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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: State Board of Education
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Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal
☐ Content based on previous emergency rule filed on _____
☐ Content is identical to the emergency rule

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

| Chapter Number | Chapter Title |
|----------------|-------------------------------------|
| 0520-14-01 | Charter Schools |
| Rule Number | Rule Title |
| 0520-14-01-.01 | Approval of a Charter School |
| 0520-14-01-.03 | Allocation of State and Local Funds |
| 0520-14-01-.04 | Enrollment |

AMENDMENT

AMEND the rules of the State Board of Education Chapter 0520-14-01 by amending Rule Sections .01, -.03 and -.04, so that as amended, the revised Rules shall read:

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) Charter school application requirements applicable to all authorizers as defined by T.C.A. § 49-13-104(3):
 - (a) 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.
 - (b) All prospective charter school sponsors who intend to submit an initial charter application for consideration, including a charter school replication application, shall submit a letter of intent to both the Department of Education (Department) and to the appropriate authorizer at least sixty (60) calendar days prior to the date on which the initial charter application is due. The letter of intent shall be completed on the form provided by the Department, and the sponsor shall indicate on the letter of intent the application category selected by the sponsor. The authorizer shall check for completion and determine whether the sponsor has selected the correct application category within ten (10) business days of receiving the letter of intent and notify the sponsor and the Department within five (5) business days of a determination that the incorrect application category has been selected. The sponsor shall correct and resubmit the letter of intent to the authorizer within five (5) business days of receipt of a notice from the authorizer that the wrong application category was selected.
 - (c) The Department shall aid a sponsor who has been notified that the incorrect application category has been selected to ensure the letter of intent is completed correctly, including ensuring the correct application category is selected.
 - (d) Failure to submit a letter of intent to both the Department and to the appropriate authorizer shall exclude a charter school sponsor from submitting an application for that application cycle.

- (e) On or before 11:59 p.m. Central Time on February 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 an electronic copy of the initial state charter school application with the authorizer and the Department. If the February 1 due date for initial charter applications falls on a Saturday, Sunday, or state observed holiday, the application materials shall be due on the next business day.
- (f) Authorizers may charge an application fee of up to \$2,500 for each initial application the charter school sponsor files.
- (g) An initial application shall be considered complete if:
 - 1. The application is submitted on the Department's state charter application form for that application cycle;
 - 2. The sponsor has completed all required sections of the application aligned to the category indicated by the sponsor in its letter of intent and the application contains all required attachments and signatures;
 - 3. The application is submitted to the authorizer by the deadline specified in paragraph (e); and
 - 4. The application fee, if required by the authorizer, is submitted with the application.
- (h) Authorizers shall not be required to review and formally act upon an initial application if the charter school sponsor did not submit the letter of intent by the required due date as required by paragraph (1)(b) and/or (1)(d).
- (i) The authorizer shall determine whether the initial application is complete within ten (10) business days of receiving the application, and shall notify the sponsor within five (5) business days of the determination if the application is determined to be incomplete.
 - 1. If the initial charter application is determined to be incomplete due to the sponsor not meeting the requirements of subparagraphs (g)1. or (g)3. of this Rule, the application is not required to be reviewed and any required application fee shall be refunded to the charter school sponsor by the authorizer.
 - 2. If the initial charter application is determined to be incomplete due to the sponsor not meeting the requirements of subparagraphs (g)2. or (g)4. of this Rule, the sponsor shall be provided the opportunity to address any deficiencies and re-submit the application within five (5) business days after the notification from the authorizer that the application is incomplete. If the sponsor does not correct the deficiencies to meet the requirements of subparagraphs (g)2. or (g)4. of this Rule by the deadline, the authorizer is not required to review the application and any required application fee shall be refunded to the charter school sponsor by the authorizer.
- (j) Authorizers shall review all complete and timely applications in accordance with T.C.A. § 49-13-108 and quality charter authorizing standards approved by the State Board.

- (k) No later than ten (10) calendar days after approval or denial of the initial charter application or amended charter application, the authorizer shall report to the Department whether the authorizer has approved or denied the application and the reasons for denial, if applicable.
- (2) Charter school application requirements only applicable to local boards of education.
- (a) In addition to the state charter school application, each local board of education may ask charter school sponsors to address additional priorities. Charter school sponsors may choose not to address any of those priorities. Local boards of education cannot deny or refuse to review an application for failing to address additional priorities. Local boards of education shall submit to the Department by November 1 of each year all local application priorities.
 - (b) All local policies regarding the submission of charter school applications shall be consistent with state law, policies, rules, and regulations.
 - (c) The local board of education shall rule by resolution, at a regular or specially called meeting, on the approval or denial of a complete and timely initial charter application, no later than ninety (90) calendar days after the local board of education's receipt of the completed initial application. If denied, the local board of education shall specify objective reasons for denial.
 - (d) Should the local board of education fail to either approve or deny a complete and timely initial charter application within the ninety (90) calendar daytime limit, the application shall be deemed approved.
 - (e) If the initial charter school application is denied, the grounds upon which the local board of education based the decision to deny the initial application shall be stated in writing and provided to the charter school sponsor within ten (10) calendar days of the date of the decision to deny, specifying objective reasons for the denial and the deadline by which the charter school sponsor may submit an amended application.
 - (f) If the initial charter school application is denied, the charter school sponsor shall have thirty (30) calendar days from receipt of the grounds for denial to submit an amended application to correct the deficiencies identified by the local board of education.
 - 1. The amended application shall be submitted by the sponsor using the same application form as the initial application. The authorizer shall evaluate the amended application using the same scoring criteria as the initial application review.
 - (g) The local board of education shall have sixty (60) calendar days from receipt of the amended application to either deny or approve the amended application.
 - (h) 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.
 - (i) If the local board of education denies the amended application, it shall provide to the charter school sponsor the grounds upon which the local board of education based the decision to deny in writing within five (5) calendar days of the date of the decision to deny, specifying objective reasons for the denial and the sponsor's right to an appeal.

- (j) 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, no later than ten (10) calendar days after the date of the final decision to deny, to the Tennessee Public Charter School Commission.

