

**RULES  
OF THE  
STATE BOARD OF EDUCATION**

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

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**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 NEW START, RENEWAL, AND REVOCATION APPEALS.**

- (1) New Start Charter School Application Appeals.
  - (a) Pursuant to T.C.A. § 49-13-108(b)(4), the charter school sponsor may appeal a decision by the local board of education to deny an amended application for a newly created public school to the State Board of Education (State Board) within ten (10) calendar days after the local board of education's decision. The charter school sponsor shall submit a notice of appeal by email to the State Board. The notice of appeal must be received by the State Board no later than 4:30 p.m. Central Time on the tenth (10th) day after the local board of education's decision. In order to be considered a complete appeal, this notice of appeal shall contain the following information:
    1. Copies of the initial and amended applications submitted to the local board of education;
    2. A summary of the application timeline including the dates that the initial and amended applications were originally submitted to the local board of education, the date of the public hearing, the date of the capacity/applicant interview (if applicable), and the dates the initial and amended applications were denied by the local board of education;
    3. Copies of the letters informing the charter school sponsor of the local board of education's reasons for denying the initial and amended applications;
    4. A clean version of the amended application without any tracked changes that includes all changes made upon resubmission to the local board of education and, if applicable, any corrections to the application allowed under T.C.A. § 49-13-108(b)(4)(A)(iii) upon appeal to the State Board;
    5. If applicable, a document outlining any proposed corrections allowed under T.C.A. § 49-13-108(b)(4)(A)(iii) made to the amended application upon appeal to the State Board. The charter school sponsor shall use the template provided by the State Board staff to submit any proposed corrections. Any proposed corrections to the charter school amended application, as permitted by T.C.A. § 49-13-108(b)(4)(A)(iii), must be made at the time of the appeal to the State Board. The State Board shall only accept corrections permitted by T.C.A. § 49-13-108(b)(4)(A)(iii). Corrections are changes that are minor in nature such as typographical, grammatical, or transposing. The State Board staff shall review all proposed corrections and notify the sponsor if the corrections will be accepted. If the State Board staff does not accept a proposed correction, the State Board staff shall redact it from the amended application; and
    6. A brief statement, no longer than three (3) pages, including, but not limited to, an explanation of why the local board of education's denial of the charter school application was contrary to the best interests of the students, LEA, or community.
  - (b) State Board staff shall not accept an incomplete appeal or any additional documentation from the charter school sponsor beyond the contents of the notice of appeal unless requested by the State Board staff.

(Rule 0520-14-01-.02, continued)

- (c) The State Board staff may request additional documentation from the charter school sponsor, the local board of education, and the Tennessee Department of Education.
- (d) The State Board shall conduct a de novo on the record review of the proposed charter school's amended application.
- (e) If the local board of education's denial is based on substantial negative fiscal impact, the local board shall submit documentation explaining the fiscal impact of the charter school as requested by the State Board staff. The burden will be on the local board of education to prove that substantial negative fiscal impact does exist. The State Board will conduct a separate analysis for each application that was denied based upon substantial negative fiscal impact.
- (f) The State Board staff shall assemble a charter application review committee comprised of highly competent teams of internal and external evaluators with relevant and diverse educational, organizational, financial, and legal expertise, as well as an understanding of the essential principles of public charter school autonomy and accountability.
- (g) In reviewing the amended application, the State Board shall use the sample scoring criteria provided by the Commissioner of Education and available on the Tennessee Department of Education's website to evaluate the charter application.
- (h) The State Board staff shall interview the governing board of each sponsor that has filed an appeal. The State Board staff shall assemble an interview panel that may include State Board staff, a State Board member, review committee members, and any other internal or external individuals whose knowledge and expertise would assist the State Board in its decision.
- (i) The officers of the governing board and the school leader (if named) shall attend the interview, and the total participants from the sponsor shall be limited to eight (8).
- (j) All interview attendees (both on behalf of the charter school and State Board) shall attend the interview in-person. However, State Board staff may allow certain attendees to participate remotely in extraordinary circumstances.
- (k) Within sixty (60) calendar 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 shall hold a public hearing. The public hearing shall be attended by the State Board or its designated representative and shall occur in the LEA in which the proposed charter school submitted the charter school application.
- (l) Following the public hearing, the interview, and the review of the record including the amended application, 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.
- (m) Subsequently, but within sixty (60) calendar days after the State Board received the notice of appeal, the State Board shall meet to render a decision and shall forward its findings to the local board of education.
  - 1. 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, LEA, or community, the State Board shall remand the decision to the local board of education with written instructions for approval of the charter school application. The grounds upon which the State

(Rule 0520-14-01-.02, continued)

Board based its decision must be stated in writing and specify the objective reasons for the decision. The State Board's decision is final and not subject to appeal. The local board of education shall be the authorizer of the charter school.

