

**Department of State
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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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
1185-01-03	Achievement School District Authorization
Rule Number	Rule Title
1185-01-03-.01	Definitions
1185-01-03-.02	Eligibility
1185-01-03-.03	Application

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

1185-01-03-.01 Definitions
1185-01-03-.02 Eligibility

1185-01-03-.03 Application

1185-01-03-.01 Definitions.

- (1) “Deemed eligible” means an Achievement School District (“ASD”)-authorized charter school selected by the Commissioner of the Tennessee Department of Education (“Commissioner”) to apply to the Tennessee Public Charter School Commission (“Commission”) for a new charter term or renewed charter agreement.
- (2) “New charter term” for purposes of applications filed by ASD-authorized charter schools shall mean a period of time required to complete the initial ASD charter term of ten (10) years, as authorized by the ASD through T.C.A. § 49-1-106.
- (3) “Renewed charter agreement” for purposes of applications filed by ASD-authorized charter schools shall mean an agreement entered into by the Commission and a charter school, currently in its ninth (9th) year of operation under the ASD, for a new ten (10) year term.

Authority: T.C.A. §§ 49-1-614(k); 49-13-105. **Administrative History:** Emergency Rules filed ____; effective through ____.

1185-01-03-.02 Eligibility.

- (1) Upon a decision by the Commissioner, an ASD-authorized charter school deemed eligible for exit from the ASD, pursuant to T.C.A. §§ 49-1-614(k)(2) or (k)(4), may apply to the Commission for an agreement for a new charter term.
- (2) An ASD-authorized charter school in its ninth (9th) year of a charter agreement, who has been deemed eligible for exit for the ASD, pursuant to T.C.A. § 49-1-615(k)(2), may apply to the Commission for a renewed charter agreement.
 - (a) A renewed charter agreement shall be a document of mutual agreement between the Commission and the charter school’s governing body.
 - (b) A renewed charter agreement may include rights and obligations relating to the use of school buildings and facilities for the duration of the new charter agreement, in accordance with T.C.A. § 49-1-614(k).
- (3) On or before October 15 of the year prior to the start of the upcoming school year, any eligible ASD-authorized charter school deemed eligible to apply for a new charter term to the Commission, may submit a letter of intent of its plan to apply for transfer to the Commission. An ASD-authorized charter school may be ineligible to apply for transfer if it fails to submit a letter of intent in the year prior to the start of the upcoming school year.

Authority: T.C.A. §§ 49-1-614(k); 49-13-105. **Administrative History:** Emergency Rules filed ____; effective through ____.

