



Charter School Revocation Appeal Process – Guidance Document

Disclaimer: This document is for guidance purposes only and does not supersede any statute, rule, or policy. Local boards of education and governing boards 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.”) § 49-13-122, the decision by a local board of education to revoke a charter agreement may be appealed to the Tennessee Public Charter School Commission (“Commission”) within ten days after the date of the decision. However, if the local board of education revoked the charter agreement in accordance with T.C.A. § 49-13-122(a) because the charter school was designated as a priority school, the decision cannot be appealed to the Commission.¹ The Commission’s decision to sustain the revocation decision of a local board of education on appeal shall be final and not subject to further appeal. Upon receipt of an appeal, the Commission has sixty calendar days to render a decision,² and typically, the Commission’s meeting to render a decision on the appeal is near the end of that period.

Standard of Review

The Commission staff will conduct a de novo, on the record review of the revocation decision, considering information gathered during the public hearing and any additional information gathered at the discretion of the Commission staff. At the conclusion of the review, the Executive Director of the Commission will issue an Executive Director’s Findings and Recommendation Report to the Commission members. The Commission members will vote on whether to uphold or overturn the local board of education’s decision to revoke the charter agreement. In order to overturn a local board of education decision to revoke a charter agreement, the Commission must find that such decision was contrary to T.C.A. § 49-13-122.³

If the Commission 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.

Statutes and Policies Governing the Revocation Appeal Process

The following statute and Commission rule and policies govern the revocation appeal process, and the Commission staff suggests that any operator or local board of education participating in the appeal process be familiar with the contents of these documents:

- T.C.A. § 49-13-122
- Commission Rule 1185-01-01-.03
- Commission Policy 2.000 – Charter School Appeals
- Commission Policy 2.300 Charter School Revocation Appeals

¹ Pursuant to T.C.A. § 49-13-122(a)(4), a charter school's identification as a priority school that is scheduled to close under T.C.A. § 49-13-122(a)(1) or (a)(3) shall be entitled to a review by the Tennessee Department of Education to verify the accuracy of the data used to identify the school as a priority school.

² Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Commission Rule 1185-01-01-.03. All Commission rules and polices, including all referenced in this document, are found on the Commission's [website](#).

³ Commission Policy 2.300 Charter School Revocation Appeals

Guidance for Operators Submitting Appeals

Charter school operators submitting an appeal of a local board of education’s revocation decision must do so in accordance with T.C.A. § 49-13-122, Commission Rule 1185-01-01-.03 and Commission Policy 2.300 Charter School Revocation Appeals. **The notice of appeal must be submitted via email to the Commission (CharterSchool.Appeals@tn.gov) within ten calendar days of the local board of education’s revocation decision. Any materials submitted after 11:59 p.m. central time on the tenth calendar day are not accepted.**⁴

Documents must be submitted to the Commission via a file-sharing website (e.g., Microsoft Teams). The Commission staff will set up and invite the charter school’s team members to a Microsoft Teams folder for each appeal. The folder will have clearly labeled subfolders for the required information below. The notice of appeal materials must include all of the following to be considered:

- a. Copy of the statement issued by the local board of education stating its reasons for revocation as required by T.C.A. § 49-13-122(b).
- b. Brief statement, no longer than three pages, explaining why the local board of education erred in revoking the charter agreement under T.C.A. § 49-13-122.

Commission staff will confirm receipt of the appeal and the date of receipt with the charter school. Commission staff shall not accept an incomplete appeal or any additional documentation from the charter school beyond the contents of the notice of appeal unless requested by the Commission staff. If the charter school indicates in the notice of appeal that one of the requirements listed in paragraphs (a)–(b) above cannot be submitted, the charter school shall include an explanation in the notice of appeal.

The Commission will meet and render a final decision on each appeal within sixty calendar days of receipt of the charter school appeal.⁵ The Commission may meet at a special-called meeting or at a regularly scheduled meeting. The Commission will consider the Executive Director’s Findings and Recommendation Report for the appeal, but the Commission is not bound by the recommendation.⁶

Guidance for Local Boards of Education Participating in Appeal Process

Upon receipt of an appeal, Commission staff will notify representatives of the local board of education that an appeal has been received and that a request for information is forthcoming. The local board of education shall provide the requested information within five calendar days of receipt of the request, but in no event more than seven calendar days from the request.⁷ Documents must be submitted to the Commission via a file-sharing website (e.g., Microsoft Teams). The Commission staff will set up and invite the local educational agency (“LEA”) team members to a Microsoft Teams folder for each appeal⁸.

