

# TENNESSEE STATE BOARD OF EDUCATION

## CHARTER SCHOOL REVOCATION

6.110

Pursuant to T.C.A. § 49-13-122, until December 31, 2020, a local board of education's decision to revoke a charter agreement may be appealed to the State Board except when a charter school's identification as a priority school is the local board of education's reason for revocation of a charter agreement in accordance with § 49-13-122(a). Furthermore, when serving as the authorizer, the State Board may, pursuant to § 49-13-122, revoke a charter agreement and is required to have a procedure for the closure of a charter school prior to denying renewal or revoking a charter agreement, pursuant to § 49-13-130.

**Purpose:** The purpose of this policy is to set forth the process and criteria the State Board will use when considering the appeal of a local board of education's decision to revoke a charter agreement and when considering the revocation of a charter agreement where the State Board serves as the authorizer.

### Policy Sections

1. Appealing a Local Board of Education's Revocation Decision
2. State Board as Authorizer

#### **1. Appealing a Local Board of Education's Revocation Decision**

- a. Generally. A governing body may appeal a local board of education's decision to revoke a charter agreement unless such decision is made pursuant to § 49-13-122(a). Such appeal must be submitted to the State Board within ten (10) calendar days of the local board of education's decision to revoke the charter agreement.
- b. Notice of Appeal. The governing body shall notify the State Board by email of the governing body's decision to appeal the local board of education's revocation of the charter agreement within ten (10) calendar days of such revocation decision. This notice of appeal must be received by the State Board by 4:30 p.m. Central Time on the tenth (10<sup>th</sup>) day. In order to be considered a complete appeal, this notice of appeal shall contain the following information:
  - i. Copy of the statement issued by the local district stating its reasons for revocation as required by § 49-13-122(d).
  - ii. Brief statement, no longer than three (3) pages, explaining why the local board of education erred in revoking the charter agreement under the Tennessee Public Charter Schools Act, § 49-13-122.

State Board staff will confirm receipt of the appeal and the date of receipt. State Board staff will not accept an incomplete appeal or any additional documentation from the governing body beyond the contents of the notice of appeal unless requested by the State Board staff.

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- c. Information from the Local Board of Education. State Board staff may gather additional information related to the revocation decision from the local board of education. This information may include, but is not limited to:
- i. 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.
  - ii. Timeline of the approval of the original charter application and revocation decision.
  - iii. 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.
  - iv. Copies of all correspondence from the local board of education to the governing body regarding the status of the charter school.
  - v. Any investigative summaries or reports compiled by the local board of education's staff regarding the charter school.
  - vi. Any evidence supporting the local board of education's reasons for revocation.
  - vii. 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.
  - ix. 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 local board of education shall comply with such document request and provide any applicable documents to the State Board staff within five (5) calendar days of receipt of the document request.

- d. Request for Additional Information. State Board staff may gather additional information related to a revocation appeal from the governing board, the local board of education, and/or the Tennessee Department of Education. The governing board, the local board of education and/or the Tennessee Department of Education shall comply with such document requests and provide applicable documents to the State Board staff within five (5) calendar days of receipt of the request.
- e. Public Hearing. The State Board shall hold a public hearing on the appeal of a local board of education's decision to revoke a charter agreement within sixty (60) calendar days of receipt of the notice of appeal. The public hearing shall be held in accordance with Section

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5 of Policy 2.500, Charter School Appeals, provided, that (i) any reference to “sponsor” in Policy 2.500, Section 5 shall be deemed to mean the governing body, the governing body’s presentation should focus on why the local district’s decision was contrary to T.C.A. § 49-13-122; (ii) any time periods set forth in this policy shall control; and (iii) the public hearing will be held in the school district where the charter school is located.

- f. Standard of Review. The State Board staff will conduct a de novo, on the record review of the revocation decision, taking into account any additional information gathered during the public hearing and at the discretion of the State Board staff and will provide a recommendation to the Executive Director of the State Board. In order to overturn a local board of education’s decision to revoke a charter agreement, the State Board must find that such decision was contrary to the Tennessee Public Charter Schools Act, § 49-13-122.
- g. Decision. Following the public hearing and the review of the local board of education’s decision to revoke the charter agreement as set forth in this policy, the Executive Director of the State Board will provide a written recommendation to the State Board. The State Board will consider the recommendation of the Executive Director when rendering a decision on the appeal, but the Board is not bound by the recommendation. The recommendation of the Executive Director of the State Board will be discussed in a work session, if ruling at a regular meeting, or prior to the agenda item, if ruling at a special called meeting. The State Board will meet and render a decision within sixty (60) days of receipt of the appeal. The State Board may:
  - i. Affirm the decision of the local board of education, or
  - ii. If the State Board 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.

