



## Charter School Amendment 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.”) § 49-13-110(d) and Commission Rule<sup>1</sup> 1185-01-01-.04, the decision by a local board of education to deny a petition to amend its charter agreement may be appealed to the Tennessee Public Charter School Commission (“Commission”). An appeal of a charter school amendment application to the Commission is governed in accordance with Commission Policy 2.000 Charter School Appeals, and Rule 1185-01-01-.04 Charter School Amendment Appeals. Upon receipt of an appeal, the Commission has sixty calendar days to render a decision.<sup>2</sup> Typically, the Commission’s meeting to render a decision on the appeal is near the end of that time frame. The Commission’s decision is final and not subject to further appeal.

### **Standard of Review**

The Commission staff will conduct a review of the amendment decision, considering information gathered during the public hearing and any additional information gathered at the discretion of the Commission staff. At the conclusion of the review, the Executive Director of the Commission will issue an Executive Director’s Findings and Recommendation Report to the Commission members. The Commission members will vote on whether to uphold or overturn the local board of education’s decision to amend the charter agreement. In order to overturn a local board of education’s decision to deny the amendment application, the Commission must find that the decision was contrary to the best interest of the students, the local educational agency (“LEA”), or the community pursuant to Commission Rule 1185-01-01-.04(7).<sup>3</sup>

If the Commission overturns the decision of the local board of education, the decision is remanded back to the district’s board of education, and the local board of education will remain the authorizer.

### **Rules and Policies Governing the Amendment Appeal Process**

The following Commission rule and policy govern the amendment appeal process. The Commission staff suggests that any operator or local board of education participating in the appeal process be familiar with the contents of these documents:

- Commission Rule 1185-01-01-.04
- Commission Policy 2.000 – Charter School Appeals

### **Guidance for Operators Submitting Appeals**

Charter school operators submitting an appeal of a local board of education’s amendment decision must do so in accordance with T.C.A. § 49-13-110(d) and Commission Rule 1185-01-01-.04. **The notice of appeal must be submitted via email to the Commission ([CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov)) within ten calendar days of the local**

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<sup>1</sup> Commission rules and polices, including all referenced in this document, are found on the Commission’s [website](#).

<sup>2</sup> Unless otherwise agreed to by the LEA and operator to extend the deadline. Commission Rule 1185-01-01-.04

<sup>3</sup> Commission Policy 2.000 – Charter School Appeals

**board of education’s denial of the amendment application. Any materials submitted after 11:59 p.m. central time on the tenth calendar day will not be accepted.**<sup>4</sup>

Documents must be submitted to the Commission via a file-sharing website (e.g., Microsoft Teams). The Commission staff will set up and invite the charter school’s team members to a Microsoft Teams folder for each appeal. The folder will have clearly labeled subfolders for the required information below. The notice of appeal materials must include all the following to be considered:

- a. Copy of the original charter agreement that contains all material components of the approved application, including any approved amendments to the original application;
- b. Copy of the amendment application or emergency amendment application submitted to the authorizer;
- c. Summary of the amendment application or emergency amendment application timeline including the date the amendment application or emergency amendment application was originally submitted to the authorizer and the date the amendment application or emergency amendment application was denied by the authorizer;
- d. A copy of the letter informing the governing body of the authorizer’s reasons for denying the amendment application or emergency amendment application; and
- e. A brief statement, no longer than three pages, including but not limited to, an explanation of why the authorizer’s denial of the charter school amendment application or emergency amendment application was contrary to the best interests of the students, LEA, or community.

Commission staff will confirm receipt of the appeal and the date of receipt with the charter school. Commission staff shall not accept an incomplete appeal or any additional documentation from the charter school beyond the contents of the notice of appeal unless requested by the Commission staff. If the charter school indicates in the notice of appeal that one of the requirements listed in paragraphs (a)–(e) above cannot be submitted, the charter school shall include an explanation in the notice of appeal.

