

**RULES
OF
THE TENNESSEE PUBLIC CHARTER SCHOOL COMMISSION**

**CHAPTER 1185-01-01
CHARTER SCHOOL APPEALS**

TABLE OF CONTENTS

1185-01-01-01	New Start Charter School Appeals	1185-01-01-03	Charter School Revocation Appeals
1185-01-01-02	Charter School Renewal Application	1185-01-01-04	Charter School Amendment Appeals
	Appeals		

1185-01-01-01 NEW START CHARTER SCHOOL APPEALS.

- (1) Pursuant to T.C.A. § 49-13-108(b)(5), 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 Tennessee Public Charter School Commission (“Commission”) no later than ten (10) calendar days after the date of local board of education’s decision. The charter school sponsor shall submit a notice of appeal by email to the Commission. The notice of appeal must be received by the Commission no later than 11:59 p.m. Central Standard 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:
 - (a) Copies of the initial and amended applications submitted to the local board of education;
 - (b) 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;
 - (c) Copies of the letters informing the charter school sponsor of the local board of education’s reasons for denying the initial and amended applications;
 - (d) 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
 - (e) 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, local education agency (“LEA”), or community.
- (2) Commission 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 Commission staff. If the sponsor indicates in the notice of appeal that one (1) of the requirements listed in subparagraphs (a)–(e) above cannot be submitted, the sponsor shall include an explanation in the notice of appeal. Commission staff may conditionally accept the appeal and collect additional information to determine whether the appeal may be accepted despite the sponsor’s inability to submit one (1) of the requirements listed in subparagraphs (a)–(e) above.
 - (a) Additionally, the Commission staff may request additional documentation from the charter school sponsor, the local board of education, and the Tennessee Department of Education. In such case, each is requested to comply with the document request within five (5) calendar days of the request or as soon as possible thereafter, but in no event more than seven (7) calendar days after the request.

(Rule 1185-01-01-.01, continued)

- (3) The Commission shall conduct a de novo on the record review of the proposed charter school's amended application.
- (4) The Commission shall conduct a separate analysis for each application that was denied based upon substantial negative fiscal impact. 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 Commission staff. The local board of education is requested to provide this documentation within five (5) calendar days of receiving notification from the Commission that a sponsor is appealing the local board of education's denial of a charter application or as soon as possible thereafter, but in no event more than seven (7) calendar days. The burden will be on the local board of education to prove that substantial negative fiscal impact does exist. The Commission may also obtain information independently from the information provided by the local board of education.
- (5) The Commission staff shall assemble a charter application review committee comprised of 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.
 - (a) In reviewing the amended application, the application review committee shall:
 - 1. 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; and
 - 2. Review applications on appeal in accordance with the State Board of Education's quality public charter school authorizing standards.
- (6) The Commission staff shall interview the governing board of each sponsor that has filed an appeal. The focus of the interview will be assessing the governing board and school leadership's capacity to operate a high-quality charter school that is consistent with the charter application and in a fiscally responsible manner that advances the mission of the charter school. The Commission staff shall assemble an interview panel that may include Commission staff, a Commission member, review committee members, and any other internal or external individuals whose knowledge and expertise would assist the Commission in its decision.
 - (a) 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). The interviews will not be open to the public.
 - (b) All interview attendees (both on behalf of the charter school and Commission) shall attend the interview in-person. However, Commission staff may allow certain attendees to participate remotely in extraordinary circumstances.
- (7) Within seventy-five (75) calendar days after receipt of the notice of appeal, the Commission, or the Commission's designee, shall hold a public hearing. The public hearing shall be attended by the Commission or its designated representative and shall occur in the LEA in which the proposed charter school submitted the charter school application. The hearing must be open to representatives from the local board of education and the sponsor. Notice of the hearing must be provided to the local board of education, the sponsor, and the general public. At least one (1) week before the hearing, notice of the hearing must be:
 - (a) Published in a newspaper of general circulation in the county where the LEA is located; and

(Rule 1185-01-01, continued)

- (b) Posted on the Commission's website.
- (8) Following the public hearing, the interview, and the de novo review of the record including the amended application, the Executive Director of the Commission shall provide written findings and recommendations to the Commission. The Commission shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the Commission is not bound by the recommendation.
- (9) Subsequently, but within seventy-five (75) calendar days after the Commission received the notice of appeal, the Commission shall meet to render a decision and shall forward its findings to the local board of education.
- (a) A representative of the sponsor and local school board may speak at the meeting where the Commission will consider the findings and recommendations of the Executive Director. Alternatively, a representative of the sponsor and local school board may submit a written comment to be read into the record by a member of the Commission staff during the meeting where the Commission will consider the findings and recommendations of the Executive Director. Written comments shall not be more than one (1) page typed in length and shall be received by the Executive Director at least forty-eight (48) hours prior to the scheduled board meeting. The Commission shall accept only one (1) written comment from each party.
- (b) If the Commission finds that the application meets or exceeds the metrics outlined in the Department of Education's application-scoring rubric and that approval of the application is in the best interests of the students, LEA, or community, then the Commission may approve the public charter school's application and become the charter school's authorizer and LEA.
- (c) If a local board of education's decision to deny a public charter school application is based on substantial negative fiscal impact, the Commission shall not approve for operation any public charter school that the Commission determines will have a substantial negative fiscal impact on an LEA, such that authorization of the public charter school would be contrary to the best interests of the students, LEA, or community. The Commission's decision is final and not subject to appeal.
- (d) If the Commission becomes the chartering authority pursuant to T.C.A. § 49-13-108(b)(5)(D), the LEA and the charter school may submit a charter agreement signed by the LEA and the charter school to the Commission stating that the charter school shall be overseen and monitored by the LEA. In such case, if the charter agreement is received by the Commission within thirty (30) calendar days after the Commission becomes the charter authorizer, then the authorization of the charter school shall be officially transferred to the LEA.