- (1) On or before November 15 of the year preceding the year in which the proposed ASD-authorized charter school intends to transfer to the Commission, the charter school operator (“operator”) shall file an application to the Commission. All applications shall be submitted on a form prescribed by the Commission, or the Commission’s designee. The authorizer shall review the materials for a complete application prior to the application’s evaluation. The authorizer review shall include an opportunity for the operator to cure any deficiencies in the application. Subsequent to submission by an operator, the application shall be published to the Commission website after thirty (30) days.
- (2) An application submitted by an ASD-authorized charter school seeking transfer to the Commission, pursuant to T.C.A. § 49-1-614(k)(2) or (k)(4), shall be accompanied by a fee of two thousand five hundred (\$2,500) dollars. Application fee shall be by check or money order, made payable to “State of Tennessee – Tennessee Public Charter School Commission.” Failure to include payment of the application fee will result in the application not being accepted by the Commission.
- (3) Application evaluations shall include review of the academic, operational, and financial performance of the ASD-authorized charter school, including but not limited to student growth and student academic achievement.
 - (a) The Commission staff shall assemble a charter application review committee comprised of teams of internal and external evaluators with relevant and diverse educational, organizational, financial, and legal expertise, as well as an understanding of the essential principles of public charter school autonomy and accountability. In reviewing the application, the application review committee shall:
 1. Use the scoring criteria developed by the Commission and available on the Commission’s website to evaluate the charter application; and
 2. Review applications in accordance with the State Board of Education’s quality public charter school authorizing standards.
 - (b) The Commission staff shall interview the governing board of each ASD-authorized charter school that has filed a timely and complete application. The focus of the interview will be assessing the governing board and school leadership’s capacity to continue to operate a high-quality charter school under the Commission that is consistent with the charter application, accelerates student academic achievement, is operationally sound, and is fiscally responsible. The Commission staff shall assemble an interview panel that may include Commission staff, a Commission member, review committee members, and any other internal or external individuals whose knowledge and expertise would assist the Commission in its decision.
 1. The officers of the governing board and the school leader shall attend the interview, and the total participants from the sponsor shall be limited to eight (8). The interviews will not be open to the public.
 2. All interview attendees (both on behalf of the charter school and Commission) shall attend the interview in-person. However, Commission staff may allow attendees to participate remotely in extraordinary circumstances.
 - (c) Within seventy-five (75) calendar days after receipt of the application, the Commission, or the Commission’s designee, shall hold a public hearing. The public hearing shall be attended by the Commission or its designated representative and shall occur in the LEA in which the ASD-authorized charter school geographically resides. The hearing must be open to representatives from the local board of education and the governing board. Notice of the hearing must be provided to the local board of education, the governing board, and the general public and posted on the Commission’s website.
 - (d) Following the public hearing, the interview, and the review of the application, 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 application, but the Commission is not bound by the recommendation.
- (4) The Commission shall review all timely filed applications in accordance with quality charter authorizing standards, as approved by the State Board of Education. The Commission shall approve or deny each application for transfer. The decision of the Commission shall be final.
- (5) If the Commission approves an ASD-authorized charter school application for a new charter term, a new charter agreement shall be negotiated and mutually agreed upon for the duration of the new charter term.

- (a) The charter agreement may include rights and obligations relating to the use of school buildings and facilities for the duration of the new charter term, in accordance with T.C.A. § 49-1-614(k).
- (6) If the Commission approves an ASD-authorized charter school application for a renewed charter agreement, a new charter agreement shall be negotiated and mutually agreed upon for the duration of the new charter term.
 - (a) The charter agreement may include rights and obligations relating to the use of school buildings and facilities for the duration of the new charter term, in accordance with T.C.A. § 49-1-614(k).

Authority: T.C.A. §§ 49-1-614(k); 49-13-105. **Administrative History:** Emergency Rules filed ____; effective through ____.

* 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	X				
Dave Hanson	X				
Alan Levine	X				
Terence Patterson	X				
Chris Richards				X	
Derwin Sisnett	X				
Eddie Smith	X				
Wendy Tucker	X				
Jamie Woodson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Public Charter School Commission (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: 08/09/2021

Rulemaking Hearing(s) Conducted on: (add more dates). 09/30/2021

Date: 10/14/2021

Signature: Ashley N. Thomas, esq.

Name of Officer: Ashley N. Thomas, esq.

Title of Officer: General Counsel

Agency/Board/Commission: Tennessee Public Charter School 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

There was no public comment received surrounding these rules.

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.

These rules do not affect small businesses.

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.)

These rules do not have a financial impact on local government.

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;

This rule is promulgated pursuant to public chapter 490, which addresses charter schools exiting the Achievement School District and are permitted to apply for authorization by the Public Charter School Commission (“Commission”). This rule sets forth the process and timeline for applications to the Commission for charter schools applying for authorization upon exit from the Achievement School District.

- (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 public chapter 490, the Commission is authorized to promulgate rules to effectuate the law.

- (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;

Charter schools, currently authorized by the achievement school district, could be affected by this rule should the school be selected by the Commission of the Department of Education to apply for authorization by the Commission. The Commission urges adoption of this rule as this guidance is necessary for the Commission to perform this function.

- (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.