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. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed August 19, 2022; effective November 17, 2022.

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

- (1) Until the 2023-24 school year, public charter school funding shall be governed by the following:
 - (a) A local board of education shall allocate to each public charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal laws or regulations.
 - (b) 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 public charter school enrollment). The public charter school's allocation shall be calculated by multiplying the per pupil amount by the public charter school's current year ADM.
 - (c) Allocations to public charter schools shall be based on one hundred percent (100%) of state and local funds received by the 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).
 - (d) The Department of Education shall calculate and report the amount of state funding required under the BEP for capital outlay that each public charter school should receive in a fiscal year. The LEA in which a public charter school resides shall include in the per pupil funding amount required under paragraph (1)(a) and state law, all state and local funds generated under the BEP for capital outlay that are due to public charter schools operating in the LEA.
 - (e) Allocations to a public charter school shall not be reduced by the authorizer for any category of cost(s) except for the annual authorizer fee. If the charter agreement includes a provision whereby the authorizer will provide for employee benefits or retirement, then the authorizer may withhold funds to cover the costs of those services. Any services the public charter school chooses to purchase from the authorizer may also exist in a separate services contract between the public charter school and the authorizer. However, approval of a separate services contract shall not be a condition of approval of the charter agreement. If a services contract is executed with the authorizer, then the authorizer may withhold funds to cover the costs of those services.
 - (f) Each 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 public charter schools during the upcoming school year. Allocations to the public charter schools during that year shall be based on that figure. The authorizer shall

distribute the portion of local funds it expects to receive in no fewer than nine (9) equal installments to public 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. An authorizer shall adjust payments to its public 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 authorizer shall use current year enrollment to calculate the adjusted per pupil amount.

- (g) New public charter schools or public 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.
 - (h) Pursuant to T.C.A. § 49-13-124, the authorizer may endorse the submission of the qualified zone academy bond application to the local taxing authority. The authorizer may endorse such a bond application submitted by the public charter school governing body, or the authorizer may include the public charter school's project as part of the authorizer's bond application.
 - (i) If public 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 authorizer for the provision of school nutrition programs.
 - (j) Public charter schools that provide transportation in accordance with the provisions of T.C.A. §§ 49-6-2101, 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.
- (2) Beginning in the 2023-24 school year and thereafter, public charter school funding shall be governed by the following:
- (a) For the purpose of implementing this Rule in calculating, allocating, and disbursing public charter school funding pursuant to T.C.A. § 49-13-112(a),
 1. The Department of Education ("Department") shall be responsible for calculating required funding and reporting the calculations to both authorizers and public charter schools.
 2. The local board of education shall be responsible for allocating the required funding to public charter schools in the local budget. Each authorizer shall include, as part of its budget submitted pursuant to T.C.A. § 49-2-203, the per student amount of local funds it will pass through to public charter schools during the upcoming school year, including all calculations listed in this Rule. The local board of education shall provide all calculations to its authorized charter schools upon request. Allocations to the public charter schools during the budgeted school year shall be based on that figure until such time as updated interim and final allocations are run pursuant to paragraph (2)(e) below. The authorizer shall distribute funding in no fewer than nine (9) equal installments to public charter schools in the same manner as state funds are distributed.
 3. The LEA's fiscal agent shall be responsible for disbursement of required funding to public charter schools.

4. The LEA shall be responsible for the timely and accurate submission of data and other reporting requirements to the Department.
 5. The public charter school shall be responsible for the timely and accurate submission of data and other reporting requirements to the authorizer.
 6. The authorizer and public charter school shall be responsible for collaborating to resolve any data or reporting discrepancies prior to Department reporting deadlines.
- (b) Allocations are based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes and funds generated under the fast-growth stipends detailed in T.C.A. § 49-3-107, excluding the proceeds of debt obligations and associated debt services.
- (c) A local board of education shall allocate to each public charter school an amount equal to the state and local funds as calculated in paragraphs (2)(d) and (2)(e) below for each student member enrolled in a public charter school and all appropriate allocations under federal laws or regulations, including, but not limited to, IDEA and ESEA funds.
1. Pursuant to T.C.A. § 49-13-112(a), federal funds received by the LEA must be disbursed to public charter schools authorized by the LEA by either joint agreement on shared services by individual public charter schools or sub-grants to public charter schools for the charter's equitable share of the federal grant based on eligible students. The allocation must be made in accordance with the policies and procedures developed by the Department.
- (d) Initial Allocations.
1. The initial allocation shall be set forth in the local board of education's budget submitted to the Department of Education pursuant to T.C.A. § 49-3-316 for the upcoming school year and represent the state and local funds to be allocated to each public charter school based on prior year ADM and student counts (as required by TISA) before such time as current year data and revenues are available. The Department shall pull this information from state approved LEA budgets as entered into the state's system of record and include these funds in initial funding estimates shared with authorizing LEAs and public charter schools. If the LEA does not have a fully approved budget in the state's system of record, the Department will use the LEA's budgeted prior year additional local revenues or the district's prior year expenditure report, whichever is more recent, to inform the initial allocations until an LEA budget is fully approved.
 2. Pursuant to T.C.A. § 49-13-112(a)(1)(A), the initial allocation from the local board of education to a public charter school shall be based on the total of the state and local student-generated funds for member students in a public charter school during the prior school year for the base funding amount, weighted allocation, and direct funding allocations in accordance with the Tennessee Investment in Student Achievement Act (TISA), and any rules promulgated by the Department pursuant to the TISA, including Chapter 0520-12-05.

3. Pursuant to T.C.A. § 49-13-112(a)(1)(B), if the local funds received by the LEA are greater than the local contribution required by TISA as set forth in T.C.A. § 49-3-109, the local board of education shall also allocate the average per pupil local funds received by the LEA in the budgeted school year, in accordance with T.C.A. § 49-3-316, above those required by the TISA for each member student in the public charter school in the prior year. The initial average per pupil local funding amount shall be determined by dividing the budgeted additional local funds by the LEA's prior year ADM (inclusive of all member students of public charter schools geographically located within the LEA). The Department shall pull this information from state approved LEA budgets as entered into the state's system of record and include these funds in initial funding estimates shared with authorizing LEAs and public charter schools. If the LEA does not have a fully approved budget in the state's system of record, the Department will use the LEA's budgeted prior year additional local revenues or the district's prior year expenditure report, whichever is more recent, to inform the initial allocations until an LEA budget is fully approved.