Authority: T.C.A. §§ 49-13-105 and 49-13-108. **Administrative History:** Original rules filed October 29, 2020; effective January 27, 2021.

1185-01-02 CHARTER SCHOOL RENEWAL APPLICATION APPEALS.

- (1) Pursuant to T.C.A. § 49-13-121(f), 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 Commission no later than ten (10) calendar days after the date of the local board of education's decision to deny the renewal application. The governing body of the charter school shall submit a notice of appeal by email to the Commission. The notice of appeal must be received by the Commission no later than 11:59 p.m. Central Standard 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:

(Rule 1185-01-01-.02, continued)

- (a) Copies of the renewal application, which shall include, but not be limited to, the information set forth in T.C.A. § 49-13-121. Corrections to the renewal application shall not be accepted;
 - (b) 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
 - (c) 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.
- (2) Commission 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 Commission staff. If the governing body indicates in the notice of appeal that one (1) of the requirements listed in subparagraphs (a)–(c) above cannot be submitted, the governing body shall include an explanation in the notice of appeal. Commission staff may conditionally accept the appeal and collect additional information to determine whether the appeal may be accepted despite the governing body's inability to submit one (1) of the requirements listed in subparagraphs (a)–(c) above.
- (a) Additionally, the Commission staff may request additional documentation from the charter school governing body, the local board of education, and the Tennessee Department of Education. In such case, each is requested to comply with the document request within five (5) calendar days of the request or as soon as possible thereafter, but in no event more than seven (7) calendar days after the request.
- (3) The Commission shall conduct a de novo on the record review of the local board of education's renewal decision.
- (4) The Commission staff shall assemble a renewal review committee comprised of 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.
- (a) In reviewing the renewal application and renewal record, the renewal review committee shall use a scoring rubric to evaluate the charter school's renewal application and renewal record.
- (5) The Commission staff shall interview the governing board of each charter school operator that has filed an appeal. The focus of the interview will be on evaluating the charter school's performance over the current term and the governing body and school leadership's capacity to effectively oversee the charter school during the next charter term. The Commission staff shall assemble an interview panel that may include Commission staff, a Commission member, review committee members, and any other internal or external individuals whose knowledge and expertise would assist the Commission in its decision.
- (a) 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). The interviews will not be open to the public.
 - (b) All interview attendees (both on behalf of the charter school and Commission) shall attend the interview in-person. However, Commission staff may allow certain attendees to participate remotely in extraordinary circumstances.

(Rule 1185-01-01-.02, continued)

- (6) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the Commission shall hold a public hearing, attended by the Commission or its designated representative, in the school district in which the charter school has been operating.
- (7) Following the public hearing, the interview, and the de novo review of the renewal record including the renewal application, the Executive Director of the Commission shall provide written findings and recommendations to the Commission. The Commission shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the Commission is not bound by the recommendation.
- (8) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the Commission shall meet to render a decision and shall forward its findings to the local board of education.
 - (a) A representative of the governing board and local school board may speak at the meeting where the Commission will consider the findings and recommendations of the Executive Director. Alternatively, a representative of the governing board and local school board may submit a written comment to be read into the record by a member of the Commission staff during the meeting where the Commission will consider the findings and recommendations of the Executive Director. Written comments shall not be more than one (1) page typed in length and shall be received by the Executive Director at least forty-eight (48) hours prior to the scheduled board meeting. The Commission shall accept only one (1) written comment from each party.
 - (b) If the Commission finds that the local board of education's decision was contrary to the best interests of the students, LEA, or community and approves the renewal application, the Commission shall be the authorizer, unless the LEA agrees to oversee and manage the charter school pursuant to T.C.A. § 49-13-108.
 - (c) A decision by the Commission to deny renewal of a charter agreement is final and not subject to appeal.
 - (d) If the governing body of a charter school authorized by the Commission submits its renewal application to the Commission pursuant to T.C.A. § 49-13-121 then the decision of the Commission on the renewal application is final and may not be appealed again to the Commission.

