



Massachusetts Board of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

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Special Meeting Board of Elementary and Secondary Education Department of Elementary and Secondary Education 75 Pleasant Street, Malden, MA 02148 Monday, July 25, 2022, 9:00 a.m. – 1:00 p.m.

Comments from the Chair
Comments from the Commissioner
Comments from the Secretary
Statements from the Public*

Agenda Items:

1. Amendment to Competency Determination Regulations, 603 CMR 30.00: Establishment of New CD Standard for the Classes of 2026–2029 – **Discussion and Vote**
2. Proposed Amendment to Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00 (Technical Update Per Statute) – **Initial Discussion and Vote to Solicit Public Comment**
3. District and School Accountability System for 2022: Changes to Align with Regulatory Amendments – **Discussion and Vote**
4. Delegation of Authority to Commissioner – **Discussion and Vote**
 - a. Approval of Contracts Proposed by Four Charter Schools
 - b. Other Necessary Action between Board Meetings
5. Education Budget Update – **Discussion**

Board of Elementary and Secondary Education Members

Ms. Katherine Craven, Chair, Brookline
Mr. Matt Hills, Newton
Ms. Darlene Lombos, Boston
Mr. Michael Moriarty, Holyoke
Mr. James Peyser, Secretary of Education, Milton
Mr. Eric Plankey, Westford, Student Member
Mr. Paymon Rouhanifard, Brookline
Ms. Mary Ann Stewart, Lexington
Dr. Martin West, Newton

Jeffrey C. Riley, Commissioner
Secretary to the Board

The meeting will be recorded and [live-streamed](#).

* The Board welcomes public comment on matters within its purview. Accordingly, the Board makes available a maximum 30-minute period at its regular meetings for persons in the audience to address the Board for no longer than 3 minutes. Written material of any length may be submitted. Preference will be given to persons who seek to address the Board on specific agenda items for the upcoming Board meeting. Agendas for upcoming Board meetings are generally posted 5 days prior to the meeting on the [Board of Elementary and Secondary Education's website](#). Persons wishing to speak are strongly encouraged to submit their request before the day of the meeting; contact information is provided below. Preference will be given to those who submit requests by 5:00 p.m. on the Thursday preceding the special Monday meeting. If time permits, the Chair will allow members of the public who have not contacted the Department in advance to speak in the public comment period; those individuals must sign in prior to the start of the meeting. The Chair may limit the number of speakers due to time constraints and may increase or reduce the time allocated per speaker. While there is no requirement to submit comments in writing, a speaker who elects to do so should submit 15 copies of their comments prior to or at the meeting for distribution to Board members. Requests to address the Board, written comments, and other inquiries may be transmitted by mail, e-mail, fax, or telephone to: Massachusetts Board of Elementary and Secondary Education, 75 Pleasant Street, Malden, MA 02148, Phone: 781-338-3112. E-mail: BoardofEducation@mass.gov. Please make any requests for special accommodations or interpretation services at least 48 hours prior to the scheduled meeting.



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Jeffrey C. Riley
Commissioner

MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Jeffrey C. Riley, Commissioner

Date: July 20, 2022
Subject: Briefing for the July 25, 2022 Special Meeting of the Board of Elementary and Secondary Education

The Board of Elementary and Secondary Education will hold a special meeting on **Monday, July 25, 2022**, at the Department of Elementary and Secondary Education in Malden. The meeting will start at **9:00 a.m.** and should adjourn by **1:00 p.m.** The Board will meet in person, following the Commonwealth's current health and safety guidelines, and the meeting will be live-streamed and recorded. Helene Bettencourt and Courtney Sullivan will assist with all arrangements; please email or call them if you have any questions.

OVERVIEW

The Board will discuss and vote on two regulatory amendments: a final vote on amendments to the competency determination regulations, and an initial vote to solicit public comment on a proposed technical amendment to the regulations on notification of bullying. Other items for discussion and vote are changes to the accountability system to align with regulatory amendments that the Board adopted in June, and delegations of authority to the Commissioner to act on certain matters during the hiatus until the next regular meeting. The Board will also get an update on the federal and state education budget.

REGULAR MEETING

Comments from the Chair

Chair Craven will report on current issues and activities and welcome Eric Plankey to his first meeting as the 2022-2023 student member of the Board.

Comments from the Commissioner

Commissioner Riley will report on current issues and activities.

Comments from the Secretary

Secretary Peyser will report on current issues and activities.

Statements from the Public

ITEMS FOR DISCUSSION AND ACTION

1. Amendment to Competency Determination Regulations, 603 CMR 30.00: Establishment of New CD Standard for the Classes of 2026–2029 – Discussion and Vote

I recommend that the Board vote to adopt amendments to the Regulations on MCAS and the Competency Determination (603 CMR 30.00) to establish a new passing standard for the Competency Determination (CD) for the classes of 2026 through 2029 for English language arts (ELA), mathematics, and science and technology/engineering. The Board voted in April to solicit public comment on the proposed changes to the regulations. After careful consideration of the comments submitted, I recommend that the Board adopt the amendments as presented. Details are in the enclosed materials. Rob Curtin, Chief Officer for Data, Assessment, and Accountability, Associate Commissioner Michol Stapel, and Lucy Wall of our legal staff will join us for the discussion.

2. Proposed Amendment to Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00 (Technical Update per Statute) – Initial Discussion and Vote to Solicit Public Comment

I recommend that the Board vote to solicit public comment on a proposed technical amendment to the regulations on notification of bullying or retaliation. The proposed amendment conforms the regulatory definition of bullying to the statutory definition in Mass. General Laws chapter 71, section 37O and makes non-substantive changes in formatting and numbering. With the Board's approval, the Department will invite public comment on the proposed technical amendment and then bring it back to the Board in October for final action.

3. District and School Accountability System for 2022: Changes to Align with Regulatory Amendments – Discussion and Vote

I recommend that the Board vote to approve changes to the district and school accountability system. The modifications incorporate the changes allowed by our approved addendum to the ESEA Consolidated State Plan, which grants temporary flexibility around certain federal accountability reporting requirements for the 2021-2022 school year. The modifications also align with the amendment to state accountability regulations that the Board approved in June. Rob Curtin will be at the meeting to respond to questions.

4. Delegation of Authority to Commissioner – Discussion and Vote

a. Approval of Contracts Proposed by Four Charter Schools

I recommend that the Board vote to authorize the Commissioner to approve contracts that four charter schools have proposed with educational management organizations, upon satisfactory completion of my review. In similar situations involving other charter schools, the Board has delegated the contract approval to the Commissioner. The enclosed memorandum provides details.

b. Other Necessary Action between Board Meetings

Because we have a two-month hiatus until the next regular meeting of the Board, I recommend that the Board vote to authorize the Commissioner to act on its behalf in approving any matters that are not otherwise covered by the Board's previous delegations of authority and that require action before the next regular meeting in September 2022. By the terms of the suggested motion, I will consult with the Board Chair and notify members in advance of any such action and report to the Board on any matters that have been so approved.

5. Education Budget Update – Discussion

Senior Associate Commissioner/CFO Bill Bell will brief the Board on the latest information we have about federal and state funding for K-12 education in the Commonwealth.

If you have questions about any agenda items, please call me. I look forward to meeting with you on July 25.



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Jeffrey C. Riley
Commissioner

MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Jeffrey C. Riley, Commissioner

Date: July 20, 2022
Subject: Amendment to Competency Determination Regulations, 603 CMR 30.00:
Establishment of New CD Standard for the Classes of 2026–2029

At the meeting of the Board of Elementary and Secondary Education (Board) on July 25, 2022, I will ask the Board to vote on proposed amendments to the Regulations on MCAS and the Competency Determination (603 CMR 30.00). The proposed amendments would establish a new passing standard for the Competency Determination (CD) for the classes of 2026 through 2029 for English language arts (ELA), mathematics, and science and technology/engineering.

On April 26, the Board voted to solicit public comment on the proposed changes to the regulations. The Department of Elementary and Secondary Education (DESE) received comments from 10 organizations and from 235 individuals. A summary of the proposed changes is included below, and a summary of the public comment is attached. After careful consideration of the comments submitted, I have decided to recommend moving forward with my original recommendation as presented at the April meeting.

At the April meeting, the Board also voted to solicit public comment on proposed amendments to Certificate of Mastery Regulations, 603 CMR 31.00 (Standards for Students in the Classes of 2026-2029). I will return to the Board with my recommendations for these regulations at a future meeting.

Background

For a full discussion on the history of the CD, the transition to next-generation MCAS tests, and the CD advisory committee, please review those sections in my April 2022 [memorandum to the Board on this topic](#).

Rationale for and Summary of Proposed Amendments

As I discussed with you at our February and April meetings, the evidence heard by the CD

advisory committee and by this Board strongly points to the importance of raising the CD standard beyond the current cut scores. This current CD level, which was identified by linking to the 220-equivalent score on the legacy MCAS tests, falls into the lowest possible achievement level on the next-generation MCAS tests—*Not Meeting Expectations*.

As [presented at the April meeting](#), ongoing analyses produced by Educational Opportunity in Massachusetts (a research-practice partnership between Brown and Harvard Universities and DESE) provides compelling evidence about students' MCAS scores and later outcomes in education and the workforce. Among other findings, the research showed that MCAS scores predict later outcomes in education and earnings and that a high percentage of students who score at or near the 220-equivalent on the high school MCAS tests are not well prepared for postsecondary success.

This evidence underscores the importance of raising the CD standard and also highlights the need to articulate clearly to students, parents, educators, and other stakeholders how the different levels of achievement on the MCAS tests—and in particular the CD level—signal whether a student is on track for success beyond high school, whether in postsecondary education, the military, the workplace, or independent and productive community life. Raising the CD standard is critical, as is the message that we believe students are capable of meeting the higher standard and the Commonwealth and its educators will support them to do that.