(e) Interim Funding Adjustments and Final Allocations.

1. After the initial allocation is made as set forth in paragraph (2)(d), an authorizer shall adjust payments to its public charter schools on an interim basis during the school year, at a minimum, in October, February and June, with final allocations occurring with the completion of the authorizer's final expenditure reports as submitted and approved by the Department of Education. Pursuant to T.C.A. § 49-13-112(a)(1) and § 49-13-112(a)(3), these adjustments shall update allocations to reflect current year data, including changes in revenue, student enrollment, or student services.
2. To calculate interim and final allocations, the Department shall calculate current year ADM on the timeline in paragraph (2)(e)(1) above for all LEAs with public charter schools geographically located within the LEA's boundaries. The Department shall publish or otherwise make available to each authorizer and each public charter school the outputs and, if requested, the underlying data from each instance in which the Department runs the ADM calculations for purposes of calculating initial, interim, and final allocations. Authorizers may opt to run the adjustments more frequently in alignment with respective charter agreements.
3. Interim and final allocations to each public charter school shall include:
 - (i) Pursuant to T.C.A. § 49-13-112(a)(1)(A), the interim and final allocations from the local board of education to a public charter school shall be based on the total of the state and local student-generated funds for member students in a public charter school during the prior school year for the base funding amount, weighted allocation, and direct funding allocations in accordance with the TISA, and any rules promulgated by the Department pursuant to the TISA, including Chapter 0520-12-05.
 - (ii) Pursuant to T.C.A. § 49-13-112(a)(1)(B), if the local funds received by the LEA are greater than the local contribution required by TISA as set forth in T.C.A. § 49-3-109, the local board of education shall also allocate the average per pupil local

funds received by the LEA in the budgeted school year above those required by the TISA for each member student in the public charter school in the prior year. The interim and final average per pupil local funding amount shall be determined by dividing the additional local funds by the LEA's current year ADM (inclusive of all member students of public charter schools geographically located within the LEA). The final average per pupil local funding amount is to be determined using the LEA's final expenditure report as submitted to and approved by the Department.

- (iii) Pursuant to T.C.A. § 49-13-112(a)(1)(C) and § 49-13-112(a)(3), a local board of education shall allocate to the public charter school an amount equal to the per student state and local funds received by the LEA for member students in the public charter school in the current school year beyond the prior year's membership. For each required interim and final allocation adjustment, the Department shall calculate the ADMs for each public charter school and the difference from the prior year ADM as used in the base funding calculation in the TISA formula. For any difference in overall ADM counts, the local board of education shall adjust the public charter school's allocation by an amount equal to multiplying the average per student state and local funds received by the LEA in the current year by the difference in ADM for each public charter school, which may result in an increase or decrease to the overall allocation. The final average per pupil state and local funds shall be determined using the LEA's final expenditure report as submitted to and approved by the Department. In calculating the average per student state and local funds, the total funding will exclude grants awarded on behalf of specific schools and the charter direct funding component of the TISA.
- (iv) In determining final amounts to be paid pursuant to paragraph (e)(3)(ii) and (e)(3)(iii) above, the Department shall report to each authorizer and public charter school the results of LEAs state-approved final expenditure reports within five (5) business days of state approval. LEAs and each public charter school shall process final payments within thirty (30) calendar days of the Department's report on final amounts.

(f) Special Considerations.

1. New and Expanding Public Charter Schools: Notwithstanding paragraph (2)(d)(2), for the purpose of initial allocations, new public charter schools or public charter schools adding a new grade(s) shall be funded based on the anticipated enrollment in the charter agreement unless the authorizer and public charter school mutually agree on a projection of enrollment not to exceed any enrollment maximums or caps set forth in the charter agreement. The initial funding allocation for the new grade(s) shall be based on a per-student average of all state and local funds received by the LEA. Allocations shall be subsequently adjusted in accordance with paragraph (2)(e).
2. Public Charter School Direct Funding: In accordance with T.C.A. § 49-3-105, the charter school direct funding amount each year is subject to an

annual appropriation by the Tennessee General Assembly and is calculated by dividing the amount of the appropriation by the statewide public charter school ADM of the prior year. Pursuant to T.C.A. § 49-13-112(a)(1)(A), the authorizer shall distribute the charter school direct funding to each public charter school as generated by prior year ADM with their other TISA payments. This direct funding amount shall be fully state funded and not require additional local contribution funds. The public charter school direct funding amount is calculated the same as all other direct funding components of TISA as set forth in T.C.A. § 49-3-105.

3. **Fast-Growth Stipends:** Subject to annual appropriations by the Tennessee General Assembly and in accordance with T.C.A § 49-3-107, if an LEA receives a fast-growth stipend or infrastructure stipend, then the LEA shall disburse to charter schools geographically located within that LEA a proportional share of funds received. The proportional share shall be equal to the percentage calculated by dividing a public charter school's TISA funding for base funding, weighted allocations, and direct allocations by the TISA funding for these same components of the LEA as a whole.
 4. **Educator Salary Increases:** Pursuant to T.C.A. § 49-3-105(e), if the Tennessee General Assembly restricts an amount of an annual increase to the TISA base funding amount for the purpose of providing salary increases to existing educators, then the Department shall determine the proportional share of funds received by each public charter school driven by the restricted funds and report that amount to each authorizer and to each public charter school. Public charter schools shall use these funds to provide salary increases to existing educators pursuant to T.C.A. § 49-3-105(e).
 5. **Cost Differential Factor Grants:** Subject to annual appropriations by the Tennessee General Assembly and in accordance with T.C.A. § 49-3-108(d), if an LEA receives a Cost Differential Factor (CDF) grant, then the LEA shall disburse to public charter schools geographically located within that LEA a proportional share of the CDF grant. The proportional share shall be equal to the percentage calculated by dividing a public charter school's TISA funding for base funding, weighted allocations, and direct allocations by the TISA funding for these same components of the LEA as a whole.
 6. **Outcomes Funding:** If a public charter school generates outcome bonus funding as a result of students enrolled in the public charter school in the prior year, then the public charter school shall receive the earned amount of outcome bonus funds from the authorizer when such funds are awarded by the Department. The Department shall report the amount of outcome bonus funds due to each public charter school to the authorizer and to each public charter school.
- (g) **Achievement School District (ASD) and Tennessee Public Charter School Commission (TPCSC):** Pursuant to T.C.A. § 49-1-614 and T.C.A. § 49-13-112, the ASD and TPCSC shall receive funding in alignment with this rule for each public charter school within their respective LEAs from the LEAs in which each public charter school is geographically located.
 - (h) **Allocations to a public charter school shall not be reduced by the authorizer**

