



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

December 14, 2021

The Honorable Charles D. Baker
Governor of the Commonwealth
Massachusetts State House, Room 200
Boston, MA 02133

Dear Governor Baker:

We write to express our opposition to the establishment of the “Innovators Charter School” (“ICS”), which proposes to enroll students in grades 6-12 from New Bedford and Fall River. Our intent is not to challenge your administration’s general support for charter school expansion in the Commonwealth or to assert the standard arguments against the very idea of charter schools. When it comes to charter school proposals or other major educational initiatives, the primary question for each of us has been whether it will best serve the interests of all students. This approach has led us to support other charter school proposals, but not this one. We are convinced that this particular application should be rejected because the school’s projected costs would unduly constrain our ability to deliver core municipal services, maintain an affordable residential tax rate for populations that are among the poorest in the state, and provide the necessary support for our districts’ high-needs students.

New Bedford and Fall River Lack the Financial Capacity to Absorb More Charter Seats

ICS’s application, which is being advanced by a group with previous ties to the Fall River Public Schools, proposes to enroll 735 students in grades 6-12, who would be drawn from New Bedford and Fall River. ICS’s application emphasizes a STEM-based curriculum, and the school would offer an “early college” enrollment program at UMass-Dartmouth and Bristol Community College, an opportunity it asserts is unavailable to district students. A site for the school has not been publicly identified, but the application states that the proponents are seeking a location in New Bedford. Of the twelve members of ICS’s proposed governing board, one resides in New Bedford, and one in Fall River.

ICS’s “Regional” Proposal is Aimed at Securing New Bedford’s Available Charter Seats

ICS’s decision to include New Bedford in its application, despite its proponents’ attenuated connection to the city, is attributable to the availability of charter school seats in

New Bedford. As you know, state law establishes a limit on the amount of funds that a school district may be required to transfer to charter schools, which is equal to nine percent of the district's net school spending level. If the district is ranked in the lowest ten percent statewide in MCAS performance, however, the "charter cap" for the district would instead be set at eighteen percent.¹ Both New Bedford and Fall River are ranked in the lowest ten percent of districts in MCAS performance, but Fall River devotes a larger share of its school budget to charter tuition than New Bedford. Fall River has fewer than 250 seats available under the charter cap, far lower than ICS's enrollment targets.

Unable to rely on enrollment only from Fall River and lacking a base of community support in New Bedford sufficient to establish a school only for New Bedford students, ICS's proponents have proposed an end-around the problem, a "regional" school that includes New Bedford and Fall River, but none of the suburbs in between. Styling their application this way would enable ICS to tap into New Bedford's larger pool of available charter seats, so that the school could achieve its intended scale.² It also explains why it intends to locate the school in New Bedford. Far fewer New Bedford students would otherwise enroll in a school located some fifteen miles away in Fall River. The proponents no doubt recognize that the Board of Elementary and Secondary Education, which has no members from Southeastern Massachusetts, may not fully appreciate just how contrived the "regional" label is, whereas it is plain to us.

The School's Costs Would Compound Those of Charter Schools Still Being Built Out

ICS would come with massive costs to the sending districts. We believe that given a New Bedford area location, and the fewer available charter seats limits in Fall River, it would be reasonable to assume that approximately one third, or roughly 250, of the students would come from Fall River. Under this scenario, and assuming current rates of charter "reimbursement" from the state, the school would draw down Fall River's budget by approximately \$4 million upon full build out. As set forth in the following table, in New Bedford, the impact would be roughly double.

¹ A recently enacted law freezes in place the lowest ten percent ranking through the 2024-25 school year. See Chapter 29, Section 59 of the Acts of 2021. Ostensibly intended as a way of holding districts "harmless" during the pandemic for charter seat eligibility, its effect on the districts in the lowest ten percent ranking at the time of enactment is quite the opposite. It establishes a legal fiction; that is, no matter how much one of the districts already in the bottom-decile improves or where it actually ranks, it will be treated as though it were in the bottom ten percent – hardly fair to that group, which is comprised mainly of the districts hardest hit by the pandemic.

² The Department of Elementary and Secondary Education also has established a preference in the application process for charter applicants that serve students from more than one district.

