
Charter School Amendments, Emergency Rule 0520-14-01-.06

The Background:

Pursuant to Tennessee Code Annotated § 4-5-208(a)(5), the State Board is authorized to promulgate an emergency rule if the agency finds that it is required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of normal rulemaking procedures for the promulgation of permanent rules.

Public Chapter 219 of the 111th General Assembly requires the State Board to set forth the timelines and appeal process for charter schools who wish to petition their authorizer for an amendment to their charter agreement. Public Chapter 219 went into effect on April 26, 2019. As a result of changes to the statutory definition of rules in 2018, the State Board is required put any such appeal process in a rule, as appeals concern the rights of third parties outside the internal operation of state government.

In order to ensure that the State Board has an appeal process in place should a charter school wish to exercise their legal right to appeal a denial of a charter amendment petition by their authorizer, an emergency rule is required. Since the language of Public Chapter 219 is already effective, the State Board would not have sufficient time to promulgate a permanent rule through the normal rulemaking procedures to set up the appeal process required by law. As such, an emergency rule is required to set forth an appeal process until the State Board can promulgate a permanent rule on this subject, including holding a rulemaking hearing to solicit public and stakeholder feedback.

The Recommendation:

The SBE staff recommends approval of this item on final reading.