

**HOUSE . . . . . No. 2027**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*James J. Dwyer*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to student achievement.

PETITION OF:

NAME:

*James J. Dwyer*

DISTRICT/ADDRESS:

*30th Middlesex*

**HOUSE . . . . . No. 2027**

By Mr. Dwyer of Woburn, a petition (accompanied by bill, House, No. 2027) of James J. Dwyer relative to underperforming schools. Education.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

An Act relative to student achievement.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1J of chapter 69 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof  
3 the following 2 subsections:-

4 (a) Prior to October 1, the commissioner of elementary and secondary education may, on  
5 the basis of student performance data collected pursuant to section 1I, a school or district review  
6 performed under section 55A of chapter 15, or regulations adopted by the board of elementary  
7 and secondary education, designate 1 or more schools in a school district other than a Horace  
8 Mann charter school as a challenge, underperforming or chronically underperforming school.

9 The board shall adopt regulations establishing standards for the commissioner to make such  
10 designations on the basis of data collected pursuant to section 1I or information from a school or  
11 district review performed under section 55A of chapter 15. Upon the release of the proposed  
12 regulations, the board shall file a copy thereof with the clerks of the house of representatives and  
13 the senate who shall forward the regulations to the joint committee on education. Within 30 days

14 of the filing, the committee may hold a public hearing and issue a report on the regulations and  
15 file the report with the board. The board, pursuant to applicable law, may adopt final regulations  
16 making revisions to the proposed regulations as it deems appropriate after consideration of the  
17 report and shall forthwith file a copy of the regulations with the chairpersons of the joint  
18 committee on education and, not earlier than 30 days from the filing, the board shall file the final  
19 regulations with the state secretary. Schools that score in the lowest 20 per cent statewide among  
20 schools serving common grade levels on a single measure developed by the department that  
21 takes into account student performance data and, beginning on July 1, 2011, improvement in  
22 student academic performance, shall be deemed eligible for designation as a challenge,  
23 underperforming or chronically underperforming school, provided that any school designated as  
24 a challenge school shall be drawn from those schools most likely to be designated as  
25 underperforming. Not more than 4 per cent of the total number of public schools may be  
26 designated as a challenge, underperforming or chronically underperforming school at any given  
27 time.

28 In adopting regulations allowing the commissioner to designate a school as a challenge,  
29 underperforming or chronically underperforming school, the board shall ensure that such  
30 regulations take into account multiple indicators of school quality in making such designations,  
31 including, but not limited to: student attendance rates, dismissal rates and exclusion rates,  
32 promotion rates, graduation rates or the lack of demonstrated significant improvement for 2 or  
33 more consecutive years in core academic subjects, either in the aggregate or among subgroups of  
34 students, including designations based on special education, low-income, English language  
35 proficiency and racial or ethnic classifications.

36           Before a school is designated chronically underperforming by the commissioner, a school  
37 must be designated underperforming and fail to improve.

38           A challenge, underperforming or chronically underperforming school described in the  
39 following subsections shall operate in accordance with laws regulating other public schools,  
40 except as such provisions may conflict with this section or any turnaround plans created  
41 thereunder. A student who is enrolled in a school at the time it is designated as a challenge,  
42 underperforming or chronically underperforming school shall be able to remain enrolled in the  
43 school while remaining a resident of the district if the student chooses to do so.

44           (a $\frac{1}{2}$ )(1) Within 15 days of the commissioner designating a school as a challenge school in  
45 accordance with the regulations developed pursuant to this section, the school committee and the  
46 local teachers union shall meet to negotiate a waiver agreement, if necessary, that identifies any  
47 provisions of the collective bargaining agreement that would be subject to a waiver upon a two-  
48 thirds vote of the teachers working at least 50 per cent of the time in the designated challenge  
49 school. Such waivers shall be designed to permit the implementation of a turnaround plan  
50 developed pursuant to this subsection which may include provisions that are inconsistent with  
51 the existing collective bargaining agreement. Such negotiations shall be completed within 30  
52 days of the commissioner designating a school as a challenge school, and shall not be subject to  
53 impasse provisions under section 9 of chapter 150E or unilateral implementation after impasse  
54 pursuant to chapter 150E. If the school committee and the union fail to reach an agreement, the  
55 process provided in this subsection shall be terminated and the commissioner may designate the  
56 school as underperforming pursuant to subsection (a).

