

3.100 Charter Agreements

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T.C.A. § 49-13-110 requires that the approval by the authorizer of a charter school application be in the form of a written charter agreement between the sponsor and the authorizer. Pursuant to T.C.A. § 49-13-104, “charter agreement” shall mean a fixed-term renewable agreement between a public charter school and the authorizer that outlines the rights, responsibilities, and performance expectations of each party. Pursuant to T.C.A. § 49-13-110, a charter agreement shall expire ten (10) academic years after the first day of instruction, unless approved for a shorter charter term in accordance with T.C.A. §§ 49-13-121(f)(3) or 49-13-121(l).

Purpose

The purpose of this policy is to set guidelines for the Tennessee Public Charter School Commission (“Commission”) as it enters into charter agreements with the charter schools it authorizes and serves as the authorizer in order to articulate the rights and responsibilities of each party during the term of the charter.

Generally

The Commission executes a charter agreement with each charter school in its portfolio that articulates the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms. The charter agreement is an essential document, separate from the charter application, that establishes the legally binding agreement and terms under which the school will operate and be renewed. While the charter agreement is separate from the charter application, the agreement must incorporate all material components of the approved application required under T.C.A. § 49-13-107(b).

Charter Agreement Rights and Responsibilities

The Commission and the sponsor will execute a charter agreement to operate a charter school that clearly articulates the following:

1. The rights and responsibilities of the charter school and the Commission;
2. The statutory, regulatory, and procedural terms and conditions for the charter school’s operation, including but not limited to:
 - Compliance requirements under T.C.A. § 49-13-110;



- Required reporting as set forth in T.C.A. § 49-13-120;
 - A minimum of 180 school days; and
 - The administration of state-mandated assessments according to the state testing calendar.
3. The pre-opening requirements and conditions for new charter schools;
 4. The autonomies to which charter schools are entitled based on statute, waiver and Commission rule and policy, including those related to educational program, governance and management, operations, and finance;
 5. The collection of an annual authorizer fee as set forth in T.C.A. § 49-13-128;
 6. The Commission's performance standards, criteria and conditions for renewal, intervention, revocation, and non-renewal, while establishing the consequences for meeting or not meeting standards or conditions;
 7. The responsibility and commitment of the charter school to admit and serve all eligible students so long as space is available, and not expelling or counseling out students except pursuant to a legal discipline policy approved by the authorizer;
 8. The responsibility and commitment of the charter school to adhere to essential public education obligations, especially concerning admissions and enrollment of students with disabilities and English learners; and
 9. The responsibilities of the charter school and the Commission in the event of school closure.

Fee-based Services

The Commission will ensure that any fee-based services provided by the Commission are set forth in a services agreement that is separate from the charter agreement and ensure that the purchase of such services is not and will never be a condition of charter approval, continuation, modification or renewal.

Performance Standards

The Commission will execute charter agreements with its charter schools that establish the academic, financial, and organizational performance standards under which charter schools will be evaluated and renewed.

1. Academic Performance. The academic performance standards shall include at a minimum indicators, measures, and metrics that:



- Set expectations for student academic achievement status or proficiency, including comparative proficiency and proficiency for all groups of students as identified in state-mandated assessments;
 - Set expectations for student academic growth, including adequacy of growth toward state standards;
 - Incorporate state and federal accountability systems, including the Tennessee Value-Added Assessment System;
 - Set expectations for postsecondary readiness, including graduation rates (for high schools); and
 - Provide schools an option to incorporate mission-specific performance measures for which the school has presented valid, reliable, and rigorous means of assessment approved by the Commission.
2. Financial Performance. The financial performance standards shall include at a minimum indicators, measures, and metrics that:
- Enable the Commission to monitor and evaluate the charter school’s financial stability and viability based on short-term performance, and
 - Enable the Commission to monitor and evaluate the charter school’s long-term financial sustainability.
3. Organizational Performance. The organizational performance standards shall include at a minimum indicators, measures, and metrics that:
- Define the essential elements of the educational program for which the Commission will hold the school accountable;
 - Define financial management and oversight standards based on generally accepted accounting principles;
 - Hold the charter school governing boards accountable for meeting statutory and board-established operating and reporting requirements;
 - Ensure charter school compliance with student and employee rights and obligations; and
 - Establish expectations related to the school environment, including health and safety, transportation, facilities, and appropriate handling of records.
4. The performance standards will:

- Establish the performance expectations under which charter schools will be evaluated, using objective and verifiable measures of student achievement as the primary measure of school quality;
- Define clear, measurable, and attainable academic, financial, and organizational performance standards and targets that the charter school must meet as a condition of renewal, including but not limited to state and federal measures;
- Include expectations for appropriate access, education, support services, and outcomes for students with disabilities; and
- Define the sources of academic, financial, and organizational data that will form the evidence base for ongoing and renewal evaluation.

