# MEMORANDUM

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| **To:** | Commonwealth and Horace Mann Charter School Leaders, Charter School Admissions and Enrollment Coordinators, Business Managers, and District Data Coordinators  |
| **From:**  | Alyssa Hopkins, Assistant Director, Office of Charter Schools and School Redesign |
| **Date:**  | February 11, 2025 |
| **Subject:** | Regulatory Notification of 2025-2026 “At-Cap” and “Near-Cap” Sending Districts for Commonwealth Charter Schools: Guidance for FY2026 Pre-Enrollment |

The charter school regulations state that "the Department [of Elementary and Secondary Education] shall notify each Commonwealth charter school no later than February 15 of any limitation on the number of students from a district that may be enrolled in charter schools for the upcoming year." [603 CMR 1.05(6)(d)](http://www.doe.mass.edu/lawsregs/603cmr1.html?section=05).

This memo should be read and reviewed in tandem with the FY2026 Pre-Enrollment and Waitlist Submission and Instructions Memorandum distributed to all charter schools and posted on the Department’s website at [Pre-Enrollment and Waitlist Data - Massachusetts Charter Schools](https://www.doe.mass.edu/charter/enrollment/).

**Net School Spending Caps**

Limitations on Commonwealth charter school enrollment from a district are a result of the net school spending (NSS) caps established by the charter school statute ([G.L. Chapter 71, Section 89(i)(2)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89)).

* The charter school statute sets a limit on the amount of NSS that can be transferred from any single school district for payment of tuition to all Commonwealth charter schools. These are commonly referred to as “NSS caps.”
* Typically, the total amount of tuition transferred from a single school district to any Commonwealth charter schools for tuition payments may not exceed 9 percent of that district’s NSS.
* The charter school statute permits the amount of NSS transferred from any single school district for payment of tuition to all Commonwealth charter schools to exceed 9 percent (up to 18 percent) in those [school districts that perform in the lowest 10 percent](https://www.doe.mass.edu/charter/enrollment/CapIncrease/) of school districts on statewide student assessments. The calculation of caps for districts that have exited the lowest 10 percent of school districts is complicated by a number of provisions in the charter school statute, footnoted below.[[1]](#footnote-2)

Guided by the provisions of the charter school statute, the Department has determined the projected NSS caps for districts and the estimated seats (FTE) available for the 2025-2026 school year, under the relevant caps.[[2]](#footnote-3) All Commonwealth charter schools should use this guidance to plan for and conduct upcoming enrollment lotteries for the 2025-2026 school year. **Please use this information to clearly communicate enrollment constraints to applicants seeking admittance for the 2025-2026 school year.**

As more districts reach relevant NSS caps, Commonwealth charter schools face the possibility of proration of charter school tuition. Due to the mandatory language of the charter school statute, the Department has no discretion in determining the NSS cap and must ensure that district payments to charter schools do not exceed the relevant caps. The Department urges Commonwealth charter schools to carefully track enrollment of students from districts and the status of the district’s NSS caps. **Full charter school tuition cannot be guaranteed from districts projected to be at or near NSS caps, including exit cap districts.** Please see information below about tuition payment for siblings when admission of a sibling causes a district to exceed its NSS cap.

**Sub-caps**

For almost three decades, the Department has utilized sub-caps to limit enrollment from specific districts to assist charter schools in managing enrollment within NSS caps. A sub-cap is an administrative limit at a particular charter school on the number of students that can be enrolled from a particular district. The goal, when setting sub-caps, is to avoid proration of tuition while permitting Commonwealth charter schools to enroll students up to the relevant NSS caps. These sub-caps operate in a fashion similar to maximum enrollment limits. These sub-caps set limits for the total enrollment from relevant districts, but do not guarantee tuition for the specified number of students. The statutory NSS cap, however, is a limit on the amount of tuition that can be transferred to Commonwealth charter schools in total from that district. See *Table 4* for current sub-cap information for Commonwealth charter schools.