The Teams folder will have clearly labeled subfolders for the required information below. The information from the LEA must include all of the following:

⁴ Commission Rule 1185-01-01-.03

⁵ Unless otherwise agreed to by the local board of education and the sponsor to extend the deadline. T.C.A. § 49-13-122(h)(1); Commission Policy 2.000 – Charter School Appeals

⁶ Commission Policy 2.000 – Charter School Appeals

⁷ Ibid.

⁸ NOTE: LEA/district level email addresses that are connected to an existing @tnedu.gov account are often returned as undeliverable when the Commission tries to invite it to the Teams folders. The Commission strongly recommends that LEA staff provide an alternative email address to the Commission for full access to the Teams folders.

- a. Copies of the approved charter school application and signed charter agreement between the governing board and the local board of education, including any exhibits to the charter agreement;
- b. Timeline of the approval of the original charter application and revocation decision;
- c. 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.
- d. Copies of all correspondence from the local board of education to the governing board regarding the status of the charter school.
- e. Any investigative summaries or reports compiled by the local board of education's staff regarding the charter school.
- f. Any evidence supporting the local board of education's reasons for revocation.
- g. 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.
- h. Copies of all annual progress reports submitted by the governing board to the local board of education and Commissioner of Education in accordance with T.C.A. § 49-13-120.
- i. 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.

On the Record Review

Pursuant to T.C.A. § 49-13-108, Commission Rule 1185-01-01 et. al., and Policy 2.000 – Charter School Appeals, Commission staff conducts a de novo, on the record review of each revocation decision. The record, as reviewed by the local board of education, is considered the foundation of the Commission's record. Commission staff conducts a full review of the record prior to forming the Executive Director's Recommendation to the Commission, and this includes information from the charter school through the notice of appeal, documents submitted by the local board of education, testimonies heard at the public hearing, and public comment.

Commissioners are also charged with conducting a de novo on the record review of the appeal. "On the record" for purposes of appeals before the Commission will include documents submitted by the charter school and local board of education, and any additional clarifying information requested by the Commission staff in accordance with Commission rule, the notice of appeal from the charter school, the public hearing and public comment (both oral and written), the Executive Director's Recommendation, and written statements in response to the recommendation. The Commission has determined that the appellate record is closed one week after the public hearing. This timeframe permits the submission of additional written comments that were not provided prior to the public hearing and ensures that all evidence submitted by the parties is given equal consideration.

Request for Additional Information

Commission staff may gather additional information related to each appealed revocation from the charter school, the local board of education, and/or the Tennessee Department of Education. In such case, each is requested to comply with the document request within five calendar days of the request or as soon as possible thereafter, but in no event more than seven calendar days after the request.⁹ In filing an appeal with the Commission, the charter school consents to the Commission staff completing a general due diligence review in order to form an accurate recommendation.

⁹ Commission Rule 1185-01-01-.01(2)(b).

Frequently Asked Questions

1. How long does the appeal process take?

The Commission has to render a decision on an appeal within sixty calendar days of the receipt of the notice of appeal.¹⁰ Typically, the Commission's meeting to render a decision on an appeal is near the end of the sixty calendar day timeframe.

2. Who is my main contact during an appeal?

Questions related to the revocation appeal process should be sent to CharterSchool.Appeals@tn.gov. Once an appeal has been submitted, please continue to send any questions or concerns regarding the process to this email address, and a Commission staff member will reply to the email within one business day.

3. Can the Commission's decision on an appeal be expedited?

The Commission understands the desire to expedite the decision since it impacts students, parents, employees, the community, and the local board of education. However, the Commission and its staff take the appeal process very seriously and believe that it is important to conduct a thorough and high-quality review of all information submitted as a part of the appeal process and the public hearing. This process takes time. Additionally, if a special-called meeting must be scheduled, it can take time to find a favorable date, time, and location for the Commission to meet. Given this, while the Commission will work as quickly as possible to decide on the appeal, we cannot promise that the process is expedited.

