
Charter School Appeal – SMART Schools, Inc.

The Background:

Pursuant to Tenn. Code Ann. § 49-13-108, newly-formed charter schools may appeal denial by a local board of education (the authorizer) to the State Board of Education.

Within 60 days of an appeal, the State Board hears the appeal at a public meeting before the Board or a designated representative in the school district in which the charter school sponsor applied for a charter. At that hearing, the Board or its representative reviews the decision of the local board and makes findings. “If the state board finds that the local board’s decision was contrary to the best interests of the pupils, school district or community, the state board shall remand such decision to the local board of education with written instructions for approval of the charter. The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.” Tenn. Code Ann. § 49-13-108(3).

On February 12, a hearing was held in Hamilton County to consider the appeal of the SMART Schools, Inc. sponsors of the denial of their amended application by the Hamilton County School Board. The appeal was heard by the Executive Director of the State Board of Education.

The Master Plan Connection:

By authorizing and monitoring public charter schools, school districts can model the effectiveness of greater accountability in exchange for greater school based autonomy, and allow sponsors to offer more choices to the students and parents in their communities. Public charter schools apply the four foundational principles of the *Master Plan*, using innovative teaching and learning models, to help more Tennessee children prepare for successful post-secondary work, education and citizenship.

The Recommendation:

The Executive Director recommends that the Board remand the decision back to the Hamilton County Board of Public Education with instructions to approve the charter application contingent upon SMART Schools Inc.’s ability to satisfy the concerns of Hamilton County Schools cited in the business operations section of the charter application.

This recommendation is based on the attached findings and recommendations of Dr. Nixon for SMART Schools, Inc. Additional documents and letters are available for your review online. They include copies of the applications, scoring criteria and application evaluations used, as well as written comments submitted at and after the appeal hearings.

BEFORE THE TENNESSEE STATE BOARD OF EDUCATION

**2012 CHARTER SCHOOL APPEAL
SMART Schools, Inc.**

FINDINGS AND RECOMMENDATION

Pursuant to Tenn. Code Ann. § 49-13-108, sponsors proposing to open new charter schools may appeal the denial of their amended applications by a local board of education to the State Board of Education (State Board).

On Thursday, February 9, 2012, a hearing was held at the Hamilton County Board of Education in Chattanooga, Tennessee, to consider SMART Schools, Inc.'s appeal of the denial of its application by the Hamilton County Board of Education.

Based on the following procedural history and findings of fact, I believe that the decision to deny SMART Schools, Inc.'s application was "contrary to the best interests of the pupils, the school district, and the community", and therefore recommend that the Board remand the decision back to the Hamilton County Board of Public Education with instructions to approve the charter application contingent upon SMART Schools Inc.'s ability to satisfy the concerns of Hamilton County Schools cited in the business operations section of the charter application.

PROCEDURAL HISTORY

1. On, November 17, 2011 the Hamilton County Board of Education unanimously denied SMART Schools, Inc.'s initial application to open the New Consortium of Law and Business Charter School, following the unanimous recommendation of the Hamilton County charter school review committee.
2. SMART Schools, Inc. amended and resubmitted its application.

3. On December 27, 2011, Hamilton County's Charter School review committee recommended approval of SMART Schools, Inc.'s amended application. There was a motion to approve the application; however, the motion to approve the application failed at the December 27, 2011 meeting.

4. At the conclusion of that meeting, Hamilton County sent correspondence to SMART Schools, Inc. indicating that their application has been denied.

5. SMART Schools, Inc then appealed the denial by email to the State Board, received January 4, 2012.

FINDINGS OF FACT

1. The Hamilton County Schools Charter School Review Committee included the following individuals, who reviewed all of the applications submitted during this application window:

- a. Rick Smith, Superintendent, Hamilton County Schools
- b. Lee McDade, Assistant Superintendent for Campus Support, Hamilton County Schools
- c. Christie Jordan, Director of Accounting & Budgeting, Hamilton County Schools
- d. Leon Rash, Assistant Superintendent for Human Resources, Hamilton County Schools
- e. Stacy Stewart, Assistant Superintendent for Secondary Education, Hamilton County Schools
- f. Robert Sharpe, Assistant Superintendent for Elementary Education, Hamilton County Schools
- g. Margaret Abernathy, Director of Exception Education, Hamilton County Schools
- h. Rhonda Thurmond, Member, Hamilton County School Board
- i. Chip Baker, Member, Hamilton County School Board
- j. Everett Fairchild, Member, Hamilton County School Board
- k. George Ricks, Sr., Member, Hamilton County School Board
- l. Jeffrey Wilson, Member, Hamilton County School Board
- m. Joe Galloway, Member, Hamilton County School Board
- n. Linda Mosley, Member, Hamilton County School Board
- o. David Testerman, Member, Hamilton County School Board
- p. Mike Evatt, Chairman, Hamilton County School Board

q. Scott Bennett, Attorney, Hamilton County School Board

2. Using the State Department of Education’s (SDE) scoring criteria for the application, the review committee scored the application in each of the four domains outlined on the SDE scoring sheet: Mission, Education Plan, Founding Group, Business/Operations Plan.

3. To be recommended for approval to the Hamilton County School Board, applicants must score at least 80% in each of the four domains.

4. On the initial application, SMART Schools, Inc.’s application was labeled according to the scoring criteria developed and promulgated by the State Department of Education.

SMART Schools, Inc. earned a total of 65.53 out of 100 possible points:

Mission	7.5 out of 10 possible (75%; considered “adequate”)
Education Plan	26.54 out of 40 possible (66%; considered “inadequate”)
Founding Group	13.7 out of 20 possible (69%; considered “inadequate”)
Business/Operations	17.797 out of 30 possible (59%; considered “inadequate”)

5. After the Hamilton County School Board voted to deny SMART Schools, Inc.’s initial application, Hamilton County sent SMART Schools, Inc. the complete recommendation report of the committee, the average scores from the committee, and overall reasons for denying the SMART Schools, Inc. Charter School application.

6. SMART Schools, Inc.’s amended application earned a total of 81.71 out of 100 possible points:

Mission	9.1 out of 10 possible (91%; considered “adequate”)
Education Plan	34.26 out of 40 possible (86%; considered “adequate”)
Founding Group	16.2 out of 20 possible (81%; considered “adequate”)
Business/Operations	22.15 out of 30 possible (74%; considered “inadequate”)

7. After review of the application, the committee unanimously recommended approving the amended application.

8. At the December 27, 2011 called meeting, there was a motion to approve the application, on which Hamilton County School Board voted, resulting in a 4-2 decision to approve. However, because state law requires a majority of the board (in this case, 5) to approve a resolution¹, the motion to approve failed. No other action was taken at the December 27, 2011 meeting.

CONCLUSION

State law requires the State Board of Education to review the decision of the local board of education and determine whether the denial of the charter school was in the “best interest of the students, school district, and the community.”² Currently, the law requires a local board to either approve or deny an initial charter application by resolution within 60 days of receipt of the application.³ Failure of a local board to neither approve nor deny an initial application results in an automatic approval of the charter. The law is silent on what happens when an amended application is neither approved nor denied by a local board.

At the Dec. 27th, 2011 called meeting of the Hamilton County School Board, the Hamilton County Schools’ charter review committee recommended approval of the amended application. Because of the proximity to the winter holidays, only six (6) of the nine (9) board members were able to attend the called meeting. A motion to approve the charter application was made, and acted favorably upon in a 4-2 decision. However, because of the state law requiring a successful vote to be a majority of all board members, the motion to approve failed. There was no subsequent motion to deny the charter application. Based upon these facts, it is my opinion that the Hamilton County School Board took no action on that day. However, because the law is

¹ T.C.A. § 49-2-202(g)

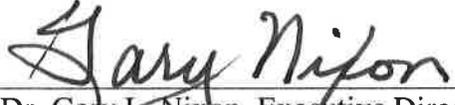
² T.C.A. § 49-13-108(a)(3).

³ T.C.A. § 49-13-108(a)(1).

silent on what happens when an amended application is neither approved nor denied, I chose to proceed with the appeals process as specified in the law.

During the February 9th, 2012 hearing, representatives from Hamilton County readily admitted that, except for a few concerns in the business operations portion of the application, they recommended approval of the charter application. Representatives from SMART Schools, Inc. contended that they had not, in fact, been denied, and thus should be approved. In reviewing the scoring of the amended application, SMART Schools, Inc. received the necessary scores, based upon Hamilton County Schools' scoring policy, to become an approved charter. Further, I am of the opinion that the few concerns cited by Hamilton County Schools will be resolved between the two entities as SMART Schools, Inc. moves forward with opening their New Consortium of Law and Business.

For these reasons, I believe that the decision to deny SMART School Inc.'s charter application was contrary to the best interests of the students, the school district, and the community. Therefore, I recommend that the State Board of Education remand the decision back to Hamilton County School Board with instructions to approve the charter application contingent upon SMART Schools Inc.'s ability to satisfy the concerns of Hamilton County Schools cited in the business operations section of the charter application.



Dr. Gary L. Nixon, Executive Director
State Board of Education

2-22-12
Date