

Looking Back to Move Forward

Charter School Authorizing in Massachusetts

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Charter School Authorizing in Massachusetts

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Introduction

When the Massachusetts legislature established charter public schools in 1993 as part of the greater Massachusetts Education Reform Act (MERA), it cited six distinct purposes of charter schools:

- (i) to stimulate the development of innovative programs within public education;
- (ii) to provide opportunities for innovative learning and assessments;
- (iii) to provide parents and students with greater options in selecting schools within and outside their school districts;
- (iv) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management;
- (v) to encourage performance-based educational programs;
- (vi) to hold teachers and school administrators accountable for students' educational outcomes.¹

Twenty years later, with 76 operating charter schools in the Commonwealth, this once “experimental” form of public education is now viewed as anything but. Many charter schools in Massachusetts have fulfilled the purposes outlined in the 1993 legislation.² Charters have not only provided greater choice for students and parents, many have closed achievement gaps and provided new models for “educational instruction and school structure and management.” As a result, charter schools in Massachusetts have become, in the eyes of the Commonwealth and the federal government, an important lever for education reform.

In 2010, in response to a call from the Obama administration under its *Race to the Top* grant competition, Massachusetts raised the cap on the number of charter schools that can exist in the Commonwealth for the third time since the MERA. Specifically, this most recent cap lift was designed to allow more high quality public school options to be established in the 10 percent of lowest performing districts in the Commonwealth. The legislation requires that new schools in these districts be operated by “proven providers,” or operators with track records of sound school management and high student achievement.³

The act of raising the cap in the Commonwealth's neediest districts in some ways signaled an end to the “war” over charters, a war being fought on one side by advocates of greater parental choice and greater autonomy for school leaders and on the other by the Commonwealth's teachers unions and ardent supporters of the status quo—stakeholders who have seen charter schools as a threat to the existence of traditional public schools.

The 2010 legislation signaled the end of the war in part because policymakers at the highest levels, even those who had once been lukewarm towards or even vociferously opposed to charter schools, were admitting to the success of the charter experiment by raising the cap in response to a call from the federal government. Perhaps more importantly, the 2010 legislation was a rather conservative—and in that way typical—amendment to the charter legislation; it did little to encourage the rapid growth of charter schools and therefore just as little to disrupt the status quo in public education in Massachusetts. In other words, it did not pose a major threat to traditional public schools in the eyes of charter school detractors.

Even after the 2010 legislation was passed and, in 2011, an additional 16 charter schools authorized, charter schools command a relatively small share of the public education market.⁴ Today, students in Massachusetts charter schools account for only 3.3 percent⁵ of the public school population in the Commonwealth, and many of the cities and towns in which charters are in demand, such as Boston, are already rubbing up against the new cap, which was imposed only three years ago.

In some ways, both the success and failure of the charter school movement can be attributed to the Commonwealth's conservative approach to authorizing. On the one hand, the Commonwealth holds charters to a very rigorous standard, only authorizing those that seem the most viable and promising and closing those that do not fulfill the terms of their charters. On the other hand, because the existing cap hampers the growth of charter schools, it is impossible for this successful model to be taken to scale or used as a lever for meaningful education reform.

Beyond the ability to take the charter school movement to scale, questions abound about what the next chapter in Massachusetts' charter school history will look like. Though the charter authorization process in the Commonwealth has many merits, aspects of it have failed to evolve in a manner that keeps pace with high quality charter authorization processes in other states. Massachusetts remains one of only seven states with charter school laws that rely upon a single authorizer model.⁶ While supporters of the model note that having a single strong authorizer can ensure quality and consistency in the authorization process, critics point out that it hampers innovation and leaves the authorization process vulnerable to

politicization. Indeed there is evidence that, in recent years, the charter approval process has been more politicized than it was in the past.⁷

Other components of the 2010 legislation also hamper charter school innovation. By allowing only "proven-providers" to replicate in certain cities and towns, the legislation inadvertently encourages charter schools to look alike in terms of pedagogical approach and educational programming. Additionally, a continued refinement of the definition of a "good" charter school raises questions about the extent to which the charter authorization process has become overly focused on evaluating school inputs, as opposed to outputs. Some claim that the Commonwealth is now regulating charters in a manner similar to the way it regulates traditional public school districts. If this is the case, and if the charter movement does continue to grow, what are the risks to the quality of the movement?

Thus 20 years after the charter school movement began in Massachusetts, it is at a crossroads. This paper aims to point the Commonwealth in the right direction by exploring the history of charter school authorizations, with an eye to understanding how the current authorization process both sets Massachusetts apart from other states and stands to constrain the continued success of the charter school movement. Drawing upon data that illustrate the charter school landscape in Massachusetts, an analysis of historical documents, and interviews with current and former government officials as well as charter school leaders and authorizers, this paper also explores what we can learn from both the successes and challenges of the charter movement. This work concludes with recommendations for ensuring charter

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school quality and expanding the number of high quality charter school options in Massachusetts.

A Brief History of Charter School Authorizing in Massachusetts

Only one small part of the larger 1993 Massachusetts Education Reform Act (MERA), at their inception, charter schools were overshadowed by the Act's requirement that the Commonwealth establish consistent standards to which all public schools would be held accountable and assessments that would measure student progress on those standards.⁸ In the immediate post education reform era, attention was riveted on the creation of MCAS (the Massachusetts Comprehensive Assessment System), and the charter school provision in the law ran a distant second in terms of the attention that it received from interest groups and even from major media outlets.

Despite its secondary status, the charter school provision of the MERA had been a bipartisan effort and the result of much lobbying and hard work on the part of key state leaders. Looking to states like Minnesota, which had passed the nation's first charter school in 1991, then-Governor William Weld, Senator Thomas Birmingham, Representative Mark Roosevelt, and Senate President William Bulger worked to include, (over vocal opposition, especially in the House of Representatives) a provision allowing for the establishment of charter public schools across the Commonwealth—public schools of choice that would be free of many of the state bureaucratic constraints placed on their traditional public counterparts.⁹

As a result of the negotiating process within the House, the charter legislation that was eventually passed capped the number of

charter schools that could be established at 25.¹⁰ It also gave authorizing authority for charter schools to the Secretary of Education, the head of the Executive Office of Education (EOE), an agency that Governor Weld had formed in 1991 and that operated independently of the state's other major education bureaucracy, the Massachusetts Department of Education (MA DOE).

Ann Connoly Tolkoff, founder of City on a Hill, one of the first charter public schools authorized in Massachusetts, easily remembers the promise that the charter concept held. Though Tolkoff concedes that charters were, at the time, viewed as a cause of the “far right,” even someone who identified politically with the left, such as herself, saw great opportunity: “Charters were supposed to be a place for innovation and autonomous decision-making.” Tolkoff recalls, “There was a sense at the time in some of our most troubled public schools that education was something we were doing *to* our kids, not *for* them. The charter legislation presented an opportunity to reverse this.”

When Tolkoff and City on a Hill co-founder Sarah Kass applied to receive one of the first charters in the Commonwealth in 1994, there was little hard evidence to support the “sense” that charters could be successful. Though modeled in part on the *Carnegie Schools* initiative passed by the Massachusetts legislature in 1987, charter schools were the Commonwealth's first bold experiment with true public school choice. They also represented a new way of viewing the relationship between school leaders and the education bureaucracy by devolving school management to site-based school councils.¹¹

Under the legislation, schools would be “operated under a charter granted by the Secretary of Education, which operates

independently of a school committee and is managed by a board of trustees.” Charters would be renewed every five years, pending the Secretary’s determination that the school was viable and meeting the terms of its charter.¹² The intent of this arrangement was to free school leaders from the constraints of operating within a traditional school district. Charter school boards would manage their own funds, have the discretion to hire and fire teachers and other personnel, and have the liberty to determine their own educational programming, though, as public schools, charters would be subject to all terms of the MERA. Moreover, any child in the Commonwealth could apply and be accepted to a charter school, regardless of his or her place of residence (students living within the town or city where the charter school was established would have preference).¹³ Even in the first wave of charter school authorizations, there was more demand for charter schools than seats available (City on a Hill, for example had 180 applications for 65 seats). Because, as public schools, charters cannot discriminate as to whom they accept, as early as 1995 charter schools began to admit students on the basis of random lotteries.

In 1994, when the first round of charter applications was received, the national movement was so young that the newly established Executive Office of Education had few reference points for examples of successful charter school authorizing. To complicate matters, Massachusetts was, at the time, unique in the nation as a state authorizer. Though other states with charter laws allowed universities and school districts, among other entities, to authorize charters, Massachusetts alone had pursued the single state authorizer model. Former Secretary of Education Michael Sentance notes that in the first round of authorizations the EOE thought

it had to promote two things in the schools that it would ultimately authorize: innovation and effective practices. “The problem,” Sentance says, “was that these things were sometimes in conflict—we didn’t have the same data that we do today as to what does and does not work. Additionally, there was the idea that our job was to emphasize outcomes and regulate as little as possible. We were supposed to judge success by results.”¹⁵

Complicating matters, even in the very first round of authorizations, the EOE had to consider the constraints of the charter school cap. There were different opinions within the office as to how the cap of 25 charter schools state-wide should affect the authorization process, with some in the office pushing to authorize as many innovative schools in as many communities as possible and others, like Sentance, advocating for “a more conservative approach, with a focus on urban centers, where better schools were needed and empty school buildings were available.” Ultimately, it would take a few years and a few failures for this more conservative approach to authorization to win favor.¹⁶

Though some of the first charter schools were on a path to success from the start, there were also a considerable number of failures. In some cases, the schools simply failed to follow through on the educational approach outlined in their charters, sometimes the result of a school’s founders having a different vision than those who would ultimately run the school. In other cases, the state had to confront corruption on charter school boards.¹⁷ In one instance that Sentance recalls, “there was an uncomfortably close relationship between school board members and business, such as a board member charging the school large sums of money for legal services.” Issues such as these

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were not only known to the charter school office, they were publicized in 1999 when the Massachusetts Inspector General issued the results of a multi-year study on charter school management.¹⁸ That report cited issues with “financial management and oversight” on charter school boards and a general lack of sound business procedures across some schools in the small charter sector.¹⁹ Thus, early on, the charter school office learned that some regulation was inevitable and necessary—the state would have to step in to protect the interests of children and the viability of its charter schools.

