



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 Tennessee Public Charter School Commission (Charter Commission). The Charter Commission's decision is final and not subject to further appeal. An appeal of a charter school application to the Charter Commission is governed in accordance with T.C.A. § 49-13-108(b)(5), Rule 1185-01-01-.01, and Charter Commission policies [2.000 – Charter School Appeals](#) and [2.100 Charter School Application Review](#). Upon receipt of an appeal, the Charter Commission has seventy-five (75) calendar days to render a decision,¹ and typically, the Charter Commission's meeting to render a decision on the appeal is near the end of that period.

Standard of Review

- If the Charter Commission finds that the application meets or exceeds the metrics outlined in the Tennessee Department of Education's application-scoring rubric and that approval of the application is in the best interests of the students, local board of education, or community, then the Charter Commission may approve the public charter school's application.²
- If an application is approved by the Charter Commission, the local board of education and the charter school may agree within thirty (30) calendar days of the Charter Commission's vote³ that the charter school will be overseen and monitored by the local board of education. If no agreement is made, the Charter Commission will become the authorizer of the charter school, and the school will be evaluated and held accountable to the Charter Commission's [Charter School Performance Framework](#).

Statutes, Rules and Policies Governing the Appeal Process

The following statutes, Charter Commission rule, and Charter Commission policies govern the charter application appeal process, and the Charter Commission 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. § 49-13-108⁴

¹ Unless otherwise agreed to by the local board of education and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(5); Charter Commission policy [2.000 – Charter School Appeals](#).

² T.C.A. § 49-13-142(b)(5)

³ Ibid.

⁴ Available at <http://www.lexisnexis.com/hotttopics/tncode/>

- Charter Commission rule 1185-01-01-.01
- Charter Commission policy [2.000 – Charter School Appeals](#)
- Charter Commission policy [2.100 – 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, Rule 1185-01-01-.01, and Charter Commission policy [2.000 – Charter School Appeals](#). **The notice of appeal and corresponding documents must be submitted via email to the Charter Commission within ten (10) calendar days of the local board of education’s denial of the amended application. Any materials submitted after 11:59 p.m. Central Time on the tenth (10th) calendar day will not be accepted.**⁵

Documents must be submitted to the Charter Commission 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
- e. 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 Charter Commission will meet and render a final decision on each appeal within seventy-five (75) calendar days of receipt of the charter school appeal.⁶ The Charter Commission may meet at a special-called meeting or at a regularly scheduled meeting. The Charter Commission will consider the Executive Director’s Findings and Recommendation Report for the appeal, but the Charter Commission is not bound by the recommendation.⁷

Guidance for Local Boards of Education Participating in Appeal Process

Upon receipt of an appeal, Charter Commission staff will notify representatives of the local board of education that an appeal has been received and that a request for information is forthcoming. The local board of education shall provide the requested information within five (5) calendar days of

⁵ Charter Commission rule 1185-01-01-.01

⁶ Unless otherwise agreed to by the local board of education and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(5); Charter Commission policy [2.000 – Charter School Appeals](#).

⁷ Charter Commission policy [2.000 – Charter School Appeals](#)

receipt of the request, but in no event more than seven (7) calendar days from the request.⁸ Documents should be submitted to the Charter Commission 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 local board of education 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.

⁸ Ibid.

Frequently Asked Questions

1. How long does the appeal process take?

The Charter Commission is required to render a decision on an appeal within seventy-five (75) calendar days of the receipt of the notice of appeal.⁹ Typically, the Charter Commission’s meeting to render a decision on an appeal is near the end of the seventy-five (75) calendar day timeframe.

2. Who is my main contact during an appeal?

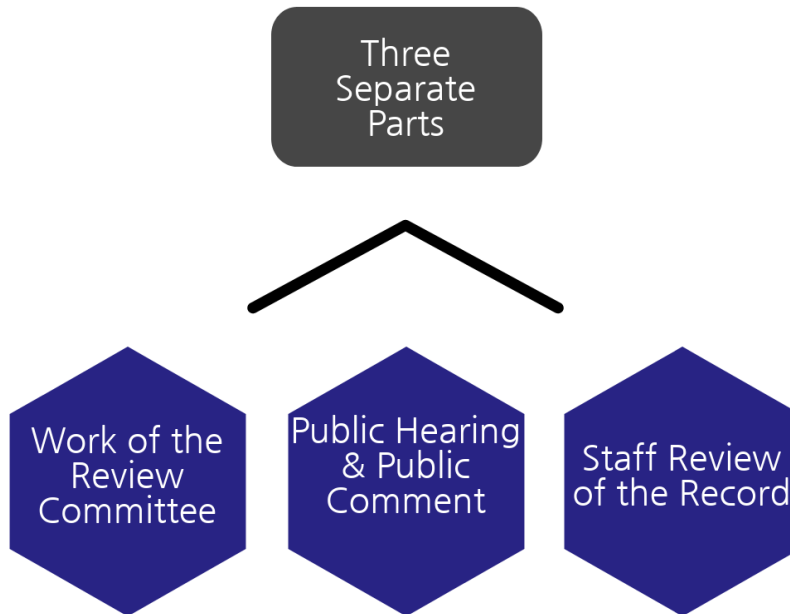
The Charter Commission’s General Counsel is your primary contact and can be reached at Ashley.Thomas2@tn.gov.

3. Can we receive copies of the information submitted by the sponsor or local board of education as a part of the appeal process?