except for the annual authorizer fee. If the charter agreement includes a provision whereby the authorizer will provide for employee benefits or retirement, then the authorizer may withhold funds to cover the costs of those services. Any services the public charter school chooses to purchase from the authorizer may also exist in a separate services contract between the public charter school and the authorizer. However, approval of a separate services contract shall not be a condition of approval of the charter agreement. If a services contract is executed with the authorizer, then the authorizer may withhold funds to cover the costs of those services.

- (i) Pursuant to T.C.A. § 49-13-124, the authorizer may endorse the submission of the qualified zone academy bond application to the local taxing authority. The authorizer may endorse such a bond application submitted by the public charter school governing body, or the authorizer may include the public charter school's project as part of the authorizer's bond application.
- (j) If public 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 authorizer for the provision of school nutrition programs.

Authority: T.C.A. §§ 49-1-302, 49-2-203, 49-6-2101, *et seq.*, 49-13-112, 49-13-114, 49-13-124, and 49-13-126 and Public Chapter 966 of 2022. **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. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed March 8, 2023; effective June 6, 2023.

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 governing body, shall be subject to the lottery preferences outlined in paragraph (10) of this Rule.
- (6) A charter school may give an enrollment preference to children of an employee of the charter school 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 authorizer may use certification from the authorizer 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) If an enrollment lottery is conducted, 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 who are economically disadvantaged as defined in T.C.A. § 49-3-104, if the enrollment preference is used by the charter school. A charter school may give an enrollment preference to students who are economically disadvantaged pursuant to T.C.A. § 49-13-113. A charter school may request, but shall not require, information on an initial student application to verify that a student is legally qualified as economically disadvantaged, as defined in § 49-3-104. This information shall be utilized for the purposes of an enrollment lottery, and shall not exclude students from enrollment as outlined in paragraph (2) of this Rule;
 - (c) 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 authorizer;
 - (d) Siblings of students already enrolled in the charter school;
 - (e) Students residing within the geographic boundaries of 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 geographic boundaries of the LEA in which the charter school is located; if permitted through the authorizer's out-of-district enrollment policy.
- (10) If enrollment within a group of preferences 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 school zone of the converted 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 school zone of the converted public school 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. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|--|-----|----|---------|--------|----------------------------|
| Bob Eby | x | | | | |
| Darrell Cobbins | x | | | | |
| Jordan Mollenhour | x | | | | |
| Ryan Holt | x | | | | |
| Warren Wells | x | | | | |
| Lillian Hartgrove | x | | | | |
| Nate Morrow | x | | | | |
| Larry Jensen | x | | | | |
| Krissi McInturff | x | | | | |
| Laurel Cox | x | | | | |
| Steven Gentile, Executive Director, Tennessee Higher Education Commission Non-Voting Ex-Officio | | | | | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Education on 02/16/2024, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/30/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 12/21/2023

Date: 3/5/2024

Signature: 

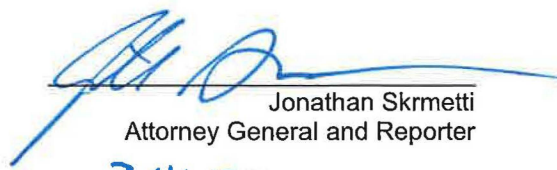
Name of Officer: Angie Sanders

Title of Officer: General Counsel

Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-14-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Jonathan Skrmetti
Attorney General and Reporter

3/11/2024

Date

Department of State Use Only

Filed with the Department of State on: 3/12/2024

Effective on: 6/10/2024


Tre Hargett
Secretary of State

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Mar 12 2024, 4:05 pm

Secretary of State
Division of Publications

Public Hearing Comments

The Tennessee State Board of Education held a public rulemaking hearing on Rule 0520-01-03-.16 on December 21, 2023, at 500 James Robertson Parkway, Nashville, TN and via Webex. One public comment from the Tennessee Charter School Center was submitted during the comment period regarding this rule.

- **Comment:** Include language that requires transparency from local boards of education as to how the per pupil local share of funding is calculated.
 - **Response:** Language from T.C.A. § 49-13-112(a)(3) was added to the rule to reinforce the requirement that LEAs submit their calculations for the per pupil local share of funding to the Department of Education. Language was also added to require LEAs to share these calculations with their authorized charter schools upon request.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

This rule has no fiscal impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Tennessee State Board of Education Charter Schools Rule Chapter 0520-14-01 outlines the operational elements of charter schools including approval of charter schools, allocation of state and local funds, and enrollment processes.

The following revisions were made to Approval of Charter Schools Rule 0520-14-01-.01:

- Clarifies language throughout the rule to distinguish between the steps that must occur during the initial application process and the amended application process.
- Clarifies the requirement that a local board of education must specify reasons for denial of an initial charter application.
- Adds language to ensure further alignment with the State Board's Quality Charter Authorizing Standards.