The Commission will meet and render a final decision on each appeal within sixty calendar days of receipt of the charter school appeal.<sup>5</sup> The Commission may meet at a special-called meeting or at a regularly scheduled meeting. The Commission will consider the Executive Director’s Findings and Recommendation Report for the appeal, but the Commission is not bound by the recommendation.<sup>6</sup>

**Guidance for Local Boards of Education Participating in Appeal Process**

Upon receipt of an appeal, 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 calendar days of receipt of the request, but in no event more than seven calendar days from the request.<sup>7</sup> Documents must be submitted to the Commission via a file-sharing website (e.g., Microsoft Teams). The Commission staff will set up and invite the LEA team members to a Microsoft Teams folder for each appeal<sup>8</sup>.

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<sup>4</sup> Commission Rule 1185-01-01-.03

<sup>5</sup> Unless otherwise agreed to by the local board of education and the charter school to extend the deadline. T.C.A. § 49-13-110(d); Commission Policy 2.000 – Charter School Appeals

<sup>6</sup> Commission Policy 2.000 – Charter School Appeals

<sup>7</sup> Ibid.

<sup>8</sup> NOTE: LEA/district level email addresses that are connected to an existing @tneducation.gov account are often returned as undeliverable when the Commission tries to invite it to the Teams folders. The Commission strongly recommends that LEA staff provide an alternative email address to the Commission for full access to the Teams folders.

The Teams folder will have clearly labeled subfolders for the required information below. The information from the LEA may include the following:

- a. Copies of the approved charter school application and signed charter agreement between the governing body and the LEA, including any exhibits to the charter agreement;
- b. Copies of all correspondence from the LEA to the governing body regarding the status of the charter school, including notices of good standing, compliance or non-compliance with the charter agreement, policy, or statute, and any plans of correction required by the LEA of the governing body;
- c. The timeline of the approval of the original charter application and the amendment petition decision;
- d. A copy of the LEA's policies and/or procedures governing the amendment petition review process;
- e. A copy of any presentations, written reports, or other documentation provided to the local board of education in advance of or at the board meeting where the amendment petition decision was made;
- f. Copies of the completed scoring sheets or other rubrics used to evaluate the charter school amendment petition, if available;
- g. A brief statement, no longer than three pages, from the LEA explaining the objective reasons for the denial of the amendment petition;
- h. Any evidence supporting the LEA's reasons for denial of the amendment petition including copies of annual reports, or other performance reports from the LEA to the governing body on the performance status of the charter school.

### **On the Record Review**

Pursuant to Commission Rule 1185-01-01-.04, and 2.000 – Charter School Appeals, Commission staff conducts a complete and thorough review of each amendment decision. The Commission record is compiled of all submitted information as well as any additional documentation from the governing body, the authorizer, and the Tennessee Department of Education<sup>9</sup>. Commission staff conducts a full review of the record prior to forming the Executive Director's Recommendation to the Commission, and this includes information from the charter school through the notice of appeal, documents submitted by the local board of education, testimonies heard at the public hearing, and public comment.

Commissioners will review the entire record prior as a part of their deliberation. The Commission record will include documents submitted by the charter school operator and local board of education, and any additional clarifying information requested by the Commission staff in accordance with Commission rule, the notice of appeal from the school operator, the public hearing and public comment (both oral and written), the Executive Director's Recommendation, and written statements in response to the recommendation. This timeframe permits the submission of additional written comments that were not provided prior to the public hearing and ensures that all evidence submitted by the parties is given equal consideration.

### **Request for Additional Information**

Commission staff may gather additional information related to each appealed amendment from the operator, the local board of education, and/or the Tennessee Department of Education. In such case, each is requested to comply with the document request within five calendar days of the request or as soon as possible thereafter, but in no event more than seven calendar days after the request.<sup>10</sup> In filing an appeal with the Commission, the operator

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<sup>9</sup> Commission Rule 1185-01-01-.04(4).

