



## Charter School New Start Appeal Process – Guidance Document

*Disclaimer: This document is for guidance purposes only and does not supersede any statute, rule, or policy. Local boards of education and sponsors may be held to requirements and deadlines not contained in this document.*

### **Overview of the Appeal Process**

Pursuant to Tennessee Code Annotated (T.C.A.) § 49-13-108, public charter school sponsors may appeal the denial of their application by a local board of education to the State Board of Education (State Board) until December 31, 2020. The State Board's decision is final and not subject to further appeal. An appeal of a charter school application to the State Board is governed in accordance with T.C.A. § 49-13-108(b)(4) and State Board policies [2.500 – Charter School Appeals](#) and [6.300 – Application Review](#). Upon receipt of an appeal, the State Board has sixty (60) calendar days to render a decision,<sup>1</sup> and typically, the State Board's meeting to render a decision on the appeal is near the end of that period.

### **Standard of Review**

- Appeals involving local education agencies (LEAs) without a priority school on the current or last preceding priority school list:
  - If the State Board finds that the local board's decision to deny the application of a charter school was contrary to the best interests of the pupils, school district, or community, the State Board will remand the application back to the local board of education with instructions to approve the charter application. In this case, the local board of education will be the chartering authority.<sup>2</sup>
- Appeals involving LEAs with at least one priority school on the current or last preceding priority school list:
  - If the State Board finds that the local board's decision to deny the application of a charter school was contrary to the best interests of the pupils, school district, or community, the State Board may approve the application for a charter school.<sup>3</sup> Unless the LEA and the charter school agree within thirty (30) calendar days of the Board's vote<sup>4</sup> that the charter school will be overseen and monitored by the LEA, the State Board will become the chartering authority of the school, and the school will be evaluated and held accountable to the State Board of Education's [Charter School Performance Framework](#).

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<sup>1</sup> Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(4); State Board policy [2.500 – Charter School Appeals](#).

<sup>2</sup> T.C.A. § 49-13-108(b)(4)

<sup>3</sup> T.C.A. § 49-13-108(b)(4)

<sup>4</sup> T.C.A. § 49-13-142(b)(3)

### **Statutes, Rules and Policies Governing the Appeal Process**

The following statutes, State Board rule, and State Board policies govern the charter application appeal process, and the State Board staff suggests that any sponsor or local board of education participating in the appeal process be familiar with the contents of these documents:

- T.C.A. §§ 49-13-108 and 49-13-142<sup>5</sup>
- State Board rule [0520-14-01-.02](#)
- State Board policy [2.500 – Charter School Appeals](#)
- State Board policy [6.300 – Application Review](#)

### **Guidance for Sponsors Submitting Appeals**

Charter school sponsors submitting an appeal of a local board of education's denial of an amended application should do so in accordance with T.C.A. § 49-13-108 and State Board policy [2.500 – Charter School Appeals](#). **The notice of appeal and corresponding documents must be submitted via email to the State Board within ten (10) calendar days of the local board of education's denial of the amended application. Any materials submitted after 4:30 p.m. Central Time on the tenth (10th) calendar day will not be accepted.**<sup>6</sup> Documents must be submitted to the State Board via a file-sharing website (e.g., Dropbox, Box.com, Google Drive, etc.) with clearly labeled folders and documents corresponding to the required information below. The notice of appeal must include all of the following to be considered:

- a. Copies of the initial and amended applications submitted to the local board of education;
- b. A summary of the application timeline including the dates that the initial and amended applications were originally submitted to the local board of education, the date of public hearing, the date of the capacity/applicant interview (if applicable), and the dates the initial and amended applications were denied by the local board of education;
- c. Copies of the letters informing the sponsor of the local board of education's reasons for denying the initial and amended applications;
- d. A clean version of the amended application without any tracked changes that includes all changes made upon resubmission to the local board of education and, if applicable, any corrections to the application allowed under T.C.A. § 49-13-108(b)(4) upon appeal to the State Board of Education;
- e. If applicable, a document outlining any proposed corrections allowed under T.C.A. § 49-13-108(b)(4) made to the amended application upon appeal to the State Board. The sponsor shall use the [template](#) published on the State Board's website to submit any proposed corrections. The template will require the sponsor to list the page number of each correction, the original language of the amended application, the proposed corrected

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<sup>5</sup> Available at <http://www.lexisnexis.com/hottopics/tncode/>

