



*LOWELL PUBLIC SCHOOLS*  
*155 Merrimack Street*  
*Lowell, Massachusetts 01852*

*Paul Schlichtman*  
*Coordinator of*  
*Research, Testing and Assessment*

*Tel: (978) 674-2129*  
*E-Mail:*  
*pschlichtman@lowell.k12.ma.us*

To: Jeannine M. Durkin, Acting Superintendent  
From: Paul Schlichtman, Coordinator of Research, Testing and Assessment  
Subject: Response to Charter School Motion by Councilor Kennedy  
Date: August 30, 2018

This report is written in response to the following Lowell City Council motion by Councilor Edward Kennedy:

*“Request the Superintendent of Schools Provide The City Council With A Report Explaining Why The Lowell School District Is Subject To An Increase In The Charter School Cap Relative To MGL Ch. 71 Sect. 89 Paragraphs 2 And 3”.*

In January 2010, prompted by the promise of additional funding through the federal Race to the Top program, the Massachusetts legislature enacted legislation that raised the charter school cap on the lowest ten (10) percent of districts, based on statewide student performance scores. Districts determined to be among the “lowest ten (10) percent” in two (2) consecutive years were subject to a cap of eighteen (18) percent of net school spending, instead of the statutory cap nine (9) percent cap that applied to all districts prior to 2010 (MGL Ch. 71 Sec. 89 (i)(3)).

In any fiscal year, if the board determines based on student performance data collected pursuant to section 1I, said district is in the lowest ten (10) percent of all statewide student performance scores released in the two (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 nine (9) percent of the district's net school spending, but shall not exceed eighteen (18) percent.

When this provision was implemented, the list of “bottom ten (10)” districts proved to be highly correlated to the districts with the greatest number of high needs students. The law generated considerable criticism, as achievement scores are highly correlated to poverty rates and the percentage of English Learners. Thus, the provisions of the 2010 law targeted large, urban districts. Lowell was among the districts with demographics that resulted in being designated as a “bottom ten (10)” district on the lists published by Department of Elementary and Secondary Education (DESE) for the purpose of calculating caps for the 2013-14, 2014-15, and 2015-16 school years.

In an effort to correct the demographic bias on the “bottom ten (10),” Commissioner Mitchell Chester recommended an adjustment to the formula used to select these districts. The Massachusetts Board of Elementary and Secondary Education adopted the Commissioner's

recommendations in 2014, revising the formula by including student growth scores as 25% of the overall calculation. Following the formula change, Lowell moved off the list of "bottom ten (10)" districts. Lowell was excluded from the list of "bottom ten (10)" districts, published for the purpose of calculating caps, for the 2016-17, 2017-18, and 2018-19 school years.

**What happens when a district moves off the "bottom ten (10)" list?**

State law (MGL Ch. 71 Sec. 89) creates two specific provisions for districts that were sanctioned as a "bottom ten (10)" district in the past, but are no longer on the list. Both apply to Lowell, but the second provision appears to be driving Lowell's expanding charter school liability.

(i)(3) If a district is no longer in the lowest ten (10) percent, the net school spending cap shall be nine (9) percent, unless the district net school spending was above nine (9) percent in the year prior to moving out of the lowest ten (10) percent 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 ten (10) percent. (i)(4) Notwithstanding any general or special law to the contrary, if a district qualifying under paragraph three (3) is no longer in the lowest ten (10) percent, the net school spending cap shall be nine (9) percent; 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 ten (10) percent, 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.

The first provision, preserving the higher spending cap, is the basis for the most recently published cap (Fiscal Year 2018) of \$25,692,513, and the resulting 2186.38 Full Time Equivalent (FTE) students that is 12.94% of the FY18 Projected Budgeted Net School Spending for the city (\$198,581,798). The second provision applies to the Collegiate Charter School of Lowell. The charter was granted in 2012, following the enactment of the 2010 law and prior to the July 1, 2014 date referenced in (i)(4). The charter authorized 1,200 seats, and the charter school has the right to fill those seats as they grown into a K-12 school as the law specifically states "the net school spending cap shall remain at the level necessary to support such enrollment." The state reports that Collegiate Charter projects to enroll 843 students, including 753 students from Lowell, in grades K-8 for the 2018-19 school year. Under the terms of their charter, Collegiate Charter is entitled to add another 357 students over the next four years. As Lowell students currently occupy 89.3% of the seats at Collegiate Charter, we could project that when Collegiate Charter builds out to a K-12 school in 2022, 320 more students will be enrolled from Lowell with an additional liability of \$3.76 million (based on FY18 tuition rates).