The proposed revisions to the CD regulations would establish the following:

1. Students in the classes of 2026–2029 would be required to earn a scaled score of **486** (the scaled score just beyond the midpoint within the *Partially Meeting Expectations* achievement level category) on the ELA and mathematics MCAS and a scaled score of **470** on the STE MCAS tests to earn their competency determination in those subjects.
2. Students in the classes of 2026–2029 who earn a scaled score of at least **470** (the lowest scaled score in the *Partially Meeting Expectations* achievement level) on the ELA and/or mathematics MCAS would not be required to take an MCAS retest or file an appeal, but they would be required to complete an Educational Proficiency Plan (EPP).
3. Updates to the components of the Educational Proficiency Plan (EPP)
 - a. A requirement that the school provide a student's EPP to their parents/guardians on an annual basis
 - b. A requirement to describe the tutoring or other individualized academic supports the student will receive
 - c. The establishment of different expectations for the EPP for students who are actively enrolled and successfully progressing in the Mass Core curriculum, an approved Chapter 74 vocational-technical program, or a designated Early College or Innovation Pathway program
 - d. Clarifications to the types of courses and assessments required in a student's EPP
 - e. Clarifications around the expectations for adult learners, students who have exited high school without a CD, seniors who have already completed all their required courses in the relevant subject matter, students who are not continuously enrolled or are enrolled in an alternative program, and students who enroll in senior year

The public comment period on the proposed changes to the regulations opened after the Board meeting on April 22 and closed on June 3. The Department received several hundred comments via email on the proposed amendments. A summary of the public comment is attached.

I recommend that the Board vote to adopt the proposed amendments to 603 CMR 30.00 as presented. A redlined version of the regulations is attached, along with a motion to adopt the amendments.

Rob Curtin, Chief Officer for Data, Assessment, and Accountability, Associate Commissioner Michol Stapel, and Lucy Wall of our legal staff will join us for the discussion.

Attachments:

Redlined version of proposed amendments to 603 CMR 30.00

Motion to adopt revised regulations

Summary of public comment

PROPOSED AMENDMENTS TO REGULATIONS ON MCAS AND COMPETENCY DETERMINATION, 603 CMR 30.00

- Presented to the Board of Elementary and Secondary Education for initial review and vote to solicit public comment: **April 26, 2022**
- Period of public comment through: **June 3, 2022**
- Final action by the Board of Elementary and Secondary Education anticipated: **July 25, 2022**

The proposed amendment would establish a new competency determination standard in English language arts, mathematics, and science and technology/engineering for students in the classes of 2026-2029.

The proposed amendment is indicated by underline (new language) and ~~striketrough~~ (deleted language) in 603 CMR 30.03, with corresponding changes in other sections. For the complete text of the current regulations, 603 CMR 30.00, see <http://www.doe.mass.edu/lawsregs/603cmr30.html>

603 CMR 30.00: Massachusetts Comprehensive Assessment System and Standards for Competency Determination

30.01: Scope and Purpose

603 CMR 30.00 establishes standards relating to the Competency Determination required by M.G.L. c. 69, § 1D.

30.02: Definitions

Board shall mean the Board of Elementary and Secondary Education, appointed in accordance with M.G.L. c. 15, § 1E.

Commissioner shall mean the Commissioner of Elementary and Secondary Education.

Competency Determination shall have the same meaning as described in M.G.L. c. 69, § 1D (i). In accordance with M.G.L. c.69, § 1D (i), satisfaction of the requirements of the Competency Determination shall be a condition for high school graduation. A school committee (including the board of trustees of a charter school and, for publicly-funded Massachusetts special education students, the governing board of a private day or residential special education program) shall award the high school diploma or any other document connoting high school graduation only to a student who has satisfied the Competency Determination requirement and who has met local graduation requirements.

Consent shall have the same meaning as described in 603 CMR 28.02(4). Legal authority of the parent shall transfer to the student when the student reaches eighteen (18) years of age.

Educational Proficiency Plan shall mean a plan developed for a student by his/her high school principal or designee designed to help the student move toward proficiency-meeting grade level expectations in English language arts and/or mathematics and shall include those elements described in 603 CMR 30.03 ~~(5)~~(7). Such plans and any updates to such plans must be shared with a student's parents or guardians in a timely fashion.

Graduating Class For purposes of 603 CMR 30.00, students are assigned to the graduating class of the cohort of students they join when they first enter grades 9–12 in a Massachusetts public school system. For example, a student first entering 9th grade in fall 2022~~17~~ belongs to the class of 2026~~1~~, a student entering as a 10th grader in fall of 2022~~17~~ belongs to the class of 2025~~0~~, and so forth. Once a student is assigned a particular cohort, the student's graduating class for purposes of 603 CMR 30.00 never changes.

Individualized education program (IEP) and IEP team shall have the same meaning as described in 603 CMR 28.02.

Local graduation requirements shall mean graduation criteria established by the student's school district including attendance, course completion and satisfactory grades.

MCAS shall mean the Massachusetts Comprehensive Assessment System, the statewide assessment of individual students' academic performance, as required by M.G.L. c. 69, § 11.

Student with a disability shall mean a student who has been determined to be eligible for special education services in accordance with the federal Individuals with Disabilities Education Act or M.G.L. c.71B and 603 CMR 28.00 (special education), or who has been determined to be an individual with disabilities under Section 504 of the federal Rehabilitation Act of 1973 or the Americans with Disabilities Act.

30.03: Standards for Competency Determination

(1) Students in the graduating classes of 2003 through 2009 shall meet or exceed the Needs Improvement threshold scaled score of 220 on both the English Language Arts and the Mathematics MCAS grade 10 tests in order to satisfy the requirements of the Competency Determination.

(2) Students starting with the graduating class of 2010 must satisfy one of the following two conditions in both English language arts and mathematics to earn a competency determination.

(a) meet or exceed the Proficient threshold scaled score of 240 on the English Language Arts and Mathematics grade 10 MCAS tests, or

(b) meet or exceed the Needs Improvement threshold scaled score of 220 on the English Language Arts and Mathematics grade 10 MCAS tests and fulfill the requirements of an Educational Proficiency Plan.

(3) Students in the graduating classes of 2021 through 2025 must satisfy one of the following two conditions in both English language arts and mathematics to earn a competency determination.

(a) meet or exceed the threshold scaled score ~~threshold~~ on the English Language Arts and Mathematics grade 10 MCAS tests administered in 2019 or later that has been determined by the Commissioner to be comparable to the threshold scaled score ~~threshold~~ of 240 on the grade 10 MCAS tests administered before 2019, or

(b) meet or exceed the threshold scaled score ~~threshold~~ on the English Language Arts and Mathematics grade 10 MCAS tests administered in 2019 or later that has been determined by the Commissioner to be comparable to the threshold scaled score ~~threshold~~ of 220 on the grade 10 MCAS tests administered before 2019 and fulfill the requirements of an Educational Proficiency Plan.

(4) Students in the graduating classes of 2026 through 2029 must satisfy one of the following two conditions in both English language arts and mathematics to earn a competency determination:

(a) meet or exceed the threshold scaled score of 486 on the English Language Arts and Mathematics grade 10 MCAS tests, or

(b) meet or exceed the threshold scaled score of 470 on the English Language Arts and Mathematics grade 10 MCAS tests and fulfill the requirements of an Educational Proficiency Plan.

(54) Students starting with the graduating class of 2010 shall, in addition to meeting the requirements found in 603 CMR 30.03(2), ~~or (3) or (4)~~, take a discipline-specific high school Science and Technology/Engineering MCAS test approved by the Board, by grade 10. To earn a competency determination:

(a) Students in the graduating classes of 2010 through 2024 shall meet or exceed the Needs Improvement threshold scaled score of 220 on a discipline-specific high school Science and Technology/Engineering MCAS test.

(b) Students in the graduating class of 2025 shall meet or exceed the scaled score threshold on a discipline-specific high school Science and Technology/Engineering MCAS test administered in 2022~~0~~ or later that has been determined by the Commissioner to be comparable to the scaled score threshold of 220 on the high school Science and Technology/Engineering MCAS tests administered before 2022~~0~~.

(c) Students in the graduating classes of 2026 through 2029 shall meet or exceed the threshold scaled score of 470 on a discipline-specific high school Science and Technology/Engineering test.

(d) The Commissioner may waive the requirement to take the test by grade 10 for an individual student for good cause. Good cause for such a waiver may include a student's illness or a student's transfer into the Massachusetts public schools after grade 10.

(65) Starting in the third consecutive year that the History and Social Science high school assessment is administered, in addition to meeting the requirements contained in 603 CMR 30.02(2) through (54), students shall meet or exceed the passing standard on the History and Social Science high school assessment.

(76) Educational Proficiency Plans for each required content area shall be updated at least annually while students are enrolled and shall include, at a minimum:

(a) A review of a student's strengths and weaknesses in the content area.

(b) The full-year courses the student will be required to take and successfully complete in both grades 11 and 12 that will move the student toward meeting grade level expectations proficiency on the grade 10 curriculum framework standards as well as on grade 11 ~~and~~ - 12 standards in English language arts or Algebra II or Model Mathematics III standards ~~grade 11 and 12 grade span standards or Algebra II standards~~ in mathematics, and a description of the tutoring or other individualized academic supports the student will receive.

(c) A description of the assessments the school will administer on at least an annual basis to inform changes to a student's Educational Proficiency Plan, identify opportunities for additional tutoring or other individualized academic supports, and determine whether the student is making progress toward ~~proficiency-meeting expectations~~, or has met expectations ~~become proficient~~ on the grade 10 standards. These assessments must include applicable MCAS tests or other diagnostic or summative tests identified approved by the Department of Elementary and Secondary Education as aligned to the curriculum frameworks and appropriate for this purpose. For students yet to achieve a scaled score of 470 on any MCAS test required for high school graduation, assessments must include multiple opportunities to retake applicable MCAS tests until a scaled score of at least 470 has been achieved.