<sup>6</sup> State Board Policy [2.500 – Charter School Appeals](#)

language of the amended application, and the reasoning for the proposed correction. Any proposed corrections to the charter school amended application, as permitted by T.C.A § 49-13-108(b)(4), must be made at the time of the notice of appeal to the State Board. The State Board will only accept corrections permitted by T.C.A § 49-13-108(b)(4). Corrections are changes that are minor in nature such as typographical, grammatical, or transposing. The State Board will review all proposed corrections and notify the sponsor if the corrections will be accepted. If the State Board does not accept a proposed correction, the State Board will redact it from the amended application. In accordance with T.C.A § 49-13-108(b)(4), sponsors shall not be permitted to make corrections to the following sections of the amended application:

- Section 1.1 School Mission and Vision
  - Section 1.2 Enrollment Summary
  - Section 1.3 Academic Focus and Plan
  - Section 1.4 Academic Performance Standards
  - Section 1.8 School Calendar and Schedule
  - Section 2.2 Startup Plan
  - Qualifications of employees, as discussed in Section 2.4 Personnel/Human Capital
  - Section 2.7 Transportation
  - Section 3.1 Planning and Budget Worksheet (Section 3.4, if applicable)
  - Attachment D Enrollment Policy
  - Identification of the individuals and entities sponsoring the school, including qualifications, names, and addresses, as discussed in Attachment F6
  - Assurances Form
- f. A brief statement, no longer than three (3) pages including, but not limited to, an explanation of why the local board of education's denial of the charter school application was contrary to the best interests of the pupils, school district, or community.

The State Board will meet and render a final decision on each appeal within sixty (60) calendar days of receipt of the charter school appeal.<sup>7</sup> The State Board may meet at a special-called meeting or at a regularly scheduled meeting. The State Board will consider the Executive Director's Findings and Recommendation Report for the appeal, but the Board is not bound by the recommendation.<sup>8</sup>

### **Guidance for LEAs Participating in Appeal Process**

Upon receipt of an appeal, State Board staff will notify representatives of the LEA that an appeal has been received and that a request for information is forthcoming. The LEA shall provide the requested information within five (5) calendar days of receipt of the request.<sup>9</sup> Documents should be submitted to

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<sup>7</sup> Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(4); State Board Policy [2.500 – Charter School Appeals](#)

<sup>8</sup> State Board Policy [2.500 – Charter School Appeals](#)

