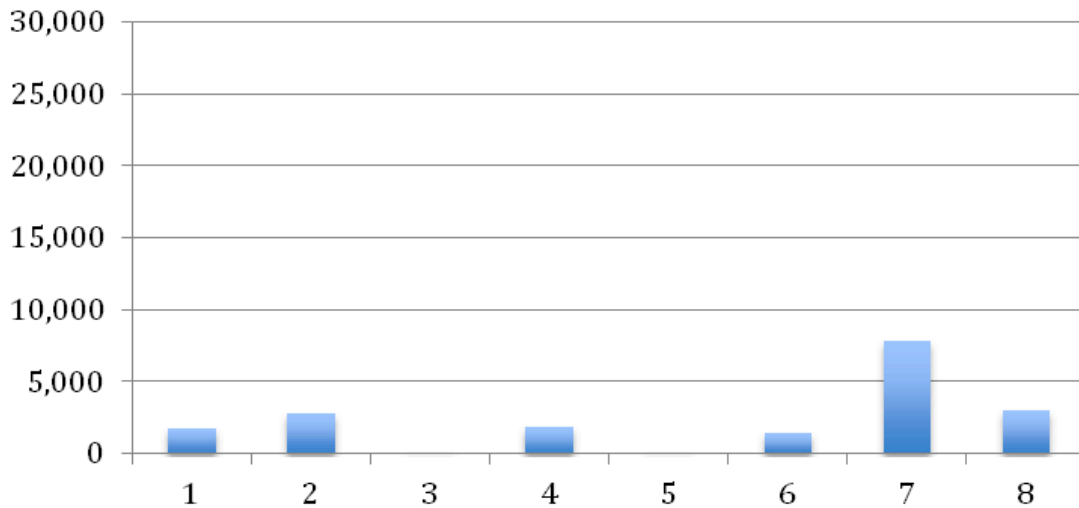
Given the difficulties of working with a growth model, growth should be only one factor in the overall picture of student achievement. Though it is also only one part of the formula for determining which districts are eligible for more charter schools, if the law *deprives* districts of charters based on a formula that overemphasizes

growth, then it could be detrimental. If, for example, Boston were to come out of the bottom 10 percent, which some predict could happen in the near future,<sup>59</sup> it would remain a city with large achievement gaps and precious little room for charter growth. The problem with limiting charter expansion in Boston, specifically, is that Boston charter schools are closing that gap at much higher rates than their district counterparts. A study by Stanford University’s Center for Research on Education Outcomes (CREDO) finds, for example, that 44 percent of Boston charter schools (which disproportionately serve low-income, African American students) “perform significantly better than the traditional public school market” in reading. That number jumps to 56 percent in math.<sup>60</sup>

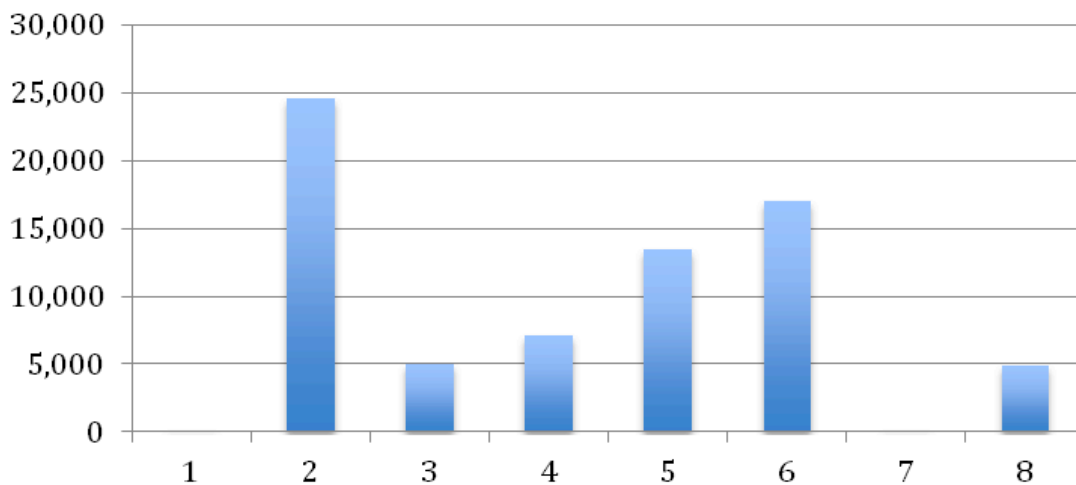
Whether the Fitchburg and Brockton charters are advanced for further consideration, charter advocates point out that the BESE’s move will limit the establishment of new charters in low performing districts. Of the communities that have moved into the bottom 10 percent, many have comparatively small populations. This means, simply put, that there are fewer students and families to serve, thus less need for charters and more competition for charter providers that want to replicate their programming.<sup>61</sup>