(d) The Educational Proficiency Plan for a student who is actively enrolled and successfully progressing in the Mass Core curriculum, an approved Chapter 74 vocational-technical program, or a designated Early College or Innovation Pathway program does not need to separately include the requirements of 603 CMR 30.03(7)(b) and (c).

(e) The Educational Proficiency Plans for adult learners, students who have exited high school without a Competency Determination, seniors who have already completed all

their required courses in the relevant subject matter, students who are not continuously enrolled or are enrolled in an alternative program, and students who enroll in senior year, do not need to include the full-year courses described in 603 CMR 30.03(7)(b) or the assessments described in 603 CMR 30.03(7) (c).

(87) A student in the graduating classes of 2010 through 2025 achieving a scaled score of or comparable to 240 or higher on an MCAS test or a score determined by the Department of Elementary and Secondary Education on another approved test will be deemed to have achieved proficiency in the subject area and to have fulfilled the Educational Proficiency Plan in that subject. A student in the graduating classes of 2026 through 2029 achieving a scaled score of 486 or higher on an MCAS test will be deemed to have met expectations in the subject area and to have fulfilled the Educational Proficiency Plan in that subject. For students who have not achieved this score threshold, the principal or head of school (or his or her designee) will determine whether the student has fulfilled the Educational Proficiency Plan.

...

30.05: Performance Appeals

(1) A performance appeal addresses a claim that a student's knowledge and skills in English Language Arts, Mathematics, or Science and Technology/Engineering, meet or exceed a performance level equivalent to the score on the MCAS high school tests required for the Competency Determination, even though the student has not demonstrated attainment of that standard on the MCAS grade 10 test(s). The performance appeal provides an opportunity to establish that a student has attained the equivalent of a scaled score on the MCAS test, necessary for eligibility for the Competency Determination. For English Language Arts and mathematics, a student meeting this standard must also fulfill the requirements of an Educational Proficiency Plan in order to be eligible for a Competency Determination.

(2)

(a) A performance appeal on behalf of a student may be filed only by the superintendent of schools for the school district in which the student is enrolled, or by the superintendent's designee. For a student who is enrolled in a public education program that is not part of a school district, including but not limited to a charter school, an approved special education day or residential school, an educational collaborative, or a state-operated school or institutional program, the administrator of the school or program who is equivalent to the superintendent of schools shall file the performance appeal. If the superintendent declines to file a performance appeal on behalf of a student, the student's parent or guardian may appeal the superintendent's decision to the school committee.

(b) If the school committee denies the request or takes no action on it within 30 days from the date it was submitted, and the student's parent or guardian alleges that the superintendent acted for reasons unrelated to the student's eligibility or academic achievement in not filing the performance appeal, the parent or guardian may ask the Commissioner to review the matter. If the Commissioner determines that the superintendent in fact acted for such unrelated reasons in not filing the appeal, he shall direct the superintendent to submit promptly the material required by 603 CMR 30.05 (3) through (5), and he shall then proceed as set forth in 603 CMR 30.05 (4), if applicable, and 603 CMR 30.05 (6)

(c) The superintendent shall file a performance appeal on behalf of a student with a disability upon the request of the student's parent or guardian or the student who has reached the age of 18, provided that the student meets the eligibility requirements listed in 603 CMR 30.05 (3). For any performance appeal filed on behalf of a student with a disability, the superintendent must obtain consent from the parent or guardian or the student who has reached the age of 18.

(3) The superintendent shall include in the performance appeal evidence that the student meets the eligibility requirements for a performance appeal, by submitting documentation as follows:

(a)

1. For a Mathematics or English Language Arts performance appeal, evidence that the student has taken the grade 10 MCAS test or retest in the subject area of the appeal at least three times;
2. For a performance appeal in Science and Technology/Engineering, evidence that the student has taken a Science and Technology/Engineering MCAS test and is currently enrolled in a Science and Technology/Engineering class or has completed 12th grade.

(b) evidence that the student has maintained at least a 95% attendance level (no more than nine days of absence from school in a 180-day school year) during the school year prior to and the year of the appeal, provided that the superintendent may present evidence of extenuating circumstances such as a student's disability, serious illness, or child care or other family responsibilities, that would justify an exemption from this requirement;

(c) evidence that the student has satisfactorily participated in the tutoring and other academic support services made available by or approved by the school under an individual student success plan or under any other plan designed to strengthen the student's knowledge and skills in the subject(s) at issue, provided that the superintendent may present evidence of extenuating circumstances, such as a student's disability, serious illness, or child care or other family responsibilities, that would justify an exemption from this requirement;

(d) A student who has participated in the MCAS Alternate Assessment shall be eligible for a performance appeal if the student has participated in the MCAS-Alt in the subject area of the appeal at least twice for an appeal in ~~ELA~~ English language arts or mathematics, and at least once in science and technology/engineering, in lieu of meeting the eligibility requirements listed in 603 CMR 30.05 (3) (a).

(4) Upon the written request of the superintendent, the Commissioner may for good cause waive one or more of the eligibility requirements listed in 603 CMR 30.05 (3). The Commissioner shall report to the Board at least once each year on any such waivers that have been granted, provided that the identity of the student(s) shall remain confidential.

(5) The superintendent shall include in the performance appeal evidence of the student's knowledge and skills in the subject area(s) for which the appeal is to be filed (English language arts, mathematics, or science and technology/engineering) by submitting:

(a) the recommendation of one or more of the student's teachers in the area(s) of appeal, assessing the level of the student's knowledge and skills in the subject area(s) at issue;

(b) a statement that the student has completed or is on track to complete local graduation requirements during grade 12 or after;

(c) for a student with a disability, a statement that the IEP team, if any, supports the student's graduation, as documented on the IEP form;

(d) for appeals in ~~English Language Arts~~ English language arts and ~~Mathematics~~ mathematics, the grades or grade point average of the student for courses taken in the subject area(s) of the appeal in grade 9 (at the discretion of the superintendent), grades 10, 11, and, if available, grade 12; and the grades or grade point average and MCAS scores in the area of the appeal of other students in the school who took the same courses at the same time as the student who is the subject of the appeal.

(e) for appeals in ~~Science~~ science and ~~Technology/Engineering~~ technology/engineering, the grade of the student for the course in the content area of the appeal and the grades and MCAS scores in the content area of the appeal of other students in the school who took the same course at the same time as the student who is the subject of the appeal

(f) Where there is no identifiable appropriate set of students to enable a meaningful comparison of the student's knowledge and skills in the subject area of the appeal as

described in 603 CMR 30.05 (5) (d)-(e), the superintendent shall submit a portfolio of the student's work in the subject area of the appeal sufficient to demonstrate the student's level of performance.

(g) If the student has a disability, the superintendent shall include in the performance appeal any other information the student's IEP team or Section 504 team (if any) asks to be included, with the consent of the student's parent or guardian, that indicates in the judgment of the IEP team or Section 504 team that the student's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the Board for the performance appeal competency determination in 603 CMR 30.03(2)(b), (3)(b), (4)(b), 30.03 (5)(a) (5)(b), or (5)(c), as applicable (220) or the comparable score on MCAS grade 10 tests administered beginning in 2019 and that the student's MCAS scores do not accurately reflect the student's knowledge and skills for the content area of the appeal.

(h) The superintendent may, and in the case of a student with disabilities the superintendent shall, also include in the performance appeal other supporting information relevant to the determination as to whether the student's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the Board for the passing standard for the performance appeal competency determination for the student's graduating class in 603 CMR 30.03(2)(b), (3)(b), (4)(b), 30.03 (5)(a) or (5)(b), or (5)(c), as applicable. In order to be relevant to the determination, the supporting information shall provide evidence of the student's work that specifically and directly addresses the state academic performance standard in the subject area of the appeal. Supporting information includes a collection of the student's work samples sufficient to demonstrate the student's level of performance in relation to the learning standards established by the Board. The superintendent also may submit additional supporting information such as scores of the student on other standardized tests in the subject area, evidence of acceptance to college courses, or other evidence of academic achievement which demonstrates that the student's knowledge and skills meet or exceed the passing standard required for the performance appeal.

(6) The superintendent shall send the performance appeal to the Commissioner, who shall review the submission to ensure that it meets the requirements of 603 CMR 30.05 and any guidelines issued by the Commissioner. If the submission meets the requirements, the Commissioner shall refer it to the Performance Appeals Board.

(7) The Commissioner shall appoint members to one or more Performance Appeals Boards. Each board shall consist primarily of teachers and department heads with experience and expertise in the Massachusetts standards for English ~~L~~language ~~A~~arts, ~~M~~mathematics, or ~~S~~science and ~~T~~technology/~~E~~ngineering. Each member shall be appointed for a three-year term, provided that the initial terms may be staggered as the Commissioner deems appropriate. The Department of Elementary and Secondary Education shall coordinate and assist the work of each Performance Appeals Board. The Performance Appeals Board shall have the following duties:

(a) to review each performance appeal submitted to it by the Commissioner, in accordance with these regulations and any guidelines issued by the Commissioner;

(b) to review the information submitted by the superintendent under 603 CMR 30.05(5) and determine whether it provides sufficient evidence that the student has the required knowledge and skills; and

(c) to make a recommendation to the Commissioner regarding whether or not the appeal should be granted.

(8) The materials relating to a performance appeal that the Commissioner submits to the Performance Appeals Board shall identify the student only by number and shall not include information that would enable board members to identify the individual student. If the Performance Appeals Board decides that it needs additional information on a particular student in order to fulfill its duties, the Performance Appeals Board shall contact the Commissioner's Office to request the information, which shall be provided to the Performance Appeals Board with only the student number as an identifier.

(9) Based upon the recommendation of the Performance Appeals Board and any other information that he deems relevant, the Commissioner shall decide whether to:

1. (a) grant the appeal;
2. (b) deny the appeal; or
3. (c) make no determination and request that the superintendent submit additional information for further consideration by the Performance Appeals Board. The Commissioner shall make a decision after the Performance Appeals Board reports back to him.

