

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-14-01
CHARTER SCHOOLS**

0520-14-01-.06 AMENDMENTS TO THE CHARTER AGREEMENT AND APPEALS PROCESS.

- (1) Charter Amendments.
- (a) An authorizer's approval of a public charter school ("charter school") application shall be in the form of a written charter agreement, signed by the sponsor and the authorizer, which shall be binding upon the governing body of the charter school. The charter agreement for a charter school shall be in writing and contain all material components of the approved application. The governing body of the charter school may petition the authorizer to amend the original charter agreement.
 - (b) An amendment to the original charter agreement shall be required for any material modification to the provisions of a charter school's charter agreement.
 - (c) A material modification to a charter agreement is defined as a substantive change to the terms of the charter agreement regarding a charter school's governance, financial, operational, or academic structure. Material modifications include, but are not limited to:
 - 1. Change in governance structure (including, but not limited to, a change in the non-profit entity governing the school), or addition of or changes to the charter management organization;
 - 2. The addition or removal of a grade level or levels;
 - 3. Changes in student enrollment which fall outside of the minimum or maximum enrollment thresholds set forth in the charter school's charter agreement;
 - 4. The addition or removal of a plan to provide transportation to students attending the charter school;
 - 5. Changes to the charter school's location, if outside the geographic area set forth in the charter agreement;
 - 6. Changes to the charter school's academic focus set forth in the charter agreement; and
 - 7. Changes identified in the charter agreement as material modifications or amendments.
 - (d) The governing body of the charter school applying for a material modification to the charter agreement shall complete and submit to its authorizer the amendment petition application (the "amendment application") created and published by the Department of Education and approved by the State Board.
 - (e) The governing body of a charter school seeking to apply for a material modification to the charter agreement shall file an amendment petition letter of intent with the authorizer by one (1) of two (2) deadlines stated below:

(Rule 0520-14-01-.06, continued)

1. Fall Deadline. The governing body of the charter school may file an amendment petition letter of intent with the authorizer by September 1 of the school year preceding the school year in which the proposed amendment will take effect for any material modification outlined in paragraph (c). If the due date falls on a Saturday, Sunday or state-observed holiday, the letter of intent shall be due on the next business day.
 2. Spring Deadline. The governing body of the charter school may file an amendment petition letter of intent with the authorizer by January 15 of the school year preceding the school year in which the proposed amendment will take effect for any material modification outlined in paragraph (c) except items contained in paragraphs (c)2. or (c)3. If the due date falls on a Saturday, Sunday or state-observed holiday, the letter of intent shall be due on the next business day.
- (f) The governing body of a charter school shall file an amendment application in accordance with the following deadlines:
1. Fall Deadline. The governing body of a charter school that submits its letter of intent in accordance with paragraph (e)1. shall file an amendment application with the authorizer by October 1. If the due date falls on a Saturday, Sunday or state-observed holiday, the amendment application shall be due on the next business day.
 2. Spring Deadline. The governing body of a charter school that submits its letter of intent in accordance with paragraph (e)2. shall file an amendment application with the authorizer by February 14. If the due date falls on a Saturday, Sunday or state-observed holiday, the amendment application shall be due on the next business day.
- (g) The authorizer shall review and score all complete and timely amendment applications using a scoring rubric created and published by the Department of Education and approved by the State Board.
- (h) The authorizer shall rule by resolution, at a regular or special called meeting, on the approval or denial of an amendment application within sixty (60) calendar days of the application due date. Amendment applications may be submitted prior to the due date; however, all complete and timely amendment applications shall be reviewed and acted upon within sixty (60) calendar days following the applicable due date.
- (i) Should the authorizer fail to either approve or deny a complete and timely amendment application within the sixty (60) calendar daytime limit, the amendment application shall be deemed approved.
- (j) If an amendment application is deemed approved, such amendment shall not alter the original term of the charter agreement. The charter school shall still be required to submit a renewal application pursuant to T.C.A. § 49-13-121 to continue to operate beyond the current charter term.
- (k) If an amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial, and shall be provided to the governing body of the charter school within five (5) calendar days of the date of the decision to deny.

