

# **An Act Relative to the Achievement Gap – Conference Report**

## **(S 2247)**

### **Underperforming and Chronically Underperforming Schools**

This conference report specifically addresses schools at Level 4 and Level 5 in the Department of Elementary and Secondary Education Accountability and Assistance System. In both of these types of schools, the planning process described below is open to the public and done in a collaborative manner with community participation. The goal is to encourage community collaboration and support for turnaround efforts in schools, recognizing the need to focus on what is happening outside the classroom that negatively affects students' academic performance.

The pool of schools eligible for Level 4 or Level 5 status consists of the lowest 20% of schools statewide as measured by student performance data. After July 1, 2011, improvement in student achievement will also be used as a way to determine the lowest 20%. The Department of Elementary and Secondary Education must develop a single measure which takes into account student performance data and improvement in academic achievement, and report on how the data will be used to designate level 4 and 5 schools and districts. At any given time, no more than 4% of the state's schools can be designated as Level 4 or Level 5. This means that of the 1,846 schools in the commonwealth, no more than 74 can be designated at any one time.

- **Underperforming Schools (Level 4)**

- Superintendents, with oversight by the Commissioner of Elementary and Secondary Education, are given the tools necessary to improve schools, before the state steps in at Level 5.
- If a collective bargaining agreement is reopened, a union and the school committee renegotiate in good faith for a period of 30 days, after which time the affected employees have 10 days to ratify the contract.
  - If there is no agreement or ratification, a dispute resolution committee will conduct a 10 day dispute resolution process. The committee is comprised of a school committee designee, a union designee and a conciliator from the American Arbitration Association, who must have professional experience in elementary and secondary education. If the dispute resolution committee cannot come to an agreement within 10 days, the Commissioner is authorized to resolve any outstanding issues.
  - Superintendents may also renegotiate the principal's contract.
  - When contracts are renegotiated, compensation and benefits cannot be reduced unless there is a proportionate reduction in hours.
- In an underperforming school, a teacher with professional teacher status may only be dismissed for good cause. If a teacher is terminated, the superintendent must provide written justification for the decision and the teacher may seek expedited arbitration. The arbitrator must take into account the components of the turnaround plan and any available personnel evaluations.
- As part of the turnaround plan requirements in level 4 and 5 schools, schools operating limited English proficient (LEP) programs are required to have an LEP parent advisory

council and are required to include alternative English language learning programs for LEP students.

- The conference report provides a process by which the Commissioner annually evaluates the superintendent's progress. At the yearly evaluation, the Commissioner may require changes to the turnaround plan to increase the school's pace of improvement.
- After one year, the Commissioner may choose an external partner to advise and assist the superintendent in the turnaround.
- After 3 years, the Commissioner may recommend Level 5 status, allow the superintendent to continue implementation of the plan, recommend an external receiver, or remove the school from Level 4 status.
- **Chronically Underperforming Schools (Level 5)**
  - The Commissioner develops the school's turnaround plan and sends in targeted assistance, gives the plan to the superintendent to implement, or appoints an external receiver to implement the plan.
  - Implementation is for 3 years, after which time the school's progress is reviewed.
  - The turnaround plan components are the same as at Level 4, with the exception of negotiations to reopen collective bargaining agreements. At Level 5, the Commissioner can unilaterally suspend provisions of a contract. Although, the Commissioner may allow parties to negotiate in good faith for 30 days.
  - A school must go through Level 4 before being designated a Level 5 school.

### **Chronically Underperforming Districts**

Districts that are chronically underperforming are at Level 5. These districts have failed to address widespread deficiencies for at least 2 consecutive years. The turnaround plan shall focus on multiple underperforming schools within the district.

- The lowest 10% of districts as measured by student achievement data and improvement in academic achievement are eligible for Level 5 status, and no more than 2.5% of districts at any given time can be designated as such. Consequently, of the 241 multi-school districts in the Commonwealth, no more than 6 can be designated as chronically underperforming at any one time.
- With regard to changes to collective bargaining agreements in level 5 districts, the process is the same as in level 4 schools, with the exception that the members of the joint resolution committee must reach a unanimous decision on the issues before them. If a unanimous decision is not reached within 10 days, the Commissioner will resolve any outstanding issues.
- For chronically underperforming districts, this conference report requires the Board of Elementary and Secondary Education to appoint a receiver to run the district and address the school(s) and policies that caused the district's chronic underperformance.

