



May 6, 2019

The Massachusetts General Court
24 Beacon Street
Boston, MA 02133

Dear Legislator:

On behalf of the Massachusetts Teachers Association, **we strongly urge you to oppose HD.4174, An Act relative to the Operation of Charter Schools in the City of New Bedford.** This bill is a strong-armed attempt by the Baker Administration to circumvent both the will of the New Bedford educators, families and community who have been in active opposition from the start and the Commonwealth's voters, who just a few years ago voted overwhelmingly to reject the expansion of the charter school cap.

This shortsighted and ill-advised proposal would circumvent seven chapters of state law (Chapters 29, 30B, 40, 71, 71A, 71B, and 76) in order to (1) allow the privately run Alma del Mar Charter School to expand against the will of the New Bedford community; (2) grant Alma del Mar its own "school zone" and guarantee total per-pupil school funding regardless of student enrollment; and (3) give Alma del Mar public property for free in order to advance its business model. We urge you to oppose this dangerous legislation, which, if passed, will be used throughout the state to increase the number of charter schools and the funds they extract from our local public school districts.

Alma del Mar, Inc. currently operates a 450-seat charter school in New Bedford. In August 2018, it announced plans to add 1,188 new charter seats over five years. In January 2019, the state Board of Elementary and Secondary Education (BESE) passed two alternative proposals modifying Alma's request, forcing the city to decide between two unacceptable choices. Under the proposal requiring legislative action, the city would hand over a large municipally owned school property and adjacent land at no cost to Alma del Mar so it could create a second 450-seat charter school that would serve students in a newly created "neighborhood zone." Students living in the zone would automatically be enrolled in the charter school unless they expressly opted out and if space is available in New Bedford public schools. Under the other proposal, which does not require legislative approval, the charter school's enrollment would expand by 594 seats, and come at an even greater cost to the New Bedford public schools. Both of the BESE-approved options would at least double Alma's current enrollment of 450 New Bedford students.

Elected officials in New Bedford have spoken out against this charter school expansion, including Mayor Jon Mitchell, who "reiterated that this charter school situation is really unfortunate and the 'product of a really screwed up state law.'" (3/11/19 *South Coast Today*)

Unfortunately, the BESE utilized the charter school law to pressure New Bedford into capitulating to its extortionate proposal and the city ultimately signed a Memorandum of Understanding (MOU) to give to the charter school operators — free of charge — the existing, publicly owned school building and the expansive lot on which it sits. The MTA put the School Committee on notice that the manner in which it was proceeding violated the state’s Uniform Procurement Act (MGL c. 30B) as well as a state law governing both the use and transfer of public property (MGL c. 40) and was in violation of Commonwealth’s Open Meeting Law.

The MTA has also informed the parties that the agreement offends the Anti-Aid Amendment in the state’s Constitution (Art. XVIII), which forbids the expenditure of public funds for the benefit of private parties. Alma del Mar is a private, nonprofit corporation registered with the Commonwealth’s Secretary of State. The Home Rule Petition cannot negate the constitutional violation of the Anti-Aid Amendment, and the MTA has retained private counsel and is preparing to bring a lawsuit on those grounds.

The existing school building sits on a large parcel of land and has considerable value. The ownership and control of the property give Alma del Mar a tremendous advantage among investors looking to make money using such tax-friendly devices as the federal New Markets Tax Credit.

In addition, through the MOU, it appears likely that Alma intends to build a new, larger school, allowing Alma to implement its original five-year plan to increase the number of charter seats by nearly 1,200 students. This is possible because the MOU’s 450-seat cap expires in three years, just about the same time a new expanded school building is likely to be completed.

There is also language included in the MOU and authorized by HD.4174 that would require the New Bedford public school system to pay tuition to Alma del Mar II in an amount commensurate with its target enrollment for each year, regardless of whether that target is met. In other words, under this agreement, New Bedford could potentially be forced to pay Alma del Mar II for students that the charter school is not actually educating. Meanwhile, New Bedford would in fact be educating those students despite having lost the accompanying funding.

These contentious provisions of providing free real estate and guaranteed tuition for Alma del Mar are not in the public’s interest; they do seem, however, to benefit the charter school business model of attracting investors who take advantage of federal tax benefits such as New Markets Tax Credits.

Perhaps most significantly, HD.4174 would allow Alma del Mar II to effectively ignore section 89 of Chapter 71 of the General Laws that governs charter school enrollment procedures. The exemption would allow for the creation of a designated geographic zone from which students would be assigned to the school. Students living in the zone would automatically be enrolled in the charter school unless they expressly opted out and if space is available in New Bedford public schools. Also concerning is the odd configuration of the proposed district zone; many in the community are wondering how and why certain neighborhoods were included or left out.

To be clear, this flawed compromise was made behind closed doors in violation of the Commonwealth's Open Meeting Law and without the consent of the city's residents, who in 2016 joined the majority of Massachusetts voters to overwhelmingly reject Question 2 and the expansion of charter schools. In fact, most of the elected officials in New Bedford were unaware of the deal as it was being crafted. The flawed process through which this MOU was forced upon the New Bedford community is but one of its deeply troubling components, many of which require action by the Massachusetts Legislature because they would otherwise violate existing state laws.

Regardless of the form this proposed expansion takes, New Bedford will lose millions of dollars to the privately run Alma del Mar charter school. The scheme to hand over public property at no cost to Alma del Mar, and to guarantee its enrollment and payments, not only drains money from the city's public schools; it also undermines the democratic process, ignores the will of voters and creates a dangerous precedent that the charter school industry will seek to exploit elsewhere in Massachusetts.

HD.4174 seeks to advance a dangerous charter school model, in the form of a Home Rule Petition, that is squarely against the public interest. If passed, this model will undoubtedly be used across the state to the detriment of public school districts. The Commonwealth must not be allowed to hold school districts hostage in order to advance the interests of the charter school industry and its backers. We urge you to support the New Bedford community and to protect the city's public schools by rejecting HD.4174.

Sincerely,



Merrie Najimy
President



Max Page
Vice President