Upon written request to Ashley.Thomas2@tn.gov, the Charter Commission staff will provide the information submitted by the sponsor on appeal or the information submitted by the local board of education as a part of the request for information.

4. What does the Charter Commission analyze in an appeal?

THE APPEAL PROCESS



⁹ Unless otherwise agreed to by the local board of education and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(5); Charter Commission policy [2.000 – Charter School Appeals](#).

The Charter Commission shall conduct a de novo, on the record review of the amended charter application.¹⁰ Therefore, the substantive review of the application and record by the Charter Commission 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 Charter Commission. The Charter Commission will consider, but is not bound by, the Executive Director's Recommendation.¹¹ The recommendation report is based on the following:

- Part 1: Work of the Review Committee:¹² The Charter Commission will assemble a charter application review committee (Review Committee), comprised of both internal and external evaluators, to review the amended charter school application. The Review Committee will be trained by the Charter Commission 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 Rubric¹³ 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 Charter Commission policy [2.100 Charter School 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

¹⁰ T.C.A. § 49-13-108(b)(4)

¹¹ Charter Commission policy [2.000 – Charter School Appeals](#)

¹² Charter Commission policy [2.000 – Charter School Appeals](#) and [2.100 – Application Review](#)

¹³ Rubric is available on the Tennessee Department of Education's [website](#).

performance sections, if applicable, of the application.

- 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 Charter Commission will hold a public hearing on the charter application during the seventy-five (75) calendar days that the Charter Commission is considering an appeal.¹⁴ 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 Charter Commission policy [2.000 – 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.
 - a. Public Comment. At any point prior to the public hearing and up to the deadline set by the Charter Commission, the public may submit written comment to the Charter Commission for consideration in the Executive Director’s recommendation. All written comment submitted to the Charter Commission office is provided to the members of the Charter Commission. The Charter Commission 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 Charter Commission’s website.
 - Part 3: Staff Review of the Record: The Charter Commission 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 Charter Commission 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

¹⁴ T.C.A. § 49-13-108(b)(5) and Charter Commission policy [2.000 – Charter School Appeals](#)

the public hearing, public comment, information from the local board of education, and the staff review of the record. However, the application must meet or exceed the metrics outlined in the Tennessee Department of Education's application-scoring rubric in order for the Executive Director to recommend approval of the application.

6. Can a sponsor make changes or corrections to the amended application?

The sponsor cannot make any changes to the amended application upon appeal.

7. What could the Executive Director recommend?

The Executive Director could recommend that the Charter Commission affirm the local board of education's decision to deny the amended application or recommend that the Charter Commission to approve the application.¹⁵ If approved, the Charter Commission will be the charter school authorizer,¹⁶ unless the local board of education and charter school agree within thirty (30) calendar days of the Charter Commission's vote that the charter school will be overseen by the local board of education.¹⁷

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

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

9. What is the Charter Commission's decision-making process?

The Charter Commission will meet at a special-called meeting or a regularly scheduled quarterly meeting to render a decision within seventy-five (75) calendar days of receipt of the notice of appeal.¹⁸ If the Charter Commission renders a decision at a special-called meeting, the Charter Commission will discuss the Executive Director's recommendation prior to the vote on the agenda item. If the Charter Commission renders a decision at a regularly scheduled quarterly meeting, the Charter Commission will discuss the Executive Director's recommendation at the Charter Commission's workshop, usually held the day before the meeting.¹⁹ All Charter Commission meetings and workshops are livestreamed, and the link will be available on the Charter Commission's website.

10. Is there time for public comment on the appeal at the Charter Commission meeting?

Requests for public comment at Charter Commission meetings are governed by Charter Commission policy [1.200 - Commission Meetings](#). In accordance with Charter Commission policy, each meeting of the Commission shall reserve at least 30 minutes for public comment. The public may sign up to give

¹⁵ T.C.A. § 49-13-108(b)(5)

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Unless otherwise agreed to by the local board of education and the sponsor to extend the deadline. T.C.A. § 49-13-108(b)(5); Charter Commission policy [2.000 – Charter School Appeals](#).

¹⁹ Charter Commission policy [2.000 – Charter School Appeals](#)

a public comment at the Charter Commission by visiting the meeting page of the Charter Commission's website. The meetings are also open to the public and livestreamed online.

A representative of the governing board and/or local board of education may choose to speak at the meeting or submit a written comment to be read into the record by a member of the Charter Commission staff during the meeting where the Charter Commission 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 Charter Commission meeting. The Charter Commission staff shall accept only one written comment from each party.

11. What happens after the Charter Commission renders a decision?

The sponsor and local board of education will be notified via e-mail of the Charter Commission's decision on the charter school appeal. If the Charter Commission approves the application, the local board of education and the sponsor can mutually agree for the charter school to be overseen by the local board of education. Written notification of this agreement must be submitted to the Charter Commission within thirty (30) calendar days of the Charter Commission's decision.²⁰

12. What happens if the Charter Commission 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 local board of education, Charter Commission staff will reach out to the charter school sponsor to discuss next steps for the charter school to be overseen by the Charter Commission, including the negotiation of the charter agreement. The amended application will be an exhibit to the charter agreement.

13. Can the Charter Commission's decision be appealed?

The Charter Commission's decisions in appeals are final.²¹

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

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

15. Whom should I contact with additional questions?

Please contact the Charter Commission's General Counsel at Ashley.Thomas2@tn.gov.

²⁰ T.C.A. § 49-13-142(b)(5).

²¹ T.C.A. § 49-13-108(b)(5)