### **Charter School Caps**

The current charter school law contains the following caps: no more than 72 Commonwealth Charter Schools; no more than 48 Horace Mann Charter Schools; no more than 4% of the total statewide school population may be enrolled in charter schools; and no more than 9% of a district's net school spending can be sent to a Commonwealth Charter School. There are currently 7 Horace Mann Charter Schools and 55 Commonwealth Charter Schools.

- This conference report removes the cap on the statewide population that can be enrolled in a charter school, so there is no numeric limit on the number of students allowed to attend charter schools.
- This conference report lifts the spending cap on Commonwealth Charter Schools to 18% of net school spending in the lowest 10% performing districts, as measured by student performance data. This cap is phased in over time, increasing to 12% in fiscal year 2011 and increasing 1% each year thereafter until reaching 18%.
  - In the cap lift districts, any new schools created when the district is above 9% of net school spending do not count towards the number limit on the number of Horace Mann and Commonwealth Charters that may exist. All other schools count toward the 72 or 48 caps.
  - The conference report includes language for a district moving out of the lowest 10%: charter schools in existence are grandfathered and the net school spending cap remains at the level in place when the district is no longer scoring in the lowest 10% for two consecutive years (a new school may increase enrollment that has already been approved by the Board of Elementary and Secondary Education).

### **Horace Mann Charter Schools**

This conference report strikes a balance between the Senate’s approach to Horace Mann charter schools and the House’s in H 4423. Instead of allowing an unlimited number of Horace Mann charter schools to be created without union approval, as in the Senate’s version, this conference report allows only 14 Horace Mann charter schools statewide to be approved only by the school committee. Out of these 14, at least 4 must be in Boston.

This conference report requires that a Horace Mann charter school have a memorandum of understanding with the local school committee, defining the services and facilities to be provided by the district and the district’s funding of the charter school. Once a Horace Mann charter is granted for a new school, the teachers union must meet with the school committee to negotiate any changes to the collective bargaining agreement. If after 30 days, an agreement is not reached, the school may open, but the bargaining must continue. In the case of an existing school converting to a Horace Mann charter school, a majority of faculty in the school must approve any waivers or changes to the collective bargaining agreement.

### **Commonwealth Charter School Accountability**

This conference report addresses many of the concerns regarding Commonwealth Charter Schools with respect to the populations of students served, the application process, and requirements imposed by Commonwealth Charter Schools that are seen as a way to ease students out of the school.

- This conference report requires charter schools to develop recruitment and retention plans which include annual goals for recruitment activities, retention activities, and student retention in the school. Recruitment and retention activities are focused on attracting, enrolling, and retaining a student population that is academically and demographically similar to students in similar grades in the local school district. Progress on recruitment and retention efforts will be a factor for the Board of Elementary and Secondary Education to consider at the time of charter renewal.
  - For new charter schools created when a district exceeds 9% of its net school spending, there are more stringent recruitment and retention requirements. The recruitment and retention plans of these schools must focus on either limited English proficient students

or students requiring special education, as well as students from other categories, including low income, students at risk of dropping out, students who have dropped out, or other at risk students.

- Currently, some charter schools take children off an existing waitlist as a vacancy occurs in the school. However, some schools do not fill vacancies, with the result being that children never get off the waitlist to attend the school. This conference report requires charter schools to fill vacant seats in the first half of the grades offered by the school. For example, a K-8 charter school would be required to fill vacant seats in grades K-3. A K-12 charter school would be required to fill vacant seats in grades K-5. The only exception is for charter high schools which would not be required to fill vacant seats in grades 10, 11, or 12.
- Some charter schools enroll students from outside of the districts named in their charter. Under this conference report, if a charter school enrolls more than 20% of its students from outside such named districts for 2 years in a row, the school must amend its charter. Additionally, as part of the public hearing process when the Board is considering a charter school application, the Board must solicit and review comments from the school committees of the districts where the charter school is expected to enroll students, and from contiguous districts. This will help districts be aware that they may need to send tuition to charter schools in the future, and allow them to have a voice in the process. Any students currently enrolled in a charter school from out of district will be allowed to remain enrolled.
- The Department must provide to the Board a written summary of all evaluative materials used to make a recommendation on approval to the Board.
- This conference report imposes stricter reporting requirements of financial information, including an accounting of how the school has used public and private dollars, how the school spent its capital needs component, and the planned and past use of any surplus funds.

