Charter School Appeal Process – Guidance Document

Disclaimer: This document is for guidance purposes only and does not replace any statute, rule, or policy. Local boards of education and sponsors may be held to requirements and deadlines not contained in this document.

Overview of the Appeal Process

Pursuant to Tennessee Code Annotated (T.C.A.) § 49-13-108, public charter school sponsors may appeal the denial of their application by the local board of education to the State Board of Education. The State Board of Education's decision on appeal is final and not subject to further appeal. An appeal of a charter school application to the State Board is governed in accordance with T.C.A. § 49-13-108(a)(4) and State Board Policies 2.500 – Charter School Appeals and 6.300 – Application Review. Upon receipt of an appeal, the State Board has sixty (60) days to render a decision,[1] and typically, the State Board's meeting to render a decision on an appeal is near the end of the sixty day timeframe.

Standard of Review

- Appeals involving LEAs without a priority school on the current or last preceding priority school list:
    - If the State Board of Education finds that the local board's decision to deny the application of a charter school was contrary to the best interests of the pupils, school district, or community, the State Board will remand the application back to the local board of education with instructions to approve of the charter application. In this case, the local board of education will be the chartering authority.[2]

- Appeals involving LEAs with at least one priority school on the current or last preceding priority school list:
    - If the State Board of Education finds that the local board's decision to deny the application of a charter school was contrary to the best interests of the pupils, school district or community, the State Board may approve the application for a charter school.[3] Unless the LEA and the charter school agree that the charter school will be overseen and monitored by the LEA within thirty (30) days of the Board's vote,[4] the State Board would be the chartering authority of these schools and these schools will be evaluated and held accountable to the State Board of Education's Charter School Performance Framework.

[1] Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(a)(4); State Board Policy 2.500 – Charter School Appeals.
[2] T.C.A. § 49-13-108(a)(4)(D)
[3] T.C.A. § 49-13-108(a)(4)(E)
[4] T.C.A. § 49-13-142(b)(3)

Statutes, Rules and Policies Overseeing the Appeal Process

The following statutes, State Board Rule, and State Board Policies govern the charter application appeal process, and the State Board staff suggests that any sponsor or local board of education participating in the appeal process be familiar with the contents of these documents:

- T.C.A. §§ 49-13-108 and 49-13-142;[5]
- State Board Rule 0520-14-01-.02;
- State Board Policy 2.500 – Charter School Appeals; and
- State Board Policy 6.300 – Application Review.

Guidance for Sponsors Submitting Appeals

Charter school sponsors submitting an appeal of a local board of education's denial of an amended application should do so in accordance with T.C.A. § 49-13-108 and State Board Policy 2.500 – Charter School Appeals. **The notice of appeal must be submitted to the General Counsel of the State Board within ten (10) days of the denial of the amended application. Any materials submitted after the 10 day window has closed will not be considered as a part of the official record.** The notice of appeal must contain all of the following to be considered. The State Board will not accept any late submissions of any documentation.[6]

(a) Copies of the initial and amended applications submitted to the local board of education.
(b) A summary of application timeline, including the date that the application was originally submitted to the LEA, the date of public hearing, and the date the application was denied by the local board of education.
(c) Copies of the letters informing the sponsor of the local board of education's reasons for denying the initial and amended applications.
(d) A clean version of the amended application without any tracked changes that includes all changes made upon resubmission to the local board of education and any corrections to the application allowed under T.C.A. § 49-13-108(a)(4)(C) upon appeal to the State Board of Education as outlined in 2(d) in this policy.
(e) A document outlining any corrections allowed under T.C.A. § 49-13-108(a)(4)(C) made to the amended application upon appeal to the State Board of Education. The document must list each correction made and the location of the correction within the application. Any corrections to the charter school application, as permitted by T.C.A § 49-13-108(a)(4)(C), must be made at the time of the appeal to the State Board.