Finally, there are also questions about whether the Commonwealth’s growth model accurately captures the extent to which a given district or community is helping students improve. Bruce Bean, data manager for The Community Group, a Lawrence, MA non-profit specializing in education, theorizes that the SGP calculation upon which the department relies to determine a district’s growth “is more a measure of a district’s size than of how much students are actually growing or achieving.” Large districts, Bean suspects, will always show more “typical” 40-60 growth than their smaller counterparts because they have more students enrolled. Especially in districts where enrollment is less than 1,000 students, the overall SGP can appear higher or lower than typical. This means that most “low” growth districts will be smaller districts.<sup>62</sup>

**FIGURE 4. STUDENT POPULATION, DISTRICTS MOVING INTO LOWEST 10%**



**FIGURE 5. STUDENT POPULATION, DISTRICTS MOVING OUT OF LOWEST 10%**



Information for both figures compiled from Massachusetts Department of Elementary and Secondary Education, School and District Profiles, <http://profiles.doe.mass.edu/>

Bean suggests that his theory should be tested by others, but if he is correct, the BESE’s new formula would be at odds with its desire to reward a district’s effort and innovation in helping all students achieve. If larger districts in particular are being rewarded for helping students grow while continuing to mask large pockets of failure behind high enrollments, then they are doing an ultimate disservice to the communities they seek to help.<sup>63</sup>

### **THE REAL CHALLENGE FACING CHARTERS TODAY**

But beyond the immediate ramifications of the new formula for charter school expansion is an even greater problem; one that stems directly from the 2010 legislation and the failure to lift the charter school cap. That problem is that what has historically been a contentious, black and white debate about the “pros and cons” of Commonwealth charter schools has become even more contentious and black and white.

Whereas charter school advocates see the BESE formula as a direct move to limit the growth of charter schools in Massachusetts, those who see the formula as a positive view this position as disingenuous. “Why,” asks Vice-Chair Chernow, “would charter supporters not want to recognize and support growth, especially when charter schools have contributed to student growth in some of these districts?” Objections to the formula based on the extent to which it will limit the “market share” of charter public schools, beg the question, Chernow says, “what is the purpose of charter schools? Are they about innovation, or just about choice?”<sup>64</sup>

The question is the right one, and the answer, according to the 1993 Massachusetts Education Reform Act (MERA), is “both.” When they were conceived as a part of the MERA, charter schools were meant to provide more choice for families and to be laboratories for innovation and reform. Problematically, the legislation and regulations that have defined the charter school movement since 2010 have both reframed the purpose of the movement as narrowly focused on closing achievement gaps and at the same time increasingly helped to prevent charter schools from opening in communities where achievement gaps are greatest. By limiting the expansion of charter schools in low-performing districts to proven providers, the legislature hampered innovation. By redefining what a low-performing district looks like, the BESE, at the advice of the DESE, has further narrowed the opportunities for once innovative charter schools to serve students in the ways they know best.

And charter schools and charter advocates themselves are not without fault for the current state of the movement. In 2010—perhaps understandably—they conceded to an increase in the cap that would subject all charter schools not just to a narrowing of purpose but also to increased regulation, which runs counter to one of the fundamental reasons why charters were established. In 2014, the proposal to align the lowest 10 percent calculation to the state accountability system was broadly circulated

for public comment, and DESE points out that the charter community voiced no dissent.<sup>65</sup> Perhaps most importantly, as a group, charter schools have not made a great move to establish themselves outside of large urban centers where achievement gaps loom large. There are many communities throughout Massachusetts—most of them suburban and rural—that have room for new charter schools under the statewide cap,<sup>66</sup> but too few charter operators have not opted to offer innovative new programming in those communities. Instead, they have played it safe and sought to expand in communities they know, where the local sentiment is welcoming and demand is high.

