

TENNESSEE STATE BOARD OF EDUCATION

CHARTER SCHOOL APPEALS

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Tenn. Code Ann. § 49-13-108 allows public charter school sponsors to appeal the denial of an application by the local board of education to the State Board of Education.

The Board will not consider appeals of applications that did not include all of the statutorily required elements or that were submitted outside the application window set by the local board of education in accordance with Tenn. Code Ann. § 48-13-107.

Any changes to the charter school application must be made at the time of appeal to the State Board of Education, pursuant to Tenn. Code Ann. §49-13-108(a)(3)(C).

Upon receipt of an appeal, the Board will use the following procedure:

1. Board staff will confirm to the sponsor receipt of the appeal and the date of receipt (Tenn. Code Ann. § 49-13-108 requires the Board to rule on the appeal within sixty (60) days of receipt).
2. Board staff will schedule a date for the hearing to be held in the school district where the sponsor proposes to open.
3. Board staff will communicate the date and time of the hearing to the sponsor and the local board of education, and post notice of the hearing on the internet (e.g., Board website or blog).
4. Board staff will gather the information related to each application from the sponsor, local board of education and/or the Tennessee Department of Education. The compilation may include:
 - a. Copies of the initial and amended applications.
 - b. A list of individual(s) that reviewed the initial and amended applications
 - c. Copies of the minutes and/or notes, if such were prepared, from any review team meetings and local board of education work sessions and meetings in which the application was discussed.
 - d. Copies of the completed scoring sheets used to evaluate the applications.
 - e. Copies of any reports or notes prepared for the local board of education by reviewers or other local board of education staff.
 - f. Copies of the letters informing the sponsors of the local board of education's reasons for denying the initial and amended applications

5. If the denial by the local board of education was based upon substantial negative fiscal impact, the LEA and the charter applicant must submit documentation explaining the fiscal impact of the charter school. The burden will be on the LEA to prove that substantial negative fiscal impact does exist. Supporting materials should include, but are not limited to:

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- a. Current enrollment figures of the LEA and an estimate of the number of students currently enrolled who will transfer to the charter school seeking authorization;
- b. An estimate, based on prior years' data, of the number of students who will no longer be enrolled in the LEA during the school year in which the charter school seeks to begin operation for reasons other than a transfer to the charter school;
- c. A projection of the LEA's student enrollment for the school year in which the charter school seeks to begin operation, excluding the estimate number of students who will transfer to the charter school seeking authorization. Such projections shall include estimates, using prior years' data, of increased revenue to the LEA from first-time enrollees or transferees into the district; and
- d. Specific facts or financial information and a written statement demonstrating how placement or transfer of students to a charter school within the LEA will impose a budgetary or financial burden on the LEA beyond that associated with normal enrollment fluctuations, including an objective analysis of the LEA's ability to adjust expenses on a system-wide basis due to the estimated numbers and anticipated placement of students who will transfer to the charter school seeking authorization.

5-6. The executive director or another Board staff member will preside at the hearing.

- a. The executive director or other staff member may ask questions of the sponsor, local board of education or those offering public comments at any time during the hearing.
- b. The executive director or other staff member may end portions of the hearing or the hearing itself if the sponsor, local board of education or members of the public are out of order. Examples of conduct that may warrant calling speakers out of order include:
 - i. Yelling or using obnoxious or offensive language,
 - ii. Speaking out of turn, or
 - iii. Denigrating participants or other employees or officials of either the sponsor or the local board of education by name calling or similar conduct.

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6-7. Appeal hearings will proceed as follows:

- a. The local board of education will have twenty (20) minutes to present the reasons for the Board's denial.
- b. The sponsor will have twenty (20) minutes to respond and show why the local board of education's decision is contrary to the best interests of the students, school district, or community.
- c. There will then be fifteen (15) total minutes for public comment.
 - i. Members of the public who wish to comment may register at the hearing.
 - ii. Those registered in that way will be called to speak in the allotted time.
 - iii. The executive director or other staff member may increase the time for public comment based on the circumstances.
 - iv. Written comments may also be submitted at the meeting or submitted to the Board as specified at the hearing and on any notices or agendas.
- d. The local board of education will have five (5) minutes for a closing statement.
- e. The sponsor will have five (5) minutes for a closing statement.

8. State board staff and, if applicable, state board charter application review committee will conduct a de novo on the record review of the proposed charter school's application and provide recommendations to the Executive Director.

If the application is for a charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list, state board staff and, if applicable, state board charter application review committee may also conduct interviews of charter applicants. Results of the interview may be considered in the recommendation to the Executive Director.

7-9. Following the hearing and review of the application, the executive director will provide written findings and recommendations to the Board.

8-10. The Board will meet and render a decision within sixty (60) days of receipt of the appeal. The Board may

- a. Affirm the decision of the local board of education, or
- b. If the application is for a charter school in an LEA that does not contain at least one (1) priority school on the current or last preceding priority school list, and if the "state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community", the state board shall remand the decision to the local board of education with written instructions for approval of the charter.

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The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.¹ or

b.c. If the application is for a charter school in an LEA that contains at least one (1) priority school on the current or last preceding priority school list, and if the “state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community”, the state board may approve the application for the charter school. The decision of the state board shall be final and not subject to appeal and the state board shall become the chartering authority.²

9-11. The findings and recommendations will be discussed in a work session, if ruling at a regular meeting, or, prior to the agenda item, if ruling at a special called meeting.

12. A decision to remand the application for approval shall be communicated in writing, “specifying objective reasons for the decision.”³

10-13. Within thirty (30) calendar days after the state board becomes the charter authorizer, the LEA and the charter school may submit a charter agreement signed by the LEA and the charter school indicating that the charter school shall be overseen and monitored by the LEA. Such agreement can be submitted electronically.

¹ T.C.A. § 49-13-108(3).

² *Id.*

³ *Id.*