To address this and other issues, there were also some cases in the early days of charter authorizing where charters were revoked for a period of time until the school could “return to the original vision of the charter.” In other cases, such as the Youth Build Charter School in 1997, charters were revoked altogether for a failure to meet the Commonwealth’s strict accountability requirements. By 2000 (under both EOE and the charter office in the DOE) four charters had either been voluntarily surrendered by their operator (prior to or immediately following the opening of the schools)²⁰ or revoked by the Commonwealth.

needed to find a way to gauge school progress before the five-year renewal mark and to ultimately support charter schools without forcing them to comply with burdensome regulations and processes.²¹

Learning from early failures, the Office developed an approach that

...merged the United Kingdom’s school inspection model with accreditation-type visits. It was to be a formative process leading to a summative evaluation and decision (about charter renewal). At that time, there was bifurcated responsibility within the education bureaucracy: the Department of Education was to do special education, bilingual education, and worry about compliance. The Executive Office was looking not for compliance but for evidence that charter schools were fulfilling their mission, that the kids were in school, and that the organization was viable . . . the charter was a contract between the Commonwealth and the school’s board, and the Commonwealth was poised to learn what these schools were doing ... our hope was to inspire others to emulate and adopt good practices.²²

Table 1: Charter School Closures in MA: 1993-2013

Number of Schools Closed	Reason for Closure
6	Pre-opening surrender
6	Post-opening surrender
2	Non-renewal
3	Revocation

Adapted from: Massachusetts Department of Education, “charter school fact sheet, directory, and authorizing history”
<http://www.doe.mass.edu/charter/about.html>

Such growing pains within the charter sector ultimately benefited the state’s understanding of what the authorization process should look like, however. The charter office knew that it

The practical result of this nascent charter authorization and renewal model was that evaluations of potential charter school applications sought to answer three major questions: 1) is the application espousing a philosophy and methodology that can raise student achievement?; 2) will the school, as proposed, be financially viable?; and 3) do the applicants have the experience and skill it takes to run a school? To this day, these questions remain at the core of what the current charter school office seeks to understand when considering new charter school applications, despite the fact that the

office now resides in a separate part of the state education bureaucracy.²³

Just as the Executive Office of Education was beginning to better understand what a sound authorization process would look like, in 1996 then-Governor Weld, in an effort to streamline government, abolished the EOE and moved responsibility for charter school authorizing to the state Board of Education (BOE).²⁴ This meant that the charter school office would reside in the then-Department of Education. Although it would seem a lateral move for the charter school office, the symbolic and political impact was deeply felt by those close to the charter movement.

Formerly housed in an agency that was seen as external to the large and traditional education bureaucracy, those within the charter school office had viewed their work as entrepreneurial. Because the Department of Education was a large and established bureaucracy, there was grave concern not only that the charter school office would be granted subordinate status and become just one more small silo within an overwhelming bureaucracy, but also that the Department, a regulatory agency, would submit the authorization process to the same kind of regulation as traditional public schools.²⁵

Though there was no immediate evidence of such regulation (former EOE employees cite attempts on the part of then-Commissioner David Driscoll to ensure the office's status and autonomy),²⁶ other problems with the change in authorizer became clear over time. First, there was the sense that even as the number of charter schools in Massachusetts grew, the charter office did not keep pace. Today it remains a small office in a big bureaucracy funded through an operating line in the department's budget. Underfunded,

understaffed, and subject to increasingly high employee turnover, some believe that a failure to support the charter school office indicates a larger failure to support the quality of the charter school movement on the whole.²⁷

Second, when the state BOE became the authorizing body, charter school authorizations and renewals became subject to the whim of a board that has ranged in size from 17 to 9 people, some of whom support and some of whom do not support the charter school idea.²⁸ Of course, it is important to point out that the former Executive Office of Education could have been subject to the same politics, given that the governor appointed the secretary. It is also important to point out "the board has generally not rejected strong applications recommended by the charter school office."²⁹ However, former Board of Elementary and Secondary Education chair James Peyser notes:

What people are looking for in a charter application can vary by board—the BESE is idiosyncratic. This can be seen, for example, in the board's obvious bias against for-profit³⁰ charter operators and its bias to listen to the local community. If the board thinks that a local community is embracing education reform even though its schools are failing, it might not want to grant a charter school in that community. The problem is that the process should be based upon demand in the local community, not politics or evidence of 'reform.' Things like this tend to creep into a board member's perspective.³¹

While Peyser is quick to point out that he has never known board members who have expressed dislike for charter schools to consistently vote against approving good schools, he notes that board attitudes *could* influence the applications that DESE brings

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to the board for consideration. “Having a strong commissioner who can express support for charter schools is important in order to temper the perspective of the board,” he notes.³² Indeed, events surrounding a charter school in Gloucester in 2011, which will be explained in greater detail later in this report, support the need for such caution.

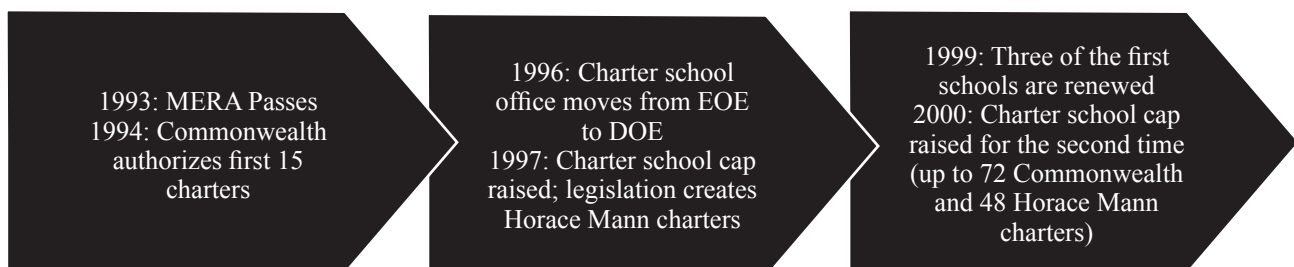
Thus, while a move from EOE to DESE did not have immediate obvious consequences, there is suspicion that it precipitated some of the challenges that the charter school movement faces today. Of course, as the movement grew older and expanded, change was inevitable. One of the first major shifts in charter schooling came in 1997. On the heels of a strong push to raise the cap on charter schools, the legislature created a new brand of charter schools that would be subject to the approval of local teachers’ unions and school committees. These schools were called Horace Mann charter schools, and their more autonomous, non-unionized predecessors became known as Commonwealth Charter Schools.³³

Even Horace Mann charters have evolved over time, with three types existing today: Horace Mann I charter schools may be established as new schools in any community and are subject to the approval of the local school committee and collective bargaining unit; Horace Mann II schools are “open to any district for conversion of an existing school and are also subject to the approval

of the local school committee and collective bargaining unit;” Horace Mann III schools, established in 2010, may be founded in any district. Although not subject to the approval of the local collective bargaining unit upon their founding, these schools do require the approval of the local school committee and are subject to both the approval of the school committee and collective bargaining unit upon renewal.³⁴

Although some traditional public school leaders have found flexibilities in the Horace Mann model that have allowed them to capture economic and other efficiencies and improve student outcomes,³⁵ Horace Mann charters have, to date, done comparatively little to alter the momentum of the Commonwealth charter school movement. There have been comparatively few applications for Horace Mann charters, which have been referred to as “the road not taken.”³⁶ However, in that the 1997 cap lift allowed for only an addition 25 charters, 13 of which were to be Horace Mann, this alteration to the original charter school structure has in some ways hampered the growth of Commonwealth charter schools in Massachusetts—if the provision did not exist, Massachusetts may have a greater number of Commonwealth charter schools.

Over time, evidence about charter performance has come to support the notion that more Commonwealth charter schools would be beneficial. As early as 1996, the Department of Education published a report



citing the early successes of many schools, such as the SABIS International Charter School in Springfield, whose students had shown a year and a half of growth in just one year’s time.³⁷ Another Department study conducted during the 1999-2000 school year found “64 percent of [charter school] classes making greater than average gains in math scores, 58 percent making greater than average gains in reading scores, and 63 percent making greater than average gains in overall scores.”³⁸ These early studies were conducted not on the basis of MCAS scores, as MCAS was still in the process of being rolled out, but on the basis of norm-referenced examinations such as the Stanford 9 and Iowa Test of Basic Skills. However, once MCAS became the measure by which schools would be judged, charter schools continued to realize great achievement gains over their traditional public school counterparts.