57           Within 15 days of the completion of the waiver negotiation process, the superintendent  
58 shall convene a local stakeholder group for the purpose of developing a turnaround plan for the  
59 school. The local stakeholder group shall include: (i) the superintendent, or a designee; (ii) the  
60 chair of the school committee, or a designee; (iii) the president of the local teachers' union, or a  
61 designee; (iv) an administrator from the school, who may be the principal, chosen by the  
62 superintendent; (v) 2 educators chosen by the faculty of the school, 1 of whom shall be a  
63 classroom teacher and 1 of whom shall be a certified non-teaching professional from the school;  
64 and (vi) a parent member of the school council established pursuant to section 59C of chapter 71  
65 to be chosen by the school council. Meetings of the local stakeholder group shall be open to the  
66 public.

67           (2) In creating the turnaround plan, the local stakeholder group shall, to the extent  
68 practicable, base the plan on student outcome data, including, but not limited to: (i) data  
69 collected pursuant to section 1I or information from a school or district review performed under  
70 section 55A of chapter 15; (ii) student achievement on the statewide assessment system approved  
71 by the board under section 1I of this chapter; (iii) other measures of student achievement,  
72 approved by the commissioner; (iv) student promotion and graduation rates; (v) achievement  
73 data for different subgroups of students, including low-income students as defined in chapter 70,  
74 limited English-proficient students and students receiving special education; and (vi) student  
75 attendance, dismissal rates and exclusion rates.

76           The local stakeholder group shall also consider, in the creation of the turnaround plan,  
77 whether to include the following: (i) steps to address social service and health needs of students  
78 at the school and their families, to help students arrive and remain at school ready to learn;  
79 provided, however, that this may include mental health and substance abuse screening; (ii) steps

80 to improve or expand child welfare services and, as appropriate, law enforcement services in the  
81 school community, in order to promote a safe and secure learning environment; (iii) steps to  
82 improve workforce development services provided to students and their families at the school, to  
83 provide students and families with meaningful employment skills and opportunities; (iv) steps to  
84 address achievement gaps for limited English-proficient, special education and low-income  
85 students; and (v) notwithstanding chapter 71A, alternative English language learning programs  
86 for limited English proficient students; provided that the school committee may retain said  
87 programs after the school is no longer designated as a challenge school. The secretaries of health  
88 and human services, labor and workforce development, public safety, health and child welfare  
89 officials and other applicable state and local social services, shall coordinate with the  
90 superintendent to implement the strategies established pursuant to clauses (i) to (iii), inclusive, of  
91 this paragraph that are included in a final turnaround plan and shall, subject to appropriation,  
92 reasonably support the implementation, which shall be consistent with the requirements of all  
93 state and federal law applicable to the relevant programs to be administered. The secretary of  
94 education shall assist the superintendent in facilitating the coordination.

95 To assess the school across multiple measures of school performance and student  
96 success, the turnaround plan shall include measurable annual goals including, but not limited to:  
97 (i) student attendance, dismissal rates and exclusion rates; (ii) student safety and discipline; (iii)  
98 student promotion and graduation and dropout rates; (iv) student achievement on the statewide  
99 assessment system approved by the board under section 11; (v) progress in areas of academic  
100 underperformance; (vi) progress among subgroups of students, including low-income students as  
101 defined by chapter 70, limited English proficient students and students receiving special  
102 education; (vii) reduction of achievement gaps among different groups of students; (viii) student

103 acquisition and mastery of twenty-first century skills; (ix) development of college and career  
104 readiness, including at the elementary and middle school levels; (x) parent and family  
105 engagement; (xi) building a culture of academic success among students; (xii) building a culture  
106 of student support and success among school faculty and staff; and (xiii) developmentally  
107 appropriate child assessments from pre-kindergarten through third grade, if applicable.

108 (3) The plan shall include provisions intended to maximize the rapid achievement of  
109 students at the school by addressing the conditions for school effectiveness as determined by the  
110 department. The plan shall identify the specific provisions of the collective bargaining agreement  
111 that must be waived in order to implement the plan in accordance with the process set forth in  
112 paragraph (1) of this subsection, and shall describe the process and schedule for seeking approval  
113 of the plan by the teachers in the school pursuant to paragraph (5) of this subsection.