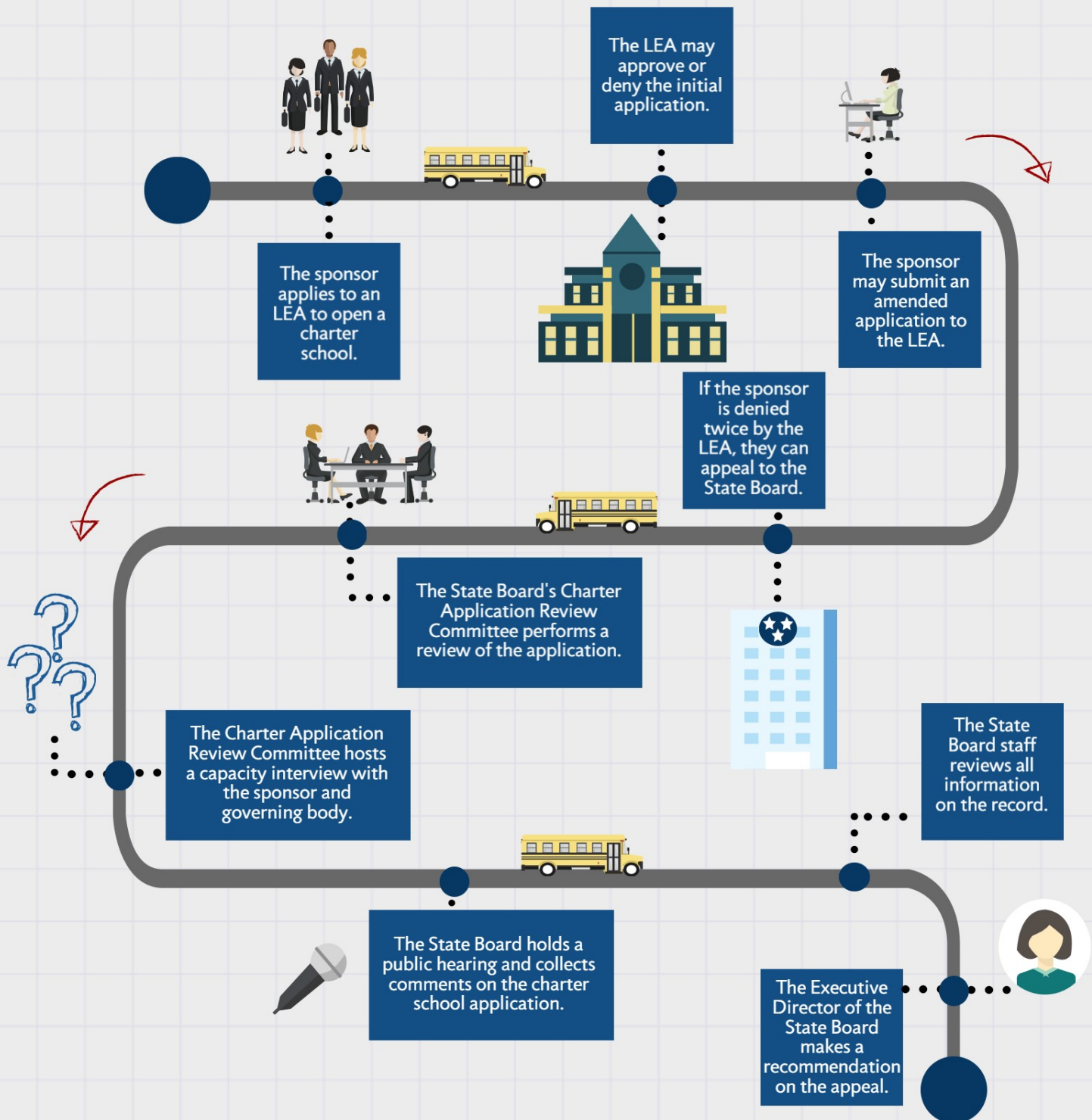
<sup>9</sup> State Board Policy [2.500 – Charter School Appeals](#)



the State Board via a file-sharing website (e.g., Dropbox, Box.com, Google Drive, etc.) with clearly labeled folders and documents corresponding to the required information below:

- a) A list of individual(s) that reviewed the initial and amended applications;
- b) Copies of the minutes and/or notes and all presentation materials, if such were prepared, from any review team meetings, capacity/applicant interview, local board of education work sessions, and/or meetings in which the application(s) was discussed;
- c) Copies of the completed scoring sheets used to evaluate the applications;
- d) Copies of any reports or notes prepared for the local board of education by reviewers or other LEA staff; and
- e) Copies of the letters informing the sponsor of the local board of education's reasons for denying the initial and amended applications.

# Tennessee Charter School Appeals Process



## Frequently Asked Questions

**1. How long does the appeal process take?**

The State Board is required to render a decision on an appeal within sixty (60) calendar days of the receipt of the notice of appeal.<sup>10</sup> Typically, the State Board's meeting to render a decision on an appeal is near the end of the sixty (60) calendar day timeframe.

**2. Who is my main contact during an appeal?**

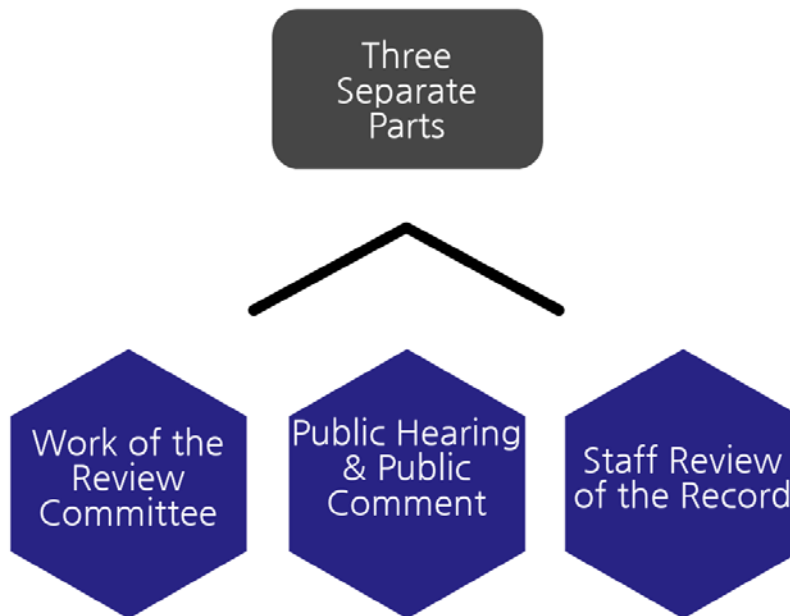
The State Board's General Counsel and Deputy Director of Charter Schools are your primary contacts and can be reached at [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov).

