

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-14-01
CHARTER SCHOOLS**

TABLE OF CONTENTS

0520-14-01-.01	Approval of a Charter School	0520-14-01-.04	Enrollment
0520-14-01-.02	Appeals	0520-14-01-.05	Annual Authorizer Fee
0520-14-01-.03	Allocation of State and Local Funds	0520-14-01-.06	Amendments to the Charter Agreement

0520-14-01-.01 APPROVAL OF A CHARTER SCHOOL.

- (1) The Commissioner of Education shall provide an application for charter school sponsors to use in applying for a public charter school and shall provide scoring criteria addressing the elements of the charter school application.
- (2) All prospective charter school sponsors who intend to submit a charter application for consideration, including a charter school replication application, shall submit a letter of intent to both the Department of Education and to the appropriate chartering authority at least sixty (60) calendar days prior to the date on which the application is due. The letter of intent shall be completed on the form provided by the Department of Education.
- (3) Failure to submit a letter of intent to both the Department of Education and to the appropriate chartering authority shall exclude a charter school sponsor from submitting an application for that application cycle.
- (4) On April 1 of the year preceding the year in which the proposed public charter school plans to begin operation, the charter school sponsor seeking to establish a public charter school shall prepare and file the state charter school application with the chartering authority and the Department of Education. If the April 1 due date for charter applications falls on a Saturday, Sunday, or state observed holiday, the application materials shall be due on the next business day.
- (5) In addition to the state charter school application, each chartering authority may ask charter school sponsors to address additional priorities as a means of evaluating “the best interests of the pupils, school district or community” (T.C.A. § 49-13-108). Charter school sponsors may choose not to address any of those priorities. Chartering authorities may not deny or refuse to review an application for failing to address additional priorities. Chartering authorities shall submit to the Department of Education by January 1 of each year all local application requirements.
- (6) All local policies regarding the submission of charter school applications shall be consistent with state law, policies, rules, and regulations.
- (7) Chartering authorities may charge an application fee of up to \$2,500 for each application the charter school sponsor files.
- (8) An application shall be considered complete if:
 - (a) The application is submitted on the Department of Education’s state charter application form for that application cycle;

(Rule 0520-14-01-.01, continued)

- (b) The application contains all required information, materials, documents, attachments, and signatures; and
 - (c) The application fee, if required, is submitted with the application.
- (9) Chartering authorities shall not be required to review and formally act upon an application if:
- (a) The charter school sponsor did not submit a letter of intent by the required due date;
 - (b) The charter application is not complete as defined in paragraph (8); or
 - (c) The application and applicable fee is not submitted to the chartering authority by the required deadline.
- (10) If a charter application is submitted but not reviewed, any required application fee shall be refunded to the charter school sponsor by the chartering authority.
- (11) Chartering authorities shall review all complete and timely applications in accordance with quality charter authorizing standards approved by the State Board.
- (12) Approval of a charter application shall not be based on conditions or contingencies.
- (13) The chartering authority shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application within ninety (90) calendar days of the application due date. Applications may be submitted prior to the due date; however, all complete and timely applications shall be reviewed and acted upon within ninety (90) calendar days following the due date.
- (14) Should the local board of education fail to either approve or deny a complete and timely charter application within the ninety (90) calendar day time limit, the application shall be deemed approved.
- (15) If a charter school application is denied, the grounds upon which the local board of education based the decision to deny an application must be stated in writing, specifying objective reasons for the denial and the deadline by which the charter school sponsor must submit an amended application.
- (16) If a charter school application is denied, the charter school sponsor shall have thirty (30) calendar days within which to submit an amended application to correct the deficiencies. The local board of education shall have sixty (60) calendar days from the deadline identified pursuant to paragraph (15) to either deny or approve the amended application. Amended applications may be submitted prior to the stated deadline; however, all applications shall be reviewed and acted upon within sixty (60) calendar days following the deadline. Should the local board of education fail to either approve or deny the amended application within sixty (60) calendar days, the amended application shall be deemed approved.
- (17) A denial by the local board of education of an amended application to establish a public charter school may be appealed by the charter school sponsor, within ten (10) calendar days of the final decision to deny, to the State Board of Education.
- (18) Within ten (10) calendar days of approval or denial of an amended charter application, the chartering authority shall report to the Department of Education whether the chartering authority has approved or denied the amended application. The chartering authority shall provide the Department of Education a copy of the chartering authority's resolution setting forth the action taken and reasons for the decision.