Such early reports of success not only garnered national media attention in papers like the *New York Times*,³⁹ they aided charter advocates in their push to increase

the cap once again in 2000. With the urging of then-Governor Paul Celluci and then-Commissioner of Education David Driscoll, the cap was raised from 50 to 120, “allowing for a total of 72 Commonwealth and 48 Horace Mann charter schools to exist.”⁴⁰

The cap lift of 2000 would be the last increase for ten years. In that time, charter schools in Massachusetts would come to be nationally recognized. Two separate studies in 2006 and 2009, one conducted by the Massachusetts Department of Education and the other by the Boston Foundation, found not only that many Massachusetts charter schools outperform their traditional public school counterparts on MCAS but also that they meet the needs of low-income minority students particularly well.⁴¹ To this day, charter schools remain most popular in low-income, heavily minority communities. Also in 2009 and again in January 2013, Stanford’s Center for Research on Education Outcomes (CREDO) found that “on average, students in Massachusetts charter schools make greater than average gains” than they would have

Table 2: Selected Summary of Positive Impacts of Charter Schools in MA (CREDO)

Impact by location:	“Students enrolled in urban charter schools learn significantly more in both math and reading compared to their peers in traditional public schools (TPS).”
Impact by years of enrollment:	“In the second, third, and fourth years of attendance, large and significant gains in learning compared to students in TPS are observed in both reading and math.”
Impact by race/ethnicity:	“Black students in charter schools perform similarly to white students in TPS and significantly better than black students in TPS. Hispanic students in charter schools have significantly higher growth than both white and Hispanic students in TPS.”
Impact by socioeconomic status:	“Students in poverty who are enrolled in charter schools perform significantly better in both reading and math compared to students in poverty in TPS.”

Source: Center for Research on Education Outcomes (CREDO), *Charter School Performance in Massachusetts*, pp. 19-25

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if enrolled in one of the Commonwealth's traditional public schools. The impacts are even greater in the City of Boston.⁴²

Part of the reason that the Commonwealth's charter schools have performed so well is due to the rigorous authorizing process first developed in the EOE and continued by what is now known as the Department of Elementary and Secondary Education (DESE). Highlighted by the U.S. Department of Education (US ED) in its report *Supporting Charter School Excellence through Quality Authorizing*, the Massachusetts charter school office was one of only eight authorizers cited nationwide for its rigorous approach to approving charter schools and its willingness to revoke charters when schools fail to meet the terms.⁴³

But this praise that Massachusetts once received for its charter school law and authorization process has been tempered in recent years. Despite the cap lift in the state's lowest performing districts, in 2010, Massachusetts drifted downward in the *National Alliance for Charter Public School's* Model Laws Ranking, from 5th out of 42 in 2012 to 11th out of 43 in 2013. This downgrade, according to the *National Alliance*, can be attributed to the Commonwealth's stringent cap on charter schools, especially in comparison to positive trends in charter school growth in other states.⁴⁴ Indeed, in broad stroke the 2010 legislation did relatively little to contribute to the growth of charter schools in the Commonwealth, even in the cities and towns in which the cap lift is concentrated.

The 2010 cap-lift legislation, also known as the "smart-cap," applied only to the lowest performing 10 percent of school districts in the Commonwealth. Developed in an effort

to win federal money under the Race to the Top grant program, which encouraged applicants to loosen restrictions on charter school growth, the legislation, at the time, was seen as a great boon to the charter school movement.⁴⁵

In reality, however, the legislation has not resulted in great growth in the charter sector. Because the "smart cap" legislation stipulated that the cap only be lifted in certain communities,⁴⁶ new charter schools are only being established in communities where the cap has not been reached (mostly suburban and rural communities where there is comparatively limited demand for charter schools) or in the 29 mostly urban communities where student performance in traditional public schools is low.⁴⁷ Additionally, the legislation limits charter school growth in the lowest performing districts to "proven providers," or charter school operators that have "previously or currently run schools with records of academic success and organizational viability."⁴⁸

Indicative of the fact that there is such demand for charter schools in communities with low-performing public school districts, immediately after the 2010 legislation passed, the charter school office received 42 applications (compared to 14 applications in 2009).⁴⁹ Of those, the BESE approved 16 charters in February 2011.⁵⁰ Indeed, demand for charters in cities like Boston was so high that the Department feared these cities would reach the newly imposed cap too soon. In 2011, Commissioner Mitchell Chester called for a moratorium on charter school applications in cities that were once again coming close to the cap. The moratorium affected not only a number of charter school operators that were poised to replicate but also the tens of thousands of students and

families on charter school waitlists in those communities, waitlists that had grown dramatically after the cap had been lifted.⁵¹

Understanding the relatively small impact of the 2010 legislation is integral to understanding the trajectory of charter school growth in Massachusetts. Many advocates for charter schools claim that it is again time to raise the cap or even abolish it altogether, providing greater options to students and families across the Commonwealth, and not only in the lowest performing districts.⁵² But an increase in or even the elimination of the charter school cap will not be enough to ensure the growth of high quality schools across the sector. Building on its history of strength in authorizing, the Commonwealth, after 20 years, needs to look closely at the charter approval and renewal process overall and what the charter school landscape looks like, as a result.

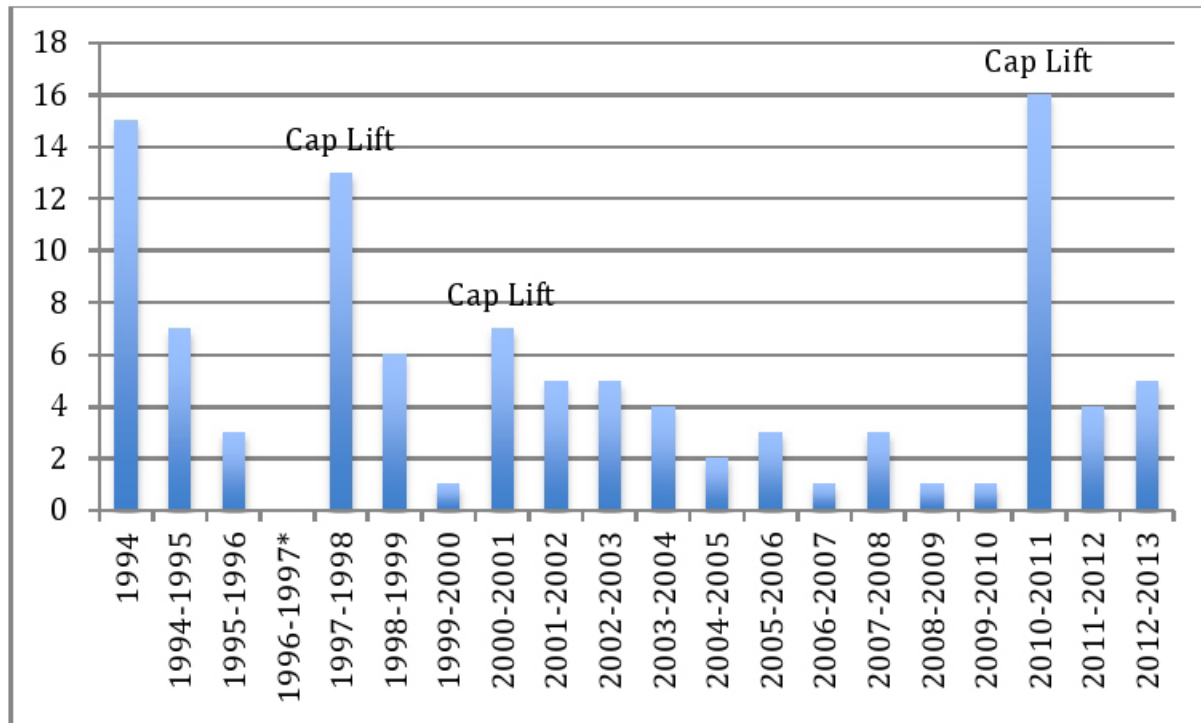
The Current and Changing Landscape of Charter Public Schools in Massachusetts

The number of charter schools in Massachusetts has grown at a steady pace in the last twenty years, but it is clear that the presence of a stringent cap has prevented many prospective charter school founders from meeting what has become an overwhelming demand from families. The state's conservative approach to authorizing has resulted in spikes in the number of charters approved immediately after cap-raises with a slow and steady decline in the number of charters authorized as the cap nears. The first two cap lifts, in 1997 and 2000, respectively were effected under the Republican Weld and Cellucci administrations, the third happened under Democrat Deval Patrick.

Though the public tends to identify charter schools as a cause of the right, there is little evidence that having a Republican in the state's highest executive office results in greater growth in the charter sector. It is evident, however, that under the Patrick administration's 2010 charter school legislation, charters have become subject to more regulatory burden than they previously were. From requirements to "backfill" charter school seats until more than halfway through the school year to requirements that charters maintain their own waitlists (resulting in multiple, inaccurate lists and incorrect centralized counts), the 2010 legislation has ensured that charters are more focused on compliance than ever before.⁵³

Of all of these burdens, the presence of the cap, especially, is a double-edged sword. On the one hand, the cap has forced the state to take an approach to authorizing that allows only the highest quality operators to open schools. On the other hand, the cap can force the state to deny qualified charter operators charters (as was the case with the Edward Brooke Charter School in 2013); it can also discourage qualified charter operators from applying to open a charter in the state. The pattern of applications to open Massachusetts charters clearly bears this out: in 2008 and 2009 only seven and 14 charter applications (respectively) were submitted for the state's consideration. However, immediately following the 2010 legislation, which enabled the growth of the charter sector in certain low-performing school districts, the Commonwealth received 42 applications, all of which were in communities that had long been coming close to the cap.⁵⁴ These numbers demonstrate that there is a clear willingness to operate charters in the Commonwealth; the danger, however, is that in times where the cap dictates that charters will be unable to open in

Figure 1: Number of Charters Approved in MA, 1994-2013



Adapted from: Massachusetts Department of Education, “charter school fact sheet, directory, and authorizing history” <http://www.doe.mass.edu/charter/about.html>

certain communities, talented operators will take their ideas and services to other states, where caps are either non-existent or so high as to make little difference to one’s chances of receiving a charter.