**3. Can we receive copies of the information submitted by the sponsor or LEA as a part of the appeal process?**

Upon written request to [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov), State Board staff will provide the information submitted by the sponsor on appeal or the information submitted by the LEA as a part of the request for information.

**4. What does the State Board analyze in an appeal?**

## THE APPEAL PROCESS



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<sup>10</sup> Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(4); State Board Policy [2.500 – Charter School Appeals](#)

The State Board shall conduct a de novo, on the record review of the amended charter application.<sup>11</sup> Therefore, the substantive review of the application and record by the State Board is done in three distinct parts, each operating separately from one another. All three of these parts come together to inform the Executive Director's Findings and Recommendation Report that is presented to the State Board. The State Board will consider, but is not bound by, the Executive Director's Recommendation.<sup>12</sup> The recommendation report is based on the following:

- Part 1: Work of the Review Committee:<sup>13</sup> The State Board will assemble a charter application review committee (Review Committee), comprised of both internal and external evaluators, to review the amended charter school application that includes all changes and corrections as submitted by the sponsor to the State Board upon appeal. The Review Committee will be trained by the State Board staff to ensure consistent standards and fair treatment of all applications. The Review Committee's work consists of three key parts, outlined below, and is completely separate from the public hearing and staff review of all documents on the record.
  - a. Evaluation of the Application: The Review Committee is responsible for conducting a de novo review of the amended application. The committee will only review the amended application and accompanying attachments including the budget, and **it will not review any additional information submitted by the sponsor or local board of education upon appeal.** Therefore, the Review Committee does not see the local board of education's reasons for denial nor is the Review Committee confined to the local board's reasons for denial. The Review Committee will score the amended application based on the Tennessee Department of Education's Application Scoring Rubric<sup>14</sup> which is used by local boards of education during review of charter school applications.
  - b. Capacity Interview: After an initial review of the application, the Review Committee will conduct a ninety (90) minute capacity interview with the proposed school leaders and officers of the governing board in **Nashville, Tennessee**. Additional information about the interview is contained in State Board policy [6.300 – Application Review](#). The sponsor will not have any opportunity for an opening statement at the beginning of the interview but will be provided an opportunity for a closing statement during the last five (5) minutes of the interview. To start the interview, the Review Committee and individuals representing the sponsor will briefly introduce themselves, and then the Review Committee will move straight into questions for the sponsor based on their review of the application. Since the Review Committee conducts a de novo review of the application, the Review Committee is not confined to the local board's reasons for denial. Therefore, the Review Committee may ask questions about areas or issues that were or were not raised by the local board of education. Accordingly, the sponsor should be prepared to answer questions about the academic, operational, financial, and past performance sections, if applicable, of the application.

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<sup>11</sup> T.C.A. § 49-13-108(b)(4)

<sup>12</sup> State Board Policy [2.500 – Charter School Appeals](#)

<sup>13</sup> State Board Policy [2.500 – Charter School Appeals](#) and [6.300 – Application Review](#)

<sup>14</sup> Rubric is available on the Tennessee Department of Education's [website](#).



