

**RULES
OF
THE STATE BOARD OF EDUCATION**

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

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0520-14-01-.06 AMENDMENTS TO THE CHARTER AGREEMENT.

- (1) Charter Amendments.
- (a) An authorizer's approval of a public charter school ("charter school") application shall be in the form of a written charter agreement signed by the sponsor and the authorizer which shall be binding upon the governing body of the charter school. The charter agreement for a charter school shall be in writing and contain all material components of the approved application. The governing body of the charter school may petition the authorizer to amend the original charter agreement.
- (b) An amendment to the original charter agreement shall be required for any material modification to the provisions of a charter school's charter agreement.
- (c) A material modification to a charter agreement is defined as a substantive change to the terms of the charter agreement regarding a charter school's governance, financial, operational, or academic structure. Material modifications include, but are not limited to:
1. Change in governance structure (including, but not limited to, a change in the non-profit entity governing the school), or addition of or changes to the charter management organization;
 2. The addition or removal of a grade level or levels;
 3. Changes in student enrollment which fall outside of the minimum or maximum enrollment thresholds set forth in the charter school's charter agreement;
 4. The addition or removal of a plan to provide transportation to students attending the charter school;
 5. Changes to the charter school's location, if outside the geographic area set forth in the charter agreement;
 6. Changes to the charter school's academic focus set forth in the charter agreement; and
 7. Changes identified in the charter agreement as material modifications or amendments.
- (d) The governing body of the charter school applying for a material modification to a charter agreement shall complete and submit to its authorizer the amendment petition application

(Rule 0520-14-01-.06, continued)

(the “amendment application”) created and published by the Department of Education and approved by the State Board.

- (e) The authorizer shall review and score all complete and timely amendment applications using a scoring rubric created and published by the Department of Education and approved by the State Board.
- (f) On July 1 of the year preceding the year in which the proposed amendment will take effect, the governing body of the charter school shall file an amendment petition letter of intent with the authorizer. If the July 1 due date falls on a Saturday, Sunday, or state-observed holiday, the letter of intent shall be due on the next business day.
- (g) On August 1 of the year preceding the year in which the proposed amendment will take effect, the governing body of the charter school shall file an amendment application with the authorizer. If the August 1 due date falls on a Saturday, Sunday, or state-observed holiday, the amendment application materials shall be due on the next business day.
- (h) The authorizer shall rule by resolution at a regular or special called meeting on the approval or denial of an amendment application within sixty (60) calendar days of the application due date. Amendment applications may be submitted prior to the due date; however, all complete and timely amendment applications shall be reviewed and acted upon within sixty (60) calendar days following the due date.
- (i) Should the authorizer fail to either approve or deny a complete and timely amendment application within the sixty (60) calendar day time limit, the amendment application shall be deemed approved.
- (j) If an amendment application is approved, such amendment shall not alter the original term of the charter agreement. The charter school shall still be required to submit a renewal application pursuant to T.C.A. § 49-13-121 to continue to operate beyond the current charter term.
- (k) If an amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial.
- (l) An emergency amendment petition application (“emergency application”) and rubric shall be created and published by the Department of Education and approved by the State Board.
- (m) If the governing body of a charter school determines that, due to unanticipated extraordinary circumstances, good cause exists for the emergency application to be submitted, it shall make a finding by resolution at a regular or special called meeting of the governing body. An emergency application may be submitted to the authorizer at any time.
 - 1. In order for an emergency application to be complete, the governing body of the charter school shall include with the emergency application detailed written findings explaining the unanticipated extraordinary circumstances giving rise to the emergency application. An emergency application shall not be used to add a grade level or levels or to increase student enrollment outside of the maximum enrollment thresholds set forth in the charter agreement.

(Rule 0520-14-01-.06, continued)

2. The authorizer shall rule by resolution at a regular or special called meeting on the approval or denial of an emergency application within sixty (60) calendar days of the date the application was submitted to the authorizer.
3. Should the authorizer fail to either approve or deny a complete emergency application within the sixty (60) calendar day time limit, the emergency application shall be deemed approved.
4. If an emergency application is approved, such amendment shall not alter the original term of the charter agreement. The charter school shall still be required to submit a renewal application pursuant to T.C.A. § 49-13-121 to continue to operate beyond the current charter term.
5. If an emergency application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial.

(2) Appealing an Amendment Decision.

- (a) The governing body of a charter school may appeal a decision by the authorizer to deny an amendment to the charter agreement to the State Board within ten (10) calendar days of the denial. However, if the authorizer is the State Board or the Public Charter School Commission, then no appeal may be made. The governing body of a charter school shall submit a notice of appeal by email to the State Board. The notice of appeal must be received by the State Board no later than 4:30 p.m. Central Time on the tenth (10th) calendar day. In order to be considered a complete appeal, the notice of appeal shall contain the following information:
 1. A copy of the original charter agreement that contains all material components of the approved application;
 2. A copy of the amendment application or emergency application submitted to the authorizer;
 3. A summary of the application timeline including the date the application was originally submitted to the authorizer and the date the application was denied by the authorizer;
 4. A copy of the letter informing the governing body of the authorizer's reasons for denying the application; and
 5. A brief statement, no longer than three (3) pages, including but not limited to an explanation of why the authorizer's denial of the charter school amendment application or emergency application was contrary to the best interests of the students, LEA, or community.
- (b) State Board staff shall not accept an incomplete appeal or any additional documentation from the governing body of the charter school beyond the contents of the notice of appeal, unless requested by the State Board staff.
- (c) State Board staff may request additional documentation from the governing body, the authorizer, and the Tennessee Department of Education.

(Rule 0520-14-01-.06, continued)

- (d) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the State Board shall hold a public hearing. The public hearing shall be attended by the State Board or its designated representative and shall occur in the school district in which the charter school is operating.
- (e) Following the review of the amendment application or emergency application and any additional information collected by the State Board, the Executive Director of the State Board shall provide written findings and recommendations to the State Board. The State Board shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the State Board is not bound by the recommendation.
- (f) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the State Board shall meet to render a decision. If the State Board finds that the denial of the amendment application or emergency application is contrary to the best interests of the students, LEA, or community, the State Board shall remand the decision to the authorizer with written instructions for approval of the amendment application or emergency application. The State Board shall not become the authorizer and the charter school shall remain under the supervision of the authorizer to whom the amendment application or emergency application was submitted. The decision of the State Board is final and no other appeals shall be made.

Authority: T.C.A. § 49-13-110(b) and Acts 2019, ch. 219. **Administrative History:** Emergency rule filed June 27, 2019; effective through December 24, 2019.