Thus the challenge facing charter schools in 2014 is not just new regulations or an onerous charter school cap. Both of these are inhibiting the growth of a strong movement, but so too is an acceptance among charter advocates and providers of a new definition of charter schooling that fails to emphasize the innovation and distinctive choices that charter schools can bring to public education. Ed Kirby points out that:

the inherent and damaging downside of a smart cap is that it locks out the next generation of entrepreneurial school founders who haven’t come up through proven provider networks. The restriction essentially turns on its head the founding mission of the MA charter initiative to motivate a wide range of entrepreneurs with a shot at educating Massachusetts kids. The legislature should immediately eliminate all caps on charter schools, thereby allowing motivated proven providers to grow as big as parent demand allows while also allowing new entrepreneurs to join the sector. Massachusetts families desperately need both, and they desperately need both as soon as possible.<sup>67</sup>

This suggests that Massachusetts charter schools should rise to the challenge of being everything the MERA intended them to be. They should be innovative, they should provide choices and close achievement gaps—they should represent a mix of the tried and true and the new. For its

part, the Commonwealth should abandon its risk-averse attitude in favor of what worked in the years prior to 2010: a conservative approach authorizing that emphasized picking interesting, innovative schools that show promise not just because of a prior track record but because they represent good ideas that can be executed in a way that meets the state's standard for quality.<sup>68</sup> Coupled with this, the Commonwealth must also continue to ensure that it closes operators that fail to meet the terms of their charter, which should always include a strong but not exclusive focus on student outcomes.

## **CONCLUSION AND RECOMMENDATIONS**

Once full of possibility for innovations in public education, the Commonwealth of Massachusetts has effectively limited distinctive educational options for students and families. By applying the first statewide cap on charter schools, the MERA encouraged a conservative, but not risk-averse approach to authorizing. The first Massachusetts charter school authorizers aimed to pick innovative proposals that showed promise and closed charter schools when they failed to deliver on their promises. Until 2010, this approach that worked; it helped Massachusetts establish and grow some of the most effective charter schools and networks in the country, and it allowed those schools and networks to close achievement gaps and provide important choices to students and families.

Repeated failures to abolish the overall cap on charter schools and the passage of An Act Relative to the Achievement Gap in 2010 have fundamentally redefined the charter school movement in Massachusetts. Charter schools are no longer the laboratories of innovation that the MERA intended. Instead they are a brand of schools, highly committed to and effective at closing the achievement gaps in poor, urban communities. It is a worthy brand but it does not provide the range of educational options that the Commonwealth's students and families deserve. Now, through the application of regulations

that will curtail their expansion in communities where they have become well established and are in very high demand, charter schools have not only been branded, they have also been sidelined. The charter movement has in many ways contributed to this, its biggest challenge to date. It has done so by accepting the mantle of "tool for turnaround" and failing to emphasize the importance of choice and innovation as features that allow charter schools to support students and close achievement gaps so effectively. The growth of the Massachusetts charter movement has been interrupted, and if charter operators and advocates want to see the movement survive and flourish, they have to reassess their purpose and rise to the challenge set down in the MERA.

## **RECOMMENDATIONS**

### **ABOLISH THE CAP ON CHARTER PUBLIC SCHOOLS**

The presence of any cap on the number of charter public schools in Massachusetts encourages a risk-averse approach to charter school authorizing that discourages innovation, especially in communities that chronically bump up against the cap. When little room is available to establish new charter schools, authorizers find it safe to pick winners and losers instead of seeking proposals that are both innovative and likely to succeed. Charter operators, on the other hand, are less likely to apply to establish new schools in a place that is not known for allowing new ideas to flourish.

### **LEVERAGE PROVEN PROVIDERS BUT ENCOURAGE RISK-TAKING**

Because so many charter schools are effective at closing achievement gaps, it is important to encourage proven providers to expand their programs, especially in communities where achievement gaps loom large and demand for charters is high. But some number of charter school slots in all districts, low-performing included, should be reserved for proposals from providers that show promise despite lacking a track record of operating a charter school in Massachusetts or elsewhere. Some of the most successful charter schools in 2014 were unproven

when they submitted their first proposals to the state—they were innovative proposals from teachers, community groups, and concerned citizens that thought they could effect positive change in public education. It stands to reason that the next wave of education reformers is among us and poised to make new and positive changes if given the chance.