[5] Available at http://www.lexisnexis.com/hottopics/tncode/
[6] State Board Policy 2.500 – Charter School Appeals

(f) A brief statement, no longer than three (3) pages, explaining why the local board of education's denial of the charter school application was contrary to the best interests of the pupils, school district, or community.

The State Board will meet and render a final decision on each appeal within 60 days of receipt of the charter school appeal.[7] The State Board may meet at a special-called meeting or at a regularly scheduled meeting. The State Board will consider the Executive Director's Findings and Recommendation Report for the appeal, but the Board is not bound by the recommendation.[8]

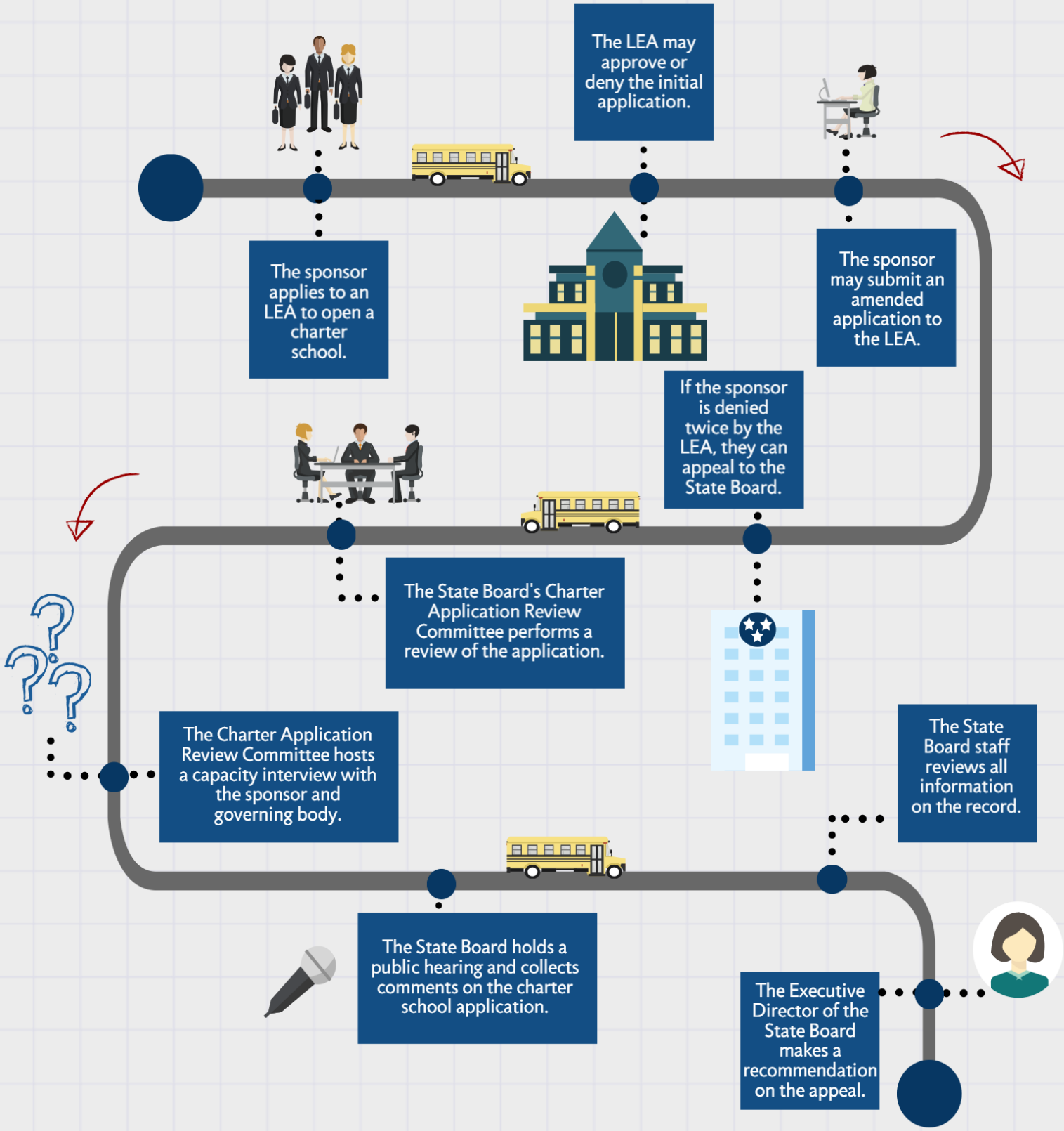
Guidance for LEAs Participating in Appeal Process