(Rule 0520-14-01-.01, continued)

Authority: T.C.A. §§ 49-1-302, 49-13-106, 49-13-107, 49-13-108, and 49-13-126. **Administrative History:** Original rules filed March 31, 2003; effective July 29, 2003. Amendments filed January 11, 2019; effective April 11, 2019.

0520-14-01-.02 APPEALS.

(1) Appeals.

The charter applicant may appeal a decision by the chartering authority to deny an amended application for a newly created public school to the State Board of Education within ten (10) days. The charter applicant shall forward the amended application to the Executive Director of the State Board of Education. The State Board of Education may request additional documentation from the charter applicant and the chartering authority.

Any corrections to the application, as permitted by T.C.A. § 49-13-108(a)(3)(C), must be made and submitted upon appeal to the State Board of Education.

- (2) In reviewing the amended application, the State Board of Education shall use the sample scoring criteria provided by the Commissioner of Education to the local boards of education. In reviewing the amended application, the State Board of Education shall review the decision of the local board of education.
- (3) If the Local Education Agency's (LEA) denial is based on substantial negative fiscal impact, the State Board of Education shall consider the financial impact of the charter on the LEA.
- (4) Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the State Board and after reasonable public notice, the State Board of Education shall hold a public hearing, attended by the Board or its designated representative, in the school district in which the proposed charter school has applied for a charter. Subsequently, but within the sixty (60) days, the State Board of Education shall review the decision of the local board and shall forward its findings to the local board of education.
- (5) The State Board of Education shall conduct a de novo on the record review of the proposed charter school's application.
- (a) If the application is for a charter school in an LEA that does not contain a priority school, and if the State Board finds that the local board's decision was contrary to the best interests of the students, school district, or community, the State Board of Education shall remand such decision to the local board of education with written instructions for approval of the charter.
- (b) If the application is for a charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list, and if the State Board finds that the local board's decision was contrary to the best interests of the students, school district, or community, the State Board of Education may approve the application for the charter school and become the charter school's authorizer.
- (6) The State Board shall maintain annual membership in the National Association of Charter School Authorizers (NACSA) and adopt national authorizing standards.

Authority: T.C.A. §§ 49-1-302, 49-13-106, 49-13-107, 49-13-108, 49-13-126, and Public Chapter 850 (2014). **Administrative History:** Original rules filed March 31, 2003; effective July 29, 2003. Amendment filed December 28, 2005; effective April 28, 2006. Amendment filed January 12, 2015; effective April 12, 2015.

0520-14-01-.03 ALLOCATION OF STATE AND LOCAL FUNDS.

- (1) A local board of education shall allocate to each charter school an amount equal to the per student state and local funds received by the charter authorizer and all appropriate allocations under federal laws or regulations.
- (2) Student enrollments used in per pupil calculations shall be based on current year average daily membership (ADM) for the LEA in which the school resides (inclusive of all charter school enrollment). The charter school's allocation shall be calculated by multiplying the per pupil amount by the charter school's current year ADM.
- (3) Allocations to charter schools shall be based on one hundred percent (100%) of state and local funds received by the charter authorizer, including any current year growth funds received by the authorizer and the required local match for the state funds generated under the Basic Education Program (BEP) for capital outlay (excluding the proceeds of debt obligations and associated debt service).
- (4) The department of education shall calculate the amount of state funding required under the BEP for capital outlay to be received in a fiscal year by the LEA in which the charter school resides and shall distribute directly to each charter school its total per pupil state share.
- (5) Allocations to a charter school may not be reduced by the charter authorizer for any category of cost except for the annual authorizer fee. If the charter agreement includes a provision whereby the charter authorizer will provide for employee benefits or retirement, then the authorizer may withhold funds to cover the costs of those services. Any services the charter school chooses to purchase from the charter authorizer may also exist in a separate services contract between the charter school and the authorizer. However, approval of a separate services contract may not be a condition of approval of the charter agreement. If a services contract is executed with the charter authorizer, then the authorizer may withhold funds to cover the costs of those services.
- (6) Each charter authorizer shall include as part of its budget submitted pursuant to T.C.A. § 49-2-203, the per pupil amount of local money it will pass through to charter schools during the upcoming school year. Allocations to the charter schools during that year shall be based on that figure. The charter authorizer shall distribute the portion of local funds it expects to receive in no fewer than nine (9) equal installments to charter schools in the same manner as state funds are distributed. The initial per pupil amount of funding shall be calculated using the number of BEP funded ADMs for the first payments. A charter authorizer shall adjust payments to its charter schools, at a minimum, in October, February and June, based on changes in revenue, student enrollment, or student services. Beginning with the first such adjustment, and continuing for the remainder of the school year, the charter authorizer shall use current year enrollment to calculate the adjusted per pupil amount.
- (7) New charter schools or charter schools adding a new grade shall be funded based on anticipated enrollment in the charter agreement. Those figures shall be subsequently adjusted to reflect the actual number of students enrolled.
- (8) Pursuant to T.C.A. § 49-13-124, the charter authorizer may endorse the submission of the qualified zone academy bond application to the local taxing authority. The charter authorizer may endorse such a bond application submitted by the charter school governing body, or the charter authorizer may include the charter school's project as part of the authorizer's bond application.
- (9) If charter schools provide school nutrition programs, they may provide their own programs in compliance with United States Department of Agriculture regulations and State law or they may contract with the charter authorizer for the provision of school nutrition programs.