Innovators Charter Proposal Fiscal Impact Analysis							
	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027	2027-2028	2028-2029
Additional Students							
Initial Year:	315	105	105	105	105	105	105
Previously Added:	0	315	420	525	630	630	630
Total ICS	315	420	525	630	735	735	735
Less (FRPS #)	80	120	160	200	240	240	240
Total NB ICS:	235	300	365	430	495	495	495
Est Per Pupil Foundation	\$14,447	\$15,374	\$16,140	\$16,834	\$17,493	\$18,018	\$18,558
Tuition total	\$3,394,991	\$4,612,138	\$5,891,123	\$7,238,508	\$8,659,035	\$8,918,806	\$9,186,370
Facilities Aid	\$220,430	\$281,400	\$342,370	\$403,340	\$464,310	\$464,310	\$464,310
Above Fdtn (TBD)	0	0	0	0	0	0	0
Transportation	109,510	139,800	170,090	200,380	230,670	237,590	244,718
Total ICS cost	\$3,724,931	\$5,033,338	\$6,403,583	\$7,842,228	\$9,354,015	\$9,620,706	\$9,895,398
Charter Reimbursement ICS:	\$2,793,698	\$2,657,524	\$2,308,375	\$1,959,169	\$2,045,337	\$878,367	\$482,516
ICS Net Cost	\$ 931,233	\$ 2,375,814	\$ 4,095,209	\$ 5,883,059	\$ 7,308,678	\$ 8,742,339	\$ 9,412,882
Alma Expansion Net Cost	\$ 6,761,903	\$ 7,864,848	\$ 8,100,794	\$ 8,343,818	\$ 8,594,132	\$ 8,851,956	\$ 9,117,515
Total Net Charter Expansion	\$ 7,693,136	\$ 10,240,662	\$ 12,196,003	\$ 14,226,877	\$ 15,902,810	\$ 17,594,295	\$ 18,530,397
NSS %	12.08%	13.04%	14.01%	14.97%	15.94%		

The chart also depicts the cumulative impact of ICS and Alma Del Mar charter school in New Bedford, whose expansion was approved just two years ago. Alma's expansion is still unfolding, and its pressure on the city's finances is intensifying. Upon full buildout, ICS and Alma together would account for at least 1100 new charter seats. We are unaware of a Massachusetts school district that has been hit so suddenly with charter expansion this large as a share of total district enrollment.

Neither City has the Excess Levy Capacity to Compensate for the Loss of Scale

We acknowledge that whenever a new charter school is proposed, it is expected that representatives of the sending district will object on the grounds that the school would divert resources from the district. Champions of charter expansion on the other hand would point out that because district funds "follow the child" out of the district to the charter school, per pupil spending in the district does not decrease. The reality is more nuanced, however, than these sound bites of the charter school debate would suggest.

When district students leave for new charter schools, the cost of running the district tends to remain the same. Charter schools typically pull students from across several existing district schools, rather than from a concentrated area. Classroom sizes and bus capacity in the district may shrink as a result, but not nearly enough to eliminate classes or bus routes. The district must still pay the same teachers and bus drivers, along with all the other attendant costs. Without the revenue associated with the students who left for the charter school, the district must do the same work with fewer resources. By thus reducing the district's economies

of scale, the introduction of more charter seats forces districts to cut back services; that is, unless the municipality has the financial capacity to backfill the lost resources.³

Some cities can absorb the cost of new charter schools without compromising their commitment to the vast majority of students who remain in district schools, and some cities cannot. This is where the charter school policy in Massachusetts, which does not adequately factor a municipality's financial capacity into its decisions on charter school applications, runs up against the divergent economic circumstances of Greater Boston and the state's other regions. For many of the municipalities in Greater Boston, a metropolitan area that has prospered as much as any in the country over the last several decades, resources are in relative abundance. The City of Boston itself, with its massive commercial tax base, has absorbed the introduction of thousands of charter seats, yet it still maintains a high level of municipal services and a AAA bond rating, funds its district schools at per pupil levels much higher than most cities in the state, and holds the lid on residential property rates.

The same cannot be said for New Bedford and Fall River, and perhaps other Massachusetts cities outside of Greater Boston. After decades of contraction in our manufacturing-based economies, our ability to muster additional resources to replace revenue lost to a charter school is severely limited. In the last decade, both cities routinely have funded their school departments at or below the foundational levels -- the bare minimum required under state law -- a fact that neither of us, with our deep personal ties to our school districts and commitment to educational improvement, takes any delight in acknowledging.

If ICS's application were granted, neither New Bedford nor Fall River could adequately backfill the resources lost to their school districts. Raising taxes is not a viable option. In both cities, the ratios of the average property tax bill to median household income are among the highest in the state. In New Bedford, from 2015 to 2021, the average single family tax bill increased by 34%, while income per capita only went up 21.7%. Meanwhile, the commercial tax rates in both cities are also among the highest in the state.