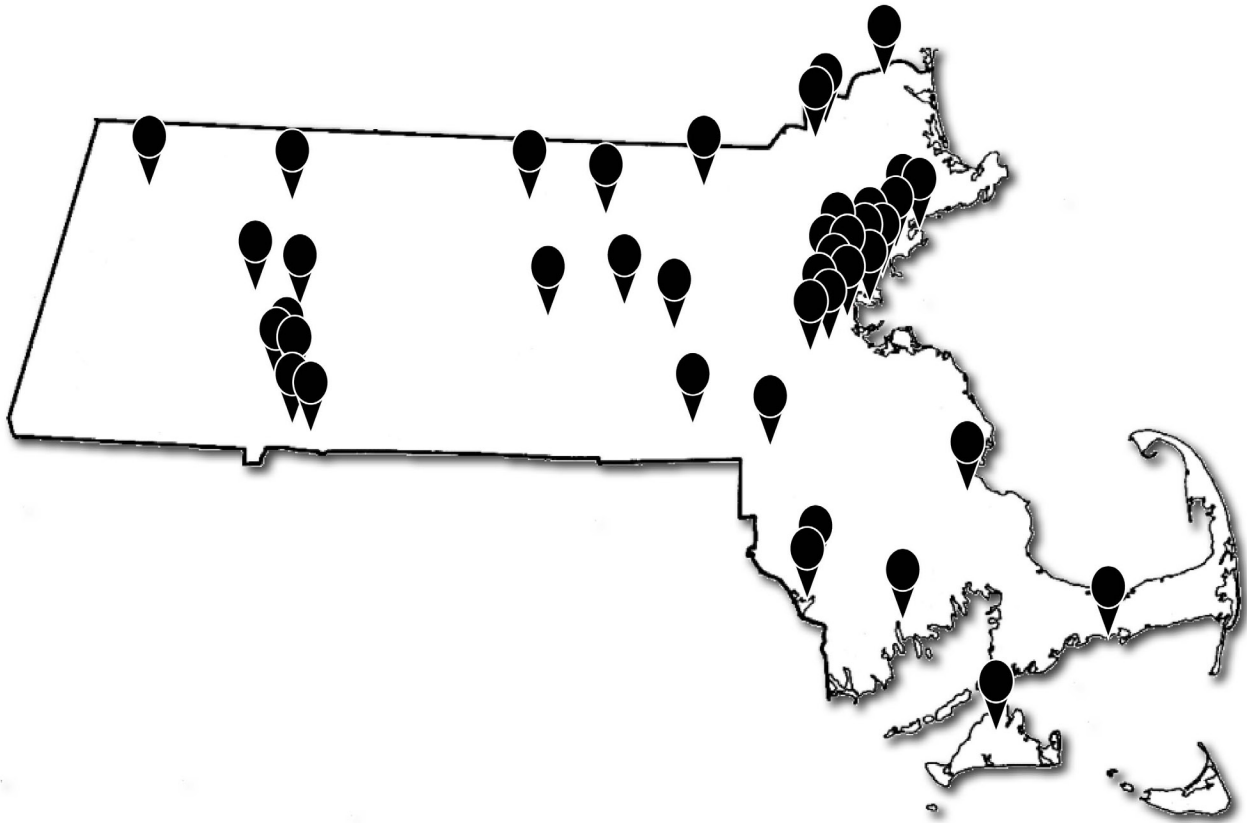
But the risk of driving potential applicants away pales in comparison to the disservice being done to the tens of thousands of students vying to get into charter schools who are on charter school waitlists across the Commonwealth. In recent years, there has been much controversy over the actual number of students on waitlists, in some part due to the 2010 requirement that charters maintain waitlists of their own. DESE’s official waitlist number is 53,492 for the 2010-2013 school year. While this number is clearly inaccurate in that it captures a number of students who are on multiple waitlists in a given community, even if the actual overall

waitlist number is much lower, demand for charter schools in the Commonwealth is still quite high. As an example, the Neighborhood House Charter School in Boston has 3,760 students on its waitlist alone.⁵⁵ Understanding both the demand for charter schools in the Commonwealth and the impact of the cap on families seeking a charter school education should have a great effect on the outcome of legislation that will be debated this spring. Senator Barry Finegold of Andover and Representative Russell Holmes of Mattapan filed a bill in January that seeks to abolish the urban district charter school cap altogether in the Commonwealth’s lowest performing districts.⁵⁶

MA Charter Schools by Geography

Further underscoring the negative impact of the charter school cap is that it affects poor and minority families living in urban

Figure 2: MA Charters by Geography



centers much more than their counterparts in middle and upper-middle class suburban communities, where the quality of public schooling is measurably better. Although at the beginning of the movement there was demand for charters in suburban communities, a concerted effort to authorize charter schools in communities where perceived need was greatest, coupled with growing demand for charters among low-income African American and Latino families, has shaped the charter school movement in Massachusetts into one that is predominantly urban. The 2010 legislation has only heightened demand in these places.

Importantly, many families in urban communities where the traditional public schools tend to be underperforming have

come to see charter schools as an escape route. The high performance of many charter schools proves, as one charter leader puts it, that “demography is not destiny.”⁵⁷ This is because, as the CREDO study suggests, the same students who struggle to achieve in many traditional public school districts are much more likely to achieve high test scores, graduate, and go on to college if educated in a charter school, especially a charter school in an urban community such as Boston.⁵⁸

Arguably, one of the reasons for charter schools’ success is that so many have turned the structure of traditional public schooling on its head, opting not to serve students in the traditional elementary, middle, and high school contexts but instead concentrating on building small schools that serve students

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for greater periods of their academic careers. The elementary-middle (K-8) and middle-high (6-12) schooling models are most popular among charter school operators in Massachusetts.

By using such models, many charter operators are acknowledging that the earlier children are exposed to high quality education and care, the more likely they are to have overall academic success in life.⁵⁹ Indeed, in recent years, some high quality charter high schools, such as MATCH charter public school and Codman Academy, have decided to expand their services into middle school. This is in part because charter high schools in urban areas are often challenged to bring students entering from traditional public schools, who typically start 9th grade 2-3 grade levels behind in reading and math, up to the graduation standard in only four years.⁶⁰

One of the drawbacks of having comparatively few stand-alone charter

elementary, middle, and high schools is that students who desire a charter school education have fewer opportunities to enter the sector. Typically charter schools only admit students at one or two grade levels, growing the school from the lowest grade up. In this sense, one of the factors that contributes to charter success (focusing on one population of students for a specific and often extended period of time) limits the availability of charter schools to those students who likely need them most.

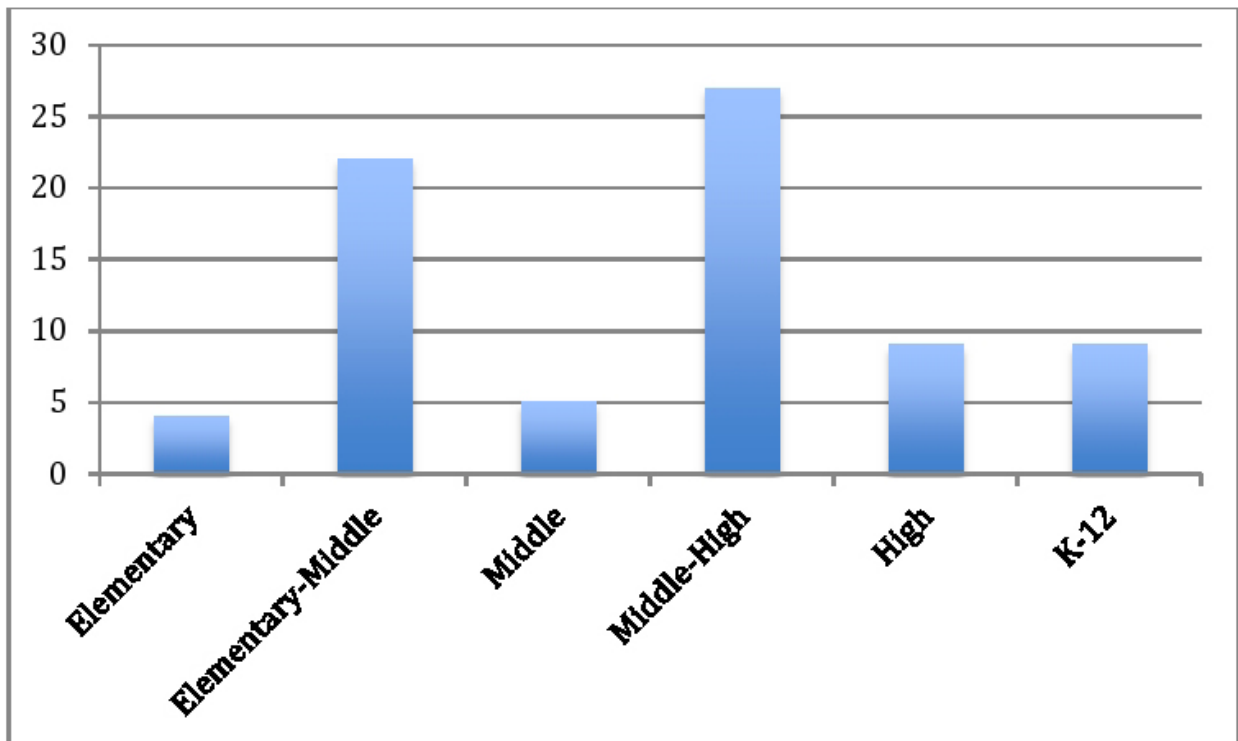
Understanding the charter school movement in Massachusetts in both contemporary and historical context is integral to understanding where to go next. Although the 2010 charter school legislation, spurred by the Obama administration's *Race to the Top*, provided more high quality school options in some of the communities where they are most sorely needed, it is very clear that the legislation was not enough. Lifting or abolishing the cap on charter schools is one way to meet the growing demand. However, legislators and charter