Upon receipt of an appeal, State Board staff will notify representatives of the local board of education that an appeal has been received and that a request for information is forthcoming. In the request for information, the local board of education shall provide the following information within five (5) calendar days of receipt of the request in a manner set forth in the request:[9]

a) A list of individual(s) that reviewed the initial and amended charter school applications;
b) Copies of the minutes and/or notes, if such were prepared, from any review team meetings and local board of education work sessions and meetings in which the application(s) was discussed;
c) Copies of the completed scoring sheets used to evaluate the charter school application(s);
d) Copies of any reports or notes prepared for the local board of education by reviewers or other local board of education staff; and
e) Copies of the letters informing the Sponsor of the local board of education's reasons for denying the charter school's initial and amended applications.

[7] Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(a)(4); State Board Policy 2.500 – Charter School Appeals.
[8] State Board Policy 2.500 – Charter School Appeals
[9] Ibid.

Tennessee Charter School Appeals Process



Frequently Asked Questions

1. How long does the appeal process take?

The State Board has to render a decision on an appeal within sixty (60) days of the receipt of the notice of appeal.[10] Typically, the State Board's meeting to render a decision on an appeal is near the end of the sixty-day timeframe.

2. Who is my main contact during an appeal?

The State Board's General Counsel and Director of Charter School Policy and Accountability are your main contacts. They can be reached at CharterSchool.Appeals@tn.gov.

3. What does the State Board analyze in an appeal?

The State Board shall conduct a de novo, on the record review of the amended charter application.[11] Therefore, the substantive review of the application and record by the State Board of Education is done in three parts all of which inform the Executive Director's Findings and Recommendation Report that is presented to the State Board of Education. The State Board will consider, but is not bound by, the Executive Director's Recommendation.[12] The three main parts of the recommendation report are:

- Part 1: State Board Charter Application Review Committee:[13] The State Board of Education will assemble a charter application review committee (the "Review Committee"), comprised of both internal and external evaluators, to review the amended charter school application that includes all changes and corrections as submitted by the sponsor to the State Board upon appeal. The Review Committee will be trained by the State Board staff to ensure consistent standards and fair treatment of all applications. The Review Committee's work consists of three key parts, outlined below, and is completely separate from the public hearing and staff review of all documents on the record.
    a. Evaluation of the Application: The Review Committee is responsible for conducting a de novo review of the amended application. The committee will only review the amended application and accompanying attachments including the budget, and **it will not review any additional information submitted by the sponsor or local board of education**. Since the Review Committee conducts a de novo review of the application, the Review Committee does not see the local board of education's reasons for denial nor is the Review Committee confined to the local board's reasons for denial. The Review Committee will score the amended application

[10] Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(a)(4); State Board Policy 2.500 – Charter School Appeals.
[11] T.C.A. § 49-13-108(a)(4(B)
[12] State Board Policy 2.500 – Charter School Appeals
[13] State Board Policy 2.500 – Charter School Appeals and 6.300 – Application Review

based on the Tennessee Department of Education's Application Scoring Rubric[14] which is used by local boards of education during its review of an application.

b. Capacity Interview: After an initial review of the application, the Review Committee will conduct a capacity interview with the proposed school leaders and officers of the governing board in **Nashville, Tennessee**. Additional information about the interview is contained in Policy 6.300 – Application Review. The sponsor will not have any opportunity for an opening statement at the beginning of the interview. To start the interview, the Review Committee and individuals representing the sponsor will briefly introduce themselves, and then the Review Committee will move straight into questions that they have for the sponsor based on their review of the application. Since the Review Committee conducts a de novo review of the application, the Review Committee is not confined to the local board's reasons for denial. Therefore, the Review Committee may ask questions about areas or issues that were not raised by the local board of education. Accordingly, sponsor should be prepared to answer questions about the academic, operations, and financial sections of the application.

c. Review Committee Report: At the conclusion of the evaluation of the application and capacity interview, the Review Committee develops a consensus rating for each of the main sections of the application and provides a recommendation to the Executive Director on the amended application.