Parties, Terms, and Amendments

1. The Commission will execute a charter agreement only with a legally incorporated governing board that is established in compliance with all laws applying to the selection and terms of charter school governing boards¹.
2. The Commission will grant contracts for a ten-year term with a high-stakes interim review² in year five (5) and a high-stakes review³ at the end of each term to determine whether the charter agreement will be renewed.
 - For charter terms granted less than ten (10) years in length, the Commission will conduct an interim review at the mid-point of the charter term, as defined within the charter agreement, in addition to the high-stakes review in year (5) of the charter term as required by T.C.A. § 49-13-121(k).
3. The Commission will define the material terms of the charter agreement as being those relevant to renewal.
4. The Commission will make best efforts to ensure mutual understanding and acceptance of the terms of the charter agreement by the charter school's governing body prior to agreement approval.

¹ See T.C.A. § 49-13-104

² T.C.A. § 49-13-121(k)

³ T.C.A. § 49-13-121

5. The Commission will allow and require charter agreement amendments for occasional material changes to a charter school's plans subject to the approval of both parties, but will not require amending the charter agreement for non-material modifications to a charter school's plans, where a material change is one which would be relevant and significant to a renewal decision.

Negotiation Process

The Commission will engage in a fair and transparent negotiation process of appropriate length and depth with all approved sponsors and their counsel regarding the terms of the charter agreement between the sponsor and the Commission. In considering items raised in negotiations, the Commission will adhere wherever possible to its contract template and insist on all terms which are material to renewal being included in the charter agreement between the parties.

Right to Delay

Pursuant to T.C.A. § 49-13-110(b), a public charter school may delay the school's initial opening for a period not to exceed one (1) academic year. A public charter school authorized by the Commission shall notify the Commission's General Counsel in writing if it intends to delay opening for one academic year. If a public charter school requires a delayed initial opening beyond one (1) academic year, the school must obtain approval from the Commission, pursuant to T.C.A. § 49-13-110(b).

1. Any public charter school seeking to delay the school's initial opening beyond one (1) academic year from approval shall submit a written request to the Commission's General Counsel no later than December 1 of the year preceding the initial opening. In the request, a public charter school shall also submit the following updated information to the Commission relevant to the initial opening of the public charter school:
 - Updated Start-up Plan and Timeline, including:
 - School Facility Plan
 - Community Support and Engagement Plan
 - School Leader and Teacher Recruitment Plan
 - Student Recruitment Plan
 - Governing Board/Network Support of the School
 - Three-Year Budget reflecting all revenue and expense projections (pre-opening and years one (1) and two (2) of the school's operations)

- Operational Changes by the Governing Board, if applicable
 - The Commission reserves the right to request any additional information necessary to review the public charter school request to delay the initial opening beyond one (1) academic year.
2. The Commission shall require clear and convincing evidence from a public charter school prior to granting a request to delay the initial opening more than two (2) years beyond the delay authorized by T.C.A. § 49-13-110(b).
- A public charter school that fails to provide clear and evidence in support of a request to delay the initial opening more than two (2) years beyond the delay authorized by T.C.A. § 49-13-110(b) shall be subject to revocation, in accordance with T.C.A. § 49-13-122(b).

Closure Protocol

A Commission-authorized public charter school that is required to cease operation for any reason permitted by law or charter agreement shall cooperate with the Commission to ensure orderly closure of the charter school. The charter school shall comply with the items and/or deadlines set forth in the closure protocol developed by the Commission.

1. The Commission shall review annually and update, as necessary, the closure protocol to ensure the most efficient and least disruptive process to the students of the closing charter school.