#### **REVISE THE CURRENT FORMULA FOR CHARTER SCHOOL EXPANSION**

If Massachusetts is going to continue to operate under the 2010 *Smart Cap*, the BESE should reconsider its formula for determining districts that are subject to a cap increase. While growth is an important factor to consider when assessing a district's progress, the current formula overemphasizes growth to the extent that a district can be "rewarded" for growth but still continue to fail large numbers of students. The Commonwealth should be concerned with providing all students ample opportunities to access a high-quality education. If Massachusetts is to remain committed to using charters mainly as a tool to turnaround failing schools, it should allow charters to do so instead of constraining their growth.

#### **CHARTER PUBLIC SCHOOLS MUST REEVALUATE THEIR PURPOSE**

Charter public schools in Massachusetts are in some ways victims of their own actions. By failing to innovate as they once did and failing to defend their right to innovate, charter schools have allowed the Commonwealth to redefine their purpose and mission. Not only should charter schools seek to expand into communities that they have not traditionally served—communities that have room under the statewide cap—they should also find new ways to innovate within the context of their current programs. They must prove to the state that they are not only effective at closing achievement gaps but true laboratories of innovation and reform.



## About the Author

**Cara Stillings Candal** is an education researcher and writer. She is a senior consultant for research and curriculum at the Center for Better Schools/National Academy for Advanced Teacher Education, an adjunct professor at the Boston University School of Education, and a senior fellow at Pioneer Institute.

## About Pioneer

Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to change the intellectual climate in the Commonwealth by supporting scholarship that challenges the “conventional wisdom” on Massachusetts public policy issues.

## Recent Publications

*The Logic of Pension Valuation II: A Response to Andrew Biggs*, White Paper, November 2014

*Filling the Skills Gap: Massachusetts Vocational-Technical Schools and Business Partnerships*, White Paper, November 2014

*Market Rates of Return for Effective Financial Management*, White Paper, November 2014

*The Revenge of K-12: How Common Core and the New SAT Lower College Standards in the U.S.*, White Paper, September 2014

*Imperiling the Republic: The Fate of U.S. History Instruction under Common Core*, White Paper, September 2014

*Seeds of Achievement: Appletree’s Early Childhood D.C. Charter Schools*, White Paper, July 2014

*Hard Lessons for Institutional Investors from the MBTA Retirement Fund*, White Paper, July 2014

*Giving Kids Credit: Using Scholarship Tax Credits to Increase Educational Opportunity in Massachusetts*, White Paper, July 2014

## Endnotes

1. Massachusetts General Law (MGL) Acts of 2010, Chapter 12
2. See, for example, The Boston Foundation (2009), *Informing the Debate: Comparing Boston's Charter, Pilot, and Traditional Public Schools*; Hoxby, Caroline (2004) *Achievement in Charter Schools and Regular Public Schools in the United States: Understanding the Differences*, National Bureau of Economic Research; Center for Research on Education Outcomes (CREDO) (2009) *Charter School Performance in Massachusetts*, Stanford University.
3. Massachusetts Department of Elementary and Secondary Education (DESE), Charter School Fact Sheet; Application History. Downloaded October 5, 2014 from <http://www.doe.mass.edu/charter/factsheet.pdf>
4. Vaznis, James, "Charter school moratorium lifted by the state: move could pave way for hundreds of seats in Boston," *The Boston Globe*, May 8 2012
5. Candal (2010) *Charter Caps and Strings Attached: The Achievement Gap Act of 2010 and Charter Policy*. Pioneer Institute White Paper, No. 68.
6. Vaznis, James "Panel's vote reaffirms charter school formula," *The Boston Globe*, June 24, 2014.
7. See: Massachusetts DESE (Sept. 26, 2014) "Districts subject to increases in the charter school cap 2014." Downloaded Oct. 5, 2014 from <http://www.doe.mass.edu/charter/>; also Interview with Bruce Bean, Data Manager, The Community Group, Oct. 13, 2014.
8. Vaznis, James. "New charter schools unlikely in Massachusetts: advocates critical as state halts plans in Brockton, Fitchburg," *The Boston Globe*, October 14, 2014.
9. Paul Grogan, President of the Boston Foundation, quoted in Vaznis, James. "New charter schools unlikely in Massachusetts: advocates critical as state halts plans in Brockton, Fitchburg," *The Boston Globe*, October 14, 2014.
10. The Federal Race to the Top competition (RTTT) promised more than \$250 million in federal grants to states that, among other things, created charter friendly policy environments. Massachusetts was awarded an RTTT grant in August 2010, after passing *An Act Relative to the Achievement Gap*. See: *State News Service*, "Governor Patrick signs historic education reform bill to close achievement gaps," January 8, 2010.
11. MGL, Chapter 12, Section 7(d).
12. See: Candal, *Charter Caps and Strings Attached*
13. Massachusetts Department of Elementary and Secondary Education (DESE), *Charter School Fact Sheet; Application History*. Downloaded October 5, 2014 from <http://www.doe.mass.edu/charter/factsheet.pdf>
14. Interview with Cliff Chuang, Department of Elementary and Secondary Education, Associate Commissioner, Sept. 30, 2014
15. *ibid.*
16. MGL, Chapter 12, Section 7(3)
17. Massachusetts Education Laws and Regulations 603 CMR 1.00(4), downloaded from <http://www.doe.mass.edu/lawsregs/603cmr1.html?section=04>, October 15, 2014.
18. *ibid.*
19. Interview with Cliff Chuang, September 30. 2014
20. Pauley, Elizabeth (2011) *Toward closing the achievement gap: a one-year progress report on education reform in Massachusetts*, The Race to the Top Coalition, downloaded from [http://www.tbf.org/~media/TBFOrg/Files/Reports/RTTTReport\\_Nov2011.pdf](http://www.tbf.org/~media/TBFOrg/Files/Reports/RTTTReport_Nov2011.pdf), September 30, 2014.
21. Massachusetts Department of Elementary and Secondary Education (DESE), *Charter School Fact Sheet; Application History*. Downloaded October 5, 2014 from <http://www.doe.mass.edu/charter/factsheet.pdf>



