

2). Spending differences between the lowest, second, and third quartiles are small, but districts serving the neediest students spend an average of nearly \$2,000 more per student than districts in the next highest quartile.

As of fall 2009, Massachusetts has 392 school districts, including charter and vocational schools. Our districts are small by national standards, enrolling an average of about 3,000 students. The state’s commitment to fund districts progressively and to prioritize high poverty schools for school-level grants helps to ensure that resources are targeted to the neediest schools and students.

Table F2: Chapter 70, grant funding and total spending per pupil, fiscal year 2008

Quartile of enrollment of low income students	FY08 Chapter 70 aid per pupil	FY08 federal grants per pupil	FY08 state grants per pupil	FY08 spending per pupil, all funds
Lowest quartile (fewest number of poor students)	\$1,942	\$265	\$76	\$11,528
Second quartile	\$2,677	\$329	\$60	\$11,303
Third quartile	\$3,207	\$484	\$64	\$11,952
Highest quartile (greatest number of poor students)	\$5,764	\$1,040	\$134	\$13,679
Difference between lowest and highest quartile	\$3,822	\$775	\$58	\$2,151

Note: FY08 is the most current year for which ESE has data on all three categories: state aid, grant awards, and per-pupil spending.

(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (40 points)

The extent to which—

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State

that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;

(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;

(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;

(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and

(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

In the text box below, the State shall describe its current status in meeting the criterion. The narrative or attachments shall also include, at a minimum, the evidence listed below, and how each piece of evidence demonstrates the State's success in meeting the criterion. The narrative and attachments may also include any additional information the State believes will be helpful to peer reviewers. For attachments included in the Appendix, note in the narrative the location where the attachments can be found.

Evidence for (F)(2)(i):

- A description of the State's applicable laws, statutes, regulations, or other relevant legal documents.
- The number of charter schools allowed under State law and the percentage this represents of the total number of schools in the State.
- The number and types of charter schools currently operating in the State.

Evidence for (F)(2)(ii):

- A description of the State's approach to charter school accountability and authorization, and a description of the State's applicable laws, statutes, regulations, or other relevant legal documents.

- For each of the last five years:
 - The number of charter school applications made in the State.
 - The number of charter school applications approved.
 - The number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other).
 - The number of charter schools closed (including charter schools that were not reauthorized to operate).

Evidence for (F)(2)(iii):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the State’s approach to charter school funding, the amount of funding passed through to charter schools per student, and how those amounts compare with traditional public school per-student funding allocations.

Evidence for (F)(2)(iv):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the statewide facilities supports provided to charter schools, if any.

Evidence for (F)(2)(v):

- A description of how the State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

Recommended maximum response length: Six pages

(F)(2)(i)

(See Appendix F1 for complete charter school statutes and Appendix F2 for regulations.)

The Massachusetts charter school statute defines two types of charter schools:

1. Commonwealth charter schools are newly formed independent local education agencies serving students from either a single district or a region made up of multiple districts. Massachusetts currently has 55 operating Commonwealth charter schools, serving over 26,000 students. Students are accepted into a school through an open lottery and retain the right to attend if they

move out of the district or region. Siblings are given preference in enrollment. Charter school teachers and staff are not part of collective bargaining, enabling schools to establish their own work rules and working conditions.

2. Horace Mann charter schools also operate as independent local education agencies, but teachers remain a part of the local collective bargaining unit. Massachusetts currently has seven Horace Mann charter schools. The primary differences from a Commonwealth charter are that the original charter application, subsequent applications for renewal of the charter, and any requests to the Board of Elementary and Secondary Education to amend the charter must receive approval from the school committee and local collective bargaining unit prior to Board approval. A recent statutory change, however, allows for the creation of 14 Horace Mann charter schools that do not require local union approval. Horace Mann charters can be established as conversion schools and, in those cases, currently enrolled students receive preference for enrollment. Additionally, conversion of an existing district school into a Horace Mann charter does not require union approval but instead a memorandum of understanding regarding any waivers to applicable collective bargaining agreements that requires approval by a majority vote of that school's teachers. Enrollment is otherwise limited to the district in which the school is located, with siblings receiving preference.