(10) The Commissioner shall grant the appeal if the cohort analysis as described in 603 CMR 30.05 (5) (d) or (e), or the portfolio as described in 603 CMR 30.05 (5) (f), or the collection of work samples produced by the student and any additional supporting information submitted with the appeal as required in 603 CMR 30.05 (5) (g) and (h), demonstrates by a preponderance of the evidence that the student's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the Board for the passing standard for the performance appeal in 603 CMR 30.03(2)(b), (3)(b), (4)(b), 30.03 (5)(a) (5)(b), or (5)(c), as applicable. ~~(220) or the comparable score on MCAS grade 10 tests administered beginning in 2019.~~

(11) The Commissioner will notify the superintendent in writing of his decision and the reasons for it within ten business days after he receives the recommendation of the Performance Appeals Board. The superintendent shall notify the student, parent or guardian of the decision. Within 21 calendar days after receipt of the Commissioner's decision, the superintendent may respond, including seeking reconsideration of the Commissioner's decision. The decision of the Commissioner shall be final. If the appeal is granted, the student will be deemed to have met the performance appeal standard on the MCAS high school test that was the subject of the performance appeal. If the appeal is denied, the superintendent may submit a subsequent appeal on behalf of the student, as long as the student meets the eligibility requirements. To be eligible

for a subsequent appeal in ~~S~~science and ~~T~~technology/~~E~~engineering, a student must first take a subsequent MCAS test in either the same or a different discipline.

(12) Nothing in 603 CMR 30.00 shall be interpreted to limit or expand a student's rights under the Individuals with Disabilities Education Act, M.G.L. c. 71B and 603 CMR 28.00, or Section 504 of the Rehabilitation Act of 1973. Any documentation submitted to the Department at the request of the student's IEP team in connection with a performance appeal shall not constitute modification of the student's IEP under state or federal special education law and may not be appealed to the Bureau of Special Education Appeals under the Individuals with Disabilities Education Act or M.G.L. c.71B.

Regulatory Authority:

603 CMR 30.00: M.G.L. c. 69, §§ 1B and 1D; St. 2003, c.140, §119.

The remaining sections of the regulations are unchanged. **For the complete text of the current regulations, 603 CMR 30.00, see <http://www.doe.mass.edu/lawsregs/603cmr30.html>**

Summary of Public Comments on Proposed Amendments to Competency Determination Regulations (603 CMR 30.00: Regulations on MCAS and the Competency Determination)

Source: Correspondence received through email, April 22 to June 3, 2022

The Department received 229 emails from individuals, organizations, and districts responding to the proposed changes to the competency determination (CD) requirements. 225 of these emails were opposed to the proposed changes, and 4 emails were in support.

List of organizations and individuals submitting public comment:

Organizations, School Committees, and School Districts	Individuals
<ul style="list-style-type: none"> • American Federation of Teachers Massachusetts (AFT-MA) • Education Reform Now Advocacy • Massachusetts Association of Speakers of Other Languages (MATSOL) • Massachusetts Business Alliance for Education (MBAE) • Massachusetts High Technology Council (MHTC) • Massachusetts Teachers Association (MTA) • Multistate Association for Bilingual Education – Northeast • Boston Public Schools • Dedham School Committee • Norton School Committee and Public School District 	<ul style="list-style-type: none"> • 219 emails from 236 individuals <ul style="list-style-type: none"> ○ 36 of these individuals identified themselves as educators. ○ 27 identified themselves as parents. ○ An additional 15 identified as both parents and educators. ○ 12 identified themselves as students. ○ 145 individuals did not state their role in the community.

Summary of Public Comment	
Comments	Department's Response
<p>Form email – Opposed</p> <p>DESE received 118 emails from commenters who responded using a form email containing the same language. The form email provided the following reasons for opposing the proposed changes to the CD regulations:</p> <ul style="list-style-type: none"> • It would most negatively impact the most vulnerable student populations (English language learners, students with disabilities, low-income students, and students of racial and ethnic minorities). • It would incentivize test preparation in classrooms at the expense of meaningful instruction and support. • It would increase students' stress and anxiety levels. 	<p>DESE is committed to holding all students to high standards for academic success. Students are capable of meeting high standards and the Commonwealth and its educators should support them to do that.</p> <p>One of the recommendations from the Competency Determination Advisory Committee was to increase awareness of alternate pathways, and DESE plans to implement an awareness campaign alongside any changes to the CD requirements.</p>

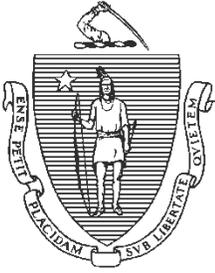
Summary of Public Comment	
Comments	Department's Response
<ul style="list-style-type: none"> • It would elevate MCAS as a credible measure of student achievement. • Increasing access to alternative pathways to graduation should be a priority • Eliminate the requirement to retest if a student does not pass on the first attempt. 	<p>Eliminating the requirement to retest would take away opportunities for students to pass the tests and fulfill the requirements of the CD.</p>
<p>Unique Emails from Individuals – Opposed</p> <p>Many of 100 remaining emails from individuals opposed to the changes cited the same reasons as those in the form email described above, along with other reasons.</p> <p>The most common additional reasons cited for opposition to the changes (more than 10 mentions) are as follows:</p> <ul style="list-style-type: none"> • Recent pandemic and learning interruptions • The proposed changes would cause an increase in undue pressure on teachers • MCAS should be used as a measure of schools, not of individual students • MCAS uses funds that could be used for other purposes • The proposed changes will increase the rate of high school dropouts <p>Fourteen respondents called for the MCAS tests to be eliminated altogether.</p> <p>Eleven respondents called for eliminating MCAS as a high school graduation requirement.</p>	<p>In September 2021, in recognition of the unavoidable delays and changes in our plans caused by the pandemic, the Board extended the interim passing standard through the class of 2025 for all three subjects. The proposed standards would not take effect until the class of 2026 (current 8th graders).</p> <p>Assessments are required under both federal law (Every Student Succeeds Act) and state law (Education Reform Act). These laws require the reporting of student-level results and the use of high school MCAS tests as one requirement for high school graduation.</p>
<p>Emails from Organizations - Opposed</p> <p>DESE received emails from three school districts and four organizations that are not in favor of the proposed changes.</p> <p>School districts/committees:</p> <ul style="list-style-type: none"> • Boston Public Schools • Dedham School Committee 	<p>No additional comments</p>

Summary of Public Comment	
Comments	Department's Response
<ul style="list-style-type: none"> • Norton School Committee and Public Schools <p>Organizations:</p> <ul style="list-style-type: none"> • AFT Massachusetts • Massachusetts Association of Teachers of Speakers of Other Languages • Massachusetts Teachers Association • Multistate Association for Bilingual Education - Northeast <p>These districts and organizations cited similar reasons for not supporting the proposed changes as the individual emails and the form email described above.</p> <p>In addition, one or more of the districts/organizations suggested the following changes:</p> <ul style="list-style-type: none"> • Expand access to alternative pathways to graduation • Increase parent and student involvement in EPP planning • Delay changes to the CD requirements until further data and analysis is available • Eliminate the requirement that a student must take the MCAS multiple times if they do not pass on the first attempt • Provide additional funding to districts to provide students with the resources to meet the higher standards 	
<p>Emails in support</p> <p>Four commenters (one individual and three organizations) expressed support for the proposed changes. The organizations were the Massachusetts High Technology Council, the Massachusetts Business Alliance for Education, and Education Reform Now Advocacy. These commenters cited the following reasons for their support:</p> <ul style="list-style-type: none"> • Increasing the passing score will better prepare students to meet the increasing rigor of college admissions and the job market 	No comments.

Summary of Public Comment	
Comments	Department's Response
<ul style="list-style-type: none"> • The research from Brown University makes it clear that a higher standard is needed • Marginalized students will receive the most benefit from this change, as it pushes students to achieve at higher levels <p>All three organizations stated that the standard should be further pushed to a passing score of 500 for the class of 2030 and beyond, so that students must be in the Meeting Expectations category in order to earn a diploma.</p> <p>Two of the organizations also stated that the EPP process should be strengthened and/or eliminated, to reduce the likelihood of a student graduating without being college- and career-ready.</p>	

Board of Elementary and Secondary Education Meeting: July 25, 2022
Agenda Item: Amendments to Competency Determination Regulations,
603 CMR 30.00

MOVED: that the Board of Elementary and Secondary Education, in accordance with M.G.L. c. 69, §§ 1B and 1D, and having solicited comment in accordance with the Administrative Procedure Act, G.L. c. 30A, § 3, hereby adopts the amendments to the Competency Determination Regulations, 603 CMR 30.00, as presented by the Commissioner. The proposed amendments concern the Competency Determination standards for students in the classes of 2026 through 2029.



Jeffrey C. Riley
Commissioner

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Jeffrey C. Riley, Commissioner

A handwritten signature in black ink, appearing to read "J.C. Riley".

Date: July 20, 2022
Subject: Proposed Technical Amendment to Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00

At the meeting of the Board of Elementary and Secondary Education (Board) on July 25, 2022, I will ask the Board to vote to solicit public comment on a proposed technical amendment to the Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00. The proposed amendment would conform the regulatory definition of bullying to the statutory definition in Mass. General Laws Chapter 71, §37O, as amended by St. 2013, c. 38, sec. 72, and also make non-substantive changes in formatting and numbering.

With the Board's approval, the Department of Elementary and Secondary Education (Department) will solicit public comment on the proposed amendment in accordance with the Administrative Procedure Act. After reviewing the comments and making any adjustments as needed, I expect to bring the proposed amendment back to the Board for final action in October 2022.