Table 3: MA Charter Schools by the Numbers: 2012-2013

Number of charter schools by charter school type	66 Commonwealth; 6 Horace Mann I; 4 Horace Mann III = 76 Total		
Number of students enrolled in charter schools, 2012-2013	31,830		
Percentage of students enrolled in charter schools by race/ethnicity compared to state average		<i>Charter</i>	<i>State</i>
	African American	28%	8.6%
	Asian	4.8%	5.9%
	Hispanic	25.9%	16.4%
Number of low-income students enrolled in charter schools compared to state		<i>Charter</i>	<i>State</i>
		53%	37%
Number of charter schools in Boston	25		
Number of charter schools in urban centers other than Boston	32		
Number of non-urban charter schools	19		

Adapted from: Massachusetts Department of Education, "charter school fact sheet, directory, and authorizing history" <http://www.doe.mass.edu/charter/about.html>

Figure 3: MA Charters by Grade Level Served



Adapted from: Massachusetts Department of Education, “charter school fact sheet, directory, and authorizing history” <http://www.doe.mass.edu/charter/about.html>

advocates would be ill-advised to do either without first considering important aspects of the authorization process, aspects that, in the context of a meaningful cap lift, could have a great impact on the continued quality of charter schools in the Commonwealth.

Constraints of the Current Authorization Process

As important as it is to understand what the charter school landscape looks like today and how it has changed over time, such descriptive statistics provide no information about the processes that prospective and existing charter operators must go through in order to open and operate charter schools in Massachusetts. Although the changes have been subtle, especially in the past fifteen years, there are great differences between the authorization processes put in place by the

original charter school office and the process currently in place. The most obvious shift is in the amount and nature of the information that prospective operators are required to provide when applying to open or continue to operate a school.

The earliest applications to open charter schools, those provided in 1993 and 1994, were thirty-six pages in length, the bulk of which was not an outline of information being requested *of* operators but information about charter schools and charter school law *for* operators. Of course, prospective applicants were required to provide plenty of information, most of which pertained to the kind of school they were seeking to establish and why they thought the school would serve students well. To an extent, the application also solicited information that would help the charter school office determine whether or

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not the proposed school would be viable for a long period of time. The application⁶¹ asked for (among other things) descriptions of:

- The school’s mission and objectives
- Characteristics of the prospective student population
- The recruiting and marketing plan
- The prospective Board of Trustees
- A plan for evaluating student performance
- A plan for evaluating school performance

At the inception of charter schools, the EOE was looking for descriptions of the outputs that school founders intended to produce along with minimal information about how they expected to get there. That approach has changed over time. Increasingly, since 2000, the charter application process, driven by changes in legislation, has focused on garnering information about school inputs. That is, as required by Chapter 71, section 89(e), the charter school office now seeks to understand whether or not a school will be viable by gathering details about how the school will operate on a day-to-day basis. A need for such detail has translated into a much lengthier application. The 2013 Commonwealth charter school application is 136 pages, including appendices that provide guidance on the application process. In addition to asking for much of the same information about school mission and vision required in the 1993 and 1994 applications, today’s charter school application⁶² also asks prospective operators to outline:

- Educational philosophy
- Details on school curricula
- Instructional approach
- Standards for student performance, promotion, and graduation

- School assessment systems
- Student recruitment and retention plans
- School management

Important to note is that in this transition to a lengthier, inputs-focused application process, Massachusetts is not alone. Other states with high-performing charter schools, such as New York (SUNY),⁶³ have applications that are similar in length and, like Massachusetts, include ample guidance on the application process for prospective founders. Central Michigan University’s application, though not as lengthy as Massachusetts and New York, has a similar focus on school inputs. Thus, it would seem that the process in Massachusetts has either helped to set or is reflective of an authorizing trend; the key will be for the Commonwealth to assess the extent to which it can strike a balance between gathering necessary information and ensuring that it is not consistently adding to what some perceive to be the overly-burdensome process of outlining the detailed inputs of proposed charter schools and charter networks.

In addition to revisiting the application process for new charters, some in the charter sector also believe that it is time to take a hard look at the current charter renewal process—one that is in some ways as detailed as the initial application. The renewal process for charter schools must take place, according to Massachusetts regulations, “anytime from March 1 of [a charter school’s] third year of operation to August 1 before the fifth and final year of its charter. The application process culminates with a Board of Education vote regarding the school’s renewal. Renewal of a public charter school is based on “affirmative evidence in three areas.”⁶⁴ As outlined by DESE, the renewal process includes a review of:

- The success of the academic program,

- The viability of the organization,
- The faithfulness to the terms of the charter.

During the renewal process, which includes an application and a multi-day site visit by DESE staff, the charter school office also seeks to understand “the school’s capacity and plans for the term of the next charter.”⁶⁵

Though the renewal process itself, which culminates in a recommendation from the commissioner of education to the Massachusetts Board of Elementary and Secondary Education (BESE), is substantially shorter than the initial application process, some charter leaders note that it can still be onerous and, much like the initial application, overly focused on inputs as opposed to outputs.⁶⁶ Importantly, each time a school’s charter is renewed, it technically has a *new* charter by which to abide. That is, the terms of each charter are quite often amended by DESE.

Of course, in both the approval and renewal processes, some amount of transition to a focus on inputs was necessary to ensure that the sector remain viable over time. Too often in the first years of charter schooling, authorization decisions were “idiosyncratic,” as the new charter office had yet to learn all of the factors that go into the creation of a strong and lasting charter school. In this sense, it became necessary for the office to ask for more detailed descriptions of what charter school boards and management practices would look like.⁶⁷ Moreover, as the charter school movement grew, the office started to learn more about the educational inputs that made for successful schools, thus it sought to understand the details of proposed curricula and educational processes. Knowing that they were operating under a stringent cap,

it seemed in the interest of DESE to “hold charter applicants to high standards, and focus on granting approval to applicants proposing models that were the most likely to increase the number of high quality seats available.”⁶⁸

Despite the wisdom these applications help DESE to attain, the increasingly detailed application requirements are not all ultimately useful, nor are they without consequence. Indeed, in the eyes of some charter operators they are unnecessarily onerous and subvert the original intent of the charter school concept. According to Erica Brown, Executive Director of City on a Hill Charter Public School, one of the first schools authorized in the Commonwealth and one of five operators approved to open new schools in 2013:

*It is my belief that schools should be measured by their outcomes, and the current application process is about 5 percent outcomes-based and 95% focused on inputs. This runs counter to what charters are supposed to be.*⁶⁹

An experienced charter school executive director, Brown raises two important points. The first is that the authorization process in Massachusetts has evolved in a way that can seem antithetical to what charters were intended to be: schools that would be subject to minimal regulation and whose success would be determined by the results they produced, not by how they got there. In fact, some argue that much of what the current charter application seeks to understand is irrelevant. According to James Peyser, former BESE board chair and current partner with New Schools Venture Fund, a charter school authorizer “really needs to evaluate the people who are putting forward the application and very little in the current application process, aside from relatively

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brief group interviews, tells that story.” Put another way, minute details about school curricula and management procedures, even if convincing on paper, could mean little in the hands of an incompetent or otherwise unqualified board of trustees.⁷⁰

The second important point that Brown raises stems from her perspective as a “proven provider,” the term that the state uses to differentiate prospective operators with proven track records of success from those who are unknown to the authorizer. As a proven provider with nearly twenty years of history in the Commonwealth, the state is familiar with City on a Hill’s record of success in serving students, just as it is familiar with the success of other organizations that have been approved for expansion, such as Edward Brooke and MATCH. While Brown and others welcome accountability for outcomes, the time consuming and burdensome exercise of going through the same processes to which the state subjects new charter providers doesn’t make intuitive sense. Because the state already has a clear idea of how these organizations achieve the results that they do, submitting a full application as if the proven provider were a new organization is likely to yield little information that the state does not already have.

Even if the current application process is justified for prospective operators that do not have proven provider status because “there are no outcomes on which to judge a school’s success,”⁷¹ it is problematic that the process does nothing to differentiate between novice and experienced operators. This can seem especially troubling because the 2010 legislation dictates that only “proven providers” can apply to open schools in the Commonwealth’s lowest performing districts. By allowing experienced operators to apply

through differentiated application processes, the charter school office would potentially attract and encourage more proven providers to apply for additional schools.