Massachusetts General Law c. 71, § 89 includes multiple types of requirements regarding the number and types of charter schools that may be approved, two of which limit the overall number of schools. The first limits the number of charter schools to a total of 120, including 72 Commonwealth charters and 48 Horace Mann charters, in comparison to 1,770 non-charter public schools (i.e., these types of charters can represent what amounts to approximately 7% of all public schools). The second requirement limits the amount of any district's net school spending that can be reallocated to charter schools to 9%. In addition, no less than two charters granted in any year must be granted in districts where overall student performance on the statewide assessment system is in the bottom 10 percent for two consecutive years; only one regional charter can be granted to a charter school located in a district in the top 10 percent on the statewide assessment system; and Commonwealth charters can be granted in communities with a population less than 30,000 only if the charter is regional. Currently, 55 Commonwealth charters and 7 Horace Mann charters are operating in

Massachusetts for a total of 62 charters, or 3% of schools and 2.8% of students. Notably, however, in our state's largest district, Boston, charter schools currently represent approximately 12% of all public schools, and the state's new charter law will allow for a near doubling of the allowable spending on charters in Boston, as well as several other of the state's lowest performing districts.

The goal of Massachusetts' recently passed "smart cap" law is to increase the number of proven providers operating in low-performing districts and serving high-needs students. Consequently, for a subset of districts, only one restriction applies: statewide, for districts in the bottom 10% for academic achievement for two consecutive years, the net school spending cap (i.e., the amount of any district's net school spending that can be reallocated to charter schools) increases to 18%, rather than 9% as it is for all other districts. In fiscal year 2011, this cap is set at 12%; by statute, it increases by one percentage point a year to reach 18% in 2017. Charter schools opening in these districts are not subject to the limitation, described above, of 72 Commonwealth charters, which means that, with the passage of this new law, the total number of charters in the state could well exceed 7% of all public schools.

For districts authorized to exceed the 9% net school spending cap, only so-called "proven providers" may apply. A high performing, proven provider is defined by statute as "an applicant, or a provider with which an applicant proposes to contract, [that] has a record of operating at least one school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed school seeks to serve, from the [eight identified categories of students]." These categories of students are: English Language learners; special needs students; students eligible for free lunch; students eligible for reduced price lunch; students who are sub-proficient, as defined by statute; students who are determined to be at risk of dropping out of school based on predictors determined by the SEA; students who have dropped out of school; and other at-risk students who should be targeted in order to eliminate achievement gaps among different groups of students.

Lastly, the state's sole charter authorizer, the Board of Elementary and Secondary Education is authorized to give priority in its deliberations to these "proven providers."

(F)(2)(ii)

Massachusetts is one of only two states in the nation with a single authorizer, the Board of Elementary and Secondary Education. For this reason, accountability is handled consistently for all charter schools in the state. The Charter School Office of the Department of Elementary and Secondary Education operates under a comprehensive set of standards and protocols that have been developed since 1993, when the state’s charter legislation was first enacted. Over the past several years Massachusetts’ authorizing and accountability process has been hailed as a national model. Massachusetts was one of eight charter authorizers highlighted in USED’s 2007 report “Supporting Charter School Excellence Through Quality Authorizing.”

Under Commonwealth of Massachusetts Regulations 603 CMR 1.00, charter schools are held accountable in three areas: faithfulness to charter, academic success, and organizational viability. The process of accountability begins with the application for a charter, which uses an extensive set of criteria in all three areas of accountability in addition to an assessment of the capacity of the board of trustees. The most detailed section of the application requires answers to questions on curriculum development and implementation, instruction, professional development, and use of instructional time. The information provided against these criteria becomes a critical element in determining if the application should be chartered. Massachusetts uses a phased application process in which applicants first submit a prospectus and, depending on the outcome of the prospectus review, may be invited to submit a full application.¹ Newly chartered schools are required to complete an opening procedures process to ensure schools have met state and

¹ G.L. c. 71, s. 89 provides that the application for a Commonwealth charter school must include: (i) the mission, purpose, innovation and specialized focus of the proposed charter school; (ii) the innovative methods to be used in the charter school and how they differ from the district or districts from which the charter school is expected to enroll students; (iii) the organization of the school by ages of students or grades to be taught, an estimate of the total enrollment of the school and the district or districts from which the school will enroll students; (iv) the method for admission to the charter school; (v) the educational program, instructional methodology and services to be offered to students, including research on how the proposed program may improve the academic performance of the subgroups listed in the recruitment and retention plan; (vi) the school’s capacity to address the particular needs of limited English-proficient students, if applicable, to learn English and learn content matter, including the employment of staff that meets the criteria established by the department; (vii) how the school shall involve parents as partners in the education of their children; (viii) the school governance and bylaws; (ix) a proposed arrangement or contract with an organization that shall manage or operate the school, including any proposed or agreed upon payments to such organization; (x) the financial plan for the operation of the school; (xi) the provision of school facilities and pupil transportation; (xii) the number and qualifications of teachers and administrators to be employed; (xiii) procedures for evaluation and professional development for teachers and administrators; (xiv) a statement of equal educational opportunity

federal statutory and regulatory requirements. Enrollment is by open lottery and does not allow for quotas or set demographic requirements.