22. Interview with Cliff Chuang, September 30, 2014
23. Interview with Jon Clark, Co-Director, Operations, Edward Brooke Charter Schools, September 25, 2014.
24. Interview with Ciff Chuang, September 30, 2014.
25. Angrist, Joshua, Patac, Parag, & Walters, Christopher (2013) "Explaining Charter School Effectiveness," *American Economic Journal: Applied Economics*, vol. 5 (4).
26. Interview with Jon Clark, September 25, 2014.
27. Correspondence with Ed Kirby, October 31, 2014.
28. Ravitch, Diane "How No-Excuses schools deepen race/class divisions," (blog), June 15, 2013.  
<http://dianeravitch.net/2013/06/15/how-no-excuses-schools-deepen-race-class-divisions/>.
29. Interview with Ed Kirby, October 5, 2014.
30. Pauley, Elizabeth (2011) *Toward closing the achievement gap: a one-year progress report on education reform in Massachusetts*
31. Interview with Cliff Chuang, September 30, 2014.
32. In 2011, The MATCH Community Day Charter Public School of Boston, MA was authorized by the state.
33. Application for Match Community Day Charter Public School, November 8, 2010.
34. Peyser, James, "Brain drain: why so many talented educators are leaving for New York," *The Boston Globe*, Sept. 14, 2008.
35. Interview with Ed Kirby, October 5, 2014.
36. See, for example, Center for Research on Education Outcomes (CREDO) (2013), *Charter School Performance in Massachusetts*, Stanford University.
37. Interview with Jon Clark, September 25, 2014.
38. Massachusetts Department of Elementary and Secondary Education (DESE), *Charter School Fact Sheet; Application History*
39. Massachusetts Department of Elementary and Secondary Education, Press Release, "22 groups submit new charter prospectuses," July 26, 2012.
40. Vaznis, James. "Mass Senate rejects bill to raise charter school limit," *The Boston Globe*, July 16, 2014.
41. Interview with Marc Kenen, Executive Director, Massachusetts Charter Public School Association, Sept. 29 2014.
42. *ibid.*
43. Massachusetts Department of Elementary and Secondary Education, Press Release, "Updates for Charter Schools from ESE," April 28, 2014.
44. Also included in *An Act Relative to the Achievement Gap* was the requirement that the DESE classify all schools districts to a tiered accountability system comprised of five levels, with level one signifying top-performing districts and level 5 signifying districts in need of state assistance. The formula for determining a district's level includes overall student achievement, student growth (using the student growth percentile, or SGP) and in-school factors, such as dropout and graduation rates. For an explanation of the formula see "School leaders guide to the 2014 accountability determinations," Massachusetts Department of Elementary and Secondary Education, <http://www.doe.mass.edu/apa/accountability/2014/SchoolLeadersGuide.pdf>.
45. Interview with Harneen Chernow, Massachusetts Board of Elementary and Secondary Education, October 5, 2014.
46. Massachusetts Board of Elementary and Secondary Education, Meeting Minutes, May 2014, downloaded from <http://www.doe.mass.edu/boe/minutes/>, accessed October 6, 2014.

