



# State of Tennessee

## PUBLIC CHAPTER NO. 490

HOUSE BILL NO. 74

By Representatives Lamberth, Gant, White, Hardaway

Substituted for: Senate Bill No. 737

By Senators Johnson, Haile

AN ACT to amend Tennessee Code Annotated, Section 49-1-614, relative to the achievement school district.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1-614(c), is amended by deleting subdivision (3) and substituting the following:

(3) Prior to the assignment of a school to the ASD, the commissioner shall consider geographic clusters of qualifying schools, feeder patterns, and previous LEA-led interventions with multiple eligible schools.

SECTION 2. Tennessee Code Annotated, Section 49-1-614(d)(1), is amended by adding the word "other" immediately before the language "ESEA".

SECTION 3. Tennessee Code Annotated, Section 49-1-614(k), is amended by deleting subdivision (1) and substituting the following:

(1)

(A) A school that has been removed from the LEA and placed in the ASD must remain in the ASD until the school is no longer identified as a priority school pursuant to § 49-1-602 for two (2) consecutive cycles beginning with the 2017 priority school list; provided, however, that a school shall not remain in the ASD for more than a ten-year period.

(B) Prior to a school exiting the ASD, the commissioner, in consultation with the LEA or the Tennessee public charter school commission, as appropriate, shall develop and approve a school transition plan for determining the school's exit from the ASD. The transition plan shall include a communication protocol for notifying the parents of students who currently attend ASD schools of the student's future school enrollment options.

(C) Notwithstanding subdivision (k)(1)(A), if the LEA is identified as an LEA earning the lowest accountability determination pursuant to § 49-1-602(a) and the parents of at least sixty percent (60%) of the students enrolled at the school demonstrate support for remaining in the ASD by signing a petition, then the school may remain in the ASD beyond the initial ten-year period.

SECTION 4. Tennessee Code Annotated, Section 49-1-614(k), is amended by deleting subdivisions (2)-(4) and substituting the following:

(2) Notwithstanding subdivision (k)(1) or any other provision to the contrary, the commissioner may determine that a school that entered the ASD and is operated as a charter school through authorization by the ASD pursuant to § 49-13-106, may exit the ASD prior to the expiration of the charter school's initial ASD charter agreement. The commissioner's determination must be based on metrics, including, but not limited to, the ASD's school performance framework (SPF) and school accountability results publicly reported on the department's website annually and must specify whether:

(A) The ASD-authorized charter school must apply to the LEA for authorization under § 49-13-107 before its initial ASD charter agreement expires; or

(B) The ASD-authorized charter school may apply to the Tennessee public charter school commission for a new charter agreement with a term not to exceed the term of the initial ASD charter agreement. If the commission grants the ASD-authorized charter school a new charter agreement, then the commission may agree to the assignment of all rights and obligations of the ASD, including, but not limited to, the rights and obligations provided in subsection (f) relating to the use of school buildings and facilities, for the duration of the new charter agreement, and the charter school has the right to continue to use the LEA's school building for the duration of that charter agreement. Upon the expiration of the initial charter agreement with the commission, the charter school may apply to renew the charter agreement with the commission or apply to the LEA for a charter agreement. If a renewal is approved by the commission, then the LEA shall grant the charter school operator the option to enter into a lease agreement at or below fair market rental value to occupy the LEA's school building for at least three (3) years, or to purchase the building from the LEA at or below fair market value, less the value of capital repairs or improvements made to the school building by the charter school operator. After the lease period expires, if the LEA determines to sell the school building the charter school operator is leasing, the charter school operator must be provided the right of first refusal to purchase the school building at or below fair market value, less the value of all rental payments made to the LEA during the term of the lease. For purposes of this subsection (k), "fair market value" or "fair market rental value" is determined by the LEA and the charter school operator each procuring a separate appraisal of the property. If the LEA and charter school operator do not mutually agree to use either of the two (2) appraisals, or an average of the two (2) appraisals, to establish fair market value or fair market rental value, then the LEA or charter school operator may request an additional appraisal conducted by a party agreed upon by the LEA's and the charter school operator's selected appraisers to determine the fair market value or fair market rental value, as applicable. The cost of the additional appraisal must be shared by the parties.

(3) Except as provided in subdivisions (k)(2) and (k)(4), ASD-authorized charter schools must remain under the authority of the ASD for the duration of their initial ASD charter agreements. Upon expiration of an ASD charter agreement, the school must exit the ASD and the school building must be returned to the LEA. The governing body of the charter school may apply for a new charter agreement with the LEA according to § 49-13-107. The LEA must approve or deny the charter application pursuant to § 49-13-108.

(4) After an ASD school improves student performance such that the school is no longer identified as a priority school for two (2) consecutive cycles as referenced in (k)(1), the commissioner, in consultation with the LEA, shall implement the transition plan developed and approved by the commissioner pursuant to subdivision (k)(1)(B). If, at any time, an ASD-authorized charter school meets the priority exit criteria set forth in the state's accountability model, then the school may apply to the LEA or the commission for a new charter agreement with a term not to exceed the term of the initial ASD charter agreement. If the commission grants the ASD-authorized charter school a new charter agreement, then the commission may agree to the assignment of all rights and obligations of the ASD, including, but not limited to, the rights and obligations provided in subsection (f) relating to the use of school buildings and facilities, for the duration of the new charter agreement, and the charter school has the right to continue to use the LEA's school building for the duration of the charter agreement. Upon expiration of the new charter agreement with the commission, the charter school may apply to the commission to renew its charter agreement. If the charter agreement is renewed by the commission, then the LEA shall grant the charter school operator the option to enter into a lease agreement at or below fair market rental value to occupy the building for at least three (3) years, or to purchase the building at or below fair market value, less the value of capital repairs or improvements made to the school building by the charter school operator. After the lease period expires, if the LEA determines to sell the school building the charter school operator is leasing, the charter school operator must be provided the right of first refusal to purchase the school building at or below fair

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market value, less the value of all rental payments made to the LEA during the term of the lease.

(5) Notwithstanding subdivision (k)(2)(B), an ASD-authorized charter school shall not apply directly to the commission for approval of a charter agreement prior to the 2022-2023 school year.

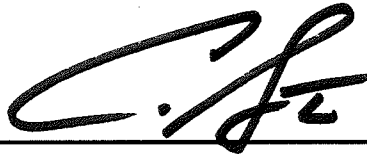
(6) Notwithstanding subdivisions (k)(1)-(4) or any other provision to the contrary, the commissioner may remove any school from the jurisdiction of the ASD at any time.

SECTION 5. The Tennessee public charter school commission is authorized to promulgate rules, including emergency rules, to effectuate this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 6. This act takes effect upon becoming law, the public welfare requiring it.

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PASSED: May 3, 2021



CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES



RANDY MCNALLY  
SPEAKER OF THE SENATE

APPROVED this 24<sup>th</sup> day of May 2021



BILL LEE, GOVERNOR