Authority: T.C.A. §§ 49-13-105 and 49-13-121. **Administrative History:** Original rules filed October 29, 2020; effective January 27, 2021.

1185-01-01-.03 CHARTER SCHOOL REVOCATION APPEALS.

- (1) Pursuant to T.C.A. § 49-13-122(g), 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 Commission no later than ten (10) calendar days after the date of 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 of the charter school shall submit a notice of appeal by email to the Commission. The notice of appeal must be received by the Commission no later than 11:59 p.m. Central Standard 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:
 - (a) 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

(Rule 1185-01-01-03, continued)

- (b) 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.
- (2) Commission 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 Commission staff. If the governing body indicates in the notice of appeal that one (1) of the requirements listed in subparagraphs (a)–(b) above cannot be submitted, the governing body shall include an explanation in the notice of appeal. Commission staff may conditionally accept the appeal and collect additional information to determine whether the appeal may be accepted despite the governing body's inability to submit one (1) of the requirements listed in subparagraphs (a)–(b) above.
- (3) The Commission staff may request additional documentation from the charter school governing body, the local board of education, and the Tennessee Department of Education. In such case, each is requested to comply with the document request within five (5) calendar days of the request or as soon as possible thereafter, but in no event more than ten (10) calendar days after the request.
- (4) The Commission shall conduct a de novo on the record review of the local board of education's revocation decision.
- (5) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the Commission shall hold an open meeting, attended by the Commission or its designated representative, the governing board of the charter school, 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.
- (6) Subsequently, but within sixty (60) calendar days after receipt of the notice of appeal, the Commission shall meet to render a decision and shall forward its findings to the local board of education.
 - (a) A representative of the governing board and local school board may speak at the board meeting where the Commission will consider the findings and recommendations of the Executive Director. Alternatively, a representative of the governing board and local school board may submit a written comment to be read into the record by a member of the Commission staff during the meeting where the Commission will consider the findings and recommendations of the Executive Director. Written comments shall not be more than one (1) page typed in length and shall be received by the Executive Director at least forty-eight (48) hours prior to the scheduled board meeting. The Commission shall accept only one (1) written comment from each party.
 - (b) If the Commission 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 Commission shall remand the decision to the local board of education and the local board of education shall remain the authorizer. The decision of the Commission is final and not subject to appeal.

Authority: T.C.A. §§ 49-13-105 and 49-13-122. **Administrative History:** Original rules filed October 29, 2020; effective January 27, 2021.

1185-01-01-04 CHARTER SCHOOL AMENDMENT APPEALS.

- (1) Charter Amendments.

(Rule 1185-01-01-04, continued)

- (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 Commission.
- (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 (1) of two (2) deadlines stated below:
 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 school year preceding the school year in which the proposed amendment will take effect for any material modification outlined in paragraph (c) except items contained in

(Rule 1185-01-04, continued)

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 in accordance with the following deadlines:
1. Fall Deadline. The governing body of a charter school that submits its letter of intent in accordance with 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 Commission.
- (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 applicable 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, and shall be provided to the governing body of the charter school within five (5) calendar days of the date of the decision to deny.
- (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 Commission.
- (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

(Rule 1185-01-04, continued)

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 completed 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, and shall be provided to the governing body of the charter school within five (5) calendar days of the date of the decision to deny.
- (2) The governing body of a charter school may appeal a decision by an authorizer other than the Commission to deny an amendment to the charter agreement to the Commission 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 Commission. The notice of appeal must be received by the Commission no later than 11:59 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:
 - (a) A copy of the original charter agreement that contains all material components of the approved application, including any approved amendments to the original application;
 - (b) A copy of the amendment application or emergency amendment application submitted to the authorizer;
 - (c) 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;
 - (d) A copy of the letter informing the governing body of the authorizer's reasons for denying the amendment application or emergency amendment application; and
 - (e) 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 application or emergency amendment application was contrary to the best interests of the students, LEA, or community.
- (3) Commission 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 specifically by the Commission staff.
- (4) Commission staff may request additional documentation from the governing body, the authorizer, and the Tennessee Department of Education.
- (5) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the Commission shall hold a public hearing. The public hearing shall be attended by the Commission or its designated representative and provide an opportunity for public

(Rule 1185-01-04, continued)

comment. The public hearing may be virtual or in the school district in which the charter school is operating, as determined by the Executive Director. Details of the public hearing shall be posted on the Commission website.

- (6) Following the public hearing, the review of the amendment application or emergency amendment application and any additional information collected by the Commission, the Executive Director of the Commission shall provide written findings and recommendations to the Commission. The Commission shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the Commission is not bound by the recommendation.
- (7) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the Commission shall meet to render a decision. If the Commission 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 Commission shall remand the decision to the authorizer with written instructions for approval of the amendment application or emergency amendment application. The Commission 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 Commission is final, and no other appeals shall be made.

Authority: T.C.A. §§ 49-13-105(m) and 49-13-110. **Administrative History:** Emergency rule filed July 28, 2021; effective through January 24, 2022.