47. Memo to the Board of Elementary and Secondary Education from Mitchell D. Chester, Commissioner of Education, Massachusetts, June 20, 2104.
48. Massachusetts Department of Elementary and Secondary Education, Press Release, “Districts subject to increases in the cap, 2014,” Sept. 26, 2014.
49. Vaznis, James. “New charter schools unlikely in Massachusetts,” *The Boston Globe*, October 14, 2014.
50. Massachusetts Department of Elementary and Secondary Education, Press Release, “Districts subject to increases in the cap, 2014,” Sept. 26, 2014.
51. Murphy, Matt, “Charter schools cry foul over new ed rule: Chester defends student growth approach,” *State House News Service*, June 25, 2014, downloaded from, <http://www.commonwealthmagazine.org/News-and-Features/Online-exclusives/2014/Spring>, accessed October 1, 2014.
52. Candal, Cara (2013) *Looking Back to Move Forward: A History of Charter School Authorizing in Massachusetts*, Pioneer Institute White Paper No. 101
53. Vaznis, James. “New charter schools unlikely in Massachusetts,” *The Boston Globe*, October 14, 2014.; see also Quinn, Coleen. “State may reconsider Fitchburg, Brockton, charter school proposals,” *State House News Service*, Oct. 23, 2014.
54. Interview with Marc Kenen, September 29, 2014.
55. “Boston charter schools: a limited opportunity,” (2014) New Schools Venture Fund, Blog, downloaded from <http://www.newschools.org/blog/boston-charter-schools-a-limited-opportunity>, October 16, 2014.
56. Interview with Jon Clark, September 25, 2014.
57. Center for Research on Education Outcomes (CREDO) (2013), *Charter School Performance in Massachusetts*, Stanford University, p. 31.
58. Interview with Bruce Bean, There can also be real oddities sometimes using the state “growth” model: Consider two grade 8 students in 2014. Both students scored 254 on the grade 6 ELA test and both scored 250 on the grade 8 ELA test. However, the first student scored 240 on the grade 7 ELA test and the second student scored 262 on the grade 7 ELA test. The first student has a 2014 Student Growth Percentiles (SGP) of 78 and the second student has a 2014 SGP of 3. Both students were proficient on the MCAS all 3 years, but the second year difference creates tremendous SGP differences. It is hard to see that these two students have such different “growth”.
58. Data and analysis provided by Bruce Bean
59. Murphy, Matt, “Charter schools cry foul over new ed rule: Chester defends student growth approach.”
60. Center for Research on Education Outcomes (CREDO) (2013), *Charter School Performance in Massachusetts*, Stanford University, p. 31.
61. Interview with Bruce Bean, Data Manager, The Community Group, October 14, 2014.
62. *ibid.*
63. *ibid.*
64. Interview with Harneen Chernow, October 5, 2014.
65. Communication with Cliff Chuang, October 26, 2014.
66. *ibid.*
67. Interview with Ed Kirby
68. For a brief history of charter schools and how the Commonwealth’s approach to authorizing developed, see Candal, Cara (2009), *Putting Children First: A History of Charter Public Schools in Massachusetts*, Pioneer Institute White Paper, No. 48





This report was prepared by Pioneer Institute for Public Policy Research in Boston, Massachusetts, and is for informational purposes only. The information herein is believed to be reliable; all data have been obtained from sources that are believed to be accurate, but Pioneer Institute makes no representation as to their correctness or completeness. This report comes with no warranty, implied or explicit. The opinions, estimates and projections herein are solely those of the respective authors as of the time of its preparation and are subject to change without notice. Past performance does not guarantee future results. Pioneer Institute, its fiduciaries and the authors may engage in financial transactions and employ accounting methods inconsistent with the views taken in this report on others' and on their own behalf.

Copyright © 2014 Pioneer Institute for Public Policy Research. All rights reserved.