Background

Enacted in 2010 as An Act Relative to Bullying in Schools, G.L. c. 71, §37O defines and prohibits bullying, including cyberbullying, and requires schools to adopt and implement bullying prevention and intervention plans. The Department has [posted](#) resources about bullying prevention and intervention, and the Board has adopted regulations on notification of bullying or retaliation, as required by the statute.

Originally, the statute defined bullying as certain conduct committed by "one or more students." In 2013, through St. 2013, c. 38, sec. 72, the Legislature expanded the definition of bullying to include certain conduct by "a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional." The proposed technical amendment to the regulations conforms the regulatory definition of bullying to the statutory definition. It also makes non-substantive changes in formatting and numbering.

The proposed amendment to 603 CMR 49.00 is attached, along with a motion to solicit public comment. Associate Commissioner Rachelle Engler Bennett will be at the Board meeting on July 25 to answer your questions.

Enclosures:

- Proposed Amendment to Notification of Bullying or Retaliation Regulations, 603 CMR 49.00 – strikethrough (redlined) version
- Proposed Amendment to Notification of Bullying or Retaliation Regulations, 603 CMR 49.00 – clean version
- Motion

**PROPOSED TECHNICAL AMENDMENT TO REGULATIONS ON
NOTIFICATION OF BULLYING OR RETALIATION, 603 CMR 49.00**

- * Presented to the Board of Elementary and Secondary Education for initial review and vote to solicit public comment: **July 25, 2022**
- * Period of public comment: **through Sept. 16, 2022**
- * Final action by the Board of Elementary and Secondary Education anticipated: **Oct. 25, 2022**

Summary: The proposed technical amendment conforms the regulatory definition of bullying to the statutory definition in G.L. c. 71, §370, as amended by St. 2013, c. 38, s. 72, and makes non-substantive changes in formatting and numbering.

Proposed amendments are indicated by underline (new language) or ~~strikethrough~~ (deleted language). For the complete text of the current Notification of Bullying or Retaliation Regulations, 603 CMR 49.00, see <https://www.doe.mass.edu/lawsregs/603cmr49.html>.

~~49.01:~~ Authority

~~603 CMR 49.00 is promulgated by the Board of Elementary and Secondary Education pursuant to M.G.L. c. 71, §370, as added by St. 2010, c. 92.~~

~~49.02-49.01:~~ Scope and Purpose

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor (when the aggressor is a student) when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also addresses confidentiality of student record information related to notification of bullying and retaliation.

~~49.03-49.02:~~ Definitions and Terms

Aggressor means perpetrator of bullying or retaliation as defined in M.G.L. c. 71, §370.

Approved private day or residential school means a school that accepts, through agreement with a school committee, a student requiring special education pursuant to M.G.L. c. 71B, §10 and 603 CMR 28.09.

Bullying, pursuant to M.G.L. c. 71, §370, means the repeated use by one or more students or by a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

(a) causes physical or emotional harm to the target or damage to the target's property;

- (b) places the target in reasonable fear of harm to himself or herself or damage to his or her property;
 - (c) creates a hostile environment at school for the target;
 - (d) infringes on the rights of the target at school; or
 - (e) materially and substantially disrupts the education process or the orderly operation of a school.
- Bullying shall include cyberbullying.

Charter school, pursuant to M.G.L. c. 71, §370, means a Commonwealth charter school or Horace Mann charter school established pursuant to M.G.L. c. 71, § 89.

Collaborative school, pursuant to M.G.L. c. 71, §370, means a school operated by an educational collaborative established pursuant to M.G.L. c. 40, §4E.

Cyberbullying, pursuant to M.G.L. c. 71, §370, means bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyberbullying shall also include:

- (a) the creation of a web page or blog in which the creator assumes the identity of another person, or
 - (b) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions in 603 CMR ~~49.03~~ 49.02: Bullying(a) through (e).
- Cyberbullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions in 603 CMR ~~49.03~~ 49.02: Bullying(a) through (e).

Hostile environment, pursuant to M.G.L. c. 71, §370, means a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

Local law enforcement agency means a local police department.

Local plan means the bullying prevention and intervention plan required to be developed under M.G.L. c. 71, §370.

Parent means a student's father or mother, or guardian.

Principal means the administrative leader of a public school, charter school, collaborative school, or approved private day or residential school, or his or her designee for the purposes of implementing the school's bullying prevention and intervention plan.

Retaliation means any form of intimidation, reprisal or harassment directed against a person who reports bullying, provides information during an investigation about bullying, or witnesses or has reliable information about bullying.

School means an approved private day or residential school, collaborative school, or charter school.

School district, pursuant to M.G.L. c. 71, §370, means the school department of a city or town, a regional school district or a county agricultural school.

Student record has the meaning set forth in the Massachusetts Student Records Regulations, 603 CMR 23.02.

Target means a student victim of bullying or retaliation as defined in M.G.L. c. 71, §370.

~~49.04~~49.03: Bullying and Retaliation Prohibited

(1) Bullying of a student is prohibited as provided in M.G.L. c. 71, §370. Retaliation is also prohibited.

(2) Bullying shall be prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school. Bullying at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, shall be prohibited if the bullying:

- (a) creates a hostile environment at school for the target;
- (b) infringes on the rights of the target at school; or
- (c) materially and substantially disrupts the education process or the orderly operation of a school.

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR ~~49.05~~49.04 and ~~49.06~~49.05.

~~49.05~~49.04: Notice to Parents

(1) Upon investigation and determination that bullying or retaliation has occurred, the principal shall promptly notify the parents of the target and the aggressor (when the aggressor is a student) of the determination and the school district or school's procedures for responding to the bullying or retaliation. The principal shall inform the target's parent of actions that school officials will take to prevent further acts of bullying or retaliation. Nothing in 603 CMR ~~49.05~~49.04 prohibits the principal

from contacting a parent of a target or aggressor (when the aggressor is a student) about a report of bullying or retaliation prior to a determination that bullying or retaliation has occurred.

(2) Notice required by 603 CMR ~~49.05~~49.04 shall be provided in the primary language of the home.

(3) Each school district and school shall include the requirements and procedures for communicating with the parents of the aggressor (when the aggressor is a student) and target of bullying or retaliation in the local plan.

(4) A principal's notification to a parent about an incident or a report of bullying or retaliation must comply with confidentiality requirements of the Massachusetts Student Records Regulations, 603 CMR 23.00, and the Federal Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99, as set forth in 603 CMR ~~49.07~~49.06.

~~49.06~~49.05: Notice to Law Enforcement Agency

(1) Before the first day of each school year, the superintendent or designee of a school district and the school leader or designee of an approved private day or residential school, collaborative school, or charter school shall communicate with the chief of police or designee of the local police department about the implementation of 603 CMR ~~49.06~~49.05. Such communication may include agreeing on a method for notification, a process for informal communication, updates of prior written agreements, or any other subject appropriate to the implementation of 603 CMR ~~49.06~~49.05.

(2) At any point after receipt of a report of bullying or retaliation, including after an investigation, the principal shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor. Notice shall be consistent with the requirements of 603 CMR 49.00 and established agreements with the local law enforcement agency. The principal shall document the reasons for his or her decision to notify law enforcement. Nothing in 603 CMR ~~49.06~~49.05 shall be interpreted to require reporting to a law enforcement agency in situations in which bullying and retaliation can be handled appropriately within the school district or school.

(a) In making the determination whether notification to law enforcement is appropriate, the principal may consult with the school resource officer and any other individuals the principal deems appropriate.

(b) Nothing in 603 CMR ~~49.06~~49.05 shall prevent the principal from taking appropriate disciplinary or other action pursuant to school district or school policy and state law, provided that disciplinary actions balance the need for accountability with the need to teach appropriate behavior.

(c) The principal shall respond to the incident as set forth in relevant provisions of the local plan consistent with 603 CMR ~~49.06~~49.05.

(3) If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in the school district or school, the principal of the school

informed of the bullying or retaliation shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

(4) Each school district and school shall include the requirements and procedures for communicating with the local law enforcement agency in the local plan.

~~49.07~~49.06: Confidentiality of Records

(1) A principal may not disclose information from a student record of a target or aggressor to a parent unless the information is about the parent's own child.

(2) A principal may disclose a determination of bullying or retaliation to a local law enforcement agency under 603 CMR ~~49.06~~49.05 without the consent of a student or his or her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of targets, student witnesses, and aggressors to the extent practicable under the circumstances.

(3) A principal may disclose student record information about a target or aggressor to appropriate parties in addition to law enforcement in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals as provided in 603 CMR 23.07(4)(e) and 34 CFR 99.31(a)(10) and 99.36. 603 CMR ~~49.07(3)~~49.06(3) is limited to instances in which the principal has determined there is an immediate and significant threat to the health or safety of the student or other individuals. It is limited to the period of emergency and does not allow for blanket disclosure of student record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

Regulatory Authority:

603 CMR 49.00: M.G.L. 71, §370, as ~~added~~ amended by St. 2010, c. 92, St. 2013, c. 38, and St. 2014, c. 86.

**PROPOSED TECHNICAL AMENDMENT TO REGULATIONS ON
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For the complete text of the current Notification of Bullying or Retaliation Regulations, 603 CMR 49.00, see <https://www.doe.mass.edu/lawsregs/603cmr49.html>.

49.01: Scope and Purpose

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor (when the aggressor is a student) when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also addresses confidentiality of student record information related to notification of bullying and retaliation.

49.02: Definitions and Terms

Aggressor means perpetrator of bullying or retaliation as defined in M.G.L. c. 71, §370.

Approved private day or residential school means a school that accepts, through agreement with a school committee, a student requiring special education pursuant to M.G.L. c. 71B, §10 and 603 CMR 28.09.

Bullying, pursuant to M.G.L. c. 71, §370, means the repeated use by one or more students or by a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:

- (a) causes physical or emotional harm to the target or damage to the target's property;
- (b) places the target in reasonable fear of harm to himself or herself or damage to his or her property;
- (c) creates a hostile environment at school for the target;
- (d) infringes on the rights of the target at school; or

(e) materially and substantially disrupts the education process or the orderly operation of a school.
Bullying shall include cyberbullying.

Charter school, pursuant to M.G.L. c. 71, §370, means a Commonwealth charter school or Horace Mann charter school established pursuant to M.G.L. c. 71, § 89.

Collaborative school, pursuant to M.G.L. c. 71, §370, means a school operated by an educational collaborative established pursuant to M.G.L. c. 40, §4E.

Cyberbullying, pursuant to M.G.L. c. 71, §370, means bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyberbullying shall also include:

- (a) the creation of a web page or blog in which the creator assumes the identity of another person, or
 - (b) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions in 603 CMR ~~49.03~~49.02: Bullying(a) through (e).
- Cyberbullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions in 603 CMR ~~49.03~~49.02: Bullying(a) through (e).

Hostile environment, pursuant to M.G.L. c. 71, §370, means a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

Local law enforcement agency means a local police department.

Local plan means the bullying prevention and intervention plan required to be developed under M.G.L. c. 71, §370.

Parent means a student's father or mother, or guardian.

Principal means the administrative leader of a public school, charter school, collaborative school, or approved private day or residential school, or his or her designee for the purposes of implementing the school's bullying prevention and intervention plan.

Retaliation means any form of intimidation, reprisal or harassment directed against a person who reports bullying, provides information during an investigation about bullying, or witnesses or has reliable information about bullying.

School means an approved private day or residential school, collaborative school, or charter school.

School district, pursuant to M.G.L. c. 71, §37O, means the school department of a city or town, a regional school district or a county agricultural school.

Student record has the meaning set forth in the Massachusetts Student Records Regulations, 603 CMR 23.02.

Target means a student victim of bullying or retaliation as defined in M.G.L. c. 71, §37O.

49.03: Bullying and Retaliation Prohibited

(1) Bullying of a student is prohibited as provided in M.G.L. c. 71, §37O. Retaliation is also prohibited.

(2) Bullying shall be prohibited on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school. Bullying at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, shall be prohibited if the bullying:

(a) creates a hostile environment at school for the target;

(b) infringes on the rights of the target at school; or

(c) materially and substantially disrupts the education process or the orderly operation of a school.

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.04 and 49.05.

49.04: Notice to Parents

(1) Upon investigation and determination that bullying or retaliation has occurred, the principal shall promptly notify the parents of the target and the aggressor (when the aggressor is a student) of the determination and the school district or school's procedures for responding to the bullying or retaliation. The principal shall inform the target's parent of actions that school officials will take to prevent further acts of bullying or retaliation. Nothing in 603 CMR 49.04 prohibits the principal from contacting a parent of a target or aggressor (when the aggressor is a student) about a report of bullying or retaliation prior to a determination that bullying or retaliation has occurred.

(2) Notice required by 603 CMR 49.04 shall be provided in the primary language of the home.

(3) Each school district and school shall include the requirements and procedures for communicating with the parents of the aggressor (when the aggressor is a student) and target of bullying or retaliation in the local plan.

(4) A principal's notification to a parent about an incident or a report of bullying or retaliation must comply with confidentiality requirements of the Massachusetts Student Records Regulations, 603 CMR 23.00, and the Federal Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99, as set forth in 603 CMR 49.06.

49.05: Notice to Law Enforcement Agency

(1) Before the first day of each school year, the superintendent or designee of a school district and the school leader or designee of an approved private day or residential school, collaborative school, or charter school shall communicate with the chief of police or designee of the local police department about the implementation of 603 CMR 49.05. Such communication may include agreeing on a method for notification, a process for informal communication, updates of prior written agreements, or any other subject appropriate to the implementation of 603 CMR 49.05.

(2) At any point after receipt of a report of bullying or retaliation, including after an investigation, the principal shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor. Notice shall be consistent with the requirements of 603 CMR 49.00 and established agreements with the local law enforcement agency. The principal shall document the reasons for his or her decision to notify law enforcement. Nothing in 603 CMR 49.05 shall be interpreted to require reporting to a law enforcement agency in situations in which bullying and retaliation can be handled appropriately within the school district or school.

(a) In making the determination whether notification to law enforcement is appropriate, the principal may consult with the school resource officer and any other individuals the principal deems appropriate.

(b) Nothing in 603 CMR 49.05 shall prevent the principal from taking appropriate disciplinary or other action pursuant to school district or school policy and state law, provided that disciplinary actions balance the need for accountability with the need to teach appropriate behavior.

(c) The principal shall respond to the incident as set forth in relevant provisions of the local plan consistent with 603 CMR 49.05.

(3) If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in the school district or school, the principal of the school informed of the bullying or retaliation shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

(4) Each school district and school shall include the requirements and procedures for communicating with the local law enforcement agency in the local plan.

49.06: Confidentiality of Records

(1) A principal may not disclose information from a student record of a target or aggressor to a parent unless the information is about the parent's own child.

(2) A principal may disclose a determination of bullying or retaliation to a local law enforcement agency under 603 CMR 49.05 without the consent of a student or his or her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of targets, student witnesses, and aggressors to the extent practicable under the circumstances.

(3) A principal may disclose student record information about a target or aggressor to appropriate parties in addition to law enforcement in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals as provided in 603 CMR 23.07(4)(e) and 34 CFR 99.31(a)(10) and 99.36. 603 CMR 49.06(3) is limited to instances in which the principal has determined there is an immediate and significant threat to the health or safety of the student or other individuals. It is limited to the period of emergency and does not allow for blanket disclosure of student record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

Regulatory Authority:

603 CMR 49.00: M.G.L. 71, §370, as amended by St. 2013, c. 38, and St. 2014, c. 86.

Board of Elementary and Secondary Education Meeting: July 25, 2022
Agenda Item: Proposed Technical Amendment to Regulations on
Notification of Bullying or Retaliation, 603 CMR 49.00

MOVED: that the Board of Elementary and Secondary Education, in accordance with M.G.L. c. 69, § 1B, and c. 71, § 37O, hereby authorizes the Commissioner to proceed in accordance with the Administrative Procedure Act, M.G.L. c. 30A, § 3, to solicit public comment on the proposed amendment to the Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00, as presented by the Commissioner. The proposed amendment would conform the regulatory definition of bullying to the statutory definition and also make non-substantive changes in formatting and numbering.



Jeffrey C. Riley
Commissioner

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

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MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Jeffrey C. Riley, Commissioner

Date: July 20, 2022
Subject: District and School Accountability System for 2022: Changes to Align with Regulatory Amendments

At the July 25, 2022 meeting of the Board of Elementary and Secondary Education (Board), I will recommend that the Board vote to approve changes to the Department's district and school accountability system. The modifications incorporate the changes allowed by our approved addendum to the ESEA Consolidated State Plan, which grants temporary flexibility around certain federal accountability reporting requirements for the 2021-2022 school year. The modifications also align with the amendment to state accountability regulations¹ that the Board approved at the [June 28, 2022](#) meeting.

Proposed Changes

In the fall of 2022, the Department proposes to produce some, but not all, of the information associated with annual district and school accountability determinations. Under this "accountability lite" model, we intend to publish district, school, and student group-level performance data for each of the approved accountability indicators, as well as certain normative measures (e.g., school percentiles) that will help districts, schools, the Department, and the public assess the performance of all districts and schools using common measures. The availability of this information will also continue to help communities and the state decide how to assign resources and other assistance.

Under the "accountability lite" model, we would not publish indicator targets, points for progress towards targets, progress ratings, or determinations of each district's and school's need for assistance or intervention. These aspects of the traditional accountability system would be reconsidered for future accountability reporting cycles.

¹ 603 CMR 2.03(11): **Commissioner's authority to suspend the reporting of measures and annual performance determinations for districts and schools** The Commissioner may, for good cause arising from the COVID-19 pandemic, direct the Department to suspend the reporting of any or all of the reported measures and annual performance determinations, as described in 603 CMR 2.03 (2)–(3), for school year 2021-2022.

Public Comment

As required by state regulation², the Department invited the public to comment on the changes to the district and school accountability system during the period from July 1, 2022 to July 15, 2022. The Department received 6 written comments during the public comment period. The most commented-on issue was the use of chronic absenteeism as an accountability indicator. Attached is a document summarizing the comments that were received, the individuals who submitted them, and the Department's responses.

Additionally, the Accountability and Assistance Advisory Council (AAAC) discussed the proposed changes to the system at their [March 2, 2022](#) and [June 1, 2022](#) meetings. In general, Council members signaled their support for the changes, given the many challenges that districts and schools continue to face as a result of the pandemic. At least one Council member encouraged the Department to maintain its regular accountability reporting practices and provide additional context and explanatory materials to stakeholders to use when interpreting the results.

Future System Changes

At the June meeting of the Board, members asked about the weighting of the achievement and growth indicators within the accountability system. As described in the attached summary document, the 2022 accountability results maintain a 3 to 1 ratio of achievement and growth. However, in response to comments from Board members regarding the weighting of these indicators, I intend to direct Department staff to conduct a study and present options for an alternative weighting of the achievement and growth indicators, which, if approved by the Board, would be implemented for the 2023 accountability determinations.

Rob Curtin, Chief Officer for Data, Assessment, and Accountability, will be at the Board meeting on July 25 to answer your questions.

Attachments:

- Summary of the District and School Accountability System
- Summary of Public Comment Received
- Motion

² 603 CMR 2.03(10)

Summary of Massachusetts' District and School Accountability System

Background

In 2018, the Massachusetts Department of Elementary and Secondary Education (DESE) began reporting accountability results under its new framework for district and school accountability and assistance, which was first approved by the Board of Elementary and Secondary Education (Board) in June 2018.

