*****Massachusetts Department of***

***Elementary and Secondary Education***

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| Jeffrey C. Riley  *Commissioner* |  |

# MEMORANDUM

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| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:** | Jeffrey C. Riley, Commissioner |
| **Date:** | June 11, 2021 |
| **Subject:** | Delegation of Authority to Commissioner to take Necessary Action between Board Meetings, and to Approve a Proposed Contract with an Education Management Organization for UP Academy Charter School of Boston and UP Academy Charter School of Dorchester |

The Board of Elementary and Secondary Education’s (Board) next regular meeting is scheduled for September 2021. During the three-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.

**General delegation of authority to take necessary action between meetings**

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 June 22, 2021, and the next regular meeting of the Board in September 2021; provided that the Commissioner shall notify Board members in advance of any such action and shall report to the Board on any matters that have been so approved.

**Specific delegation of authority to take necessary action regarding a contract**

In addition, I recommend that the Board vote to authorize the Commissioner to approve the contract of UP Academy Charter School of Boston and UP Academy Charter School of Dorchester, upon satisfactory completion of my review. Under the charter school statute, G.L. c. 71, § 89(k)(5), the Board approves contracts between charter schools and the entities from which they intend to procure substantially all education services. Because both schools are Horace Mann charter schools, the board of trustees must also obtain approval of the local teachers union and the school committee for the new contract pursuant to G.L. c. 71, § 89(c) and (i)(1), and 603 CMR 1.10(4). UP Academy Charter School of Boston and UP Academy Charter School of Dorchester are in the initial stage of revising their education services contract and plan to complete that work over the summer. In similar situations involving other charter schools in previous years, the Board has voted to delegate the approval of such contracts to the Commissioner.

Prior to approval, the Department of Elementary and Secondary Education (Department) reviews the technical and legal aspects of the proposed management contract and may require or recommend changes as appropriate. The 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 fee paid for management services; a description of the payment structure; delineation of authority over hiring and firing; and the conditions and procedures for the contract's renewal and termination.

Once provisional approval is granted by the Department, the board of trustees of the charter schools then votes to approve the contract and to submit an executed contract to the Department for final approval by the Board or by the Commissioner, if authorized by the Board. As in previous years, I recommend that the Board delegate to the Commissioner approval of the contract following completion of my review.

Enclosed is a motion to delegate authority to the Commissioner as described above. If you have any questions, please contact General Counsel Rhoda Schneider or me.