The DESE charter office does have an answer to the claim that its application process needs to be differentiated: it is currently working with 12 charter networks, or proven providers that operate more than one school, to “streamline the process.” According to Cliff Chuang, Associate Commissioner for Charter Schools and School Redesign:

A big priority for us as replications occur is to streamline the process in a way that is tailored to reality but not watered down in terms of quality . . . we still have to hold the board accountable for the quality of each school. We also have to ensure, as replications continue, that there is access and equity for all students who might want to enter the school, English language learner (ELL) and special education students, especially. The 2010 legislation puts more structure around these things.⁷²

Chuang also acknowledges some of the other challenges that the charter sector faces because of the limits the 2010 legislation places upon who can open new schools. Specifically, he acknowledges the fear that allowing only proven providers to open schools in certain districts will result in a preconceived notion of success—one that could result in too little diversity within the sector overall. “Because a [replicating] school has to do something that is similar to the existing program,” he says, “there is not very much wiggle room” to propose something innovative.⁷³

In other words, the 2010 legislation is helping to ensure that many of the new schools and networks currently being proposed look similar to one another in terms of educational

mission and even programming. It could also be preventing the next generation of charter school innovators from proposing new schools for the Commonwealth. Thus it seems that the danger of charter legislation and authorization processes that are overly focused on tightly controlling inputs to achieve a desirable result could be leading the Commonwealth down the wrong path. When conceived, the charter sector was meant to be innovative and diverse and that meant taking a “calculated risk” when authorizing schools. “Today,” notes former EOE employee and current Director of US Business Development for SABIS Inc. Jose Afonso, “the authorization process is totally risk averse.”⁷⁴

Should, 10 years from now, processes remain virtually unchanged because of legislative or other constraints, the charter sector and especially those proven providers who are given license to replicate runs the risk of becoming “nothing more than a traditional public school district,”⁷⁵ as Erica Brown puts it. This claim begs the question: what is the point of a charter school sector that looks exactly like the bureaucracy it was created to circumvent?

These problems of regulation and innovation are not without solutions. In lieu of completely revamping the authorization process spearheaded by DESE, one alternative would be to allow for multiple authorizers in Massachusetts. Though such a point is likely moot until another cap lift is enacted, a multiple authorizer approach that builds upon the rigor of the single authorizer model that is currently in place has plenty of precedent. At present, many states using multiple authorizer models are home to charter schools that are on par with Massachusetts in terms of student achievement and overall quality. New York,

where the Board of Regents, The State University of New York, and local school districts have the authority to authorize charter schools, is one example.⁷⁶ In Louisiana, local school boards, the state Board of Education, and “local charter authorizers,” which can be state agencies or non-profits that meet certain requirements, can authorize charter schools.⁷⁷

Indeed, insiders with charter school operating experience both in Massachusetts and in other states note that legislation carefully crafted to allow for the right kind of additional authorizers could be a great boon to the charter school movement in the Commonwealth.⁷⁸ James Peyser notes that he sees great potential in either a “new and independent board” dedicated to charter school authorizing or a model in which the University of Massachusetts, for example, has authorizing authority.⁷⁹ Not only could the multiple authorizer model lift some of the burden for authorizing from BESE, which is increasingly dedicating large amounts of time to charter school authorization, a new authorizer in the Commonwealth could bring a fresh perspective to the process, potentially spurring much needed innovation in the charter school sector and mitigating some of the politics that are currently a part of the authorizing process.

Whatever a potential model for multiple authorizers might look like in the Commonwealth, it will be important to consider the ability of an additional authorizer to make independent decisions that will support the intentional growth of high quality charter schools and ensure greater diversity in the charter school sector. In this sense, a model that allows *only* for a body like the University of Massachusetts (UMASS) to authorize schools could be problematic. First, UMASS has not historically expressed

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an interest in authorizing charter schools. Second, as the Governor appoints the UMASS Board of Trustees, there could be little assurance that state politics would not influence the institution's approach. Given the creep of state politics in charter school authorizing, especially in recent years, this is an important consideration. Thus should a multiple authorizer approach be identified as desirable and viable, charter leaders advocates will need to be thoughtful about what it entails.

The Creep of Politics in Charter Authorizing

Considering the many positive aspects of the charter authorization process in Massachusetts, a process that has resulted in a sector of high quality schools, it might be easier to overlook some of the problems that charter schools, both existing and potential, have encountered in recent years. Unfortunately, many of these problems, from the recent authorization of a school that the charter school office did not recommend to the failure to authorize at least two highly qualified proven providers in the most recent round of authorizations, stem from what many characterize as the increased politicization of the charter authorization process.

Although the charter school office of DESE states clearly that the criteria for authorization are outlined in the charter school application,⁸⁰ many who have undergone the process note that there are an increasing number of soft criteria that determine who gets authorized and who doesn't, resulting in a process that is not only less transparent but also increasingly subject to local politics. This report has already quoted former board chair James Peyser as he describes the tendency of board members to consider the education reform trajectory of

a local community as opposed to demand for charter schools when making authorization decisions. This observation is well illustrated by the example of the International Charter School of Brockton, which was proposed in 2012 and admitted to the final round of the authorization process.

The board of the International Charter School of Brockton proposed to contract management of the school to SABIS Inc., a for profit education management organization that already runs two highly successful charter schools in Springfield and Holyoke. Although SABIS is, in this sense, a provider with a proven track record in the state, the charter for the International School of Brockton technically would have gone to the school's proposed board, not the management organization. Upon its failure to recommend the SABIS-backed Brockton charter, which had made it to the final round of the application process, DESE cited "the quality of the school's board of trustees" as its reason.

Although the intimate details that went into Commissioner Mitchell Chester's decision will never, perhaps, be known, many in the charter school community feel that the slight to the International School had little to do with its proposed board and was instead predicated on 1) the BESE's "bias against for profit charter management organizations"⁸¹ and 2) the influence of local politics (this is a claim that DESE vehemently denies). In a *Boston Globe* article printed soon after Commissioner Chester's announcement, former Brockton mayor and proposed international school board member, John T. Yunits took issue with DESE's reasoning: "We have a talented banker along with educators and professionals [on the board]," Yunits said. "I ran a city of 3,300 employees.

I certainly wasn't concerned about the ability to oversee a charter school, if that's the excuse."⁸²

The 2013 SABIS decision in Brockton recalls an old wound—the denial of another SABIS proposal in Brockton in 2008, which seems to have been even more clearly politically motivated than the recent decision. Despite a strong application, a strong board (to be chaired by a University of Massachusetts professor), and even a recommendation for approval from the Commissioner of Education, the SABIS proposal became the first charter application to be recommended by the DESE but ultimately denied by the BESE.⁸³ As Pioneer Institute Executive Director Jim Stergios wrote in a 2009 editorial to the *Gloucester Times*, in denying the application:

Then-board chair... Paul Reville seized upon a 2005 Department of Education letter that identified problems with the Springfield school's special education program as a reason why the school under consideration should be rejected. But nearly two years before the board's rejection of the school, DOE had sent a letter informing the Springfield school that it had successfully addressed the issues raised in the earlier letter — SABIS staff that might have made the board aware of the second letter attended the meeting, but they were not allowed to speak. Less than three months after SABIS' proposal for a regional school in Brockton was rejected, Newsweek named the SABIS International Charter School in Springfield one of the best high schools in the nation. In December, U.S. News & World Report followed suit, identifying the school as being in the top 3 percent of American high schools.⁸⁴

In the same editorial Stergios goes on to point out that in 2003 a state education think tank that Reville headed “identified SABIS Springfield as one of eight urban schools in the commonwealth on its way to closing the achievement gap between white and minority students at the high school level.” Thus the assertion that SABIS’s 2013 proposal was denied for political rather than practical reasons stems from an ongoing saga with the SABIS organization, and is clearly a point of contention for charter supporters in the Commonwealth.

And the SABIS example was not the only decision in the most recent round of authorizations and renewals that seemed suspect to some charter supporters. In addition to SABIS, Edward Brooke, a provider with a proven track record and three existing schools, was also denied a fourth charter, despite what DESE characterizes as an application that had no “issues of quality.” Indeed, there is no indication that the decision was politically motivated; however Edward Brooke, a high quality operator, seems to have been a victim of the charter school cap. According to Associate Commissioner Cliff Chuang, the Brooke decision was premised on the fact that there were “more high quality providers vying to open schools than charter school seats available.” Brooke was ultimately denied “due to the size of their request and the array of different options available.”⁸⁵

As telling as these examples are of the current state of charter school politics in Massachusetts, the case of Boston Renaissance Charter School is, perhaps, most telling, in that it speaks to the danger of allowing political factors to creep into charter school renewals and closures. One of the first charter schools established in Massachusetts,

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Renaissance has had a troubled history. On February 25, 2013 the BESE, at the recommendation of Commissioner Chester, placed Renaissance on probation due to its declining academic performance. Renaissance had previously been placed on probation in 2007 for the same reason.⁸⁶ At that time, the BESE ordered a reduction in enrollment, though “it is not clear that the school actually complied.”⁸⁷

Although defenders of Renaissance note that despite its declines in academic performance it still outperforms many schools in the state,⁸⁸ there is evidence that the 2007 decision to place the school on probation rather than close it was due to the fact that the school had such a large enrollment—finding new schools for that many students and families would have been a challenge, thus BESE was loathe to make the tough decision.⁸⁹ But tough decisions, especially with regard to closure in the face of low performance or even mediocrity, are the job of a rigorous authorizer.