Increasing the tax burdens on residents and small businesses is a troubling proposition, but we wouldn't be permitted to do it anyway. The cities are so strapped financially that they are legally constrained by Proposition 2^{1/2} from raising taxes enough to make up what would be lost to the proposed charter school. Among Massachusetts municipalities, New Bedford and Fall River rank near the bottom in available levy capacity, which represents the percentage by which a municipality may raise taxes over the 2.5% limit. New Bedford's excess levy capacity stands at \$3 million and Fall River's stands at approximately \$4.5 million, small fractions of the cities' school budgets. Both cities would promptly exhaust this capacity in the new charter's

³ The state charter reimbursement formula is specifically meant to address this problem. It is widely accepted now that the formula has not been funded at levels that would meaningfully help districts absorb the impact of new charter costs. Nevertheless, we have included the projected reimbursement in the cost projections table, above.

first two years of operation. The bottom line is that we are tapped out in our ability to raise taxes to offset the impact of the proposed charter school.⁴

Additional Funding from the Student Opportunity Act Will Not Reach District Students

That leaves the theoretical possibility of cutting municipal services to fund lost school resources. In both our cities, the operating costs of city government represent less than 25% of the operating budget, compared to the school departments, which stand at approximately 50%. The difference in relative budget shares underscores the reality that cuts to any one of over two dozen operating departments in each city could not contribute materially to the school department budget. In fact, the incremental annual cost of the new charter school would exceed the annual budget of all but one of our non-public safety operating departments. If we eliminated, for instance, the entire library systems of our cities, it still would not be enough to backfill the loss to the school departments attributable to the new charter school.

Even partially backfilling the loss is unrealistic. Both cities have made significant cuts across the board to city services in the last decade, including in public safety, which is ordinarily the last place for cities to impose cuts. The total number of police officers and fire fighters in both cities has been reduced by more than ten percent in the last decade. It's only gotten worse in the pandemic. Both cities have had to use one-time funds to balance their operating budgets. Last year, New Bedford eliminated 38 positions, including nineteen in public safety, and closed a police station and senior center.

The practical effect of not having a financial backstop will intensify the austere conditions of both school districts. The superintendents predict that they will be forced to forego or eliminate spending in key areas, especially for wrap-around services for students with social and emotional needs, and the hiring of English Language Learner teachers for the cities' growing Hispanic populations. The reality is that neither district has been able to muster sufficient support services for their high-needs students in their cities, and the introduction of this new charter school likely will result in actual cuts to those services.

The recently enacted *Student Opportunity Act* was meant to provide relief from these pressures. The impetus for the Act was the state's acknowledgement that some school districts do not have the financial wherewithal to provide their neediest students with equitable educational opportunities. The funding increase to New Bedford and Fall River from the Act would largely be offset by the introduction of this one charter school. The students that remain in the districts, which are a much larger cohort, would be deprived of those resources – an outcome that is contrary to the central purpose of the Act. That shouldn't be allowed to happen.

⁴ Funding the districts received from the American Rescue Plan Act of course is not recurring. While we will be able to use ARPA to catch up on one-time expenditures such as building repairs, it will not address the structural deficit exacerbated by increasing charter school tuition obligations.

ICS Has Not Shown that It Will Not Duplicate Existing Programs.

We urge your administration to closely compare the ICS proposal and the services already offered by the two districts. DESE regulations require charter applicants to demonstrate that they will not duplicate services that already exist in the districts. See 603 CMR 1.04(3). The rationale of course is that if the charter school is not offering services distinctive from what students would receive in a district school, the inefficiency of the duplication – or the loss in the district’s economies of scale – cannot be justified.

ICS has failed to prove that it is going to do anything different. Like many charter applicants, ICS emphasizes a STEM-based curriculum. This perhaps would have been more remarkable ten years ago, but it isn’t now. STEM instruction is a common point of emphasis for school districts across Massachusetts, including in our cities. In the last several years, we’ve invested millions of dollars in plant, equipment, technology, and human capital to deliver science and math-based instruction at every level. ICS’s application does not make clear how their approach to STEM education would be materially different. In fact, there is no mention of the districts’ science and math programs.

The primary selling point of ICS’s application, however, is that it will establish an early college program with UMass-Dartmouth and Bristol Community College, that will cause more students from the two cities to attend college. The proposal evidently is intended to appeal to your administration’s emphasis on early college programs.⁵ We generally agree that school districts should promote college attendance for those who might be interested, including by offering early college programs.