(Rule 0520-14-01-.03, continued)

- (10) Charter schools that provide transportation in accordance with the provisions of T.C.A. §§ 49-6-2100, et seq., other than through an agreement with the charter authorizer, shall receive the State and local funds generated through the BEP for such transportation.

Authority: T.C.A. §§ 49-2-203; 49-6-2100, et seq.; 49-13-112; 49-13-124; and 49-13-126.
Administrative History: Original rule filed March 25, 2010; effective August 29, 2010. Repeal and new rule filed March 21, 2012; effective August 29, 2012. Amendments filed September 22, 2017; effective December 21, 2017.

0520-14-01-.04 ENROLLMENT.

- (1) Charter schools shall conduct an initial student application period of at least thirty (30) days. During this period, all eligible students may apply.
- (2) A charter school shall not exclude students from enrollment based on race, color, ethnicity, national origin, religion, income level, disability, proficiency in the English language, or academic ability.
- (3) A charter school may submit a charter school application that seeks to limit enrollment to a single sex, as long as such enrollment proposal is in compliance with federal law.
- (4) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building.
- (5) Students that attended the charter school during the previous school year shall be given first enrollment preference and excluded from entering into a lottery. Students that attended the charter school during the previous school year shall not be required to re-apply. Students enrolling in a charter school from another charter school, even if both schools share a sponsor or governing body, shall be subject to the preferences outlined in paragraph (9).
- (6) A charter school may give an enrollment preference to children of a teacher, sponsor, or member of the governing body of the charter school, not to exceed ten percent (10%) of total enrollment or twenty-five (25) students, whichever is less, in which case such students shall also be given first enrollment preference and excluded from entering into a lottery.
- (7) If, at the end of the initial student application period, the number of eligible students seeking to be enrolled does not exceed the school's capacity or the capacity of a program, class, grade level or building, then the enrollment of eligible students may proceed on a first come, first served basis.
- (8) If, at the end of the initial student application period, the number of eligible students seeking to be enrolled exceeds the school's capacity or the capacity of a program, class, grade level or building, then the enrollment of eligible students shall be determined on the basis of a lottery.
 - (a) Any such lottery shall be conducted within thirty (30) calendar days of the close of the initial student application period.
 - (b) A charter school shall provide to the Department of Education certification by an independent accounting firm or by a law firm that each lottery conducted for enrollment purposes complied with the requirements of T.C.A. § 49-13-113. Charter schools that choose to participate in the enrollment process of their chartering authority may use certification from the chartering authority to satisfy this requirement.

(Rule 0520-14-01-.04, continued)

- (c) In lieu of an independent accounting firm or law firm, charter schools may request that the Department of Education review and approve the lottery process prior to the lottery.
- (9) A charter school shall give enrollment preferences in the following order:
- (a) Students enrolled in a pre-K program operated by the charter school sponsor;
 - (b) Students enrolled in a charter school that has an articulation agreement with the enrolling charter school; provided, that the articulation agreement has been approved by the chartering authority;
 - (c) Siblings of students already enrolled in the charter school;
 - (d) Students from a group or groups set forth in T.C.A. § 49-13-106(b)(1)(C) if the charter school has been approved with the focus of serving such students;
 - (e) Students residing within the LEA in which the charter school is located who were enrolled in another public school during the previous school year; and
 - (f) Students residing outside the LEA in which the charter school is located who were enrolled in another public school during the previous school year; if permitted through the chartering authority's out-of-district enrollment policy.
- (10) If enrollment within a group of preference set out in paragraph (9) exceeds the planned capacity of the school, enrollment within that group shall be determined on the basis of a lottery.
- (11) A non-charter public school converting partially or entirely to a charter school under T.C.A. § 49-13-106 shall give enrollment preference to students who reside within the former attendance area of that public school. Parents whose children are enrolled in the existing public school to be converted shall have the option to enroll their children in another public school operated by the LEA without penalty. The enrollment preference for students who reside within the former attendance area excludes those students from entering into a lottery.
- (12) Students living in other school zones may enroll in a conversion charter school after those living in the school zone have the opportunity to enroll, but only if there is program, class, grade level, and building capacity to serve the out-of-zone students. If applications by out-of-zone students exceed the charter school's capacity, then enrollment of out-of-zone students shall be determined on the basis of a lottery. Out-of-zone students who attended the school the previous school year and such students' siblings may be given preference in enrollment.
- (13) A charter school may refuse to admit any student who is expelled from another public school or district or who is in the process of being expelled from another public school or district.