2. 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, LEA, or community, the State Board may approve the application for the charter school and become the charter school's authorizer. The State Board's decision is final and not subject to appeal.
- (n) The State Board shall maintain annual membership in the National Association of Charter School Authorizers (NACSA) and adopt state quality charter authorizing standards based on national best practices.
- (2) Charter School Renewal Application Appeals.
- (a) Pursuant to T.C.A. § 49-13-121(e), the governing body of a public charter school may appeal a decision by the local board of education to deny a renewal application to the State Board within ten (10) calendar days after the local board of education's decision to deny the renewal application. The governing body shall submit a notice of appeal by email to the State Board. The notice of appeal must be received by the State Board no later than 4:30 p.m. Central Time on the tenth (10th) day after the local board of education's decision. In order to be considered a complete appeal, this notice of appeal shall contain the following information:
    1. Copies of the renewal application, which shall include, but not be limited to, the information set forth in T.C.A. § 49-13-121;
    2. Summary of the renewal application timeline including the date that the renewal application was originally submitted to the local board of education, the date the renewal application was denied by the local board of education, and any other dates relevant to the local board of education's consideration of the renewal application; and
    3. Brief statement, no longer than three (3) pages, including but not limited to an explanation for why the local board of education's denial of the charter school renewal application was contrary to the best interests of the students, LEA, or community.
  - (b) State Board staff shall not accept an incomplete appeal or any additional documentation from the charter school governing body beyond the contents of the notice of appeal unless requested by the State Board staff.
  - (c) The State Board staff may request additional documentation from the charter school governing body, the local board of education, and the Tennessee Department of Education.
  - (d) The State Board shall conduct a de novo on the record review of the local board of education's renewal decision.
  - (e) The State Board staff shall assemble a review committee comprised of highly competent teams of internal and external evaluators with relevant and diverse educational, organizational, financial, and legal expertise, as well as an understanding of the essential principles of public charter school autonomy and accountability.

(Rule 0520-14-01-.02, continued)

- (f) In reviewing the renewal application and renewal record, the State Board shall use a scoring rubric to evaluate the charter school's renewal application and renewal record.
  - (g) The State Board staff shall interview the governing board of each charter school operator that has filed an appeal. The State Board staff shall assemble an interview panel that may include State Board staff, State Board members, review committee members, and any other internal or external individuals whose knowledge and expertise would assist the State Board in its decision.
  - (h) The officers of the governing board and the school leader shall attend the interview, and the total participants from the charter school operator shall be limited to eight (8).
  - (i) All interview attendees (both on behalf of the charter school and State Board) shall attend the interview in-person. However, State Board staff may allow certain attendees to participate remotely in extraordinary circumstances.
  - (j) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the State Board shall hold a public hearing, attended by the State Board or its designated representative, in the school district in which the charter school has been operating.
  - (k) Following the public hearing, the interview, and the review of the renewal record including the renewal application, 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.
  - (l) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the State Board shall meet to render a decision and shall forward its findings to the local board of education.
    - 1. If the renewal application is for a charter school in an LEA that does not contain a priority school on the current or last preceding priority school list, and if the State Board finds that the chartering authority's decision was contrary to the best interests of the students, LEA, or community, the State Board shall remand the decision to the local board of education with written instructions for approval of the renewal application. The local board of education shall remain the authorizer.
    - 2. If the renewal 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 chartering authority's decision was contrary to the best interests of the students, LEA, or community and approves the renewal application, the State Board shall be the authorizer, unless the LEA agrees to oversee and manage the charter school pursuant to T.C.A. § 49-13-142.
    - 3. A decision by the State Board to deny renewal of a charter agreement is final and not subject to appeal.
  - (m) If the governing body of a charter school authorized by the State Board submits its renewal application to the State Board pursuant to T.C.A. § 49-13-121 then the decision of the State Board on the renewal application is final and may not be appealed again to the State Board.
- (3) Charter School Revocation Appeals.