The following revisions were made to Allocation of State and Local Funds Rule 0520-14-01-.03:

- Clarifies that initial allocation of funds for public charter schools shall be set forth in the local board of education's budget that is submitted to the Department.
- For the purpose of initial allocations, requires the Department to pull information on the charter school's average daily member (ADM) and student counts from the state approved LEA budget, and include in initial funding estimates shared with authorizing LEAs and public charter schools.
- For the purpose of interim and final allocations to public charter schools, clarifies that the final average per-pupil funding amount is based on the LEA's final expenditure report submitted and approved by the Department.
- Requires the Department to report to each authorizer and public charter school the final amounts to be paid to the charter school within five (5) business days of the state's approval of the LEA's final expenditure reports and requires LEAs and public charter schools to process final payments within thirty (30) calendar days of the Department's report on final amounts.
- Aligns the Rule with T.C.A. § 49-13-112(a)(3) to specify that authorizers shall include in their local budgets submitted to the Department all calculations used in allocating local funds to charter schools and requires LEAs to provide these calculations to their authorized charter schools upon request.

Lastly, the following revisions were made to Enrollment Rule 0520-14-01-.04:

- Aligns the language in the rule with Chapter 206 of the Public Acts of 2023 which authorizes a charter school to give enrollment preference to students who are economically disadvantaged and preference to children of an employee of a charter school.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 49-13-126 authorizes the State Board of Education to make rules to effectuate the Tennessee Public Charter Schools Act, codified in Title 49, Chapter 13.

Chapter 206 of the Public Acts of 2023 amended the Tennessee Public Charter Schools Act to authorize a charter school to give enrollment preference to students who are economically disadvantaged and preference to children of an employee of a charter school.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The State Board of Education and Department of Education are both directly affected by these rules and urge adoption. In addition, local education agencies who serve as an authorizer of a public charter school and public charter schools are also directly affected by these rules. Public comments received from the charter schools association regarding the rules are summarized in the public comments portion of this form.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angie Sanders (State Board of Education)
Angela.C.Sanders@tn.gov

Nathan James (State Board of Education)
Nathan.James@tn.gov

Jack Powers (Department of Education)
Jack.Powers@tn.gov

Robin Yeh (Department of Education)
Robin.Yeh@tn.gov

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Angie Sanders (State Board of Education)
Angela.C.Sanders@tn.gov

Nathan James (State Board of Education)
Nathan.James@tn.gov

Jack Powers (Department of Education)
Jack.Powers@tn.gov

Robin Yeh (Department of Education)
Robin.Yeh@tn.gov

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**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) Charter school application requirements applicable to all authorizers as defined by T.C.A. § 49-13-104(3):
 - (a) 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.
 - (b) All prospective charter school sponsors who intend to submit an initial charter application for consideration, including a charter school replication application, shall submit a letter of intent to both the Department of Education (Department) and to the appropriate authorizer at least sixty (60) calendar days prior to the date on which the initial charter application is due. The letter of intent shall be completed on the form provided by the Department, and the sponsor shall indicate on the letter of intent the application category selected by the sponsor. The authorizer shall check for completion and determine whether the sponsor has selected the correct application category within ten (10) business days of receiving the letter of intent and notify the sponsor and the Department within five (5) business days of a determination that the incorrect application category has been selected. The sponsor shall correct and resubmit the letter of intent to the authorizer within five (5) business days of receipt of a notice from the authorizer that the wrong application category was selected.
 - (c) The Department shall aid a sponsor who has been notified that the incorrect application category has been selected to ensure the letter of intent is completed correctly, including ensuring the correct application category is selected.
 - (d) Failure to submit a letter of intent to both the Department and to the appropriate authorizer shall exclude a charter school sponsor from submitting an application for that application cycle.
 - (e) On or before 11:59 p.m. Central Time on February 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 an electronic copy of the initial state charter school application with the authorizer and the Department. If the February 1 due date for initial charter applications falls on a Saturday, Sunday, or state observed holiday, the application materials shall be due on the next business day.
 - (f) Authorizers may charge an application fee of up to \$2,500 for each initial application the charter school sponsor files.
 - (g) An initial application shall be considered complete if:

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

1. The application is submitted on the Department's state charter application form for that application cycle;
2. The sponsor has completed all required sections of the application aligned to the category indicated by the sponsor in its letter of intent and the application contains all required attachments and signatures;
3. The application is submitted to the authorizer by the deadline specified in paragraph (e); and
4. The application fee, if required by the authorizer, is submitted with the application.

~~(h)~~ Authorizers shall not be required to review and formally act upon an initial application if:

~~(i)~~
~~(j)(h)~~ ~~The charter school sponsor did not submit the letter of intent by the required due date as required by paragraph (1)-(b) and/or (1)(d);~~

- ~~1. The charter application is not complete as defined in paragraph (g); or~~
- ~~2. The application and applicable fee, if required, are not submitted to the authorizer by the required deadline.~~

~~(k)(i)~~ The authorizer shall determine whether an the initial application is complete within ten (10) business days of receiving the application, and shall notify the sponsor within five (5) business days of the determination if the application is determined to be incomplete.

1. If the initial charter application is determined to be incomplete due to the sponsor not meeting the requirements of subparagraphs (g)1. or (g)3. of this Rule, the application is not required to be reviewed and any required application fee shall be refunded to the charter school sponsor by the authorizer.
2. If the initial charter application is determined to be incomplete due to the sponsor not meeting the requirements of subparagraphs (g)2. or (g)4. of this Rule, the sponsor shall be provided the opportunity to address any deficiencies and re-submit the application within five (5) business days after the notification from the authorizer that the application is incomplete. If the sponsor does not correct the deficiencies to meet the requirements of subparagraphs (g)2. or (g)4. of this Rule by the deadline, the authorizer is not required to review the application and any required application fee shall be refunded to the charter school sponsor by the authorizer.

~~(h)(i)~~ Authorizers shall review all complete and timely applications in accordance with T.C.A. § 49-13-108 and quality charter authorizing standards approved by the State Board.

~~(m)~~ No later than ten (10) calendar days after approval or denial of athe initial charter application or amended charter application, the authorizer shall report to the Department whether the authorizer has approved or denied the application and the reasons for denial, if applicable. ~~The authorizer shall simultaneously provide the Department with a copy of the authorizer's resolution setting forth the authorizer's decision and the reasons for the authorizer's decision at the time of the authorizer's report.~~

(2) Charter school application requirements only applicable to local boards of education.