**Siblings and NSS caps**

Subject to appropriation, the Commonwealth pays tuition for siblings when enrollment of a sibling causes a district to exceed its NSS cap. The charter school statute specifies that the Commonwealth pays tuition for “siblings attending commonwealth charter schools to the extent that their attendance would otherwise cause the school district's charter school tuition payments to exceed 9 per cent of the school district's net school spending.” [G.L. c. 71, § 89(i)(2)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section89). If tuition payments from a district to Commonwealth charter schools do not exceed its NSS cap in any year, the district will resume payments for siblings who were previously admitted.

**FY2026 Projected NSS Cap Designations**

Using projected FY2026 enrollment numbers for charter schools, projected FY2026 tuition rates, and required FY2026 NSS figures, the Department’s Office of District and School Finance has calculated preliminary projections of each sending district's FY2026 charter enrollment against the 9 percent NSS cap, 18 percent NSS cap, or other relevant NSS cap.

**Given the data above and based on the Department's understanding of charter school growth plans for FY2026, the Department projects the number of "seats" (FTE) that will remain for charter school enrollment in each sending district after the FY2026 enrollment process has been completed.** Based on this analysis and depending on how many FTE seats remain before potential proration of tuition, the Department has determined that certain school districts are **"near-cap"** and **"at-cap"** districts. The Department has also identified districts that are **"exit-cap"** districts and **"approaching-cap"** districts.

Listed in *Table 1A and 1B*, at-cap districts are projected to have no seats remaining and may be subject to proration if actual, non-sibling and sibling enrollment differs from FY2026 estimates and projections. At-cap districts are projected to have charter tuition assessments at or above the relevant NSS cap.

Listed in *Table 1C and 1D*, exit-cap districts are projected to have limited seats due to changes in the NSS cap when the district exited the lowest 10 percent ranking.[[3]](#footnote-4) **Due to the limited number of seats available under the relevant NSS exit-cap and the risk of proration, only schools chartered to serve exit-cap districts may admit non-sibling students.**

Listed in *Table 2*, near-cap districts are projected to have very few seats remaining and may be subject to proration if actual, non-sibling and sibling enrollment differs from FY2026 estimates and projections. Near-cap districts listed in Table are projected to have fewer than 10 FTE seats remaining or within 0.80 percent of the relevant NSS cap.

In addition, the Department has identified, in *Table 3*, districts that are approaching-cap. These districts are projected to have some seats remaining but might also be subject to proration if actual FY2026 enrollment exceeds projections by the FTE remaining. These districts have either fewer than 25 FTE seats remaining or are projected to have charter tuition assessments above 7 percent of NSS or 16 percent of NSS.

**“Skip Over” for At-Cap, Near-Cap, and Exit-Cap Districts**

**In the case of at-cap districts**, those listed in Table 1A and 1B, **the Department will require** Commonwealth charter schools to follow three directives due to varying seat availability.

1. The Department **will require** all Commonwealth charter schools to skip over non-sibling applicants who reside in the district of **Saugus,** due to estimates that FY2026 projected enrollment will substantially exceed the NSS cap, which increases the likelihood of tuition proration. All Commonwealth charter schools with Saugus in their charter region are required to skip over non-sibling applicants who reside in Saugus. If charter schools do not follow this directive, assume tuition proration for Saugus enrollment in FY2026 budget projections.
2. In the case of other at-cap districts, the Department **will require** Commonwealth charter schools to skip over non-sibling applicants who reside in the districts of **Hadley, Nauset, Savoy, and Up-Island only if** the charter of the school[[4]](#footnote-5) **does not** include these districts. New non-sibling enrollment could lead to tuition proration [(603 CMR 1.05(10)(b))](http://www.doe.mass.edu/lawsregs/603cmr1.html?section=05).[[5]](#footnote-6)
3. All regional Commonwealth charter schools with **Hadley,** **Nauset,** **Savoy,** **and Up-Island in their charter region** **may** skip over non-sibling students who reside in the **at-cap districts** and who apply for enrollment. New non-sibling enrollment could lead to tuition proration [(603 CMR 1.05(10)(b))](http://www.doe.mass.edu/lawsregs/603cmr1.html?section=05).