Authority: T.C.A. §§ 49-13-113 and 49-13-126. **Administrative History:** Original rule filed March 25, 2010; effective August 29, 2010. Repeal and new rule filed March 21, 2012; effective August 29, 2012. Amendments filed January 10, 2018; effective April 10, 2018. Amendments filed August 29, 2018; effective November 27, 2018.

0520-14-01-.05 ANNUAL AUTHORIZER FEE.

- (1) Pursuant to T.C.A. § 49-13-128, local education agencies (LEAs) that serve as the chartering authority of a charter school shall collect an annual authorizer fee that is a percentage of the charter school's per student state and local funding as allocated under T.C.A. § 49-13-112.

(Rule 0520-14-01-.05, continued)

- (2) The annual authorizer fee shall be the lesser of three percent (3%) of the annual per-student state and local allocations or \$35,000 per school.
- (3) The authorizer fee shall be paid by a charter school to its authorizing LEA in accordance with the payment process issued by the Department of Education.
- (4) The annual authorizer fee collected by an LEA shall be recorded in the general ledger using the appropriate revenue code as determined by the Tennessee Comptroller and shall be subject to all audit and reporting requirements.
- (5) The LEA shall use the annual authorizer fee exclusively for fulfilling the following authorizing obligations:
 - (a) Charter school application approval process, including:
 1. Implementation of State Board approved quality authorizing standards; and
 2. Stipends or travel for external reviewers.
 - (b) Interim review process required by T.C.A. § 49-13-121(d), including review of the progress of the school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the approved charter agreement.
 - (c) Charter school renewal process required by T.C.A. § 49-13-121, including:
 1. Review of the renewal application;
 2. Stipends or travel for external reviewers; and
 3. Development of the renewal evaluation required to be submitted to each charter school.
 - (d) Monitoring and oversight activities, including:
 1. Development of a performance framework;
 2. Annual monitoring visits;
 3. Data meetings;
 4. Any software or data management tools required by the LEA exclusively for charter schools;
 5. Monitoring of all legal requirements; and
 6. School closure responsibilities outlined in T.C.A. § 49-13-130.
 - (e) Personnel costs for LEA staff supporting charter schools, including:
 1. Salaries and benefits for full-time or part-time personnel with exclusive charter school responsibilities;
 2. Salaries for LEA personnel who spend a portion of their time on direct charter school responsibilities. Any funds spent on salaries must be pro-rated to reflect the amount of time spent only on charter support work. Salaries for LEA personnel may only be paid for with authorizer fee funds if the activities and

(Rule 0520-14-01-.05, continued)

- duties of the LEA personnel are beyond the scope and capacity of the LEA charter school office or personnel;
3. External consultants or other consultancy or legal fees to support LEA charter authorizing obligations; or
 4. Reasonable costs associated with recruiting or hiring charter support or authorizing staff.
- (f) Annual reporting, including:
1. Review of annual charter school performance reports required under T.C.A. § 49-13-120;
 2. Creation of the authorizer fee report required by T.C.A. § 49-13-128(c);
 3. Reporting of vacant and underutilized properties owned or operated by the LEA pursuant to T.C.A. § 49-13-136; and
 4. Reporting of student directory information required by T.C.A. § 49-13-132.
- (g) Ongoing charter school support services, including:
1. Interventions or authorizer-led supports;
 2. Maintenance of facilities or other capital outlay obligations that are not otherwise outlined in a lease agreement between the authorizer and charter school;
 3. Professional development, orientation, or onboarding of charter school employees; or
 4. Contract services for specialized or targeted charter supports.
- (6) By December 1 of each year, each LEA that collects an annual authorizer fee shall report to the Department of Education the total amount of authorizer fees collected in the previous school year and the authorizing obligations fulfilled using the fee. Reports shall be submitted on a reporting form developed by the Department of Education.
- (7) Each authorizer fee report shall be posted on the Department of Education's website.
- (8) If, for any school year, the total amount of authorizer fees collected by the LEA exceeds the amount used by the LEA to perform its authorizing obligations and responsibilities, the LEA shall distribute the amount remaining to its authorized public charter schools.
- (9) Each authorizing LEA shall provide a projected charter school office budget for the upcoming school year to the Department of Education by August 1. The Department of Education shall post each projected budget to its website by August 15.
- (10) Any excess funds collected by an LEA shall be distributed to its authorized public charter schools in the fiscal year immediately following the fiscal year in which the excess fees were collected by the LEA and in accordance with the process established by the Department of Education.
- (11) If the Department of Education determines funds were used by the LEA for activities other than the authorizing obligations outlined in this Rule, the Department of Education shall