And the BESE has made similar tough decisions in the past. In 2009 the Board voted 6-2 to close the Upham’s Corner Charter School, which had been cited three years previous for a failure to make academic progress, among other things. With conditions placed on its charter in 2007, the school failed to make progress, leading to the 2008 recommendation of closure from the Commissioner and the BESE’s ultimate decision. Upham’s Corner became the third school to have its charter revoked after opening, joining the ranks of Roxbury Charter High School, and Frederick Douglass Charter School.⁹⁰ In all of these cases the commissioner and the BESE had to weigh the vocal desire of the community to keep schools open despite poor performance

against the best academic interests of students and the overall integrity of the authorizing process in the Commonwealth.⁹¹ The case of Boston Renaissance, especially, suggests that the Board is hesitant to make an obviously painful choice. However, to give Renaissance yet another chance raises the serious question of whether or not the BESE is willing to commit to rigorous authorizing practices no matter the inconveniences, big or small, that come with school closure.

Examples such as these are integral to illustrating some of the challenges that DESE and BESE face in maintaining high quality authorizing practices in the face of local pressures and even the politics of the charter school cap. But these are not the only pressures that BESE and DESE face. In particular, changes to the structure of the education bureaucracy at the beginning of the Patrick administration point to how vulnerable that charter authorization process can be to state politics as well.

In 2009 Commissioner Chester, against advice of charter school office staff and, according to a report from the Massachusetts Inspector General, with great urging from then-Secretary of Education Paul Reville, recommended to the BESE that the Gloucester Community Arts charter school be approved. His recommendation went against that of DESE reviewers, who had allegedly found “several flaws and irregularities” in the school’s application and recommended against its approval.⁹² According to the Inspector General’s report, internal documents detailing DESE staff recommendations were shredded in order to cover up the inconsistencies between the staff’s decision and the Commissioner’s recommendation.⁹³

Given that the Gloucester Community Arts charter school was ultimately closed

in 2013, pending revocation of its charter from the state, it seems clear that DESE staff were right to have questions about the application.⁹⁴ More important than who was right or wrong, however, is that the Gloucester case represents a perversion of what is supposed to be a rigorous, objective, and apolitical process. Local politics had factored heavily into Secretary Reville's attempt to persuade Chester to authorize the school: a leaked e-mail between the Secretary and the Commissioner warned that a failure to authorize something (such as the Gloucester school) would make the state "look hostile" to the charter movement.⁹⁵

More disturbingly, the public embarrassment surrounding the Gloucester debacle led DESE to make changes to the authorizing process that, according to some, lower its integrity. Procedural changes implemented in 2010 give the Commissioner leeway to recommend schools that "substantially" meet criteria, essentially allowing for the Commissioner to make recommendations to the board that his DESE staff might not. According to the Inspector General:

This change lowers the bar for approval of new charter schools by replacing the previous objective standard for approval or disapproval with a more subjective one . . . Applicants will no longer know which criteria must be met. Under the new process, the commissioner at his sole discretion will be able to determine what combination of criteria are necessary to 'substantially meet' the standard for approval.⁹⁶

Examples such as this speak not only to the danger of allowing political considerations to influence charter school authorizing, they also speak to the role of bureaucratic structure. Had the charter office and its

staff been independent and empowered to make the decision that they knew best, the Gloucester Community Arts charter school would never have been opened. Instead, the staff, which is only one small part of an increasingly large bureaucratic hierarchy—a hierarchy that consists of the commissioner, the BESE, and the newly recreated Executive Office of Education—are not viewed as the group of independent experts that they are. Considering the importance of objectivity in maintaining the rigor and integrity of the charter authorization process, it would seem that the status of the charter school office deserves a second look.

Conclusions and Recommendations for Change

For nearly twenty years, charter schools in Massachusetts have provided high quality educational options for students, many times for students who do not already have them. The quality of the movement is in large part attributable to a conservative approach to authorizing that creates a high bar for entry into the charter sector and holds charter boards accountable for high academic achievement and sound management practices.

Unfortunately, the process has been negatively impacted in recent years by political and other considerations that have allowed low quality schools to open and continue operating. Because Massachusetts has come to another crossroads in its charter school history, it is time for the Commonwealth to reconsider and restructure key aspects of its authorization and renewal processes. With demand for charter schools at an all time high and many of the communities in which demand is highest approaching the cap, a move to lift or abolish the cap all together seems inevitable. But such a change should be part and parcel of a larger package of reform,

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reform that will help to ensure integrity of process and the continued growth of a high quality charter sector.

Recommendation 1: Create a More Autonomous Charter School Office

Giving the experts who review charter school applications the ultimate authority to approve and renew charters, absent the pressure of a larger bureaucratic structure and the politics that comes with it, makes sense for Massachusetts. Allowing the charter school office to function independently of DESE, especially, can help to ensure not only the integrity of the process overall but might also aid the office in streamlining its approach to approval and renewals to be more focused on school outputs than it currently is.

Recommendation 2: Explore Multiple Charter Authorizers

The single authorizer approach is not the only approach that can yield a high quality charter school sector. Many states that allow for multiple authorizing bodies, such as New York, Louisiana, and Michigan, are competitive with Massachusetts in terms of charter school quality. Creating an entirely separate board to authorize charter schools and/or allowing another entity—such as public or private universities or even non-profits that meet certain requirements—to authorize schools could provide a check on the approach currently employed by DESE and BESE. It could also take the increasingly large burden of authorizing schools away from BESE, freeing it up to focus on other important matters within its purview. Moreover, different charter authorizers may have different approaches to understanding the kinds of charter schools that can be successful, helping to address the growing concern that many of the charter schools currently being authorized by the state

adhere to similar philosophies of education. Exploring multiple authorizers may allow for increased innovation in the Massachusetts charter sector.

Recommendation 3: Abolish the Caps on Charter Schools

Coupled with other moves to ensure both the integrity of the authorization process and increased room for innovation within the charter sector, it makes sense to abolish the caps on charter schools. Charter schools are in demand and needed within many communities in the Commonwealth, and to continue to deny students and families these high quality education options is unjust. After twenty years, the Commonwealth has a strong understanding of what does and does not work in charter school authorizing. Building from that understanding, it can continue to guarantee the growth of high quality charter schools without the constraint of an artificial cap.

Recommendation 4: Lift the Proven Provider Requirement in the Commonwealth's Lowest Performing Districts

While proven providers within the Commonwealth should continue to replicate and expand their services to additional students, limiting the creation of charter schools to those with proven provider status limits innovation within the charter sector. The Commonwealth should seek to strike a balance between authorizing known quantities, especially in its lowest-performing school districts, and allowing new, high-quality providers to emerge. An emphasis on student achievement outcomes should remain paramount when judging the success of a school, but the state should also be looking for exciting new ways in which to serve students.

Recommendation 5: Create Separate Application Processes for Proven Providers and New Providers

While it is understandable that an unknown provider should provide detail about the programming and management that they envision for a school, proven providers, who are already known to the state, should not have to submit to such a burdensome, inputs-focused application process. If the state is in possession of evidence that a prospective provider has a strong record of sound management and stellar student outcomes, it should seek minimal information about what the school intends to do to achieve the same outcomes (especially in the context of a school replication) and instead focus upon defining and refining the outcomes that a provider intends to achieve for a new and/or different population of students.

About the Author:

Cara Stillings Candal is currently the Director of Research and Curriculum at the Center for Better Schools/National Academy for Advanced Teacher Education. In this role, she works to provide targeted, differentiated professional learning opportunities for experienced educators from across the country that have been identified as highly effective by the districts, charter, and faith-based networks in which they work. Cara has worked in the field of education for fifteen years as a high school teacher, as a curriculum and large-scale assessment specialist for the Riverside Publishing Company, and as a Research Assistant Professor at the Boston University School of Education. In her role as researcher and educator at Boston University, her work focused on domestic and international policies affecting educational opportunities for low-income students. Cara is the author of numerous articles on the charter school movement, both nationally and in Massachusetts, and on the Elementary and Secondary Education Act. She is also the editor of the book *Partnering for Progress: Boston University, The Chelsea Public Schools, and Twenty Years of Urban Education Reform*.

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Endnotes

1. Chapter 71, Section 89, Massachusetts Education Reform Act of 1993
2. Massachusetts Department of Education, “charter school fact sheet, directory, and authorizing history” <http://www.doe.mass.edu/charter/about.html>
3. Chapter 71, Section 89
4. Massachusetts Department of Education, “charter school fact sheet, directory, and authorizing history”
5. *ibid*
6. See National Alliance for Charter Public Schools, <http://www.publiccharters.org/law/ViewComponent.aspx?comp=5> Note: states that allow more than one local school board to authorize are considered to have “multiple authorizers.”
7. Interview with Jose Afonso, March 29, 2013
8. Chapter 71, Massachusetts Education Reform Act of 1993
9. See: Candal, *Putting Children First: The History of Charter Public Schools in Massachusetts*, Pioneer Institute White Paper, no. 48, November 2009.
10. Massachusetts General Law, Chapter 71, Section 89
11. See: Candal, *Putting Children First*: “In 1997, the Massachusetts legislature approved the establishment of Carnegie Schools, schools that allow for heavy teacher involvement in school decision-making and management by site-based school councils.”
12. Chapter 71, Section 89 and Massachusetts Regulation 603 CMR 1.00.
13. Chapter 71, Section 89
14. Interview with Ann Connolly Tolkoff, March 20, 2013.
15. Interview with Michael Sentance, March 27, 2013.
16. *ibid*
17. *ibid*
18. At the time this report was published, the charter school office was housed in the Department of Education, as explained in greater detail below.
19. Massachusetts Office of the Inspector General, *A Management Review of Commonwealth Charter Schools*, 1999, pp. 5-10.
20. Charters are usually surrendered prior to a school’s opening because of an inability to raise funding or find adequate facilities. Charters are surrendered immediately after opening due to mismanagement, inadequate boards, etc.
21. Interview with Jose Afonso, March 29, 2013.
22. Interview with Michael Sentance.
23. Jose Afonso, quoted in Candal, *Putting Children First*

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24. Phillips, Frank, “Weld wants to put Silber in charge of new board, consolidation is proposed for education bureaucracy,” *The Boston Globe*, October 30, 1995.
25. See interview with Ed Kirby, quoted in Candal, *Putting Children First*
26. See Candal, *Putting Children First*, p. 12
27. See: Interview with Mary Street in Candal, Cara (February, 2013) *Preserving Charter School Autonomy*, Pioneer Institute white paper, no. 99, p. 12
28. The size of the board of education was reduced from 17-9 when John Silber was appointed chair in 1996. See Candal, *Putting Children First*
29. Interview with James Peyser, April 9, 2013
30. It is important to point out that Massachusetts law (Chapter 71, section 89) explicitly prohibits for profit organizations from holding a charter. However, as charters are granted to charter public school boards, a board can agree to contract with a for-profit provider to manage the school.
31. *ibid*
32. *ibid*
33. Zernicke, Kate, “Panel backs adding of charter schools; bill allows changes at existing schools,” *The Boston Globe*, June 25, 1997.
34. Massachusetts Department of Elementary and Secondary Education, Application for Horace Mann Charter Public School, 2012-2013
35. See: Candal, Cara, S. (2009) *School-Based Management: A Practical Path to School District Reform*, Pioneer Institute Policy Brief.
36. “The road not taken: Horace Mann charter schools in Massachusetts,” The Rennie Center for Public Education Research and Policy, April, 2006.
37. Massachusetts Department of Education, *Report of the Massachusetts Charter School Initiative*, 1996, p. 37.
38. Massachusetts Department of Education, *Report of the Massachusetts Charter School Initiative*, 2001, p. 66.
39. Hernandez, Raymond, “charter schools gaining support,” *The New York Times*, February 28, 1998.
40. Daley, Beth, Bigue, Iudica Doreen, & Zernicke, Kate, “Legislature to consider raising the cap on charter schools,” *The Boston Globe*, April 6, 1999.
41. See: Massachusetts Department of Elementary and Secondary Education, “Charter school achievement comparison study, August 6, 2006. Also: The Boston Foundation, “Informing the debate, comparing Boston’s charter, pilot, and traditional schools,” January 2009, p. 8.
42. Center for Research on Education Outcomes, *Charter School Performance in Massachusetts*, February 28, 2013.

43. United States Department of Education Office of Innovation and Improvement, *Supporting Charter School Excellence through Quality Authorizing*, 2007.
 44. See: National Alliance for Charter Public Schools, Measuring up to the model, <http://www.publiccharters.org/law/ViewState.aspx?state=MA>
 45. See: Lehigh, Scott, "Obama's challenge on charters," *The Boston Globe*, March 13, 2009.
 46. Massachusetts Session Law, Chapter 12, Section 7
 47. This number is based on the most recently available public data. See "districts subject to increases in the charter school cap," <http://www.doe.mass.edu/charter/about.html>.
 48. Massachusetts Session Law, Chapter 12, Section 7
 49. Massachusetts Department of Elementary and Secondary Education, Press Release "42 groups submit new charter school prospectuses," August 16, 2010.
 50. Massachusetts Charter Public School Association, Press Release, "Nearly two-dozen charter applications filed with the state," July 26, 2012.
 51. 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.
 52. Levitz, Jennifer, "New front in charter schools: In Massachusetts a pair of democrats push to lift restrictions in some districts," *The Wall Street Journal*, March 10, 2013." <http://online.wsj.com/article/SB10001424127887323293704578334142723722634.html>
 53. See: Candal, Cara S. (2010), *Charter School Caps and Strings Attached*, Pioneer Institute Policy Brief, No. 68.
 54. Massachusetts Department of Education, "charter school fact sheet, directory, and authorizing history"
 55. Vaznis, James, "Charter school demand in Mass disputed: waiting list totals can count students more than once," *The Boston Globe*, April 8, 2013.
 56. See: <http://bluemassgroup.com/2013/01/barry-finegold-throws-away-his-political-future/>
 57. Interview with Erica Brown, March 22, 2013
 58. See Boston Foundation (2009), *Informing the debate: comparing Boston's charter, pilot, and traditional schools*, and Center for Research on Education Outcomes, *Charter School Performance in Massachusetts*
 59. See: Lee, V. E. & Burkam, D. T. (2002). *Inequality at the starting gate: Social background differences in achievement as children begin school*. Washington, DC: Economic Policy Institute; Barnett, W. S. (1995). "Long-term effects of early childhood programs on cognitive and school outcomes." *The Future of Children*, 5, 25-50.
- Read more: <http://www.gse.harvard.edu/news-impact/2009/11/high-quality-early-child-care-later-academic-success/#ixzz2QAWkK45>
60. Interview with Paul Hays, April 11, 2013.

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61. Commonwealth of Massachusetts, Executive Office of Education *charter school application*, 1994
62. Commonwealth of Massachusetts, Department of Elementary and Secondary Education, *Application to open a charter public school*, 2012, 2013
63. See: Charter Schools Institute, State University of New York, “Preliminary RFP,” <http://www.newyorkcharters.org/openAppKit.htm>; see also: The Governor John Engler Center for Charter Schools, Central Michigan University, “Application to start a new charter school,” http://cmucso.org/modules.php?name=Pages&sp_id=182&pmenu_id=258
64. Commonwealth of Massachusetts, Department of Elementary and Secondary Education, <http://www.doe.mass.edu/charter/acct.html?section=renew>
65. *ibid*
66. Interview with Erica Brown, March 22, 2013.
67. Interview with Michael Sentance.
68. Interview with Kimberly Wechtenhiser, March 27, 2013.
69. Interview with Erica Brown, March 22, 2013.
70. Interview with James Peyser, April 9, 2013.
71. Interview with Kimberly Wechtenhiser, March 27, 2013.
72. Interview with Cliff Chuang, March 29, 2013.
73. *ibid*
74. Interview with Jose Afonso, March 29, 2013.
75. Interview with Erica Brown, March 22, 2013.
76. “Under New York law, applicants can apply directly to a district board of education, SUNY, or the State Board of Regents, although only the State Board of Regents can officially issue a charter. By law, if SUNY approves an application (and reasserts approval if the State Board of Regents rejects it, then the State Board of Regents must issue the charter for that school. The law requires districts to approve conversions of schools from district schools to charter schools, with final approval given to the State Board of Regents.”
From: <http://www.publiccharters.org/law/ViewState.aspx?state=NY> For charter school performance in New York see: Center for Research on Education Outcomes (CREDO), “Charter school performance in New York City, February 20, 2013.
77. See National Alliance for Public Charter Schools, Model Rankings, <http://www.publiccharters.org/law/>
78. Interview with Kimberly Wechtenhiser, President of Schoolworks, Inc., March 27, 2013.
79. Interview with James Peyser, April 9, 2013.
80. Interview with Cliff Chuang, March 19, 2013.
81. Interview with James Peyser, April 9, 2013.

82. Legere, Christine, "Charter school proposal passed over by state," *The Boston Globe*, February 24, 2013.
83. Alspach, Kyle, "State board rejects Brockton area charter school," patriotledger.com, February 26, 2008.
84. Stergios, James, "Gloucester deserves better than denial that K'd Brockton school," Gloucestertimes.com, February 12, 2009.
85. Interview with Cliff Chuang, March 29, 2013.
86. Vaznis, James, "Boston charter school faces probation," *The Boston Globe*, February 22, 2013.
87. Interview with James Peyser, April 9, 2013.
88. "Pioneering Renaissance school must explain recent woes," *The Boston Globe*, editorial, February 23, 2013.
89. Interview with James Peyser, April 9, 2013
90. Massachusetts Department of Elementary and Secondary Education Press Release, "Education Commissioner Recommends Board to Revoke Uphams Corner Charter," December 16, 2008.
91. See Peyser, James A. & Maurino, Maura "Why good authorizers should close bad schools" in *Accountability in Action: A Comprehensive Guide to Charter School Closure* (chapter 1), National Association of Charter School Authorizers, May 2011.
92. Anderson, Patrick, "State lowers bar for charter school approvals," *The Gloucester Times*, May 6, 2010.
93. *ibid*
94. Vaznis, James, "Gloucester charter school to close doors at year's end," *The Boston Globe*, December 19, 2012
95. Anderson, Patrick, "Charter OK based on agenda? Email shows education chief's mindset on Gloucester school deal," *The Gloucester Times*, Sept. 19, 2009.
96. Quoted in, Anderson, Patrick, "State lowers bar for charter school approvals," *The Gloucester Times*, May 6, 2010.

