

**Department of State
Division of Publications**

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Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Public Charter School Commission
Division:	N/A
Contact Person:	Ashley N. Thomas
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1185-01-01	Charter School Appeals
Rule Number	Rule Title
1185-01-01-.01	New Start Charter School Appeals
1185-01-01-.03	Charter School Renewal Application Appeals
1185-01-01-.03	Charter School Revocation Appeals
<u>1185-01-01-.04</u>	<u>Charter School Amendment Appeals</u>

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

**CHAPTER 1185-01-03
ACHIEVEMENT SCHOOL DISTRICT AUTHORIZATION**

New Chapter

TABLE OF CONTENTS

Table of Contents is added to Chapter 1185-01-03 Achievement School District Authorization and shall read as follows:

Table of Contents

1185-01-01-.01 New Start Charter School Appeals
1185-01-01-.02 Charter School Renewal Application Appeals

1185-01-01-.03 Charter School Revocation Appeals
1185-01-01-.04 Charter School Amendment Appeals

1185-01-01-.04 Charter School Amendment Appeals

(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 Commission.
- (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:
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 Commission.
- (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 day time 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.
- (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 Commission.
- (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) The governing body of a charter school may appeal a decision by an authorizer other than the Commission to deny an amendment to the charter agreement to the Commission 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 Commission. The notice of appeal must be received by the Commission no later than 11:59 p.m. Central Time on the tenth (10th) calendar day after an authorizer’s vote to deny the amendment application or emergency amendment petition. In order to be considered a complete appeal, the notice of appeal shall contain the following information:

- (a) 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) A copy of the amendment application or emergency amendment application submitted to the authorizer;
- (c) 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;
- (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 (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.

(3) Commission 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 specifically by the Commission staff.

(4) Commission staff may request additional documentation from the governing body, the authorizer, and the Tennessee Department of Education.

(5) Within sixty (60) calendar days after receipt of the notice of appeal and after reasonable public notice, the Commission shall hold a public hearing. The public hearing shall be attended by the Commission or its designated representative and provide an opportunity for public comment. The public hearing may be virtual or in the school district in which the charter school is operating, as determined by the Executive Director. Details of the public hearing on the Commission website.

(6) Following the public hearing, the review of the amendment application or emergency amendment application and any additional information collected by the Commission, the Executive Director of the Commission shall provide written findings and recommendations to the Commission. The Commission shall consider the findings and recommendations of the Executive Director when rendering a decision on the appeal, but the Commission is not bound by the recommendation.

(7) Subsequently, but within the sixty (60) calendar days after receipt of the notice of appeal, the Commission shall meet to render a decision. If the Commission 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 Commission shall remand the decision to the authorizer with written instructions for approval of the amendment application or emergency amendment application. The Commission 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 Commission is final, and no other appeals shall be made.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Tom Griscom					
Dave Hanson					
Alan Levine					
Terence Patterson					
Chris Richards					
Derwin Sisnett					
Eddie Smith					
Wendy Tucker					
Jamie Woodson					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the _____ (board/commission/other authority) on _____ (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: _____ (mm/dd/yyyy)

Rulemaking Hearing(s) Conducted on: (add more dates). _____ (mm/dd/yyyy)

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

Agency/Board/Commission: _____

Rule Chapter Number(s): _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule has no impact on small business.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

This rule has no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Pursuant to T.C.A. § 49-13-110(d), the Tennessee Public Charter School Commission ("Commission") assumes responsibility for amendment appeals process and timeline. These rules set forth standards the Commission will adhere to in assessing amendment appeals.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Pursuant to T.C.A. § 49-13-105(m), the Commission may promulgate rules and regulations that are solely necessary for its administrative operation and functions. These rules are necessary for the Commission's appellate functions.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Local education agencies and existing charter schools working through the amendment of a charter agreement are most directly affected by these rules. The Commission urges adoption of these rules, because the rules will make it easier for stakeholders to become aware of and familiarize themselves with the administration of Commission appeals. These rules are being proposed as emergency rules as the statutory change takes effect on July 1, 2021.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

Not applicable.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Not applicable.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Chase Ingle
Director of External Affairs
Tennessee Public Charter School Commission

Ashley N. Thomas, esq.
General Counsel
Tennessee Public Charter School Commission

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chase Ingle
Director of External Affairs
Tennessee Public Charter School Commission

Ashley N. Thomas, esq.
General Counsel
Tennessee Public Charter School Commission

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.