Accountability and the COVID-19 Pandemic

Due to the COVID-19 pandemic, the U.S. Department of Education (ED) invited states to apply for a waiver of the accountability requirements of the federal Elementary and Secondary Education Act (ESEA) for the 2019-2020 and 2020-2021 school years and the assessment requirements for the 2019-2020 school year. Massachusetts requested and received these waivers. As a result, DESE has not implemented all aspects of our statewide accountability system since fall 2019.

In December 2021, ED offered states another opportunity to request certain modifications to their accountability systems for the 2021-2022 school year via an addendum to the ESEA Consolidated State Plan. Massachusetts applied and received approval for its request to temporarily modify our accountability system for one year. Given the challenges of the last two years, we believe that the addendum provides us with the opportunity to reestablish the baseline for future accountability reporting using data from the 2021-2022 school year, while still meeting federal requirements.

Plans for 2022 Accountability Reporting

In the fall of 2022, DESE will produce some, but not all, of the information associated with annual district and school accountability determinations. Under this “accountability lite” model, we intend to publish district, school, and student group-level performance data for each of the approved accountability indicators, as well as certain normative measures (e.g., school percentiles) that help districts, schools, DESE, and the public assess the performance of all districts and schools using common measures. The availability of this information will also continue to help communities and the state decide how to assign resources and other assistance.

Under the “accountability lite” model, we will not publish indicator targets, points for progress towards targets, progress ratings, or determinations of each district’s and school’s need for assistance or intervention. These aspects of the traditional state accountability system would be reconsidered for future accountability reporting cycles.

Accountability System Elements

A description of each of the key elements that DESE will include in its district and school accountability results following the 2021-2022 school year is included below.

Accountability Indicators

Detailed district-, school-, and student group-level results will be reported for each of the following accountability indicators:

Indicator	Measure
Achievement	<ul style="list-style-type: none"> English language arts (ELA) achievement Mathematics achievement Science achievement
Student Growth	<ul style="list-style-type: none"> ELA mean student growth percentile (SGP) Mathematics mean SGP
High School Completion	<ul style="list-style-type: none"> Four-year cohort graduation rate Extended engagement rate (five-year cohort graduation rate plus the percentage of students from the cohort who are still enrolled) Annual dropout rate
English Language Proficiency	<ul style="list-style-type: none"> Progress made by students towards attaining English language proficiency (percentage of students meeting annual targets calculated to attain English proficiency in six years)
Additional Indicator(s)	<ul style="list-style-type: none"> Chronic absenteeism (percentage of students missing 20 percent¹ or more of their days in membership) Percentage of 11th & 12th graders completing advanced coursework (Advanced Placement, International Baccalaureate, Project Lead the Way, dual enrollment courses, Chapter 74-approved vocational/technical secondary cooperative education programs, and other selected rigorous courses)

In order to report indicator results for any district, school, or group, there must be data for at least 20 students.

Weighting of Accountability Indicators

Federal law requires that substantial weight be given to the achievement, growth, English language proficiency, and graduation rate indicators, and that when taken together, these indicators should have much greater weight than the additional indicators.

In June 2018, the Board approved DESE's proposal to use a 3 to 1 ratio of achievement to growth, consistent with the weightings shown in the tables below. By using this approach, DESE can ensure that the ratio of achievement to growth remains consistent, but allow for flexibility in the actual percentages where necessary (e.g., to accommodate districts and schools that have data for the English language proficiency indicator and those that do not). For 2022 reporting, DESE intends to apply the same

¹ The 2022 chronic absenteeism rate used in 2022 accountability results will include student who miss 20 percent or more of their days in membership. Chronic absenteeism rates for other years represent the percentage of student who missed 10 percent or more of their days in membership.

indicator weightings within the accountability calculations.² Note that at the high school level, the high school completion indicators are considered part of achievement when calculating the ratio of achievement to growth.

Accountability Indicator Weightings – Non-High Schools

Indicator	Measures	Weighting (3:1)	
		With EL	No EL
Achievement	<ul style="list-style-type: none"> • ELA, math, & science achievement 	60%	67.5%
Student Growth	<ul style="list-style-type: none"> • ELA & math SGP 	20%	22.5%
English Language Proficiency	<ul style="list-style-type: none"> • Progress made by students towards attaining English language proficiency 	10%	--
Additional Indicators	<ul style="list-style-type: none"> • Chronic absenteeism 	10%	10%

Accountability Indicator Weightings – High Schools & Middle-High/K-12 Schools

Indicator	Measures	Weighting (3:1)	
		With EL	No EL
Achievement	<ul style="list-style-type: none"> • ELA, math, & science achievement 	40%	47.5%
Student Growth	<ul style="list-style-type: none"> • ELA & math SGP 	20%	22.5%
High School Completion	<ul style="list-style-type: none"> • Four-year cohort graduation rate • Extended engagement rate • Annual dropout rate 	20%	20%
English Language Proficiency	<ul style="list-style-type: none"> • Progress made by students towards attaining English language proficiency 	10%	--
Additional Indicators	<ul style="list-style-type: none"> • Chronic absenteeism • Advanced coursework completion 	10%	10%

Normative Component

The 2022 accountability result for schools will consist of a normative component, or accountability percentile, which measures the performance of all students in a school compared to other schools in the state. This measure is reported as a percentile, from 1 to 99, which is calculated using all available

² The Commissioner intends to direct DESE staff to conduct a study and present options for an alternative weighting of the achievement and growth indicators, which, if approved by the Board, would be implemented for the 2023 accountability determinations.

accountability indicators for a school. Schools are grouped together based on the statewide assessments that they administer: *non-high schools*, serving a combination of grades 3 through 8; *middle-high and K-12 schools*, serving one or more grades 3 through 8 and grade 10; and *high schools*, where the only tested grade is grade 10. Within each grouping, each school's performance on each indicator is ranked and weighted according to the weighting rules described above. The resulting accountability percentile provides information about how a school is doing compared to other schools administering similar assessments.

For the purposes of accountability reporting, the accountability percentile is calculated only at the school level, for the *all students* group; it is not calculated at the district level.

In the calculation of the 2022 accountability percentile, DESE uses two years of data. Data from each year is weighted in the overall percentile calculation, placing more weight on data from the most recent year:

Measures	Year 1 (40%)	Year 2 (60%)
ELA, math, & science achievement	2019	2022
ELA & math SGP	2019	2022
Four-year cohort graduation rate	2020	2021
Extended engagement rate	2019	2020
Annual dropout rate	2020	2021
Progress made by students towards attaining English language proficiency	2020	2022
Chronic absenteeism	2019	2022
Advanced coursework completion	2021	2022

For the assessment and chronic absenteeism indicators, the calculation includes 2022 data and the most recently available pre-pandemic data (i.e., 2019 MCAS data, 2020 ACCESS data, and 2019 chronic absenteeism data). For all other indicators, the calculation includes the most recently available two years of data.

Student Group Reporting

To meet federal reporting requirements and to ensure transparency in our public reporting efforts, DESE reports accountability results at the student group level.

Accountability Student Groups

In addition to reporting results for each district or school as a whole, accountability results are reported for the following 11 student groups: American Indian or Alaska Native; Asian; African American or Black;

Hispanic or Latino; Multi-race, non-Hispanic or Latino; Native Hawaiian or Pacific Islander; White; low income students³; students with disabilities; current and former English learners (ELs); and high needs students (an unduplicated count of students who are low income, students with disabilities, and/or ELs and former ELs). In order to report data for a group, there must be results for at least 20 students.

Student Group Results

For each student group in a school, DESE calculates a student group percentile. The student group percentile measures the student group's relative standing compared to like student groups in the same gradespan grouping statewide (e.g., by comparing results from the students with disabilities group in one high school to all other students with disabilities groups in high schools statewide). The student group percentile is calculated using the same process as the normative accountability percentile described above: by ranking data from all available accountability indicators for each student group and combining them into a single, final percentile value, from 1 to 99. This allows DESE to identify schools in which the performance of the school as a whole may be masking the performance of one or more low performing groups. Student group percentiles are calculated only for schools; they are not calculated for districts.

Assessment Participation

State and federal laws require high levels of student participation in statewide assessments. For each district and school as a whole, assessment participation rates are calculated separately for ELA, mathematics, and science. At the group level, assessment participation is calculated for the group as a whole, with all subjects combined (e.g., measuring the percentage of individual ELA, math, and science tests combined taken by the group). This approach minimizes the effect of a small number of non-participants in small student groups. For 2022 accountability reporting, all districts, schools, and groups are expected to maintain a 2022 participation rate of 95 percent or higher.

Categorization of Schools

Most schools will not receive an overall accountability determination in 2022. However, schools that were previously identified as *underperforming* or *chronically underperforming* will maintain that designation until the Commissioner of Elementary and Secondary Education determines that their designation should be removed. Additionally, 2022 accountability reports for schools may contain the following information:

³ Since fall 2021, DESE no longer reports data for the economically disadvantaged student group and instead reports data for a [newly defined low income student group](#). In the 2022 accountability results, the 2022 data for accountability indicators includes students who meet the new definition of low income. Earlier data for accountability indicators includes who students who were previously identified as economically disadvantaged. This change also affects the high needs student group.

- If the school has one or more low performing student groups (one or more groups among the lowest performing 5 percent of like student groups statewide, as measured by the student group percentile);
- If the school has a low graduation rate (below 66.7 percent); and/or
- If the school as a whole or one or more of its student groups has low assessment participation rates (below 95 percent).

Consistent with state law and regulations, the Commissioner maintains the authority to name new *underperforming* or *chronically underperforming* schools.

Categorization of Districts

Most districts will not receive an overall accountability determination in 2022. However, districts that were previously named *chronically underperforming* will maintain that designation until the Board of Elementary and Secondary Education, upon the recommendation of the Commissioner, determines that their designation should be removed. Additionally, 2022 accountability reports for districts may contain information related to low assessment participation, if the district as a whole or one or more of its student groups has an assessment participation rate below 95 percent.