- (a) In addition to the state charter school application, each local board of education may ask charter school sponsors to address additional priorities. Charter school sponsors may choose not to address any of those priorities. Local boards of education may cannot

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

deny or refuse to review an application for failing to address additional priorities. Local boards of education shall submit to the Department by November 1 of each year all local application ~~requirements~~priorities.

- (b) All local policies regarding the submission of charter school applications shall be consistent with state law, policies, rules, and regulations.
- (c) The local board of education shall rule by resolution, at a regular or specially called meeting, on ~~the~~ approval or denial of ~~a~~ complete and timely initial charter application, no later than ninety (90) calendar days after the local board of education's receipt of the completed initial application. If denied, the local board of education shall specify objective reasons for denial.
- (d) Should the local board of education fail to either approve or deny a complete and timely initial charter application within the ninety (90) calendar day time limit, the application shall be deemed approved.
- (e) ~~If a the initial~~ charter school application is denied, the grounds upon which the local board of education based the decision to deny ~~the initial~~a application shall be stated in writing and provided to the charter school sponsor within ten (10) calendar days of the date of the decision to deny, specifying objective reasons for the denial and the deadline by which the charter school sponsor ~~shall may~~ submit an amended application.
- (f) If the initial charter school application is denied, the charter school sponsor shall have thirty ~~(30)~~ calendar days from receipt of the grounds for denial to submit an amended application to correct the deficiencies identified by the local board of education.
- 1. The amended application shall be submitted by the sponsor using the same application form as the initial application. The authorizer shall evaluate the amended application using the same scoring criteria as the initial application review.
- (g) The local board of education shall have sixty (60) calendar days from receipt of the amended application, to either deny or approve the amended application.
- (h) 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.
- (g) If the local board of education denies the amended application, it shall provide to the charter school sponsor the grounds upon which the local board of education based the decision to deny in writing within five (5) calendar days of the date of the decision to deny, specifying objective reasons for the denial and the sponsor's right to an appeal.
- (i)
- (h)(i) 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, no later than ten (10) calendar days after the date of the final decision to deny, to the Tennessee Public Charter School Commission.

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. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed August 19, 2022; effective November 17, 2022.

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

June, 2023 (Revised)

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

- (1) Until the 2023-24 school year, public charter school funding shall be governed by the following:
 - (a) A local board of education shall allocate to each public charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal laws or regulations.
 - (b) 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 public charter school enrollment). The public charter school's allocation shall be calculated by multiplying the per pupil amount by the public charter school's current year ADM.
 - (c) Allocations to public charter schools shall be based on one hundred percent (100%) of state and local funds received by the 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).
 - (d) The Department of Education shall calculate and report the amount of state funding required under the BEP for capital outlay that each public charter school should receive in a fiscal year. The LEA in which a public charter school resides shall include in the per pupil funding amount required under paragraph (1)(a) and state law, all state and local funds generated under the BEP for capital outlay that are due to public charter schools operating in the LEA.
 - (e) Allocations to a public charter school shall not be reduced by the authorizer for any category of cost(s) except for the annual authorizer fee. If the charter agreement includes a provision whereby the authorizer will provide for employee benefits or retirement, then the authorizer may withhold funds to cover the costs of those services. Any services the public charter school chooses to purchase from the authorizer may also exist in a separate services contract between the public charter school and the authorizer. However, approval of a separate services contract shall not be a condition of approval of the charter agreement. If a services contract is executed with the authorizer, then the authorizer may withhold funds to cover the costs of those services.
 - (f) Each 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 public charter schools during the upcoming school year. Allocations to the public charter schools during that year shall be based on that figure. The authorizer shall distribute the portion of local funds it expects to receive in no fewer than nine (9) equal installments to public 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. An authorizer shall adjust payments to its public 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 authorizer shall use current year enrollment to calculate the adjusted per pupil amount.
 - (g) New public charter schools or public 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.
 - (h) Pursuant to T.C.A. § 49-13-124, the authorizer may endorse the submission of the qualified zone academy bond application to the local taxing authority. The authorizer may endorse such a bond application submitted by the public charter school governing body, or the authorizer may include the public charter school's project as part of the authorizer's

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

- (i) If public 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 authorizer for the provision of school nutrition programs.
 - (j) Public charter schools that provide transportation in accordance with the provisions of T.C.A. §§ 49-6-2101, 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.
- (2) Beginning in the 2023-24 school year and thereafter, public charter school funding shall be governed by the following:
- (a) For the purpose of implementing this Rule in calculating, allocating, and disbursing public charter school funding pursuant to T.C.A. § 49-13-112(a),
 - 1. The Department of Education ("Department") shall be responsible for calculating required funding and reporting the calculations to both authorizers and public charter schools.
 - 2. The local board of education shall be responsible for allocating the required funding to public charter schools in the local budget. Each authorizer shall include, as part of its budget submitted pursuant to T.C.A. § 49-2-203, the per student amount of local funds it will pass through to public charter schools during the upcoming school year. including all calculations listed in this Rule. The local board of education shall provide all calculations to its authorized charter schools upon request. Allocations to the public charter schools during the budgeted school year shall be based on that figure until such time as updated interim and final allocations are run pursuant to paragraph (2)(e) below. The authorizer shall distribute funding in no fewer than nine (9) equal installments to public charter schools in the same manner as state funds are distributed.
 - 3. The LEA's fiscal agent shall be responsible for disbursement of required funding to public charter schools.
 - 4. The LEA shall be responsible for the timely and accurate submission of data and other reporting requirements to the Department.
 - 5. The public charter school shall be responsible for the timely and accurate submission of data and other reporting requirements to the authorizer.
 - 6. The authorizer and public charter school shall be responsible for collaborating to resolve any data or reporting discrepancies prior to Department reporting deadlines.
 - (b) Allocations are based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes and funds generated under the fast-growth stipends detailed in T.C.A. § 49-3-107, excluding the proceeds of debt obligations and associated debt services.
 - (c) A local board of education shall allocate to each public charter school an amount equal to the state and local funds as calculated in paragraphs (2)(d) and (2)(e) below for each student member enrolled in a public charter school and all appropriate allocations under federal laws or regulations, including, but not limited to, IDEA and ESEA funds.
 - 1. Pursuant to T.C.A. § 49-13-112(a), federal funds received by the LEA must be

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

disbursed to public charter schools authorized by the LEA by either joint agreement on shared services by individual public charter schools or sub-grants to public charter schools for the charter's equitable share of the federal grant based on eligible students. The allocation must be made in accordance with the policies and procedures developed by the Department.

