



Charter School Revocation 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 governing boards 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.) § 49-13-122, the decision by a local board of education to revoke a charter agreement may be appealed to the Tennessee Public Charter School Commission (Charter Commission). However, if the local board of education revoked the charter agreement in accordance with T.C.A. § 49-13-122(a)(1) or (a)(3) because the charter school was designated as a priority school, the decision cannot be appealed to the Charter Commission.¹ Upon receipt of an appeal, the Charter Commission has sixty (60) calendar days to render a decision,² and typically, the Charter Commission's meeting to render a decision on the appeal is near the end of that period.

Standard of Review

The Charter Commission staff will conduct a de novo, on the record review of the revocation decision, taking into account any additional information gathered at the discretion of the Charter Commission staff. At the conclusion of the review, the Executive Director of the Charter Commission will issue an Executive Director's Findings and Recommendation Report to the Commission members. The Charter Commission members will vote on whether to uphold or overturn the local board of education's decision to revoke the charter. In order to overturn a local board of education decision to revoke a charter agreement, the Charter Commission must find that such decision was contrary to T.C.A. § 49-13-122.³

Statutes and Policies Governing the Revocation Appeal Process

The following statute and Charter Commission rule and policies govern the revocation appeal process, and the Charter Commission staff suggests that any operator or local board of education participating in the appeal process be familiar with the contents of these documents:

- T.C.A. § 49-13-122⁴
- Charter Commission Rule [1185-01-01-.03](#)
- Charter Commission policy [2.000 – Charter School Appeals](#)
- Charter Commission policy [2.300 Charter School Revocation Appeals](#)

¹ Pursuant to T.C.A. § 49-13-122(a)(4), a charter school's identification as a priority school that is scheduled to close under T.C.A. § 49-13-122(a)(1) or (a)(3) shall be entitled to a review by the Department of Education to verify the accuracy of the data used to identify the school as a priority school.

² Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Charter Commission Rule [1185-01-01-.03](#)

³ Charter Commission policy [2.300 Charter School Revocation Appeals](#)

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

Guidance for Operators Submitting Appeals

Charter school operators submitting an appeal of a local board of education's revocation decision must do so in accordance with T.C.A. § 49-13-122, Charter Commission rule [1185-01-01-03](#) and Charter Commission [Policy 2.300 Charter School Revocation Appeals](#). **The notice of appeal must be submitted to the Charter Commission within ten (10) calendar days of the local board of education's revocation decision. Any materials submitted after 11:59 p.m. Central Time on the tenth (10th) calendar day will not be considered as a part of the official record.** For the Charter Commission to consider the notice of appeal, it must contain both of the following:

- Copy of the statement issued by the local board of education stating its reasons for revocation as required by T.C.A. § 49-13-122(b).
- Brief statement, no longer than three (3) pages, explaining why the local board of education erred in revoking the charter agreement under T.C.A. § 49-13-122.

The Charter Commission will meet and render a final decision on each appeal within sixty (60) calendar days of receipt of the notice of appeal.⁵ 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 Commission is not bound by the recommendation.

Guidance on the Request for Information

Upon receipt of an appeal, Charter Commission staff will notify representatives of the local board of education that an appeal has been received and request information from both the local board of education and the operator including, but not limited to, the following:

- Copies of the approved charter school application and signed charter agreement between the Governing Body and the local board of education, including any exhibits to the charter agreement;
- Timeline of the approval of the original charter application and revocation decision;
- A copy of the record provided to the local board of education in advance of or at the board meeting where the revocation decision was made.
- Copies of all correspondence from the local board of education to the governing body regarding the status of the charter school.
- Any investigative summaries or reports compiled by the local board of education's staff regarding the charter school.
- Any evidence supporting the local board of education's reasons for revocation.
- Copies of all reports, including annual reports, site visit reports, and interim reports from the local board of education to the governing body on the performance status of the charter school. viii. Copies of all annual progress reports submitted by the governing body to the local board of education and Commissioner of Education in accordance with T.C.A. § 49-13-120.

⁵ Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Charter Commission Rule [1185-01-01-03](#)



- Copies of all annual financial audits submitted by the governing body to the local district, the Commissioner of Education, and the Comptroller of the Treasury in accordance with T.C.A. § 49-13-127.

The information must be submitted within five (5) calendar days of the request or as soon as possible thereafter but in no event more than seven (7) calendar days after the request. The information should be submitted via a file-sharing website (e.g., Dropbox, Box.com, Google Drive, etc.) with clearly labeled folders and documents for the requested information.⁶

⁶ Charter Commission policy [2.300 Charter School Revocation Appeals](#)

Frequently Asked Questions

1. How long does the appeal process take?

The Charter Commission has to render a decision on an appeal within sixty (60) calendar days of the receipt of the notice of appeal.⁷ Typically, the Charter Commission'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 Charter Commission's General Counsel is your primary contact and can be reached at Ashley.Thomas2@tn.gov

3. Can the Charter Commission's decision on an appeal be expedited?

The Charter Commission understands the desire to expedite the decision since it impacts students, parents, employees, the community, and the local board of education. However, the Charter Commission and its staff take the appeal process very seriously and believe that it is important to conduct a thorough and high quality review of all information submitted as a part of the appeal process and the public hearing. This process takes time. Additionally, if a special-called meeting must be scheduled, it can take time to find a favorable date, time, and location for the Charter Commission to meet. Given this, while the Charter Commission will work as quickly as possible to decide on the appeal, we cannot promise that the process will be expedited.