(Rule 0520-14-01-.06, continued)

- (l) An emergency amendment petition application (“emergency amendment application”) and rubric shall be created and published by the Department of Education and approved by the State Board.
- (m) If the governing body of a charter school determines that, due to unanticipated extraordinary circumstances, good cause exists for the emergency amendment application to be submitted, it shall make a finding by resolution at a regular or special called meeting of the governing body. An emergency amendment application may be submitted to the authorizer at any time.
 - 1. In order for an emergency amendment application to be complete, the governing body of the charter school shall include with the emergency amendment application detailed written findings explaining the unanticipated extraordinary circumstances giving rise to the emergency amendment application. An emergency amendment application shall not be used to add a grade level or levels or to increase student enrollment outside of the maximum enrollment thresholds set forth in the charter agreement.
 - 2. The authorizer shall rule by resolution, at a regular or special-called meeting, on the approval or denial of an emergency amendment application within sixty (60) calendar days of the date the completed emergency amendment application was submitted to the authorizer.
 - 3. Should the authorizer fail to either approve or deny a complete emergency amendment application within the sixty (60) calendar day time limit, the emergency amendment application shall be deemed approved.
 - 4. If an emergency amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial, and shall be provided to the governing body of the charter school within five (5) calendar days of the date of the decision to deny.
- (2) Appealing an Amendment Decision.
 - (a) The governing body of a charter school may appeal a decision by an authorizer other than the State Board to deny an amendment to the charter agreement to the State Board within ten (10) calendar days of an authorizer’s vote to deny the amendment application, consistent with T.C.A. § 49-13-110(d). The governing body of a charter school shall submit a notice of appeal by email to the State Board. The notice of appeal must be received by the State Board no later than 4:30 p.m. Central Time on the tenth (10th) calendar day after an authorizer’s vote to deny the amendment application or emergency amendment application. In order to be considered a complete appeal, the notice of appeal shall contain the following information:
 - 1. A copy of the original charter agreement that contains all material components of the approved application;
 - 2. A copy of the amendment application or emergency amendment application submitted to the authorizer;
 - 3. A 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;

(Rule 0520-14-01-.06, continued)

4. A copy of the letter informing the governing body of the authorizer's reasons for denying the amendment application or emergency amendment application; and
 5. A brief statement, no longer than three (3) 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.
- (b) State Board staff shall not accept an incomplete appeal or any additional documentation from the governing body of the charter school beyond the contents of the notice of appeal, unless requested by the State Board staff.
 - (c) State Board staff may request additional documentation from the governing body, the authorizer, and the Tennessee Department of Education.
 - (d) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the State Board shall hold a public hearing. The public hearing shall be attended by the State Board or its designated representative and shall occur in the school district in which the charter school is operating.
 - (e) Following the public hearing, the review of the amendment application or emergency amendment application and any additional information collected by the State Board, the Executive Director of the State Board shall provide written findings and recommendations to the State Board. The State Board shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the State Board is not bound by the recommendation.
 - (f) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the State Board shall meet to render a decision. If the State Board finds that the denial of the amendment application or emergency amendment application is contrary to the best interests of the students, LEA, or community, the State Board shall remand the decision to the authorizer with written instructions for approval of the amendment application or emergency amendment application. The State Board shall not become the authorizer, and the charter school shall remain under the supervision of the authorizer to whom the amendment application or emergency amendment application was submitted. The decision of the State Board is final, and no other appeals shall be made.

Authority: T.C.A. § 49-13-110(b) and Public Chapter 219 (2019). **Administrative History:** Emergency rule filed June 27, 2019; effective through December 24, 2019. Emergency rule expired effective December 25, 2019. Original rule filed January 31, 2020; effective April 30, 2020.