MEMORANDUM

To: Commonwealth Charter School Leaders and Business Managers
From: Alison Bagg, Director of Office of Charter Schools and School Redesign
Date: March 2, 2018
Subject: Additional Guidance for Commonwealth Charter Schools Regarding Districts at the Net School Spending Cap (Edgartown, Everett, Lynn, Malden, Marlborough, Randolph, Salem, and Up-Island)

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). On February 15, 2018, all Commonwealth charter schools received notification (2018-2019 Pre-Enrollment, NSS "Near -Cap," and Waitlist Data Information) regarding districts that are near or at net school spending caps (NSS) for charter school tuition for Fiscal Year (FY)2019.1 This memorandum provides additional guidance and clarification to Commonwealth charter schools regarding the impact of this notification on upcoming lotteries and enrollment decisions for FY2019.

Charter school tuition from districts identified as “near-cap” or “at-cap” for FY2019 may be subject to proration. In the February 15 notification, the Department of Elementary and Secondary Education (Department) identified several districts where new non-sibling enrollment for FY2019 will be subject to recommended or mandatory “skip-over” in order to prevent exceeding the relevant district’s NSS cap and to minimize potential proration among charter schools enrolling students from that district.2 The Department cannot guarantee full

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1 The Commonwealth’s fiscal year begins on July 1 and ends on June 30 of the calendar year that is the indicated fiscal year. In other words, FY2019 is July 1, 2018, through June 30, 2019.
2 In the event the total tuition assessment from a district to Commonwealth charter schools exceeds the applicable NSS cap, the Department prorates the per pupil tuition for all students from that district who attend Commonwealth charter schools. Excepted from this proration are siblings who attend under G.L. c. 71, § 89(i)(2) (“The commonwealth shall incur charter school tuition payments 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 or 18 per cent for those districts that qualify under said paragraph (3).”).
tuition for students residing in districts 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.

If, during the enrollment lottery, residents of a “near-cap” or an “at-cap” district 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 town as determined by the Department and clearly explain admission practices, including those related to districts near or at the NSS 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.³

**Districts Near the NSS Cap**

As has been the case in prior years, in accordance with 603 CMR 1.05(10)(b), 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 Figure 1.

| Near Cap Districts with Recommended Skip Over - Figure 1 |
|-----------------|---------------|
| LEA  | DISTRICT |
| 98   | FLORIDA     |
| 670  | FRONTIER   |
| 117  | HADLEY     |
| 121  | HANCOCK    |
| 685  | HAWLEMTON  |
| 135  | HOLLAND    |
| 154  | LEVERETT   |
| 221  | OAK BLUFFS |
| 230  | PELHAM     |
| 234  | PETERSHAM  |
| 242  | PROVINCETOWN |
| 249  | RICHMOND  |
| 253  | ROWE      |
| 263  | SAVOY     |
| 296  | TISBURY   |
| 327  | WESTHAMPTON |
| 337  | WHATELY  |
| 340  | WILLIAMSBURG |

³ It is highly unlikely that the list of districts at or near the NSS cap will change during FY2019.
**Districts at the NSS Cap with Mandatory “Skip Over”**

Because districts in Figure 2 have reached the NSS caps, the Department is now requiring Commonwealth charter schools to skip over applicants who reside in the districts based upon two considerations. The districts of Edgartown, Everett, Marlborough, and Up-Island are projected to exceed the relevant NSS caps in FY2019. In accordance with [603 CMR 1.05(10)(b)](https://www.mass.gov/regs/603-cmr-1-05), Commonwealth charter schools must skip over non-sibling applicants who reside in Edgartown, Everett, Marlborough, and Up-Island in Commonwealth charter school lotteries.

Additionally, to minimize proration of charter school tuition, the Department is now requiring Commonwealth charter schools to skip over applicants who reside in the districts of Lynn, Malden, Randolph, and Salem if the charter of the school does not include these districts. In accordance with [603 CMR 1.05(10)(b)](https://www.mass.gov/regs/603-cmr-1-05), Commonwealth charter schools must skip over non-sibling, resident applicants who reside in Lynn, Malden, Randolph, and Salem if the charter does not include these districts.

**Admission of Siblings**

The Commonwealth pays full tuition for siblings when the admission of a sibling causes a district to exceed the NSS cap. The Commonwealth continues paying full tuition for such sibling until it is no longer the continued attendance of the sibling that is causing the district to exceed its NSS cap. The charter schools 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). If tuition payments from a district to Commonwealth charter schools do not exceed its NSS cap in any year, tuition is again transferred from the district and the Commonwealth no longer pays tuition itself for siblings who were previously admitted.

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4 The Department has revisited the calculation of Malden’s NSS cap to provide a new preliminary estimate for Malden and for Mystic Valley Regional Charter School. With the exception of Mystic Valley Regional Charter School, the only school with Malden in its charter, the revised cap requires all Commonwealth charter schools to skip over applicants who reside in Malden who are not siblings of students currently attending the school.

5 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.
The Department will require all Commonwealth charter schools who enroll students from districts currently identified as at or near NSS cap (Figures 1 and 2) to identify these new siblings offered admission for FY2019 and provide this information to the Department by April 1, 2018. The Department will distribute templates to schools no later than March 9, 2018. The templates will collect student name, SASID, date of birth, town of residence, grade of entry, and date of enrollment offer.

If you have questions regarding implementation of your enrollment policy or the guidance regarding skip over practices, please contact Brenton Stewart, bstewart@doe.mass.edu or 781-338-3214. If you have questions regarding submission of sibling information after admission, please contact Joanna Laghetto, jlaghetto@doe.mass.edu or 781-338-3221.