(d) Initial Allocations.

1. The initial allocation shall be set forth in the local board of education's budget submitted to the Department of Education pursuant to T.C.A. § 49-3-316 for the upcoming school year and represent the state and local funds to be allocated to each public charter school based on prior year ADM and student counts (as required by TISA) before such time as current year data and revenues are available. The Department shall pull this information from state approved LEA budgets as entered into the state's system of record and include these funds in initial funding estimates shared with authorizing LEAs and public charter schools. If the LEA does not have a fully approved budget in the state's system of record, the Department will use the LEA's budgeted prior year additional local revenues or the district's prior year expenditure report, whichever is more recent, to inform the initial allocations until an LEA budget is fully approved.
2. Pursuant to T.C.A. § 49-13-112(a)(1)(A), the initial allocation from the local board of education to a public charter school shall be based on the total of the state and local student-generated funds for member students in a public charter school during the prior school year for the base funding amount, weighted allocation, and direct funding allocations in accordance with the Tennessee Investment in Student Achievement Act (TISA), and any rules promulgated by the Department pursuant to the TISA, including Chapter 0520-12-05.
3. Pursuant to T.C.A. § 49-13-112(a)(1)(B), if the local funds received by the LEA are greater than the local contribution required by TISA as set forth in T.C.A. § 49-3-109, the local board of education shall also allocate the average per pupil local funds received by the LEA in the budgeted school year in accordance with T.C.A. § 49-3-316, above those required by the TISA for each member student in the public charter school in the prior year. The initial average per pupil local funding amount shall be determined by dividing the budgeted additional local funds by the LEA's prior year ADM (inclusive of all member students of public charter schools geographically located within the LEA). The Department shall pull this information from state approved LEA budgets as entered into the state's system of record and include these funds in initial funding estimates shared with authorizing LEAs and public charter schools. If the LEA does not have a fully approved budget in the state's system of record, the Department will use the LEA's budgeted prior year additional local revenues or the district's prior year expenditure report, whichever is more recent, to inform the initial allocations until an LEA budget is fully approved.

3.4.

(e) Interim Funding Adjustments and Final Allocations.

1. After the initial allocation is made as set forth in paragraph (2)(d), an authorizer shall adjust payments to its public charter schools on an interim basis during the school year, at a minimum, in October, February and June, with final allocations occurring with the completion of the authorizer's final expenditure reports as submitted and approved by the Department of Education. Pursuant to T.C.A. § 49-13-112(a)(1) and § 49-13-112(a)(3), these adjustments shall update allocations to reflect current year data, including changes in revenue, student enrollment, or student services.

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

2. To calculate interim and final allocations, the Department shall calculate current year ADM on the timeline in paragraph (2)(e)(1) above for all LEAs with public charter schools geographically located within the LEA's boundaries. The Department shall publish or otherwise make available to each authorizer and each public charter school the outputs and, if requested, the underlying data from each instance in which the Department runs the ADM calculations for purposes of calculating initial, interim, and final allocations. Authorizers may opt to run the adjustments more frequently in alignment with respective charter agreements.
3. Interim and final allocations to each public charter school shall include:
 - (i) Pursuant to T.C.A. § 49-13-112(a)(1)(A), the interim and final allocations from the local board of education to a public charter school shall be based on the total of the state and local student-generated funds for member students in a public charter school during the prior school year for the base funding amount, weighted allocation, and direct funding allocations in accordance with the TISA, and any rules promulgated by the Department pursuant to the TISA, including Chapter 0520-12-05.
 - (ii) Pursuant to T.C.A. § 49-13-112(a)(1)(B), if the local funds received by the LEA are greater than the local contribution required by TISA as set forth in T.C.A. § 49-3-109, the local board of education shall also allocate the average per pupil local funds received by the LEA in the budgeted school year above those required by the TISA for each member student in the public charter school in the prior year. The interim and final average per pupil local funding amount shall be determined by dividing the additional local funds by the LEA's current year ADM (inclusive of all member students of public charter schools geographically located within the LEA). The final average per pupil local funding amount is to be determined using the LEA's final expenditure report as submitted to and approved by the Ddepartment.
 - (iii) Pursuant to T.C.A. § 49-13-112(a)(1)(C) and § 49-13-112(a)(3), a local board of education shall allocate to the public charter school an amount equal to the per student state and local funds received by the LEA for member students in the public charter school in the current school year beyond the prior year's membership. For each required interim and final allocation adjustment, the Department shall calculate the ADMs for each public charter school and the difference from the prior year ADM as used in the base funding calculation in the TISA formula. For any difference in overall ADM counts, the local board of education shall adjust the public charter school's allocation by an amount equal to multiplying the average per student state and local funds received by the LEA in the current year by the difference in ADM for each public charter school, which may result in an increase or decrease to the overall allocation. The final average per pupil state and local funds shall be determined using the LEA's final expenditure report as submitted to and approved by the Ddepartment. In calculating the average per student state and local funds, the total funding will exclude grants awarded on behalf of specific schools and the charter direct funding component of the TISA.
 - (iv) In determining final amounts to be paid pursuant to paragraph (e)(3)(ii) and (e)(3)(iii) above, the Department shall report to each authorizer and public charter school the results of LEAs state-approved final expenditure reports within five (5) business days of state approval. LEAs and each public charter schools shall process final payments within thirty (30) calendar days of the Ddepartment's report on final amounts.