- Part 2: Public Hearing and Public Comment: The State Board will hold a public hearing on the charter application during the 60 days that the State Board is considering an appeal.[15] The public hearing is held in the local school district in which the applicant proposes to operate, and the hearing gives the local board of education, the sponsor, and the public the opportunity to be heard on the charter application. Specific details regarding the hearing can be found in State Board Policy 2.500. The proceedings of the public hearing are wholly separate from the work of the review committee described in Part 1, and neither part inform the other's work.

  At any point prior to the public hearing and up to the deadline set by the State Board, the public may submit written comment to the State Board for consideration in the Executive Director's recommendation. All written comment submitted to the State Board office is provided to the members of the State Board of Education. The State Board staff will set a deadline by which no further written comment will be accepted, and this deadline will be stated on the public hearing agenda.

- Part 3: State Board Staff Review of the Record: The State Board staff will conduct an on the record review of all documentation submitted by the sponsor and local board of education. This documentation includes all materials submitted within the notice of appeal by the sponsor, all

[14] Rubric is available on the Tennessee Department of Education's website: https://www.tn.gov/education/article/charter-school-application.
[15] T.C.A. § 49-13-108(a)(4) and State Board Policy 2.500 – Charter School Appeals

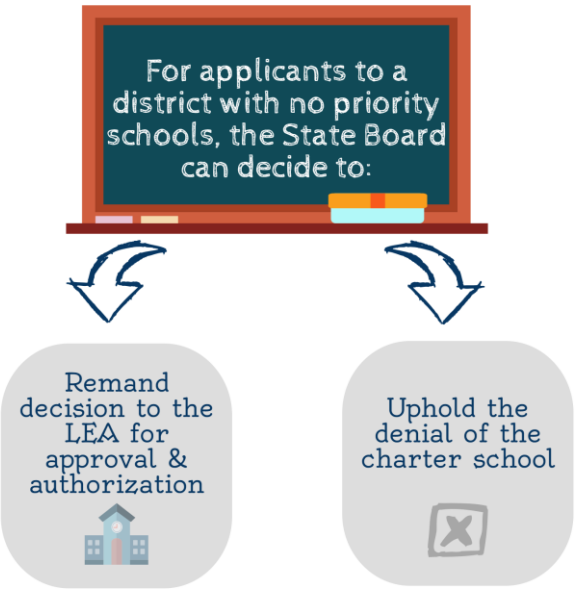
materials submitted by the local board of education, the review committee report, and information received during the public hearing and via public comments.

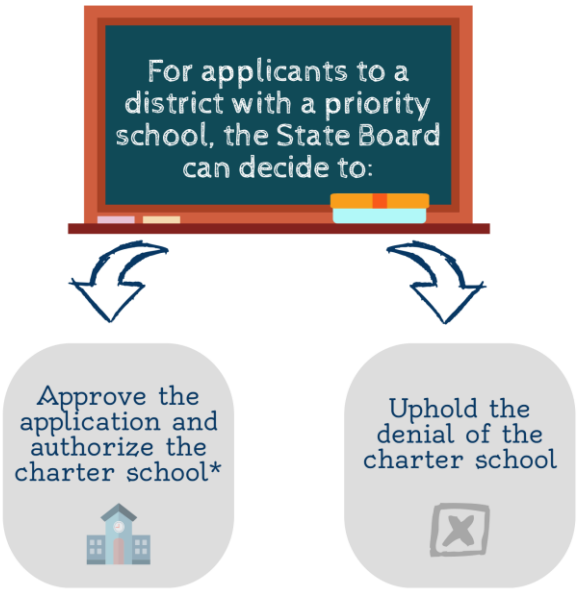
4. <u>What could the Executive Director recommend?</u>

The recommendation of the Executive Director depends on whether the sponsor is applying to locate in a school district with a school on the current or last preceding priority school list.