### **Commonwealth Charter School Funding and Facilities**

Currently, charter school tuition is paid for by the sending district, based on projected charter school enrollment. Tuition is made up of 3 components: per pupil foundation component, per pupil above foundation spending, and facilities aid. A district is reimbursed for its increased costs at the rate of 100% in the first year the cost is incurred, 60% in the second year, and 40% in the third year, for a total of 200%. Districts currently provide or pay for the transportation of charter school students.

- The tuition components have not been changed from current law. However, this conference report does increase the total reimbursement for districts, to 225%. A district will be reimbursed for its increased costs at the rate of 100% in the first year the cost is incurred, In the 2<sup>nd</sup> through 6<sup>th</sup> years of the increase, the district will be reimbursed 25% of the increase each year.
  - This reimbursement mechanism will be phased in, so that districts that are currently in the 100-60-40 model will continue with that model until reimbursement is paid out.
- The legislation imposes a cap on the amount of tuition that can be kept from one year to the next. Any public money over 20% of a charter school's operating budget and planned capital budget for the following school year is returned to the state and the district in proportion to the Chapter 70/local aid share. Excluded from the 20% calculation are the following: money used to save for a capital purchase, the 4<sup>th</sup> quarter tuition payment, and money necessary to guarantee a bank loan.

- This conference report requires charter schools that transport their students on their own to collaborate with the district on cost effective transportation measures.
- This conference report ensures that charter networks cannot transfer money between schools in different districts but allows for transfers between schools in the same district.
- In order to achieve efficiencies in providing services or making purchases, charter schools may become members of educational collaboratives and access bulk purchasing.
- If a district has a School Building Authority (SBA)-assisted facility that has excess capacity, before it is sold or leased, the district may make a good faith offer to sell or lease it at market price to a charter school in the district. If a charter school occupies the facility, the SBA will consider that use to remain in the definition of assisted facility, and may not seek to recoup payments from the district. This gives the district a financial incentive to collaborate with the charter school on excess space.

### **Innovation Schools**

This conference report creates Innovation Schools. These are district schools with increased autonomy and flexibility in all aspects of their operation (including curriculum, budget, staffing, professional development, schedule, and district policies). Any school in any district may take advantage of this new model, and the funding of these schools is the same as for any other school in the district.

- The school committee, superintendent and teachers union collaborate on the development of these schools.
- 2/3 of the affected faculty are required to approve the school's innovation plan in the case of a school conversion. In the case of a new school, the teachers union will negotiate (and, if necessary, arbitrate) contract modifications.
- Schools adopting this model may have an advisory board of trustees and engage in private fundraising.
- These schools may be created by a wide variety of groups and individuals, including: parents, teachers, superintendents, school committees and non-profit organizations.

### **American Flag**

The conference report represents a compromise requiring history and civic classes to study flag etiquette, the correct use and display of the flag, the importance of the electoral process and the provisions of 36 U.S.C. 170 to 177 (patriotic customs).

### **Regional School Transportation**

The conference report ensures that reductions to regional school transportation funding are not proportionately greater than reductions to chapter 70 funding.

### **Race to the Top Report**

The conference report requires the Department of Elementary and Secondary Education to report on the planned uses of federal Race to the Top grant funds within 6 months of receiving the funds.

### **Charter Out of State Study**

The conference report requires the Department of Elementary and Secondary Education to study the feasibility of allowing out-of-state students to attend charter schools within the Commonwealth.

**Adequacy Study**

The conference report includes compromise language that requires the Department of Elementary and Secondary Education, in consultation with various education personnel, advocacy organizations, and economic experts, to prepare a report on the status of the public education financing system of the Commonwealth.

**Growth Model Report**

The conference report requires the Department of Elementary and Secondary Education to report findings surrounding data on improvement in student achievement and how the data can be used to designate underperforming and chronically underperforming schools, chronically underperforming districts and districts targeted for a lift in the charter cap.

**Regional Superintendency Union**

The conference report allows a municipality, for the purpose of forming an Innovation School, to withdraw from its regional superintendency union by a majority vote of the school committee.