**In the case of exit-cap districts**, those listed in Table 1C and 1D, **the Department will require** Commonwealth charter schools to follow two directives due to varying seat availability.

1. The Department **will require** Commonwealth charter schools to skip over non-sibling applicants who reside in the districts of **Boston, Brockton, Lowell, Malden, Randolph, or Worcester only if** the charter of the school **does not** include these districts. All regional Commonwealth charter schools with **Brockton or Randolph in their charter region** **may** skip over non-sibling students who reside in the **exit-cap districts** and who apply for enrollment. See exit-cap districts in Table 1C and 1D.

As has been the case in prior years, in accordance with [603 CMR 1.05(10)(b)](http://www.doe.mass.edu/lawsregs/603cmr1.html?section=05), the Department recommends that charter schools exercise the **option to skip over** students who reside in the **near-cap districts** and who apply for enrollment. See near-cap districts subject to a recommended skip over in Table 2.

Charter school tuition from any districts identified as near-cap, exit-cap, or at-cap for FY2026 may be subject to proration. The Department cannot guarantee full tuition for students residing in districts with an exit-cap or projected to be at or near NSS caps. In addition, the Department also cannot guarantee full tuition regardless of a school’s maximum enrollment or enrollment sub-caps. The Department will provide further guidance to charter schools that may be impacted by NSS cap designations for FY2026.[[6]](#footnote-7)

Please note that in the event that a sending district's tuition assessment exceeds the applicable percent NSS cap, the Department will prorate equally that district's tuition assessment among all charter schools enrolling students from that district.

If, during your school’s enrollment lottery, residents of a district subject to skip-over are selected, the school should place such applicants on its waitlist in the order in which they are selected. If seats become available or an individual student’s enrollment preference changes because of change in residence or sibling status, those students could be offered admission. All schools must maintain accurate waitlist information based on the outcome of a school’s lottery and admission of students from the waitlist.

Additionally, schools should communicate accurate information for families regarding the enrollment constraints for a specific district as determined by the Department and clearly explain admission practices, including those related to districts near or at the NSS cap, or with an exit-cap. Schools should inform families if they will be “skipping over” applicants from certain districts and placing them on the school’s waitlist. Schools should clearly indicate that placement on the waitlist permits the school to offer admission if a vacancy occurs during the school year and if the district is no longer at or near its NSS cap.[[7]](#footnote-8)

If you have questions regarding implementation of your enrollment policy or the guidance regarding implementation of skip over practices, please contact Brenton Stewart, Brenton.Stewart@mass.gov or 781-338-3214. Please direct any questions regarding NSS caps to Alyssa Hopkins, Alyssa.K.Hopkins@mass.gov or 781-605-4476.

**Table 1A: FY2026 At-Cap District – Mandatory Skip Over**

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| --- | --- | --- | --- |
| **Skip Over** | **At-Cap Districts** | **Reason** | **Action** |
|  |
| Skip Over Required for All Charter Schools |  Saugus | Over NSS cap | **Must** skip over non-sibling residents |
|  |
| Skip Over Required if District is **Not** Named in Charter Region | Hadley | At/Over NSS cap | **Must** skip over non-sibling residents |
| Nauset |
| Savoy (PK-6) |
| Up-Island (PK-8) |

**Table 1B: FY2026 At-Cap District – Recommended Skip Over**

|  |  |  |  |
| --- | --- | --- | --- |
| **Skip Over** | **At-Cap Districts** | **Reason** | **Action** |
| District is Named in Charter Region of Regional Charter School | Hadley | At/Over NSS cap | Regional schools chartered to serve these districts **may** skip over non-sibling residents[[8]](#footnote-9) |
| Nauset |
| Savoy (PK-6) |
| Up-Island (PK-8) |