<sup>10</sup> Commission Rule 1185-01-01-.04.



consents to the Commission staff completing a general due diligence review in order to form an accurate recommendation.

## Frequently Asked Questions

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

The Commission must render a decision on an appeal within sixty calendar days of the receipt of the notice of appeal.<sup>11</sup> Typically, the Commission's meeting to render a decision on an appeal is near the end of the sixty calendar day timeframe.

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

Questions related to an amendment appeal process should be sent to [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov). Once an appeal has been submitted, please continue to send any questions or concerns regarding the process to this email address, and a Commission staff member will reply to the email within one business day.

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

The Commission understands the desire to expedite the decision since it impacts students, parents, employees, the community, and the local board of education. However, the Commission and its staff take the appeal process 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 Commission to meet. Given this, while the Commission will work as quickly as possible to decide on the appeal, we cannot promise that the process is 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 [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov), the Commission staff will provide the information submitted by the charter school on appeal or the information submitted by the local board of education as a part of the request for information.

### **5. What does the Commission analyze in an appeal?**

The Commission staff will conduct a complete and thorough review of the amendment decision, considering any additional information gathered at the discretion of the Commission staff, and will provide a recommendation to the Executive Director of the Commission. In order to overturn a local board of education's decision to deny the amendment to a charter agreement, the Commission must find that such decision was contrary to the best interest of the students, the LEA, or community. The 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 Commission will hold a virtual or in-person public hearing in the local school district in which the charter school operates on the amendment appeal during the sixty calendar days that the Commission is considering an appeal.<sup>12</sup> The hearing gives the local board of education, the governing board, and the local community the opportunity to be heard on the amendment application. The public hearing is held in accordance with Commission Policy 2.000 Charter School Appeals, provided that any reference to "sponsor" shall be deemed to mean the governing body. In developing the Executive

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<sup>11</sup> Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Commission Rule 1185-01-01-.04

<sup>12</sup> Commission Policy 2.000 – Charter School Appeals

Director's recommendation, the Executive Director will consider information presented at the public hearing. There are two opportunities for the public to participate in this process:

Oral Public Comment: The Executive Director will reserve forty minutes for oral public comment during the public hearing. Commission staff will allot ten spots to members of the public speaking in favor of approving the amendment and ten spots to members of the public speaking in favor of the local board's decision to deny the amendment. The Commission will notify both parties in advance of when the sign-up for public comments are posted on the Commission's website. Oral public comment sign-ups will close when all slots are full or twenty-four hours in advance of the hearing, whichever occurs first.<sup>13</sup> A list of public speakers is provided to both parties in advance of the hearing after the sign-up process has closed. Slots that remain unfilled after the sign-up has closed or that become available due to an individual not showing up for in-person comment cannot be transferred to an alternative speaker.

During the public hearing, the individuals who signed up in advance are recognized by Commission staff to provide up to two minutes of comments. When signing up for public comment, the individual is asked to confirm that they are a resident of the school district and select which party they are speaking in support of. Further, before beginning the public comment, each speaker must identify themselves by name, resident district status, relation to the charter school/school district (e.g., parent, community member, local elected representative, etc.) and clearly state for the record whether they are in support or opposition of the amendment petition. For in-person meetings, the first and last name of individuals who have signed up for public comment are displayed at the hearing in speaking order to minimize the transition time between speakers.

While signs are permitted, individuals that are considered disruptive to the order of the public hearing are asked to refrain from disorderly conduct or be escorted out by designated personnel, in accordance with Commission Policy 1.200. Additionally, any comment submitted by a member of the public is considered a public record and may be provided in response to a public records request.<sup>14</sup>

- a. Written Public Comment: At any point prior to the public hearing and up to the deadline set by the Commission, the public may submit written comment to the Commission for consideration in the Executive Director's Recommendation. All written comments submitted to the Commission's office are provided to the members of the Commission, are posted to the Commission's website, and are a public record. The Commission staff will set a deadline by which no further written comment is accepted, and this deadline is stated on the public hearing agenda and the Commission's website.
- Part 2: Commission Staff Review of the Record: The Commission staff will conduct a complete and thorough 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. Additionally, the Commission staff may conduct due diligence on the operator, including but not limited to outreach to current authorizers or a review of state and nationally normed internal assessment data.

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<sup>13</sup> Oral public comment sign-ups will close on Friday for hearings that occur on a Monday.

<sup>14</sup> Any personally identifiable information is removed prior to responding to a public record request. Please note: first and last name, email addresses, and phone numbers are not considered personally identifiable information.

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

Following the public hearing and the review of the local board of education's decision to deny the amendment application, the Executive Director of the Commission will provide a written recommendation to the Commission members.<sup>15</sup> The Executive Director may recommend the Commission:

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

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

The Executive Director's Findings and Recommendation Report is posted on the Commission's website prior to the Commission meeting, and both parties in an appeal are notified by Commission staff when the recommendation is posted.

## **8. What is the Commission's decision-making process?**

The Commission will meet at a special-called meeting or a regularly scheduled quarterly meeting to render a decision within sixty calendar days of receipt of the notice of appeal.<sup>16</sup> The Commission will discuss the Executive Director's Recommendation prior to the vote on the agenda item, regardless the type of meeting.<sup>17</sup> All Commission meetings are livestreamed and open to the public, and the link is available on the Commission's website.

## **9. Is there time for public comment on the appeal at the Commission meeting?**

Requests for public comment at Commission meetings are governed by Commission Policy 1.200 - Commission Meetings. In accordance with Commission policy, each meeting of the Commission shall reserve at least thirty minutes for in-person, oral public comment. The public may sign up to give a comment at the Commission meeting by visiting the meeting page of the Commission's website. Additionally, the Commission accepts written public comments, submitted through its website, on any agenda item before the Commission for consideration. Commission meetings are also open to the public and livestreamed for viewing. Because the official record for the amendment appeal is closed prior to the Commission meeting, these public comment opportunities are reserved for comments related to Commission business and should not be used by operators or LEAs to add additional information to the record that was not presented throughout the appeal process (e.g., within the notice of appeal, public hearing, etc.).

In accordance with Commission policy, one representative of the operator's governing board and the local board of education are permitted to submit a response to the recommendation, either by speaking in-person at the Commission meeting or by submitting a written comment to be read into the record by a member of the Commission staff prior to the Commission's discussion of the Executive Director's Recommendation. In-person speakers are provided up to two minutes to speak, and written responses shall not be more than one page typed in length. Written statements and the names of representatives speaking in person shall be received by the Executive Director at least forty-eight hours prior to the scheduled Commission meeting. The Commission staff shall accept only one written response/in-person representative from each party.

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<sup>15</sup> Commission Policy 2.000 – Charter School Appeals

<sup>16</sup> Unless otherwise agreed to by the local board of education and the charter school to extend the deadline. T.C.A. § 49-13-110(d); Commission Policy 2.000 – Charter School Appeals

<sup>17</sup> Commission Policy 2.000 – Charter School Appeals

**10. What happens after the Commission renders a decision?**

The governing board and the local board of education are notified via e-mail of the Commission’s decision on the charter school appeal. If the Commission overturns the decision of the local board of education, the amendment application will be sent back to the local board of education for approval, and the local board of education will remain the authorizer.<sup>18</sup>

**11. Can the Commission’s decision be appealed?**

The Commission’s decisions in appeals are final.<sup>19</sup>

**12. Whom should I contact with additional questions?**

Please contact the Commission at [CharterSchool.Appeals@tn.gov](mailto:CharterSchool.Appeals@tn.gov)

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<sup>18</sup> Commission Policy 2.000 – Charter School Appeals

<sup>19</sup> Ibid.