STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

April 9, 2010

Opinion No. 10-45

Execution of Charter School Agreements

QUESTION

After a local board of education rules "by resolution, at a regular or special called meeting, on the approval or denial of a charter application," must the written agreement be signed at the same time? Or, may the local education agency staff require further negotiation with the charter school sponsor before signing a charter agreement?

OPINION

There is no distinction between approving a charter school application and signing a charter school application. Because approval by the local education agency creates the charter agreement, the local education agency cannot require further negotiation with the charter school sponsor.

ANALYSIS

In 2002, the Tennessee General Assembly passed the "Tennessee Public Charter Schools Act" (hereinafter referred to as "the Act"). See Tenn. Code Ann. § 49-13-101 et seq. A charter school is a public school "established and [operated] under the terms of a charter agreement and in accordance with [the Act]." See Tenn. Code Ann. § 49-13-104(6). A charter school may be created by two different processes: (1) it can be a newly created public school or (2) it can be converted from an existing public school. See Tenn. Code Ann. § 49-13-106. This opinion request concerns the application process for a newly created public school.

To create a new charter school, a "sponsor" files an application with the chartering authority, the local school board. See Tenn. Code Ann. §§ 49-13-104(2) and 49-13-106(b)(1). A "sponsor" is any individual, group, or other organization who files an application in support of the establishment of the charter school. See Tenn. Code Ann. §§ 49-13-104(7). The chartering authority has sixty days to approve or deny an application; if the chartering authority makes no decision within sixty days, the application is deemed approved. See Tenn. Code Ann. § 49-13-108(1). If approval is granted, the charter application becomes the charter agreement. See Tenn.

Code Ann. §§ 49-13-104(1); 49-13-106(b)(1)(B); 49-13-108(1); and 49-13-110(a). Tenn. Code Ann. 49-13-110(a) states as follows:

> The approval by the chartering authority of a public charter school application shall be in the form of a written agreement signed by the sponsor and the chartering authority, which shall be binding upon the governing body of the public charter school. The charter agreement for a public charter school shall be in writing and contain all components of the application.

It should be noted that if the chartering authority denies a charter school application, the sponsor may re-submit an amended application within fifteen (15) days. *See* Tenn. Code Ann. 49-13-108(2). Additionally, pursuant to Tenn. Code Ann. 49-13-110(b), the governing body of a charter school may petition the chartering authority to amend the original charter.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MELISSA ANN MOREAU
Assistant Attorney General

Requested by:

The Honorable Gary L. Nixon
Executive Director
State Board of Education
9th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243-1050