Contrary to the representations in ICS’s application, these programs already exist. For decades, enrollment in regular college courses at UMD and BCC have been offered to high school students in New Bedford and Fall River. In recent years, both districts have broadened these programs. Fall River in particular has created a program for students in grades 10-12 that offers high school classes during the morning, and afternoon classes at BCC and Bridgewater State College. Students in the program may graduate from high school with as many as thirty-six college credits. As the first state-designated early college program in Southeastern Massachusetts, the Fall River program is already serving 135 students and is slated to grow to two hundred students by the end of the school year. Of the current cohort, 88% are first generation college students. New Bedford is following suit. DESE recently approved an

⁵ ICS cites the slower growth of college matriculation in New Bedford and Fall River as evidence of the need for early college programs. Putting aside the question of whether this says anything about the quality of college preparation in the cities’ high schools, what is striking about this assertion is that it ignores the simmering controversy of selective admissions policies at our vocational high schools. The college matriculation trends in our school districts are directly tied to these policies, which have had the effect of drawing many if not most college-bound students out of the two districts. DESE has acknowledged the problem, but its response to date has not been meaningful.

expansion of its existing early college program, which will look much like Fall River's. The lack of any reference to the efforts of the sending districts to encourage college matriculation is telling.

ICS has not carried its burden of proving that it will not duplicate that which already exists in the districts, much less explain how the benefits ICS believes would accrue from its program would justify the financial impact on the district.

In Deeming ICS a "Proven Provider," DESE Has Run Afoul of Its Own Regulations

We also believe that the application should never have gotten this far. The threshold decision by the state education commissioner to authorize ICS to submit a full application runs afoul of DESE's regulations. Charter applicants in districts already over the "nine percent cap" must first be determined to be a "proven provider." See MGL, ch.71, § 89. This requirement is meant to serve as a brake on charter school expansion. It reflects a recognition that in districts with existing charter schools, the addition of still more charter seats cannot be justified unless the new charter organization has a demonstrated record of success.

While almost all of the applicants that DESE has deemed to be "proven providers" have been existing charter schools, the regulations allow for a narrow exception. An applicant may be deemed a proven provider if it would be led by "two or more persons who had primary or significant responsibility serving, for at least five years, in a leadership role in a school or similar program that has a record of academic success and organizational viability." See 603 CMR 1.02. The regulations define academic success as, among other things, "proficiency levels and growth measures on the Massachusetts Comprehensive Assessment System or equivalent assessments for all students and for one or more targeted subgroups as defined in M.G.L. c.71, § 89(i)(3) which are similar to statewide averages in English language arts and Mathematics for all students in Massachusetts in comparable grades, over no less than a three-year period for cohorts of students." See 603 CMR 1.04.4(b). In other words, if either the proficiency or growth figures the applicant relies on are not "similar to statewide averages," the applicant should not be deemed a proven provider. Despite this high bar, the Commissioner of Elementary and Secondary Education announced his determination that ICS is a proven provider. No explanation for the basis of this determination was offered.

The Commissioner's decision is unsupported by the record. ICS has not, and cannot, meet the regulatory standard for proven provider status. Its case is based on the contention that its two leading proponents, Meg Mayo-Brown and Frances Roy, while serving as Fall River's superintendent and chief academic officer, respectively, produced an academic record "similar to the average statewide MCAS performance in the same period." The data reported to the Department of Elementary and Secondary Education tell a different story. During Mayo-Brown's tenure from 2008-2016, Fall River's MCAS proficiency was in the second-to-bottom decile, far below the state average:

	Test	FRPS ELA	State ELA	Diff	FRPS Math	State Math	Diff
2008-2009	MCAS	45	67	-22	31	55	-24
2009-2010	MCAS	45	68	-23	37	59	-22
2010-2011	MCAS	49	69	-20	37	58	-21
2011-2012	MCAS	48	69	-21	37	59	-22
2012-2013	MCAS	47	69	-22	37	61	-24
2013-2014	MCAS	50	69	-19	41	60	-19
2014-2015	PARCC	51			44		
2015-2016	PARCC	53			43		
2016-2017	NextGen MCAS	34	49	-15	33	48	-15
2017-2018	NextGen MCAS	34	51	-17	30	48	-18
2018-2019	NextGen MCAS	34	52	-18	32	49	-17
2019-2020	NextGen MCAS	-	-	-	-	-	-
2020-2021	NextGen MCAS	27	46	-19	17	33	-16

In nearly every year, the difference in performance in both ELA and Math exceeded twenty percentage points. The ICS’s application does not attempt to explain this wide disparity, much less attempt to demonstrate that DESE’s standard of success has been satisfied.