(Rule 0520-14-01-.05, continued)

withhold an amount equal to the misallocated funds in the following fiscal year from the LEA and shall distribute the misallocated funds directly to the public charter schools.

- (12) If an LEA does not receive timely payment from an authorized charter school in accordance with Paragraph (3) of this rule, the LEA shall be entitled to any past due amount from the authorized charter school in accordance with the payment process issued by the Department of Education.
- (13) Each charter school shall receive a proportionate share of any excess or misallocated funds collected by the LEA based on the actual amount of authorizer fee funds paid to the LEA by each charter school.

Authority: T.C.A. §§ 49-1-302, 49-13-106, 49-13-107, 49-13-108, 49-13-126, and 49-13-128.

Administrative History: Original rule filed January 11, 2019; effective April 11, 2019.

0520-14-01-.06 AMENDMENTS TO THE CHARTER AGREEMENT.

- (1) Charter Amendments.
 - (a) The authorizer shall rule by resolution, at a regular or special called meeting, on the approval or denial of an amendment petition within ninety (90) calendar days of receipt of the petition.
 - (b) Should the authorizer fail to either approve or deny an amendment petition within the ninety (90) calendar day time limit, the amendment petition shall be deemed approved.
 - (c) If an amendment petition is denied, the grounds upon which the authorizer based the decision to deny an amendment must be stated in writing, specifying objective reasons for the denial.
- (2) Appealing an Amendment Decision.
 - (a) The governing body of a public charter school may appeal a decision by the authorizer to deny an amendment to the charter agreement to the State Board of Education within ten (10) calendar days of the denial. The governing body shall submit a notice of appeal by email to the General Counsel of the State Board. The notice of appeal must be received by the General Counsel of the State Board by 4:30 p.m. Central Time on the tenth (10th) calendar day. In order to be considered a complete appeal, the notice of appeal shall contain the following information:
 1. A copy of the amendment petition submitted to the authorizer;
 2. A summary of the petition timeline, including the date the petition was originally submitted to the authorizer and the date the petition was denied by the authorizer;
 3. A copy of the letter informing the governing body of the authorizer's reasons for denying the petition; and
 4. A brief statement, no longer than three (3) pages, including but not limited to, an explanation of why the authorizer's denial of the charter school amendment petition was contrary to the best interests of the pupils, school district, or community.

(Rule 0520-14-01-.06, continued)

- (b) State Board staff shall not accept an incomplete appeal or any additional documentation from the governing body of the charter school beyond the contents of the notice of appeal unless requested by the State Board staff.
- (c) The State Board may request additional documentation from the governing body, the authorizer, and the Tennessee Department of Education.
- (d) Following the review of the documentation included in the notice of appeal, including the amendment petition and any additional information collected by the State Board, the Executive Director of the State Board shall provide written findings and recommendations to the State Board. The State Board shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the State Board is not bound by the recommendation.
- (e) Within sixty (60) calendar days after receipt of the appeal, the State Board shall meet to render a decision. If the State Board finds that the denial of the amendment petition is contrary to the best interests of the students, LEA, or community, the State Board shall remand the decision to the authorizer with written instructions for approval of the amendment. The State Board shall not become the authorizer, and the charter school shall remain under the supervision of the authorizer to whom the amendment application was submitted. The decision of the State Board is final and no other appeals shall be made.

Authority: T.C.A. § 49-13-110(b) and Acts 2019, ch. 219. **Administrative History:** Emergency rule filed June 27, 2019; effective through December 24, 2019.