**Table 1C: FY2026 Exit-Cap Districts – Mandatory Skip Over**

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| --- | --- | --- | --- |
| **Skip Over** | **Exit-Cap Districts** | **Reason** | **Action** |
| Skip Over Required if District is **Not** Named in Charter Region | Boston | Districts exited the lowest 10 percent ranking  | **Must** skip over non-sibling residents |
| Brockton |
| Lowell |
| Malden |
| Randolph |
| Worcester |

**Table 1D: FY2026 Exit-Cap Districts – Recommended Skip Over**

|  |  |  |  |
| --- | --- | --- | --- |
| **Skip Over** | **Exit-Cap Districts** | **Reason** | **Action** |
| District is Named in Charter Region of Regional Charter School | Brockton | Districts exited the lowest 10 percent ranking; seat availability varies | Regional schools chartered to serve these districts **may** skip over non-sibling residents |
| Randolph |

**Table 2: FY2026 Near-Cap Districts – Recommended Skip Over**

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| --- | --- | --- |
| **Near-Cap Districts** | **Reason** | **Action** |
| Conway (PK-6) | Fewer than 10 FTE estimated available or within 0.80 percent of NSS cap | All Commonwealth charter schools **may** skip over non-sibling residents |
| Edgartown (PK-8) |
| Florida (PK-8) |
| Hancock (PK-6) |
| Hudson (PK-12)\*∆  |
| Leverett (PK-6) |
| Nahant (PK-6)\* |
| New Salem Wendell (PK-6)\* |
| Pelham (K-6) |
| Petersham (K-6) |
| Provincetown (PK-8) |
| Rowe (PK-6) |
| Shutesbury (PK-6) |
| Tisbury (PK-8)**+** |
| Wales (PK-6) |
| Warwick (K-6) |
| Wellfleet (K-5)\*  |
| Whately (PK-6) |
| Worthington (PK-6)\*  |

∆District within 0.80 percent of NSS cap. Hudson Public Schools is projected to be at 8.6% NSS.

**\*** Districts new to the near-cap list for FY2026. All five districts were on the approaching-cap list in FY2025.

**+** District recategorized from at-cap in FY2025 to near-cap in FY2026 based on projections.

**Table 3: FY2026 Approaching-Cap Districts**

|  |  |
| --- | --- |
| **Approaching-Cap Districts** | **Why Identified?** |
| Bellingham∆ | Fewer than 25 FTE estimated available or within 2 percent of NSS cap | **No action required or recommended**We encourage schools to monitor enrollment trends as these districts are approaching-cap and may be subject to tuition proration if enrollment diverges from historical trends. |
| Brimfield |
| Cambridge∆ |
| Chesterfield Goshen |
| Clarksburg |
| Deerfield |
| Eastham |
| Erving |
| Farmington River |
| Hatfield |
| Hawlemont |
| Holland |
| Medford**\***∆ |
| Oak Bluffs |
| Orleans |
| Richmond |
| South Hadley∆ |
| Springfield∆ |
| Stoneham∆ |
| Sunderland |
| Truro |
| Westhampton |
| Williamsburg**\*** |

**\***Districts are recategorized from near-cap to approaching-cap based on projections.

∆Districts within two percent of NSS cap.
Note: Brookfield, Frontier, Sandwich, and Wrentham Public Schools are not identified as approaching-cap for FY2026.