114 Notwithstanding any general or special law to the contrary, the turnaround plan may also  
115 include provisions that allow the superintendent to: (i) expand, alter or replace the curriculum  
116 and program offerings of the school, including the implementation of research-based early  
117 literacy programs, early interventions for struggling readers and the teaching of advanced  
118 placement courses or other rigorous nationally or internationally recognized courses, if the  
119 school does not already have such programs or courses; (ii) reallocate the uses of the existing  
120 budget of the school; (iii) provide additional funds to the school from the budget of the district, if  
121 the school does not already receive funding from the district at least equal to the average per  
122 pupil funding received for students of the same classification and grade level in the district; (iv)  
123 provide funds, subject to appropriation, to expand the school day or school year or both of the  
124 school; (v) limit, suspend or change 1 or more school district policies or practices that relate to  
125 improved student performance and achievement at the school; (vi) for an elementary school, add

126 pre-kindergarten and full-day kindergarten classes, if the school does not already have such  
127 classes; (vii) include a provision of job-embedded professional development for teachers at the  
128 school, with an emphasis on strategies that involve teacher input and feedback; (viii) provide for  
129 increased opportunities for teacher planning time and collaboration, including professional  
130 learning communities, focused on improving student instruction; (ix) establish a plan for  
131 professional development for administrators at the school, with an emphasis on strategies that  
132 develop leadership skills and use the principles of distributive leadership; (x) redesign and  
133 refocus the use of existing teacher preparation periods in the school to ensure that such  
134 preparation period is utilized to improve student instruction with an emphasis on improved  
135 student performance and achievement at the school; (xi) develop a strategy to search for and  
136 study best practices in areas of demonstrated deficiency in the school; (xii) establish strategies to  
137 address student attendance, mobility and transiency among the student population of the school;  
138 and (xiii) use formative and summative assessments to track student progress and to inform the  
139 instructional strategies employed in the classroom. The plan may also include a financial plan for  
140 the school based on additional funds to be provided by the district, commonwealth, federal  
141 government, private foundations, or other sources to provide additional resources, and may  
142 include a process for modifying the plan.

143 For a school with limited English proficient students, the professional development and  
144 planning time for teachers and administrators shall include specific strategies and content  
145 designed to maximize the rapid academic achievement of limited English proficient students at  
146 the school.

147 (4) The local stakeholder group shall submit an initial turnaround plan to the school  
148 committee within 30 days of its initial meeting. The school committee may propose



149 modifications to the turnaround plan and shall submit any proposed modifications to the  
150 superintendent within 10 days of receiving the initial plan. The superintendent shall consider and  
151 may incorporate, alter or reject the proposed modifications submitted by the school committee,  
152 and may propose additional modifications to the plan. Within 15 days of receiving any proposed  
153 modifications from the school committee, the superintendent shall issue the final turnaround plan  
154 for the school; provided, however, that if the plan requires any waiver of provisions of the  
155 collective bargaining agreement beyond those authorized by the negotiated agreement pursuant  
156 to paragraph (1) of this subsection, the school committee and the local teachers union shall meet  
157 to negotiate additional waivers. Such negotiations shall be completed within 15 days and shall  
158 not be subject to impasse provisions under section 9 of chapter 150E or unilateral  
159 implementation after impasse pursuant to chapter 150E. If the school committee and the union  
160 fail to reach an agreement, the process provided in this subsection shall be terminated and the  
161 commissioner may designate the school as underperforming pursuant to subsection (a).

162 (5) The superintendent shall submit the final turnaround plan to the school committee and  
163 the teachers in the school for approval, and shall forward a copy of said plan to the  
164 commissioner. A two-thirds vote of the teachers shall be required to approve the plan and shall  
165 be conducted by the local teachers union. A copy of the plan shall be provided to the faculty at  
166 least 5 days in advance of an informational meeting which shall be held at least 5 days in  
167 advance of the vote. The vote shall be by secret ballot. For the purposes of this vote, a teacher is  
168 any person working at least 50 per cent of the time in the designated challenge school under a  
169 license listed in 603 CMR 7.04 (3) (a), (b) or (d). A teacher on an approved leave at the time of  
170 the election may vote in such election. A teacher who has prior to such vote given notice to leave  
171 the school the following year because of: (i) retirement; (ii) resignation; (iii) voluntary transfer;

172 or (iv) any other reason or who has received notice to leave the school the following year  
173 because of involuntary transfer, dismissal or any other reason, shall not be eligible to vote to  
174 approve the plan. If a final turnaround plan is not approved within the time frame provided in  
175 this subsection, the process provided in this subsection shall be terminated and the commissioner  
176 may designate the school as underperforming pursuant to subsection (a). Each turnaround plan  
177 shall be authorized for a period of not more than 2 years. The superintendent, as applicable, shall  
178 be responsible for meeting the goals of the plan.