Consistent with state law and regulations, the Board maintains the authority to name new *underperforming* or *chronically underperforming* districts upon the recommendation of the Commissioner.

Federal Requirements

As a condition of approval of the 2021 accountability waiver, DESE must resume our practice of issuing federal designations in the fall of 2022 using data from the 2018-2019 and 2021-2022 school years.

Federal designations, which are incorporated into the state's accountability system, include:

- *Comprehensive Support and Improvement (CSI)*: The lowest performing 5 percent of Title I schools statewide, and any high school with a graduation rate below 66.7 percent
- *Targeted Support and Improvement (TSI)*: Any school with one or more student groups that are among the lowest performing 5 percent of student groups statewide for two consecutive years
- *Additional Targeted Support and Improvement (ATSI)*: Any TSI school with one or more identified student groups demonstrating performance below that of the 5th percentile Title I school

The Department has been assigning these designations to schools since 2018 and will continue to do under the "accountability lite" approach. With this approach, we can reset the baseline for future accountability determinations using data from the 2021-2022 school year while still fulfilling our federal reporting obligations and making basic information about school performance available to districts, schools, and the public.

Summary of Public Comments on Proposed Changes to the District and School Accountability System for 2022

Source: Correspondence received via email (6), July 1, 2022 – July 15, 2022

Individuals Submitting Public Comment	
<ul style="list-style-type: none"> • Shalimar Colon • Kristen Hughes • Amy Meehan 	<ul style="list-style-type: none"> • Susan Sauve • Sunil Jagannath • Alec Wyeth

Summary of Comments Received	Department's Response
Chronic absenteeism should not be included as an accountability indicator during a pandemic. (Hughes, Meehan)	No change. The Every Student Succeeds Act (ESSA) requires states to include at least one indicator of school quality or student success, and the Department's approved ESSA State Plan identifies chronic absenteeism as that indicator for all schools. However, to mitigate the impact of the pandemic on district, school, and student group chronic absenteeism rates in the 2022 accountability results, the Department is proposing to increase the threshold at which a student is considered chronically absent from 10 percent to 20 percent.
Measures of student attendance should not be included in the accountability system because attendance is outside of a school's control. (Sauve)	No change. See above.
Given the challenges of the pandemic, there should be flexibility around the chronic absenteeism indicator. (Colon)	No change. See above.
Given the impact of the pandemic on students, both academically and social-emotionally, the two years of data in the accountability system should be weighted equally at 50 percent. (Wyeth)	No change. The Department is proposing to maintain the same weighting of years as was used in the 2019 accountability determinations (i.e., weighting 2019 data at 40 percent and the 2022 data at 60 percent). In doing so, districts, schools, stakeholders, and the Department can make comparisons between the 2022 and 2019 school accountability percentiles, which would be calculated using a consistent weighting formula.

Summary of Comments Received	Department's Response
<p>The accountability system should give credit to students in grades 9 and 10 who complete advanced courses. (Jagannath)</p>	<p>No change. An historical analysis of Massachusetts course-taking data showed that the state's advanced course completion rate was higher when considering only students in grades 11 and 12 than when including students in grades 10 through 12. While some individual district rates may vary, trends in district-level rates were consistent as well. As such, the Department elected to limit the calculation to students in grades 11 and 12 within our current accountability system but may consider adjustments to this indicator in the future if the data support a change.</p>

Board of Elementary and Secondary Education Meeting: July 25, 2022
Agenda Item: District and School Accountability System for 2022

MOVED: that the Board of Elementary and Secondary Education, in accordance with Mass. General Laws c. 69, §§ 1A, 1B, and 1I, hereby approves the changes to the district and school accountability system for 2022 as recommended by the Commissioner. The changes align with the approved addendum to the ESEA Consolidated State Plan, which grants temporary flexibility around certain federal accountability reporting requirements for the 2021-2022 school year, and also align with the amendments to the accountability regulations, 603 CMR 2.00, that the Board approved in June 2022.



Jeffrey C. Riley
Commissioner

Massachusetts Department of Elementary and Secondary Education

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MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Jeffrey C. Riley, Commissioner

A handwritten signature in blue ink, appearing to read "Jeffrey C. Riley".

Date: July 20, 2022

Subject: Charter Schools: Delegation of Authority to Commissioner to Approve Proposed Contracts with Education Management Organizations for Community Day Charter Public School, Dudley Street Neighborhood Charter School, Excel Academy Charter School, and Old Sturbridge Academy Charter Public School

Under the charter school statute, G.L. c. 71, § 89(k)(5), the Board of Elementary and Secondary Education (Board) must approve contracts between charter schools and the entities from which they intend to procure substantially all educational services. The Board can delegate the approval of such contracts to the Commissioner under G.L. c. 15, § 1F, para. 3,¹ and has done so on several occasions. The review and approval typically occur during the summer months. I recommend that the Board vote at the July 25 meeting to delegate to the Commissioner approval of the contracts recently submitted by four charter schools.

The Community Day Charter Public School (CDCPS), Dudley Street Neighborhood Charter School (DSNCS), and Old Sturbridge Academy Charter Public School (OSACPS) are all seeking to update their existing management contracts due to recent renewals or amendments of their charters. All three schools have long-standing management relationships with non-profit organizations that provide substantially all educational services.

Additionally, a fourth school, Excel Academy Charter School, is entering into a new contract for substantially all educational services with the Friends of Excel Academy Charter School, Inc., a non-profit organization. Friends of Excel Academy Charter School, Inc., was originally formed to fundraise on behalf of the school and is now part of a larger strategic plan to expand the Excel Academy model outside of Massachusetts.

¹ Section 1F, para. 3, of G.L. c. 15 states as follows.

The board may delegate its authority or any portion thereof to the Commissioner whenever in its judgment such delegation may be necessary or desirable. The Commissioner shall exercise such delegated powers and duties with the full authority of the board.

Prior to approval, the Department of Elementary and Secondary Education (Department) reviews the technical and legal aspects of each proposed management contract and requires or recommends changes as appropriate. Each contract must include a delineation of the roles and responsibilities of the education management organization and the school; a description of how the board of trustees of the charter school will monitor the academic performance and fiscal activity of the school; performance evaluation measures, including those for student academic performance; the total fees for management services; a description of payment structures; delineation of authority over hiring and firing; and the conditions and procedures for the contract's renewal and termination.

Once provisional approval issues, the board of trustees of the charter school then votes to approve the contract and to submit an executed contract to the Department for final approval.

As in previous years, I recommend that the Board delegate to the Commissioner approval of the contracts following completion of my review. A motion for delegation is attached. If you have any questions or require additional information, please contact Alison Bagg, Director, at 781-338-3218; Cliff Chuang, Senior Associate Commissioner, at 781-338-3222; or me.

Board of Elementary and Secondary Education Meeting: July 25, 2022
Agenda Item: Charter Schools – Delegation to Commissioner to Approve
Proposed Contracts with Educational Management Organizations

MOVED: that the Board of Elementary and Secondary Education authorizes the Commissioner, in accordance with General Laws c. 15, § 1F, paragraph 3, to act on behalf of the Board in approving the management contracts for Community Day Charter Public School, Dudley Street Neighborhood Charter School, Excel Academy Charter School, and Old Sturbridge Academy Charter Public School as required by General Laws c. 71, § 89(k)(5), and 603 CMR 1.00. Such approval will follow a legal and technical review of each proposed contract and a vote by the charter school's board of trustees to approve such contract and to submit a request to amend its charter accordingly. Any such approval by the Commissioner shall also operate to amend the charters granted to Community Day Charter Public School, Dudley Street Neighborhood Charter School, Excel Academy Charter School, and Old Sturbridge Academy Charter Public School to include the approved management contract.



Jeffrey C. Riley
Commissioner

Massachusetts Department of Elementary and Secondary Education

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MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Jeffrey C. Riley, Commissioner

A handwritten signature in black ink, appearing to read "J.C. Riley".

Date: July 20, 2022
Subject: Delegation of Authority to Commissioner to take Necessary Action between Board Meetings

The next regular meeting of the Board of Elementary and Secondary Education (Board) is scheduled for September 2022. During the two-month hiatus, matters could arise that require Board action and that are not covered by the Board's previous delegations of authority, such as the delegation of grant approvals and certain charter school matters to the Commissioner. In a compelling situation, we would convene a special meeting of the Board. To deal with other situations, the Board may delegate authority to the Commissioner, in accordance with G.L. c. 15, §1F, paragraph 3, which reads as follows.

The board may delegate its authority or any portion thereof to the commissioner whenever in its judgment such delegation may be necessary or desirable. The commissioner shall exercise such delegated powers and duties with the full authority of the board.

I recommend that the Board vote to authorize the Commissioner to act on its behalf in approving any matters that are not otherwise covered by the Board's previous delegations of authority and that require Board action between July 25, 2022, and the next regular meeting of the Board in September 2022, provided that the Commissioner shall consult with the Chair and notify members in advance of any such action and shall report to the Board on any matters that have been so approved.

In previous years, the Board has voted to delegate such authority to the Commissioner. Enclosed is a motion for your consideration. If you have any questions, please contact General Counsel Rhoda Schneider or me.

Board of Elementary and Secondary Education Meeting: July 25, 2022
Agenda Item: Authorization to Commissioner to Approve Certain Matters

MOVED: that the Board of Elementary and Secondary Education authorizes the Commissioner, in accordance with General Laws c. 15, § 1F, paragraph 3, to act on behalf of the Board in approving any matters that are not otherwise covered by the Board's previous delegations of authority and that require Board action between July 25, 2022, and the next regular meeting of the Board in September 2022, provided that the Commissioner shall consult with the Chair and notify members in advance of any such action and shall report to the Board on any matters that have been so approved.

Board of Elementary and Secondary Education
Regular Meeting
July 25, 2022

PLACEHOLDER

Education Budget Update – Discussion