**Table 4: Current Enrollment Sub-Caps for Commonwealth Charter Schools**

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| --- | --- | --- |
| **School Name** | **District** | **Sub-Cap** |
| Abby Kelley Foster Charter Public School | Wachusett Regional | 40 |
| Benjamin Banneker Charter Public School | Somerville | 10 |
| Brooke Charter School | Boston | 1960 |
| Excel Academy Charter School | Boston | 748 |
| Hampden Charter School of Science | Springfield | 560 |
| Holyoke Community Charter School | Chicopee | 125 |
| Marblehead Community Charter Public School | Nahant | 20 |
| Mystic Valley Regional Charter School | Everett | 300 |
| Mystic Valley Regional Charter School | Malden | 835 |
| Pioneer Charter School of Science | Everett | 400 |
| Pioneer Charter School of Science II | Salem | 8 |
| Pioneer Charter School of Science II | Saugus | 130 |

**Table 5: Regional Public School Districts for Reference (At Cap and Near Cap Only)**

|  |  |  |
| --- | --- | --- |
| **Public School District** | **Member Towns** | **Grades** |
| Nauset[[9]](#footnote-10) | Brewster, Eastham, Orleans, Wellfleet | 6-12 |

1. G.L. c. 71, § 89(i)(3) is as follows.

In any fiscal year, if the board determines based on student performance data collected pursuant to section 1I, said district is in the lowest 10 per cent of all statewide student performance scores released in the 2 consecutive school years before the date the charter school application is submitted, the school district's total charter school tuition payment to commonwealth charter schools may exceed 9 per cent of the district's net school spending but shall not exceed 18 per cent.

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If a district is no longer in the lowest 10 per cent, the net school spending cap shall be 9 per cent, unless the district net school spending was above 9 per cent in the year prior to moving out of the lowest 10 per cent in which case the net school spending cap shall remain at the higher level plus enrollment previous approved by the board. The department shall determine and make available to the public a list of the school districts in said lowest 10 per cent.

G.L. c. 71, § 89(i)(4) is as follows.

(4) Notwithstanding any general or special law to the contrary, if a district qualifying under paragraph (3) is no longer in the lowest 10 per cent, the net school spending cap shall be 9 per cent; provided, however, that if the board of elementary and secondary education previously approved a higher level of enrollment for a charter school in the district while the district was in the lowest 10 per cent, the net school spending cap shall remain at the level necessary to support such enrollment. This paragraph shall apply only to charter school enrollments approved before July 1, 2014. [↑](#footnote-ref-2)
2. These estimates are subject to change based on the Governor’s proposed state budget for the coming fiscal year. [↑](#footnote-ref-3)
3. While exit-cap districts are similar to at-cap and near-cap districts due to the limited seats available, the Department has added this designation to clarify the status of districts whose NSS caps were subject to an exit NSS cap determination after exiting the lowest 10 percent designation. [↑](#footnote-ref-4)
4. The districts specified in a school’s charter are a material term. Regional charter schools draw students from more than one district, as specified in the school’s charter. Non-regional charter schools draw students from the district in which the school is located. The districts in the charter of a school are indicated in a number of documents including, but not limited to, letters relating to renewal of charters or letters granting a charter amendment. [↑](#footnote-ref-5)
5. 603 CMR 1.05 (10)(b) In cases where the enrollment of a student, who is not a sibling of another currently enrolled student, from the waitlist would exceed the district charter tuition cap, the student should be skipped over but kept on the waitlist. In cases where the enrollment of a student who is a sibling of a student already attending a charter school would exceed the district charter school tuition cap, the sibling may be enrolled with the Commonwealth of Massachusetts providing tuition for the sibling, subject to appropriation. [↑](#footnote-ref-6)
6. Due to provisions in the charter school statute (G.L. c. 71, § 89(i)(3) and (4)) as well as the annual changes to the lowest 10 percent list, the Department will continue to work with districts and charter schools to ensure that rules regarding NSS caps are clearly understood and adequate notice is provided to all those affected. [↑](#footnote-ref-7)
7. It is highly unlikely that the list of districts at or near the NSS cap will change during FY2026. [↑](#footnote-ref-8)
8. Whether single district or regional charter schools, tuition proration would be applied to all schools if the relevant NSS cap were exceeded. [↑](#footnote-ref-9)
9. Truro Public Schools has a tuition agreement with Nauset Public Schools for grades 7-12. [↑](#footnote-ref-10)