179 (6) Each school designated by the commissioner as a challenge school pursuant to this  
180 subsection shall be reviewed by the superintendent, in consultation with the principal of the  
181 school, at least annually. The purpose of the review shall be to determine whether the school has  
182 met the annual goals in its turnaround plan and to assess the overall implementation of the plan.  
183 The review shall be in writing and shall be submitted to the relevant school committee not later  
184 than July 1 for the preceding school year and shall be available to the public on the school  
185 district's website.

186 If the superintendent, in consultation with the principal of the school, determines that the  
187 school has met the annual performance goals stated in the turnaround plan, the review shall be  
188 considered sufficient and the implementation of the turnaround plan shall continue. If the  
189 superintendent determines that the school has not met 1 or more goals in the turnaround plan and  
190 that the failure to meet the goals may be corrected through reasonable modification of the plan,  
191 the superintendent may reconvene the local stakeholder group which may amend the turnaround  
192 plan in a manner consistent with the requirements of paragraphs (1) to (5), inclusive; provided,  
193 however, that if a turnaround plan includes a process for modifying the plan, such modifications  
194 shall be implemented in accordance with the provisions of the plan.

195 (7) At a point not more than 2 years after the designation of a school as a challenge  
196 school, the commissioner shall determine whether the school has improved sufficiently, requires  
197 further improvement or has failed to improve. The commissioner may determine that: (i) the  
198 school has improved sufficiently for the designation of the school as a challenge school to be  
199 removed; (ii) the school has improved, but has not improved sufficiently for the designation of  
200 the school as a challenge school to be removed, in which case the superintendent may, with the  
201 approval of the commissioner, reconvene the local stakeholder group for the purposes of  
202 renewing the plan or creating a new or modified plan for an additional period of not more than 2  
203 years, consistent with the requirements of paragraphs (1) to (5), inclusive; or (iii) consistent with  
204 the requirements of subsection (a), the school is underperforming.

205 SECTION 2. Subsection (c) of section 89 of chapter 71 of the General Laws, as so  
206 appearing, is hereby amended by striking out the second paragraph and inserting in place thereof  
207 the following 4 paragraphs:-

208 A Horace Mann charter school shall be a public school or part of a public school operated  
209 under a charter approved by the school committee in the district in which the school is located  
210 and, in the case of a Horace Mann I charter school, also by the local collective bargaining unit in  
211 which the school is located; provided, however, that all charters shall be granted by the board of  
212 elementary and secondary education. A Horace Mann charter school shall be operated and  
213 managed by a board of trustees independent of the school committee which approved the school.  
214 The board of trustees may include a member of the school committee.

215 A Horace Mann I charter school shall be a new school operated under a charter approved  
216 by the school committee and the local collective bargaining unit in the district in which the

217 school is located. A Horace Mann I charter school shall have a memorandum of understanding  
218 with the school committee of the district in which the charter school is located that defines the  
219 services and facilities to be provided by the district to the charter school and states the funding of  
220 the charter school by the district.

221 A Horace Mann II charter school shall be a conversion of an existing public school  
222 operated under a charter approved by the school committee in the district in which the school is  
223 located. A Horace Mann II charter school shall not require approval of the local collective  
224 bargaining unit, but shall require a memorandum of understanding with the local collective  
225 bargaining unit and the school committee of the district in which the charter school is located  
226 regarding any waivers to applicable collective bargaining agreements; provided, that the  
227 memorandum of understanding shall be approved by a majority of the school faculty; and  
228 provided, further, that Horace Mann II charter schools shall not count towards the maximum  
229 number of Horace Mann charter schools stated in paragraph (1) of subsection (i). A vote by the  
230 school faculty shall be held and finalized within 30 days of submission of the charter school  
231 application to the board of elementary and secondary education. School faculty who have prior  
232 to such vote given notice to leave the school the following year because of: (i) retirement; (ii)  
233 resignation; (iii) voluntary transfer; or (iv) any other reason or who has received notice to leave  
234 the school the following year because of involuntary transfer, dismissal or any other reason, shall  
235 not be eligible to vote to approve the memorandum of understanding.

236 A Horace Mann III charter school shall be a new school operated under a charter  
237 approved by the school committee in the district in which the school is located. A Horace Mann  
238 III charter school shall not require approval of the local collective bargaining unit; provided,  
239 however, that after the charter for a Horace Mann III charter school has been granted by the

240 board, the school shall develop a memorandum of understanding with the school committee of  
241 the district in which the charter school is located and the local collective bargaining unit  
242 regarding any waivers to applicable collective bargaining agreements; provided, further, that if  
243 an agreement is not reached on the memorandum of understanding at least 30 days before the  
244 scheduled opening of the school, the charter school shall operate under the terms of its charter  
245 until an agreement is reached.