Reaching the cap in 2022 also has implications for charter school reimbursements. The law (M.G.L. c.71 § 89 (gg)) pertaining to charter school reimbursement states:

"Any district whose total charter school tuition amount is greater than its total charter school tuition amount for the previous year shall be reimbursed by the commonwealth in accordance with this paragraph and subject to appropriation; provided, however, that no funds for said reimbursements shall be deducted from funds distributed pursuant to chapter 70. The reimbursement amount shall be equal to 100 percent of the increase in the year in which the increase occurs and 25 percent in the second, third, fourth, fifth and sixth years following".

This account is subject to appropriation by the legislature, and is traditionally underfunded. When this happens, the department's stated "priority order of funding is facilities aid first, private, home school, and sibling pupils second, and increased tuition aid last." DESE reports that, "for FY19, The Conference Committee budget allocates \$90,000,000 in charter aid. This funding covers one hundred (100) percent of Facilities Tuition aid and thirty-five (35) percent of Increased Tuition aid (Chapter 46 Aid)."

	FY16	FY17	FY18	FY19
Charter Enrollment (FTE)	1,489.98	1,641.00	1,762.00	1,857.00
Tuition	\$18,313,404	\$19,901,774	\$21,997,553	\$24,059,562
Facilities Aid	\$1,306,099	\$1,437,608	\$1,558,699	\$1,658,301
Chapter 46 Aid	\$2,148,117	\$1,278,786	\$1,396,972	\$1,184,562
Total Aid	\$3,454,216	\$2,716,394	\$2,955,671	\$2,842,863
Net Cost to District	\$14,859,188	\$17,185,380	\$19,041,882	\$21,216,699

Chapter 46 Aid is targeted to districts with an increasing charter school enrollment. One year after Collegiate Charter builds out, assuming full funding, Lowell will lose the bulk of this reimbursement in the following year, as the highest rate of authorized reimbursement (100% of increased cost) only applies to the first year following the growth in enrollment. Trailing reimbursements of 25% of increased costs (when funded) is authorized in in years 2-6.

### Underlying calculations

In preparing for a new school year, DESE calculates the charter school cap for Massachusetts districts. This calculation is primarily for the purpose of advising charter operators if a city or town is at or near the cap. The state's calculations for Lowell for FY18 (the 2017-18 school year) are highlighted below.

**Projected Budgeted FY18 Net School Spending:** **\$198,581,798**  
**Average Per Pupil Tuition Rate** **\$11,751**

Lowell Charter Funding (FY18)	FY 18 Tuition	Students (FTE)
Nine Percent Cap	\$17,872,362	1520.90
FY18 Enrollment (10.39% of NSS)	\$20,639,511	1756.38
FY18 Cap (12.94% of NSS)	\$25,692,513	2186.38

The Nine (9) Percent Cap is calculated by finding 9% of the Projected Budgeted FY18 Net School Spending:  $\$198,581,798 * 0.09 = \$17,872,362$

The number of students that can be served under the Nine (9) Percent Cap is calculated by dividing the FY18 Tuition by the Average Per Pupil Tuition Rate:  $\$17,872,362 \div \$11,751 = 1520.90$

The actual FY18 tuition is \$2,767,149 above the 9% cap, but \$5,053,002 below the expanded cap of 12.94% of Net School Spending.

The actual FY18 enrollment of 1756.38 is 235.48 FTE above the 9% cap, but 235.48 FTE below the expanded cap of 12.94% of Net School Spending.

**Collegiate Charter School of Lowell** is authorized to be a K-12 school, with an eventual enrollment of 1200 students. The school is adding one (1) grade each year. In 2018-19, the school is adding an eighth grade. The current eighth grade will move up to twelfth grade, and complete the build-out, in the 2022-23 school year. Currently, 89.3% of the seats are occupied by students from the City of Lowell.

<b>School Year</b>	<b>Enrollment (October 1)</b>
2013-14	272
2014-15	340
2015-16	499
2016-17	646
2017-18	759
2018-19 (Projected by DESE)	843
2022-23 (Build out to K-12, authorized)	1200