- c. **Review Committee Report:** After reviewing the application and holding the capacity interview, the Review Committee develops a consensus rating for each of the main sections of the application and provides a recommendation to the Executive Director on the amended application. Applicants must receive a “meets or exceeds the standard” in the academic, operational, financial, and past performance sections, if applicable, in order for the Review Committee to recommend approval. In developing the Executive Director’s recommendation, the Executive Director will give significant consideration to the recommendation of the Review Committee.
  - **Part 2: Public Hearing and Public Comment:** The State Board will hold a public hearing on the charter application during the sixty (60) calendar days that the State Board is considering an appeal.<sup>15</sup> The public hearing is held in the local school district in which the applicant proposes to operate, and the hearing gives the local board of education, the sponsor, and the local community the opportunity to be heard on the charter application. Specific details regarding the hearing can be found in State Board policy [2.500 – Charter School Appeals](#). The proceedings of the public hearing are wholly separate from the work of the review committee described in Part 1, and neither part informs the other’s work. In developing the Executive Director’s recommendation, the Executive Director will consider information presented at the public hearing. However, the Executive Director will give significant consideration to the recommendation of the Review Committee.
    - a. **Public Comment.** At any point prior to the public hearing and up to the deadline set by the State Board, the public may submit written comment to the State Board for consideration in the Executive Director’s recommendation. All written comment submitted to the State Board office is provided to the members of the State Board. The State Board staff will set a deadline by which no further written comment will be accepted, and this deadline will be stated on the public hearing agenda and the State Board’s website.
  - **Part 3: Staff Review of the Record:** The State Board staff will conduct a de novo on the record review of all documentation submitted by the sponsor and local board of education. This documentation includes all materials submitted within the notice of appeal by the sponsor, all materials submitted by the local board, the review committee report, and information received during the public hearing and via public comment. Additionally, the State Board staff may conduct due diligence on the applicant, including but not limited to outreach to current authorizers or a review of state and nationally normed internal assessment data.
- 5. Are all components of the appeal process considered equally in the Executive Director’s recommendation?**

In developing the Executive Director’s recommendation, the Executive Director will consider all parts of the appeal process: the notice of appeal, the Review Committee Report, information presented at the

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<sup>15</sup> T.C.A. § 49-13-108(a)(4) and State Board Policy [2.500 – Charter School Appeals](#)



public hearing, public comment, information from the LEA, and the staff review of the record. However, the Executive Director will give significant consideration to the recommendation of the Review Committee.

### **Executive Director's Recommendation**



#### **6. Can a sponsor make corrections to the amended application?**

While local boards and authorizers in other states may accept additional corrections upon appeal, the State Board is limited to specific written corrections as outlined in Charter School Appeals Policy 2.500 at the time of the appeal.

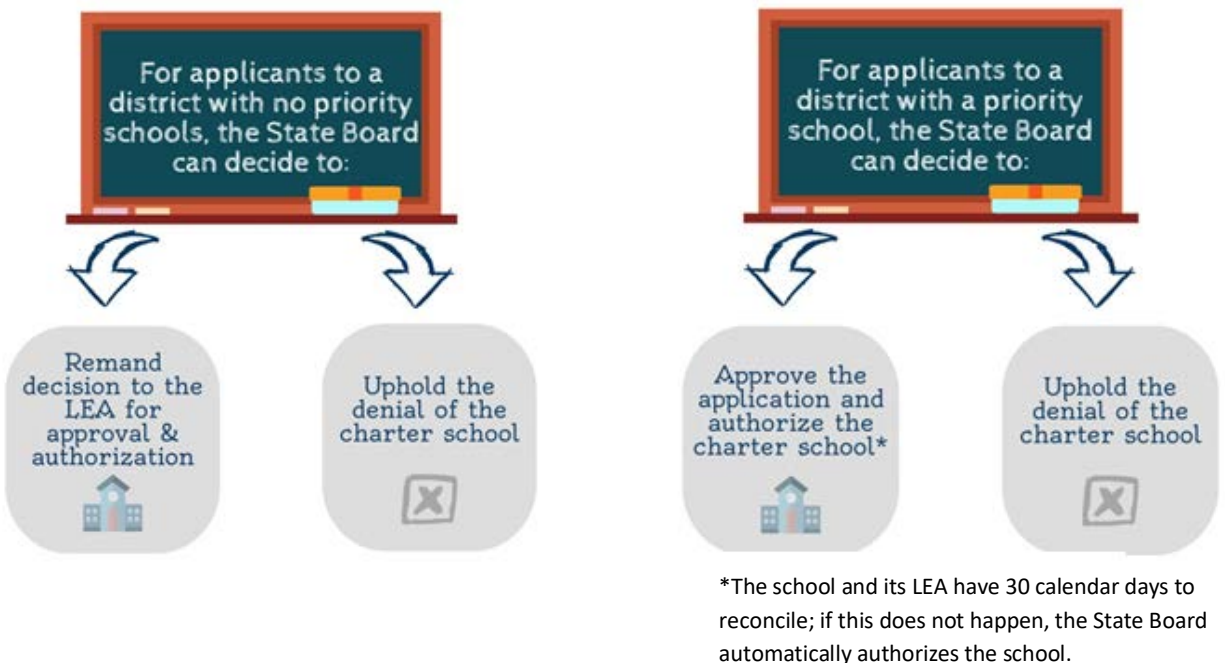
#### **7. What could the Executive Director recommend?**

The recommendation of the Executive Director depends on whether the sponsor is applying to locate in a school district with a school on the current or last preceding priority school list.