The State Board’s decision to sustain the revocation decision of a local board of education on appeal shall be final and no appeal shall be taken.

## 2. State Board as Authorizer.

- a. Generally. In accordance with the terms and provisions of § 49-13-122(a), when the State Board is the authorizer, the State Board may revoke a charter agreement if the school receives identification as a priority school for one (1) cycle, and the State Board shall revoke a charter agreement if a school receives identification as a priority school for two (2) cycles. Such revocation shall take effect immediately following the close of the school year after the school was identified as a priority school. A school’s identification as a priority school that is scheduled to close under § 49-13-122(a) shall be entitled to review

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by the Tennessee Department of Education to verify the accuracy of the data used to identify the school as a priority school.

Furthermore, when the State Board is the authorizer, the State Board may also revoke a charter agreement if it determines that the school:

- i. Failed to meet the minimum performance requirements set forth in the charter agreement;
  - ii. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter agreement; or
  - iii. Failed to meet generally accepted standards of fiscal management.
- b. Revocation Notice. The State Board shall deliver written notice (the “Revocation Notice”) of its intention to revoke a charter agreement to the governing body at least ten (10) business days prior to the public hearing on such revocation, unless exigent circumstances require immediate action by the State Board. The Revocation Notice should include an explanation of why the State Board intends to revoke the school’s charter pursuant to § 49-13-122. State Board staff shall provide the governing body with an opportunity to meet and present, in-person or via conference call, any additional information that is relevant to the revocation decision prior to the public hearing. The governing body may notify State Board staff at any time that they will not contest the revocation and agree to forego the public hearing.
- c. Public Hearing.
- i. The Executive Director of the State Board shall hold a public hearing on the proposed revocation within sixty (60) days of delivery of the Revocation Notice to the governing body. State Board staff will schedule a date for the public hearing, which shall be held in the school district where the school is located. State Board staff will communicate the date and time of this hearing to the governing body and post notice of the hearing on the State Board’s website.
  - ii. The Executive Director or a State Board staff member (the “Hearing Officer”) shall preside at the hearing, and a State Board staff member shall summarize why the State Board has initiated proceedings to revoke the school’s charter. The governing body or its designated representative shall have twenty (20) minutes to present any information it wishes as to why the school’s charter should not be revoked.
  - iii. There will then be at least twenty (20) total minutes for public comment, and the Executive Director or other staff member, in their discretion, may increase the time for public comment based on the circumstances. Members of the public who

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wish to comment shall register through a process designated by the State Board staff, and to the extent time permits, will be called to speak in the order their names appear on the registration list. Each member of the public will be permitted to speak for no more than three (3) minutes, but the Executive Director or other staff member will have discretion to set a time limit of less than three (3) minutes based on the circumstances. Written comments may also be submitted at the public hearing or submitted to the State Board as specified at the hearing and on any notices or agendas.

- iv. The Hearing Officer may ask questions of the governing body or its designated representative or those offering public comments at any time during the hearing. The Hearing Officer may end portions of the hearing or the hearing itself if the governing body or its designated representative or members of the public are out of order. Examples of conduct that may warrant calling speakers out of order include: yelling or using obnoxious or offensive language; speaking out of turn; or denigrating hearing participants by name calling or similar conduct.
- v. No public hearing shall be held when the State Board intends to revoke a charter based on a charter school's identification as a priority school for two (2) consecutive cycles pursuant to § 49-13-122(a). In such cases, the charter school shall only be entitled to request a review by the Tennessee Department of Education of the data used to designate it as a priority school, pursuant to § 49-13-122(b).

- d. Decision of the State Board. Following the public hearing, the Executive Director of the State Board will provide a final recommendation to the State Board. The State Board will meet and render a decision regarding the revocation of the charter agreement within sixty (60) days of the delivery of the Revocation Notice. If the State Board revokes a charter agreement, it shall provide written notice of its reasons for the revocation to the governing body. Except in the case of fraud, misappropriation of funds, flagrant disregard of the charter agreement or similar misconduct, the State Board's decision to revoke a charter agreement will become effective at the close of the school year. The State Board's decision to revoke a charter agreement is final and may not be appealed. If the State Board decides not to revoke the charter agreement, the school shall continue to operate and the State Board shall continue to be the authorizer.

Closure Protocol. The State Board will develop a school closure protocol prior to denying renewal or revoking a charter agreement. The closure protocol shall comply with and be developed in accordance with § 49-13-130.