DESE’s decision to allow the application to move forward nevertheless was wrong as a matter of law. The application should be not be allowed to proceed.

Conclusion

The ICS application has surprised many in Southeastern Massachusetts.⁶ Both districts have been run by respected educational leaders that are driving reform. In the case of New Bedford, this has resulted in some of the state’s highest improvements in elementary school performance in the last nine years. Even more notable has been the improvement during the same period in New Bedford High School’s graduation rate, which has risen as much as any comprehensive urban high school in the country, from 58% to 88%.⁷ This was a major achievement in a city where many had assumed that the dropout problem was impossible to solve. (See [CommonWealth Magazine](#), *How New Bedford Boosted Its Graduation Rate*, May 2021).

School districts are not islands; they are inextricably linked to the cities and towns they serve, connected to their regional economies and local circumstances. That municipal leaders might oppose the establishment of a charter school should not be chalked up to blind allegiance to teachers’ unions or written off as an expression of hyper-provincialism. We are in a position that affords us a broader understanding of how the costs of a new charter school might impede a school district’s ability to meet the needs of the children that will remain in its schools. When high-stakes decisions like this are made from afar, important details can be lost, and outcomes contrary to the public interest can follow.

⁶ Neither of us were consulted by its proponents, and both of us first learned about it just days before it was filed.

⁷ This fact was conveniently left out of ICS’s application. Instead, ICS uses old graduation data purporting to show a lack of progress on New Bedford’s graduation rates.

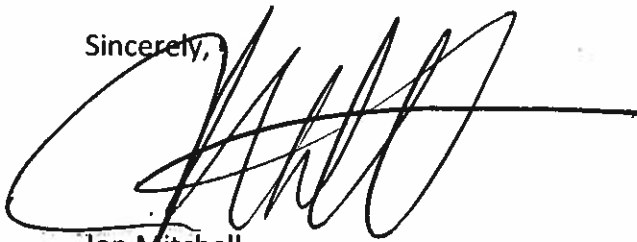
The Board and the Department of Elementary and Secondary Education will be expected to assess the level of public support for the ICS proposal, in order to judge whether their decision might be received as legitimate, and determine whether the school might receive the community support it needs to be successful. We are concerned that the Board and Department might give undue weight to boilerplate comments or letters of support (including from some with a financial stake in the decision), and conclude that public sentiment is divided on the question. No individual is better situated, however, to speak to a city's public sentiment than its mayor. We would be long out of our jobs if we didn't have a finger on the public's pulse. Having witnessed the opposition to several other charter proposals, we believe that the level of public opposition to the ICS application is unprecedented.⁸ The general sentiment in our cities is overwhelmingly against the establishment of this school.

No one should be surprised by this. The residents of our cities are well-familiar with the financial constraints on municipal government, and as obtuse as charter school policy discussions can sometimes sound, they understand that charters tend to spread public resources more thinly. They also appreciate decisions made in Boston may not be firmly anchored in local circumstances. The conspicuous reality in Southeastern Massachusetts right now is that we are still in the throes of a pandemic, in ways and to a degree unlike Greater Boston. With new cases counts and hospitalization rates far higher than the state, and with vaccination rates much lower, the region and its schools are still pre-occupied with the task of keeping people of every age safe. Just this past week in New Bedford, over 140 students tested positive for Covid-19, six residents died from the disease, and 57 residents were hospitalized – a three-fold increase in the last five weeks.

All of this begs the question, is now the right time to introduce a major new charter school here? Given the progress made in both districts, the financial impact of the proposal on both district students and city government, the school's potential to duplicate services which already exist in the districts, and the absence of clear public support, ICS's proposal is a stretch, at best. If there was ever a time not to stretch, it is now.

We urge you to make clear your opposition to the proposal, and we thank you for your consideration.

Sincerely,



Jon Mitchell
Mayor of New Bedford



Paul Coogan
Mayor of Fall River

⁸ The last time the Board of Elementary and Secondary Education issued a charter to a school in New Bedford with as little connection to the city as ICS, it was for the City on a Hill charter school, which DESE was forced to close four years later as its academic performance was among the worst in the state.

cc: Lieutenant Governor Karyn Polito
Attorney General Maura Healey
Secretary of Education James Peyser
Chairperson Catherine Kraven and
Members of the Board of Elementary and Secondary Education
Commissioner Jeffrey Riley
New Bedford and Fall River state legislative delegations
New Bedford and Fall River School Committees
New Bedford and Fall River City Councils