4. Can either party receive copies of the information submitted by the operator or local board of education as a part of the appeal process?

Upon written request to CharterSchool.Appeals@tn.gov, the Commission staff will provide the information submitted by the charter school on appeal or the information submitted by the local board of education as a part of the request for information.

5. Can a local board of education move forward with closure procedures required in T.C.A. § 49-13-130 if the operator has appealed the revocation decision?

T.C.A. § 49-13-130 lays out the responsibilities for local boards of education and charter schools regarding the closure of a charter school after an authorizer's decision to revoke a charter agreement. Therefore, a local board of education is in compliance with its statutory charge by moving forward with initial closure proceedings. However, the Commission recommends that any communication to parents, students, employees, vendors, or other stakeholders clearly explain that an appeal is in process.

6. What does the Commission analyze in an appeal?

The Commission staff will conduct a de novo, on the record review of the revocation decision, considering any additional information gathered at the discretion of the Commission staff, and will provide a recommendation to the Executive Director of the Commission. In order to overturn a local board of education's decision to revoke a charter agreement, the Commission must find that such decision was contrary to the T.C.A. § 49-13-122. The Commission will

¹⁰ Unless otherwise agreed to by the local board of education and the operator to extend the deadline. Commission Rule 1185-01-01-.03

consider, but is not bound by, the Executive Director's Recommendation. The two main parts of the recommendation report are:

- Part 1: Public Hearing and Public Comment: The Commission will hold a public hearing on the revocation appeal during the sixty calendar days that the Commission is considering an appeal.¹¹ The public hearing is held in the local school district in which the charter school operates, and the hearing gives the local board of education, the governing board, and the local community the opportunity to be heard on the revocation. Specific details regarding the hearing can be found in Commission Policy 2.300 Charter School Renewal Appeals. The public hearing is held in accordance with Commission Policy 2.000 Charter School Appeals, provided that any reference to "sponsor" shall be deemed to mean the governing body. In developing the Executive Director's recommendation, the Executive Director will consider information presented at the public hearing. There are two opportunities for the public to participate in this process:
 - a. Oral Public Comment: The Executive Director will reserve forty minutes for oral public comment during the public hearing. Commission staff will allot ten spots to members of the public speaking in favor of renewing the charter school and ten spots to members of the public speaking in favor of the local board's decision to deny the renewal. The Commission will notify both parties in advance of when the sign-up for public comments are posted on the Commission's website. Oral public comment sign-ups will close when all slots are full or twenty-four hours in advance of the hearing, whichever occurs first.¹² A list of public speakers is provided to both parties in advance of the hearing after the sign-up process has closed. Slots that remain unfilled after the sign-up has closed or that become available due to an individual not showing up for in-person comment cannot be transferred to an alternative speaker.

During the public hearing, the individuals who signed up in advance are recognized by Commission staff to provide up to two minutes of comments. When signing up for public comment, the individual is asked to confirm that they are a resident of the school district and select which party they are speaking in support of. Further, before beginning the public comment, each speaker must identify themselves by name, resident district status, relation to the charter school/school district (e.g., parent, community member, local elected representative, etc.) and clearly state for the record whether they are in support or opposition of the school. The first and last name of individuals who have signed up for public comment are displayed at the hearing in speaking order to minimize the transition time between speakers.

While signs are permitted, individuals that are considered disruptive to the order of the public hearing are asked to refrain from disorderly conduct or be escorted out by designated personnel, in accordance with Commission Policy 1.200. Additionally, any comment submitted by a member of the public is considered a public record and are provided in response to a public records request.¹³

- b. Written Public Comment: At any point prior to the public hearing and up to the deadline set by the Commission, the public may submit written comment to the Commission for consideration in the Executive Director's Recommendation. All written comments submitted to the Commission's office are

¹¹ Commission Policy 2.200 Charter School Renewal Appeals

¹² Oral public comment sign-ups will close on Friday for hearings that occur on a Monday.