(f) Special Considerations.

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

1. New and Expanding Public Charter Schools: Notwithstanding paragraph (2)(d)(2), for the purpose of initial allocations, new public charter schools or public charter schools adding a new grade(s) shall be funded based on the anticipated enrollment in the charter agreement unless the authorizer and public charter school mutually agree on a projection of enrollment not to exceed any enrollment maximums or caps set forth in the charter agreement. The initial funding allocation for the new grade(s) shall be based on a per-student average of all state and local funds received by the LEA. Allocations shall be subsequently adjusted in accordance with paragraph (2)(e).
 2. Public Charter School Direct Funding: In accordance with T.C.A. § 49-3-105, the charter school direct funding amount each year is subject to an annual appropriation by the Tennessee General Assembly and is calculated by dividing the amount of the appropriation by the statewide public charter school ADM of the prior year. Pursuant to T.C.A. § 49-13-112(a)(1)(A), the authorizer shall distribute the charter school direct funding to each public charter school as generated by prior year ADM with their other TISA payments. This direct funding amount shall be fully state funded and not require additional local contribution funds. The public charter school direct funding amount is calculated the same as all other direct funding components of TISA as set forth in T.C.A. § 49-3-105.
 3. Fast-Growth Stipends: Subject to annual appropriations by the Tennessee General Assembly and in accordance with T.C.A. § 49-3-107, if an LEA receives a fast-growth stipend or infrastructure stipend, then the LEA shall disburse to charter schools geographically located within that LEA a proportional share of funds received. The proportional share shall be equal to the percentage calculated by dividing a public charter school's TISA funding for base funding, weighted allocations, and direct allocations by the TISA funding for these same components of the LEA as a whole.
 4. Educator Salary Increases: Pursuant to T.C.A. § 49-3-105(e), if the Tennessee General Assembly restricts an amount of an annual increase to the TISA base funding amount for the purpose of providing salary increases to existing educators, then the Department shall determine the proportional share of funds received by each public charter school driven by the restricted funds and report that amount to each authorizer and to each public charter school. Public charter schools shall use these funds to provide salary increases to existing educators pursuant to T.C.A. § 49-3-105(e).
 5. Cost Differential Factor Grants: Subject to annual appropriations by the Tennessee General Assembly and in accordance with T.C.A. § 49-3-108(d), if an LEA receives a Cost Differential Factor (CDF) grant, then the LEA shall disburse to public charter schools geographically located within that LEA a proportional share of the CDF grant. The proportional share shall be equal to the percentage calculated by dividing a public charter school's TISA funding for base funding, weighted allocations, and direct allocations by the TISA funding for these same components of the LEA as a whole.
 6. Outcomes Funding: If a public charter school generates outcome bonus funding as a result of students enrolled in the public charter school in the prior year, then the public charter school shall receive the earned amount of outcome bonus funds from the authorizer when such funds are awarded by the Department. The Department shall report the amount of outcome bonus funds due to each public charter school to the authorizer and to each public charter school.
- (g) Achievement School District (ASD) and Tennessee Public Charter School Commission (TPCSC): Pursuant to T.C.A. § 49-1-614 and T.C.A. § 49-13-112, the ASD and TPCSC

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

shall receive funding in alignment with this rule for each public charter school within their respective LEAs from the LEAs in which each public charter school is geographically located.

- (h) Allocations to a public charter school shall not be reduced by the authorizer except for the annual authorizer fee. If the charter agreement includes a provision whereby the authorizer will provide for employee benefits or retirement, then the authorizer may withhold funds to cover the costs of those services. Any services the public charter school chooses to purchase from the authorizer may also exist in a separate services contract between the public charter school and the authorizer. However, approval of a separate services contract shall not be a condition of approval of the charter agreement. If a services contract is executed with the authorizer, then the authorizer may withhold funds to cover the costs of those services.
- (i) Pursuant to T.C.A. § 49-13-124, the authorizer may endorse the submission of the qualified zone academy bond application to the local taxing authority. The authorizer may endorse such a bond application submitted by the public charter school governing body, or the authorizer may include the public charter school's project as part of the authorizer's bond application.
- (j) If public 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 authorizer for the provision of school nutrition programs.

Authority: T.C.A. §§ 49-1-302, 49-2-203, 49-6-2101, et seq., 49-13-112, 49-13-114, 49-13-124, and 49-13-126 and Public Chapter 966 of 2022. **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. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed March 8, 2023; effective June 6, 2023.

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 governing body, shall be subject to the lottery preferences outlined in paragraph (109) of this Rule.
- (4) (6) A charter school may give an enrollment preference to children of an employee of the charter school teacher or member of the governing body of the charter school, not to exceed

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

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 authorizer may use certification from the authorizer 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) If an enrollment lottery is conducted, a charter school shall give enrollment preferences in the following order:

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- (a) Students enrolled in a pre-K program operated by the charter school sponsor;
- (a)(b) Students who are economically disadvantaged as defined in T.C.A. § 49-3-104, if the enrollment preference is used by the charter school. A charter school may give an enrollment preference to students who are economically disadvantaged pursuant to T.C.A. § 49-13-113. A charter school may request, but shall not require, information on an initial student application to verify that a student is legally qualified as economically disadvantaged, as defined in § 49-3-104. This information shall be utilized for the purposes of an enrollment lottery, and shall not exclude students from enrollment as outlined in paragraph (2) of this Rule;
- (b)(c) 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 authorizer;
- (c)(d) Siblings of students already enrolled in the charter school;
- (d)(e) Students residing within the geographic boundaries of the LEA in which the charter school is located who were enrolled in another public school during the previous school year; and
- (e)(f) Students residing outside the geographic boundaries of the LEA in which the charter school is located; if permitted through the authorizer's out-of-district enrollment policy.
- (5) (10) If enrollment within a group of preferences 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.

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- (6) (11) A non-charter public school converting partially or entirely to a charter school under

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

T.C.A. § 49-13-106 shall give enrollment preference to students who reside within the former school zone of the converted 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 school zone of the converted public school 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. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021.