- Appeals involving LEAs without a priority school on the current or last preceding priority school list:
  - The Executive Director could recommend that the State Board affirm the local board of education's decision to deny the amended application or recommend that the State Board remand the application to the local board of education with instructions to approve the application. In this case, the local board of education will be the chartering authority. [16]

- Appeals involving LEAs with at least one priority school on the current or last preceding priority school list:
  - The Executive Director could recommend that the State Board affirm the local board of education's decision to deny the amended application or recommend that the State Board approve the application. In this case, the State Board will be the chartering authority,[17] unless the LEA and charter school agree that the charter school will be oversee by the local board within thirty (30) days of the Board's vote.[18]





*The school and its LEA have 30 days to reconcile; if this does not happen, the State Board automatically authorizes the school.

[16] T.C.A. § 49-13-108(a)(4)(D)
[17] T.C.A. § 49-13-108(a)(4)(E)
[18] T.C.A. § 49-13-142(b)(3)

5. When is the Executive Director's recommendation published online?

Typically, the Executive Director's Findings and Recommendation report is posted on the State Board's website a couple of days prior to the Board's meeting. It will be available as a link under the agenda item for the charter school appeal.

6. What is the State Board's decision making process?

The State Board will meet at a special-called meeting or a regularly scheduled quarterly meeting to render a decision within 60 days of receipt of the notice of appeal.[19] If the Board renders a decision at a special-called meeting, the Board will discuss the Executive Director's recommendation prior to the vote on the agenda item. If the Board renders a decision at a regularly scheduled quarterly meeting, the Board will discuss the Executive Director's recommendation at the State Board's workshop, usually held the day before the meeting.[20] All State Board meetings and workshops are livestreamed, and the link will be available on the State Board's website.

7. Is there time for comment by sponsors or local boards of education at the State Board meeting?

There will be no time at the workshop or Board meeting for comment by the sponsors, representatives of local boards of education, or members of the public, but the meetings are open to the public and livestreamed online. All individuals wishing to comment on an appeal should attend the appeal's public hearing or submit a written comment in accordance with the State Board's published guidelines.

8. What happens after the State Board renders a decision?

The sponsor and local board of education will be notified via U.S. Mail of the State Board's decision on the charter school appeal. If the State Board approves the application, the local board of education and the sponsor can mutually agree for the charter school to be overseen by the local board of education. Written notification of this agreement must be submitted to the State Board within thirty (30) days of the Board's decision.[21]

9. What happens if the State Board remains the authorizer?

If after thirty days the local board of education and the sponsor do not mutually agree for the charter school to be overseen by the local board of education, State Board staff will reach out to the charter school sponsor to discuss next steps for the charter school to be overseen by the State Board.

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[19] Unless otherwise agreed to by the LEA and the sponsor to extend the deadline. T.C.A. § 49-13-108(a)(4); State Board Policy 2.500 – Charter School Appeals.
[20] State Board Policy – 2.500 Charter School Appeals
[21] T.C.A. § 49-13-142(b)(3).

10. Can the State Board's decision be appealed?

The State Board's decisions in appeals are final.[22]

11. If State Board affirms the local board of education's decision to deny the application, can the Sponsor submit an application in the following year?

Yes, the Sponsor is welcome to submit a new application the following year.

12. Who should I contact with additional questions?

Please contact the General Counsel and the Director of Charter School Policy and Accountability at CharterSchool.Appeals@tn.gov.

[22] T.C.A. §§ 49-13-108(a)(4)(D) and 49-13-108(a)(4)(E)