¹³ Any personally identifiable information is removed prior to responding to a public record request. Please note: first and last name, email addresses, and phone numbers are not considered personally identifiable information.

provided to the members of the Commission, are posted to the Commission's website, and are public records. The Commission staff will set a deadline by which no further written comment are accepted, and this deadline is stated on the public hearing agenda and the Commission's website.

- **Part 2: Commission Staff Review of the Record:** The Commission staff will conduct a de novo on the record review of all documentation submitted by the operator and the local board of education and any additional information collected at the staff's discretion. This documentation includes all materials submitted within the notice of appeal by the operator, all materials submitted by the local board of education, information received during the public hearing and via public comments, and information collected at the staff's discretion. Additionally, the Commission staff may conduct due diligence on the operator, including but not limited to outreach to current authorizers or a review of state and nationally normed internal assessment data.

7. What could the Executive Director recommend?

Following the public hearing and the review of the local board of education's decision to revoke the charter agreement, the Executive Director of the Commission will provide a written recommendation to the Commission members.¹⁴ The Executive Director may recommend the Commission:

- Affirm the decision of the local board of education; or
- Overturn the decision of the local board of education. If the Commission overturns the decision, the local board of education remains the authorizer.

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

The Executive Director's Findings and Recommendation Report is posted on the Commission's website prior to the Commission meeting, and both parties in an appeal are notified by Commission staff when the recommendation is posted.

9. What is the Commission's decision-making process?

The Commission will meet at a special-called meeting or a regularly scheduled quarterly meeting to render a decision within sixty calendar days of receipt of the notice of appeal.¹⁵ The Commission will discuss the Executive Director's Recommendation prior to the vote on the agenda item, regardless the type of meeting.¹⁶ All Commission meetings are livestreamed and open to the public, and the link is available on the Commission's website.

10. Is there time for public comment on the appeal at the Commission meeting?

Requests for public comment at Commission meetings are governed by Commission Policy 1.200 – Commission Meetings. In accordance with Commission policy, each meeting of the Commission shall reserve at least thirty minutes for in-person, oral public comment. The public may sign up to give a comment at the Commission meeting by visiting the meeting page of the Commission's website. Additionally, the Commission accepts written public comments, submitted through its website, on any agenda item before the Commission for consideration. Commission meetings are also open to the public and livestreamed for viewing. Because the official record for the revocation appeal is closed prior to the Commission meeting, these public comment opportunities are reserved for comments related to Commission business and should not be used by charter schools or LEAs to add additional

¹⁴ Commission Policy 2.300 Charter School Revocation Appeals

¹⁵ Unless otherwise agreed to by the local board of education and the sponsor to extend the deadline. T.C.A. § 49-13-122(h)(1); Commission Policy 2.000 – Charter School Appeals

¹⁶ Commission Policy 2.000 – Charter School Appeals

information to the record that was not presented throughout the appeal process (e.g., within the notice of appeal, public hearing, etc.).

In accordance with Commission rule and policy, one representative of the school's governing board and the local board of education are permitted to submit a response to the recommendation, either by speaking in-person at the Commission meeting or by submitting a written comment to be read into the record by a member of the Commission staff prior to the Commission's discussion of the Executive Director's Recommendation. In-person speakers are provided up to two minutes to speak, and written responses shall not be more than one page typed in length. Written statements and the names of representatives speaking in person shall be received by the Executive Director at least forty-eight hours prior to the scheduled Commission meeting. The Commission staff shall accept only one written response/in-person representative from each party.

11. What happens after the Commission renders a decision?

The governing board and the local board of education are notified via e-mail of the Commission's decision on the charter school appeal. Except in the case of fraud, misappropriation of funds, or flagrant disregard of the charter agreement or similar misconduct, the local board of education's decision to revoke a charter agreement, if affirmed by the Commission, will become effective at the close of the school year. The closure process of the charter school is governed by the local board of education pursuant to T.C.A. § 49-13-130. If the Commission 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.¹⁷

12. Can the Commission's decision be appealed?

The Commission's decisions in appeals are final.¹⁸

13. Whom should I contact with additional questions?

Please contact the Commission at CharterSchool.Appeals@tn.gov

¹⁷ T.C.A. § 49-13-122(h)(1) and Commission Policy 2.300 Charter School Revocation Appeals

¹⁸ Commission Policy 2.300 Charter School Revocation Appeals