(Rule 0520-14-01-.02, continued)

- (a) Pursuant to T.C.A. § 49-13-122(f), the governing body of a public charter school may appeal a decision by the local board of education to revoke the charter agreement to the State Board within ten (10) calendar days after the local board of education's decision to revoke, except that a revocation based on violations in T.C.A. § 49-13-122(a) are not appealable. The governing body shall submit a notice of appeal by email to the State Board. The notice of appeal must be received by the State Board no later than 4:30 p.m. Central Time on the tenth (10th) day after the local board of education's decision. In order to be considered a complete appeal, this notice of appeal shall contain the following information:
1. A copy of the statement issued by the local board of education stating its reasons for revocation as required by T.C.A. § 49-13-122(d); and
  2. Brief statement, no longer than three (3) pages, including but not limited to an explanation for why the local board of education's decision to revoke the charter agreement was contrary to T.C.A. § 49-13-122.
- (b) State Board staff shall not accept an incomplete appeal or any additional documentation from the charter school governing body beyond the contents of the notice of appeal unless requested by the State Board staff.
- (c) The State Board staff may request additional documentation from the charter school governing body, the local board of education, and the Tennessee Department of Education.
- (d) The State Board shall conduct a de novo on the record review of the local board of education's revocation decision.
- (e) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the State Board shall hold a public hearing, attended by the State Board or its designated representative, and the local board of education or the local board of education's designated representative in the LEA in which the charter school has been operating.
- (f) Subsequently, but within sixty (60) calendar days after receipt of the notice of appeal, the State Board shall meet to render a decision and shall forward its findings to the local board of education.
1. If the State Board finds that the local board of education's decision was contrary to T.C.A. § 49-13-122 and overturns the local board of education's decision to revoke the charter agreement, the State Board shall remand the decision to the local board of education and the local board of education shall remain the authorizer. The decision of the State Board is final and not subject to appeal.

**Authority:** T.C.A. §§ 49-1-302, 49-13-106, 49-13-107, 49-13-108, 49-13-121, 49-13-122, and 49-13-126; Public Chapter 850 (2014); and Public Chapter 219 (2019). **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. Amendments filed February 3, 2020; effective May 3, 2020.

#### **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.

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

- (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.
- (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.

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

**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.
  - (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;

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

- (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.
- (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.

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

- (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 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

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

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 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.

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

- (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 AND APPEALS PROCESS.**

- (1) Charter Amendments.
- (a) An authorizer's approval of a public charter school ("charter school") application shall be in the form of a written charter agreement, signed by the sponsor and the authorizer which shall be binding upon the governing body of the charter school. The charter agreement for a charter school shall be in writing and contain all material components of the approved application. The governing body of the charter school may petition the authorizer to amend the original charter agreement.
- (b) An amendment to the original charter agreement shall be required for any material modification to the provisions of a charter school's charter agreement.
- (c) A material modification to a charter agreement is defined as a substantive change to the terms of the charter agreement regarding a charter school's governance, financial, operational, or academic structure. Material modifications include, but are not limited to:
1. Change in governance structure (including, but not limited to, a change in the non-profit entity governing the school), or addition of or changes to the charter management organization;
  2. The addition or removal of a grade level or levels;
  3. Changes in student enrollment which fall outside of the minimum or maximum enrollment thresholds set forth in the charter school's charter agreement;
  4. The addition or removal of a plan to provide transportation to students attending the charter school;
  5. Changes to the charter school's location, if outside the geographic area set forth in the charter agreement;
  6. Changes to the charter school's academic focus set forth in the charter agreement; and
  7. Changes identified in the charter agreement as material modifications or amendments.
- (d) The governing body of the charter school applying for a material modification to the charter agreement shall complete and submit to its authorizer the amendment petition application (the "amendment application") created and published by the Department of Education and approved by the State Board.
- (e) The governing body of a charter school seeking to apply for a material modification to the charter agreement shall file an amendment petition letter of intent with the authorizer by one of two deadlines stated below:

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

1. Fall Deadline. The governing body of the charter school may file an amendment petition letter of intent with the authorizer by September 1 of the school year preceding the school year in which the proposed amendment will take effect for any material modification outlined in paragraph (c). If the due date falls on a Saturday, Sunday or state-observed holiday, the letter of intent shall be due on the next business day.
  2. Spring Deadline. The governing body of the charter school may file an amendment petition letter of intent with the authorizer by January 15 of the year in which the proposed amendment will take effect for any material modification outlined in paragraph (c) except items contained in paragraphs (c)2. or (c)3. If the due date falls on a Saturday, Sunday or state-observed holiday, the letter of intent shall be due on the next business day.
- (f) The governing body of a charter school shall file an amendment application with the authorizer thirty (30) calendar days after submitting a letter of intent.
1. Fall Deadline. The governing body of a charter school that submits its letter of intent in accordance with in paragraph (e)1. shall file an amendment application with the authorizer by October 1. If the due date falls on a Saturday, Sunday or state-observed holiday, the amendment application shall be due on the next business day.
  2. Spring Deadline. The governing body of a charter school that submits its letter of intent in accordance with paragraph (e)2. shall file an amendment application with the authorizer by February 14. If the due date falls on a Saturday, Sunday or state-observed holiday, the amendment application shall be due on the next business day.
- (g) The authorizer shall review and score all complete and timely amendment applications using a scoring rubric created and published by the Department of Education and approved by the State Board.
- (h) The authorizer shall rule by resolution, at a regular or special called meeting, on the approval or denial of an amendment application within sixty (60) calendar days of the application due date. Amendment applications may be submitted prior to the due date; however, all complete and timely amendment applications shall be reviewed and acted upon within sixty (60) calendar days following the due date.
- (i) Should the authorizer fail to either approve or deny a complete and timely amendment application within the sixty (60) calendar day time limit, the amendment application shall be deemed approved.
- (j) If an amendment application is deemed approved, such amendment shall not alter the original term of the charter agreement. The charter school shall still be required to submit a renewal application pursuant to T.C.A. § 49-13-121 to continue to operate beyond the current charter term.
- (k) If an amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial.
- (l) An emergency amendment petition application (“emergency amendment application”) and rubric shall be created and published by the Department of Education and approved by the State Board.

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

- (m) If the governing body of a charter school determines that, due to unanticipated extraordinary circumstances, good cause exists for the emergency amendment application to be submitted, it shall make a finding by resolution at a regular or special called meeting of the governing body. An emergency amendment application may be submitted to the authorizer at any time.
  - 1. In order for an emergency amendment application to be complete, the governing body of the charter school shall include with the emergency amendment application detailed written findings explaining the unanticipated extraordinary circumstances giving rise to the emergency amendment application. An emergency amendment application shall not be used to add a grade level or levels or to increase student enrollment outside of the maximum enrollment thresholds set forth in the charter agreement.
  - 2. The authorizer shall rule by resolution, at a regular or special-called meeting, on the approval or denial of an emergency amendment application within sixty (60) calendar days of the date the emergency amendment application was submitted to the authorizer.
  - 3. Should the authorizer fail to either approve or deny a complete emergency amendment application within the sixty (60) calendar day time limit, the emergency amendment application shall be deemed approved.
  - 4. If an emergency amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial.
- (2) Appealing an Amendment Decision.
  - (a) The governing body of a charter school may appeal a decision by an authorizer other than the State Board to deny an amendment to the charter agreement to the State Board within ten (10) calendar days of an authorizer's vote to deny the amendment application, consistent with T.C.A. § 49-13-110(d). The governing body of a charter school shall submit a notice of appeal by email to the State Board. The notice of appeal must be received by the State Board no later than 4:30 p.m. Central Time on the tenth (10th) calendar day after an authorizer's vote to deny the amendment application or emergency amendment petition. In order to be considered a complete appeal, the notice of appeal shall contain the following information:
    - 1. A copy of the original charter agreement that contains all material components of the approved application;
    - 2. A copy of the amendment application or emergency amendment application submitted to the authorizer;
    - 3. A summary of the amendment application or emergency amendment application timeline including the date the amendment application or emergency amendment application was originally submitted to the authorizer and the date the amendment application or emergency amendment application was denied by the authorizer;
    - 4. A copy of the letter informing the governing body of the authorizer's reasons for denying the amendment application or emergency amendment application; and
    - 5. 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

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

application or emergency amendment application was contrary to the best interests of the students, LEA, or community.

- (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) State Board staff may request additional documentation from the governing body, the authorizer, and the Tennessee Department of Education.
- (d) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the State Board shall hold a public hearing. The public hearing shall be attended by the State Board or its designated representative and shall occur in the school district in which the charter school is operating.
- (e) Following the public hearing, the review of the amendment application or emergency amendment application 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.
- (f) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the State Board shall meet to render a decision. If the State Board finds that the denial of the amendment application or emergency amendment application 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 application or emergency amendment application. 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 or emergency 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 Public Chapter 219 (2019). **Administrative History:** Emergency rule filed June 27, 2019; effective through December 24, 2019. Emergency rule expired effective December 25, 2019. Original rule filed January 31, 2020; effective April 30, 2020.