- Appeals from LEAs without a priority school on the current or last preceding priority school list:
  - The Executive Director could recommend that the State Board affirm the local board of education's decision to deny the amended application or recommend that the State Board remand the application to the local board with instructions to approve the application. If the State Board remands the application back to the local board, the local board will be the

charter school authorizer.<sup>16</sup>

- Appeals from LEAs with at least one priority school on the current or last preceding priority school list:
  - The Executive Director could recommend that the State Board affirm the local board of education's decision to deny the amended application or recommend that the State Board approve the application. If approved, the State Board will be the charter school authorizer,<sup>17</sup> unless the local board and charter school agree within thirty (30) calendar days of the Board's vote that the charter school will be overseen by the LEA.<sup>18</sup>



## 8. When is the Executive Director's recommendation published online?

Typically, the Executive Director's Findings and Recommendation report is posted on the State Board's website a couple of days prior to the Board's meeting.

## 9. What is the State Board's decision-making process?

The State Board will meet at a special-called meeting or a regularly scheduled quarterly meeting to render a decision within sixty (60) calendar days of receipt of the notice of appeal.<sup>19</sup> If the Board renders a decision at a special-called meeting, the Board will discuss the Executive Director's recommendation

<sup>16</sup> T.C.A. § 49-13-108(b)(4)

<sup>17</sup> T.C.A. § 49-13-108(b)(4)

<sup>18</sup> T.C.A. § 49-13-142(b)(3)

<sup>19</sup> Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(4); State Board Policy [2.500 – Charter School Appeals](#).

prior to the vote on the agenda item. If the Board renders a decision at a regularly scheduled quarterly meeting, the Board will discuss the Executive Director's recommendation at the State Board's workshop, usually held the day before the meeting.<sup>20</sup> All State Board meetings and workshops are livestreamed, and the link will be available on the State Board's website.

**10. Is there time for public comment on the appeal at the State Board meeting?**

Requests for public comment at State Board meetings are governed by State Board policy [1.400 - Board Meetings](#). The meetings are open to the public and livestreamed online. All individuals wishing to comment on an appeal are encouraged to attend the appeal's public hearing or submit a written comment in accordance with the State Board's published guidelines. A representative of the operator and/or local school board may choose to submit a written comment to be read into the record by a member of the State Board staff during the board meeting where the State Board will consider the findings and recommendations of the Executive Director. Written comments shall not be more than one (1) page typed in length and shall be received by the Executive Director at least forty-eight (48) hours prior to the scheduled board meeting. The State Board shall accept only one written comment from each party.

**11. What happens after the State Board renders a decision?**

The sponsor and local board of education will be notified via U.S. Mail of the State Board's decision on the charter school appeal. If the State Board approves the application, the local board of education and the sponsor can mutually agree for the charter school to be overseen by the LEA. Written notification of this agreement must be submitted to the State Board within thirty (30) calendar days of the Board's decision.<sup>21</sup>

**12. What happens if the State Board remains the authorizer?**

If after thirty (30) calendar days the local board of education and the sponsor do not mutually agree for the charter school to be overseen by the LEA, State Board staff will reach out to the charter school sponsor to discuss next steps for the charter school to be overseen by the State Board, including the negotiation of the charter agreement. The amended application will be an exhibit to the charter agreement.

**13. Can the State Board's decision be appealed?**

The State Board's decisions in appeals are final.<sup>22</sup>

**14. If State Board affirms the local board of education's decision to deny the application, can the Sponsor submit an application in the following year?**

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<sup>20</sup> State Board policy [2.500 - Charter School Appeals](#)

<sup>21</sup> T.C.A. § 49-13-142(b)(3).

<sup>22</sup> T.C.A. §§ 49-13-108(b)(4)



Yes, the Sponsor is able to submit a new application the following year.

**15. Who should I contact with additional questions?**

Please contact the General Counsel and the Deputy Director of Charter Schools at:  
[CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov).