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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	State Board of Education
Division:	N/A
Contact Person:	Angie Sanders
Address:	500 James Robertson Parkway, 5 th Floor, Nashville, TN 37243
Phone:	(615) 253-5707
Email:	Angela.C.Sanders@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Angie Sanders
Address:	500 James Robertson Parkway, 5 th Floor, Nashville, TN 37243
Phone:	(615) 253-5707
Email:	Angela.C.Sanders@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway			
Address 2:	Davy Crockett Building, Conference Room 1C, 1 st Floor			
City:	Nashville, TN			
Zip:	37243			
Hearing Date :	09/04/2020			
Hearing Time:	10:00 AM	<u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u>	<u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u>	<u> </u> <u> </u> <u> </u> <u> </u> <u> </u> <u> </u>

Additional Hearing Information:

*****Anyone wishing to participate electronically may access the hearing using the following information:****
URL: <https://tngov.webex.com/tngov/j.php?MTID=m85144a58dad02ff068299135658fa807>
Password: SBERules
Phone: 415-655-0003
Access Code/Meeting Number: 161 842 1104
 Please check the State Board's website at <https://www.tn.gov/sbe/meetings.html> for any additional information regarding this rulemaking hearing. **If prohibitions on in-person gatherings due to COVID-19 prevent this hearing from occurring in-person, such information will be posted on the State Board's website and all attendees will utilize the above information to participate electronically.**

Oral comments are invited at the hearing.
 In addition, written comments may be submitted via email at angela.c.sanders@tn.gov or mailed to:
 Tennessee State Board of Education

Attention: Angie Sanders
Davy Crockett Tower, 5th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243.

Written comments must be received by 4:30 PM CT on September 9, 2020 in order to ensure consideration. For further information, please contact Angie Sanders at the above address or by e-mail at angela.c.sanders@tn.gov

If attending the hearing in-person, please bring identification so that you may be checked into the building by security. Conference room 1C is located on the first floor of the building.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. 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

**RULES OF
THE STATE BOARD OF EDUCATION**

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

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 a charter application for consideration, including a charter school replication application, shall submit a letter of intent to both the Department of Education and to the appropriate authorizer at least sixty (60) calendar days prior to the date on which the application is due. The letter of intent shall be completed on the form provided by the Department of Education.
 - (c) Failure to submit a letter of intent to both the Department of Education and to the appropriate authorizer shall exclude a charter school sponsor from submitting an application for that application cycle.
 - (d) On or before 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 the state charter school application with the authorizer and the Department of Education. If the February 1 due date for charter applications falls on a Saturday, Sunday, or state observed holiday, the application materials shall be due on the next business day.
 - (e) Authorizers may charge an application fee of up to \$2,500 for each application the charter school sponsor files.
 - (f) An application shall be considered complete if:
 - i. The application is submitted on the Department of Education's state charter application form for that application cycle;
 - ii. The application contains all required information, materials, documents, attachments, and signatures; and
 - iii. The application fee, if required, is submitted with the application.
 - (g) Authorizers shall not be required to review and formally act upon an application if:
 - i. The charter school sponsor did not submit the letters of intent by the required due date;
 - ii. The charter application is not complete as defined in paragraph (f); or
 - iii. The application and applicable fee is not submitted to the authorizer by the required deadline.
 - (h) If a charter application is submitted but not reviewed, any required application fee shall be

refunded to the charter school sponsor by the authorizer.

- (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.
 - (j) No later than ten (10) calendar days after approval or denial of a charter application or amended charter application, the authorizer shall report to the Department of Education whether the authorizer has approved or denied the application. The authorizer shall simultaneously provide the Department of Education 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 not deny or refuse to review an application for failing to address additional priorities. Local boards of education shall submit to the Department of Education by November 1 of each year all local application requirements.
 - (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 charter application no later than ninety (90) calendar days after the local board of education's receipt of the completed application.
 - (d) Should the local board of education fail to either approve or deny a complete and timely charter application within the ninety (90) calendar day time limit, the application shall be deemed approved.
 - (e) If a charter school application is denied, the grounds upon which the local board of education based the decision to deny an application must be stated in writing 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 must submit an amended application.
 - (f) If a 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. 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. 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. If the local board of education denies the amended application, it shall provide to the charter school sponsor the grounds for denial in writing within five (5) calendar days of the date of the decision to deny.
 - (g) Until 11:59 p.m. Central Time on December 31, 2020, 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 State Board of Education. Beginning at 12:00 a.m. Central Time on January 1, 2021, a charter school sponsor may appeal a local board of education's decision to deny a public charter school amended application to the Tennessee Charter School Commission no later than ten (10) calendar days after the date of the local board of education's decision.

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

History: Original rules filed March 31, 2003; effective July 29, 2003. Amendments filed January 11, 2019;

effective April 11, 2019.

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

- (1) A local board of education shall allocate to each charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal laws or regulations.
- (2) Student enrollments used in per pupil calculations shall be based on current year average daily membership (ADM) for the LEA in which the school resides (inclusive of all charter school enrollment). The charter school's allocation shall be calculated by multiplying the per pupil amount by the charter school's current year ADM.
- (3) Allocations to charter schools shall be based on one hundred percent (100%) of state and local funds received by the authorizer, including any current year growth funds received by the authorizer and the required local match for the state funds generated under the Basic Education Program (BEP) for capital outlay (excluding the proceeds of debt obligations and associated debt service).
- (4) 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 charter school resides shall include in the per pupil funding amount required under paragraph (1) 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
- (5) Allocations to a 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 charter school chooses to purchase from the authorizer may also exist in a separate services contract between the charter school and the authorizer. However, approval of a separate services contract may not be a condition of approval of the charter agreement. If a services contract is executed with the authorizer, then the authorizer may withhold funds to cover the costs of those services.
- (6) 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 charter schools during the upcoming school year. Allocations to the 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 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 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.
- (7) New charter schools or charter schools adding a new grade shall be funded based on anticipated enrollment in the charter agreement. Those figures shall be subsequently adjusted to reflect the actual number of students enrolled.
- (8) Pursuant to T.C.A. § 49-13-124, the 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 charter school governing body, or the authorizer may include the charter school's project as part of the authorizer's bond application.
- (9) If charter schools provide school nutrition programs, they may provide their own programs in compliance with United States Department of Agriculture regulations and State law or they may contract with the authorizer for the provision of school nutrition programs.

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

0520-14-01-.04 ENROLLMENT.

- (1) Charter schools shall conduct an initial student application period of at least thirty (30) days. During this period, all eligible students may apply.
- (2) A charter school shall not exclude students from enrollment based on race, color, ethnicity, national origin, religion, income level, disability, proficiency in the English language, or academic ability.
- (3) A charter school may submit a charter school application that seeks to limit enrollment to a single sex, as long as such enrollment proposal is in compliance with federal law.
- (4) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building.
- (5) Students that attended the charter school during the previous school year shall be given first enrollment preference and excluded from entering into a lottery. Students that attended the charter school during the previous school year shall not be required to re-apply. Students enrolling in a charter school from another charter school, even if both schools share a governing body, shall be subject to the preferences outlined in paragraph (9).
- (6) A charter school may give an enrollment preference to children of a teacher 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) A charter school shall give enrollment preferences in the following order:
 - (a) Students enrolled in a pre-K program operated by the charter school sponsor;
 - (b) Students enrolled in a charter school that has an articulation agreement with the enrolling charter school; provided, that the articulation agreement has been approved by the authorizer;

- (c) Siblings of students already enrolled in the charter school;
 - (d) 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) 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 preference set out in paragraph (9) exceeds the planned capacity of the school, enrollment within that group shall be determined on the basis of a lottery.
- (11) A non-charter public school converting partially or entirely to a charter school under T.C.A. § 49- 13-106 shall give enrollment preference to students who reside within the former 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.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 7/8/20

Signature: _____

Angela C. Sanders

Name of Officer: Angela C. Sanders

Title of Officer: General Counsel

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Tre Hargett

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Secretary of State

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