#### **0520-14-01-.07 GOVERNING BODY TRAINING APPROVAL.**

- (1) Approval of Training Courses.
  - (a) Submission and Review of Training Programs for State Board Approval. Charter school governing body ("Governing Body") training courses shall be certified by the Tennessee Charter School Center ("TCSC") and approved by the State Board of Education ("State Board").
  - (b) Training hours will be recognized only for training courses that are certified by the TCSC and approved by the State Board in accordance with this rule.
  - (c) The TCSC shall review proposed Governing Body training courses. The TCSC shall require course providers to submit the following information for review:
    - 1. Name of the individual(s) or entity wishing to provide training;
    - 2. Experience of the individual(s) or entity in providing governing board training;

(Rule 0520-14-01-.07, continued)

3. Instructor qualifications;
  4. Title, proposed agenda, and length of training courses;
  5. Intended audience for the courses (New Board Members, Experienced Board Members, etc.);
  6. Description of content to be delivered and learning objectives;
  7. Description of instructional strategies, activities, and presentation materials;
  8. Method of delivery of training course content (webinar, in-person, etc.);
  9. Fees, if any, to be charged; and
  10. Methods used to evaluate the achievement of stated learning objectives and provider effectiveness.
- (d) Training courses that meet the requirements of this rule and are certified by the TCSC shall be submitted annually by the TCSC to the State Board for approval.
1. The TCSC shall submit certified courses for approval to the State Board no later than March 15 of the year in which the course will be offered.
  2. Courses certified by the TCSC and approved by the State Board shall be included in State Board Policy 6.112.
  3. The TCSC shall notify the State Board if any changes to information outlined in paragraph (c) are made to approved courses. The State Board staff shall determine if the changes are material and if re-approval is required as a result of the changes and notify the TCSC.
- (e) When submitting certified courses for approval, the TCSC shall include a summary of the reasons for the approval recommendation to the State Board.
- (2) Training Course Requirements.
- (a) Training requirements for new Governing Body members with less than one (1) year of continuous service as part of the current Governing Body and members of newly approved charter school Governing Bodies (“New Board Members”).
1. Training Hour Requirements. New Board Members shall, at a minimum, complete six (6) hours of training within twelve (12) months of joining the Governing Body.
    - (i) Governing Body members with a break in service of more than one (1) year within the same Governing Body or new members of a Governing Body shall be considered New Board Members for training purposes.
  2. Training Course Content. New Board Members shall, at a minimum, receive training on the following topics:
    - (i) Overview of responsibilities of non-profit governance, including but not limited to financial oversight and evaluation of school leadership.

(Rule 0520-14-01-.07, continued)

- (ii) State laws and rules governing charter school operations, including student discipline and student discipline due process requirements, and requirements to comply with federal laws including, but not limited to the Individuals with Disabilities Education Act (“IDEA”), the Federal Educational Rights and Privacy Act (“FERPA”), and Section 504 of the Rehabilitation Act of 1973.
  - (iii) Tennessee Open Meetings and Open Records requirements.
  - (iv) Conflict of interest and ethics.
- 3. New Board Members may establish compliance through the completion of one (1) six (6) hour training course, or through the completion of multiple training courses combined to reach the six (6) hour minimum.
- 4. New Board Members shall provide evidence of completion of the required training to the authorizer within twelve (12) months of joining the board.
- (b) Training Requirements for experienced Governing Body members with one (1) or more years of continuous Governing Body service as part of a specific school’s Governing Body (“Experienced Board Members”).
  - 1. Training Hour Requirements. Experienced Board Members shall, at a minimum, complete four (4) hours of training each year.
  - 2. Training Course Content. Experienced Board Members may select any course(s) certified by the TCSC and approved by the State Board.
  - 3. Experienced Board Members may establish compliance through the completion of one (1) four (4) hour training course, or through the completion of multiple training courses combined to reach the four (4) hour minimum.
  - 4. Experienced Board Members shall provide evidence of completion of the required training to the authorizer by November 15 each year.
- (c) Charter school authorizers shall monitor charter Governing Body compliance with these Rules.

**Authority:** T.C.A §§ 49-13-111 and 49-13-126 and Public Acts of 2019, Ch. 219. **Administrative History:** Original rule filed March 26, 2020; effective June 24, 2020.