4. Can either party receive copies of the information submitted by the operator or local board of education as a part of the appeal process?

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

5. Can a local board of education move forward with closure procedures required in T.C.A. § 49-13-130 if the operator has appealed the revocation decision?

T.C.A. § 49-13-130 lays out the responsibilities for local boards of education and charter schools regarding the closure of a charter school after an authorizer's decision to revoke a charter agreement. Therefore, a local board of education is in compliance with its statutory charge by moving forward with initial closure proceedings. However, the Charter Commission recommends that any communication to parents, students, employees, vendors, or other stakeholders clearly explain that an appeal is in process.

⁷ Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Charter Commission Rule [1185-01-01-03](#)

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

The Charter Commission staff will conduct a de novo, on the record review of the revocation decision, taking into account any additional information gathered at the discretion of the Charter Commission staff, and will provide a recommendation to the Executive Director of the Charter Commission. In order to overturn a local board of education's decision to revoke a charter agreement, the Charter Commission must find that such decision was contrary to the T.C.A. § 49-13-122. The Charter Commission will consider, but is not bound by, the Executive Director's Recommendation. The two main parts of the recommendation report are:

- **Part 1: Public Hearing and Public Comment:** The Charter Commission will hold a public hearing on the appeal during the sixty (60) calendar days that the Charter Commission is considering an appeal. The public hearing is held in the local school district in which the applicant operates, and the hearing gives the local board of education, the governing board, and the local community the opportunity to be heard on the revocation appeal. Specific details regarding the hearing can be found in Charter Commission policy Charter Commission [Policy 2.300 Charter School Revocation Appeals](#). The public hearing will be held in accordance with Charter Commission policy [2.000 Charter School Appeals](#), provided that any reference to "sponsor" shall be deemed to mean the governing board.
 - a. At any point prior to the public hearing and up to the deadline set by the Charter Commission, the public may submit written comments to the Charter Commission for consideration in the Executive Director's recommendation. All written comments submitted to the Charter Commission office are provided to the members of the Charter Commission. The Charter Commission staff will set a deadline by which no further written comments will be accepted, and this deadline will be stated on the public hearing agenda and the Charter Commission's website.
- **Part 2: Charter Commission Staff Review of the Record:** The Charter Commission staff will conduct an on the record review of all documentation submitted by the operator and the local board of education and any additional information collected at the staff's discretion. This documentation includes all materials submitted within the notice of appeal by the operator, all materials submitted by the local board of education, information received during the public hearing and via public comments, and information collected at the staff's discretion.

7. What could the Executive Director recommend?

Following the public hearing and the review of the local board of education's decision to revoke the charter agreement, the Executive Director of the Charter Commission will provide a written recommendation to the Commission members.⁸ The Executive Director may recommend the Charter Commission:

⁸ Charter Commission policy [2.300 Charter School Revocation Appeals](#)

- Affirm the decision of the local board of education; or
- Overturn the decision of the local board of education. If the Charter Commission overturns the decision, the local board of education will remain the authorizer.

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 few business days prior to the 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 sixty (60) calendar days of receipt of the notice of appeal.⁹ If the Charter Commission renders a decision at a special-called meeting, the Commission will discuss the Executive Director’s recommendation prior to the vote on the agenda item. If the 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 work session.¹⁰ All Charter Commission meetings and work sessions 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 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 governing board and the local board of education will be notified of the Charter Commission’s decision on the charter school appeal. Except in the case of fraud, misappropriation of funds, or flagrant disregard of the charter agreement or similar misconduct, the local board of education’s

⁹ Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Charter Commission Rule [1185-01-01-.03](#)

¹⁰ Charter Commission policy [2.000 – Charter School Appeals](#)



decision to revoke a charter agreement, if affirmed by the Charter Commission, will become effective at the close of the school year, and the closure process of the charter school is governed by the local board of education pursuant to T.C.A. § 49-13-130. If the Charter Commission overturns the decision of the local board of education, the charter school shall continue to operate, and the local board of education will remain the authorizer.¹¹

12. Can the Charter Commission’s decision be appealed?

The Charter Commission’s decisions in appeals are final.¹²

13. Whom should I contact with additional questions?

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

¹¹ Charter Commission policy [2.300 Charter School Revocation Appeals](#)

¹² Charter Commission policy [2.300 Charter School Revocation Appeals](#)