Recently passed legislation requires that all charter schools create student recruitment and retention plans to attract and retain a student population that, when compared to students in similar grades in schools from which the charter school is expected to enroll students, contains a comparable academic and demographic profile. In districts authorized to exceed their 9% net school spending cap, charter applicants must provide and annually update recruitment and retention plans designed to attract and retain, when compared to the population of students in the grades and schools from which the charter is expected to enroll students, a comparable or greater percentage of: (1) English language learner or special needs students; and (2) a comparable percentage of students from two or more of the following categories: students eligible for free lunch; students eligible for reduced price lunch; students who are sub-proficient; students who are determined to be at risk of dropping out of school based on predictors determined by the department; students who have dropped out of school; and other at-risk students who should be targeted in order to eliminate achievement gaps among different groups of students. Additionally, the statute requires that, at the request of a charter school, districts must provide to a third party mail house authorized by the SEA the addresses for all students in the district who are eligible to enroll in the charter. This will allow for broad-based recruiting to help charter schools reach recruitment and retention goals.

A charter school's success in the three areas of accountability is defined by Common School Performance Criteria developed by the Department. These criteria were used to create protocols for site visits during the charter term, renewal inspections in the fifth year, and federal programs inspections to ensure schools have implemented requirements. ESE has also developed numerous guidance

which shall state that charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or academic achievement; (xv) a student recruitment and retention plan, including deliberate, specific strategies the school will use to ensure the provision of equal educational opportunity as stated in clause (xiv) and to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school is expected to enroll students, contains a comparable academic and demographic profile; and (xvi) plans for disseminating successes and innovations of the charter school to other non-charter public schools.

documents for charter schools, including a guide on fiscal policies and procedures, technical advisories on amendments and transportation, and annual report guidelines. Each charter school is required to submit an annual report of the school's progress on an accountability plan that details goals and measures in the three areas of charter accountability, and each charter school must annually contract for and submit an independent audit. The charter school statute also requires that, when deciding on renewal, the ESE Board must consider the extent to which the school has followed its recruitment and retention strategies.

Over the course of each school's charter term, the Department builds a body of evidence regarding the school's success, using data from the annual statewide assessment, the school's annual reports and audits, and information contained in reports produced after interim site visits by the Department and the final renewal inspection visit. Academic success is also assessed by statistical comparisons with the sending district(s) to determine if the charter school is achieving at an equal to or higher level. At the five year mark, charters may be renewed, non-renewed, renewed with conditions, or placed on probation, also with conditions. Revocation, as defined in the regulations, is possible at any time during the charter term.

Charter applications are denied when a combination of factors are unveiled through the review panel process and interview with the founding group. Factors may include quality of the proposed model for curriculum and instruction, or capacity of the founding board to implement the proposal.

Lack of academic success was a major factor in the closure of two of the three charter schools closed in the past five years. The first school was closed at the five year renewal, primarily for academic and governance reasons. The second was renewed with stringent outcome conditions regarding academic success and meeting the terms of its charter; the conditions were not met and the charter was revoked. The third school's charter was revoked in the second year of operation for failure to meet accountability standards in all three areas, including implementation of the academic program, governance, and financial oversight and management.

Table F3: Charter School Applications and Approvals, 2005–2009

School year	Charter prospectuses submitted	Final charter applications made	Charter applications approved	Charter applications denied	Charter schools closed by the Board
2004–05	8	5	2	3	2
2005–06	14	4	3	1	0
2006–07	10	4	1	3	0
2007–08	10	5	3	2	0
2008–09	7	3	1	2	1
Total	49	21	10	9	3

(F)(2)(iii)

The funding formula in the Massachusetts charter school statute uses three components to calculate charter school tuition rates. The first is a per-pupil foundation rate, based on student demographic and enrollment factors and adjusted annually for inflation. The foundation rates are the same rates used to establish foundation budgets for traditional school districts. The second factor is the “above-foundation” adjustment. The foundation rates are adjusted upward to reflect the amount by which the sending districts’ spending on their own students exceeds their foundation budget. The third component is a per-pupil facilities component, which is discussed under (F)(2)(iv), below.

Charter school tuition rates vary from under \$9,000 to more than \$20,000 per pupil, reflecting the differences in spending of sending districts. In general, the charter tuition formula is designed to ensure that charter schools are receiving the same amount per pupil as is spent in the sending districts. The only differences result from adjustments for student demographics (for example, a charter school with a higher percentage of low income students than the sending district will receive relatively more funding per pupil) and exclusion of certain cost elements not borne by charter schools (most notably tuition costs for students placed in private special education schools). In fiscal year 2008, charter schools on average spent \$10,628 per student as compared with \$12,454 for districts, a difference of \$1,826 per student. This difference is attributable to the fact that districts bear higher costs for special education than charter schools do and have higher average teacher salaries. The average salary for teachers in district schools in fiscal year 2008 was \$64,000 per year, as compared to \$52,000 per year for charter schools.

Charter school tuition is paid by the sending districts, and as a result draws from the same local and state revenue sources that fund traditional public schools. The state provides reimbursement to sending districts for the amount that their charter school tuition increases from one year to the next. Based on recently enacted legislation, in each fiscal year, districts are reimbursed for 100% of the increase in tuition over the prior year, and 25% of the difference in increased costs for the next five years. Reimbursement for facilities costs is based on a statewide rate that is calculated annually (see description below in (F)(2)(iv)). Federal grants are distributed directly to charter schools by the Department in accordance with federal requirements.

(F)(2)(iv)

The funding formula for Massachusetts charter schools includes a facility component that is based on a set per-pupil amount, adjusted annually for inflation. In addition, MassDevelopment, a quasi-public agency, issues tax-exempt bonds to finance the acquisition, rehabilitation, or construction of charter schools through multiple vehicles, including Qualified Zone Academy Bonds for school renovations and upgrades; real estate loans of up to \$5,000,000 for facility acquisition, renovation, construction, and permanent financing; and charter school loan guarantees for a portion of a bank loan or tax-exempt bond for acquisition, construction, or renovation of owned and leased charter school facilities. Recently enacted legislation offers incentives to districts to offer unused school buildings to charter schools. No facility requirements are placed on charter schools beyond the normal building code and accessibility requirement, and these same requirements apply to traditional district schools. Lastly, the state legislature passed a law in 2009 requiring the Massachusetts School Building Authority (MSBA) to oversee Massachusetts' allocation of American Recovery and Reinvestment Act Qualified School Construction Bonds (ARRA QSCBs). (See text of Section 137 of Chapter 27 of the Acts of 2009 in the appendices.) The MSBA was authorized to use a portion of the state's allocation of ARRA QSCBs for charter schools.

(F)(2)(v)

Both the state and local districts enable the operation of innovative, autonomous schools other than charter schools. Three districts (Boston, Springfield, and Fitchburg) operate a total of 23 pilot schools: district-based schools with autonomy over staffing, budget, curriculum and assessment, governance and policies, and school calendar, and with greater accountability for results. In addition, the state allowed five schools in three districts facing determinations of underperformance to become Commonwealth Pilot Schools, with the same autonomies and accountability as district-based pilot schools.

Recent state legislation enabled the creation of Innovation Schools, another kind of innovative, autonomous school (see Appendix F3). Innovation Schools are in-district public schools, authorized by the local school committee, with increased autonomy and flexibility in the areas of curriculum, budget, school schedule and calendar, staffing (including waivers or exemptions from collective

bargaining agreements) and school district policies. These unique schools—which may be established by superintendents, school committees, teachers, parents, colleges and universities, charter school operators and others—will promote high levels of student achievement through an innovation plan and represent an in-district alternative to charter schools. Responsibility for designing and meeting the terms of the innovation plan under which the school operates may rest with either school leadership (as well as faculty, for the design phase) or with an external partner or partners. Innovation Schools are intended to be a fiscally neutral school redesign model in which long-term support for new or different programs or services will be primarily supported through increased flexibility in how the school’s existing budget is used. Unlike charter schools, local school committees, not ESE, have final approval over the authorization of Innovation Schools. However, ESE is responsible for the overall organization, coordination, and monitoring of the Innovation Schools initiative, including the provision of technical assistance and support and the development of prospectus applications and other documents related to the approval process. In summer 2009 ESE issued \$200,000 in planning grants to 16 districts (encompassing efforts at 22 schools) to prepare for transitions to Innovation Schools. Twenty Innovation Schools are poised to open in fall 2010 and 2011.

(F)(3) Demonstrating other significant reform conditions (5 points)

The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

In the text box below, the State shall describe its current status in meeting the criterion. The narrative or attachments shall also include, at a minimum, the evidence listed below, and how each piece of evidence demonstrates the State’s success in meeting the criterion. The narrative and attachments may also include any additional information the State believes will be helpful to peer reviewers. For attachments included in the Appendix, note in the narrative the location where the attachments can be found.

Evidence for (F)(3):

- A description of the State’s other applicable key education laws, statutes, regulations, or relevant legal documents.