



2016 Tennessee Charter Policy Brief

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This brief is meant to give context around the current charter policy landscape and provide recommendations on areas of deficiency and potential to strengthen current law and policy.

2016 Charter Legislation Snapshot:

In 2016, the Tennessee General Assembly passed one piece of legislation related to charter policy. Pub. Ch. 673 permits the state board of education (SBE) to collect an authorizer fee of up to four percent from charter schools that it authorizes, while reporting on its authorizing costs.

Charter Sector Snapshot:

In Tennessee, there are three different authorizing bodies, traditional school districts/local education agencies (LEAs), the achievement school district (ASD), and the SBE. There are 98 charter schools in four geographic areas (Memphis (64), Nashville (29), Chattanooga (4), and Knoxville (1)) serving over 29,000 students.

In Spring of 2016, Shelby County Schools (serving the Memphis area) notified 3 area schools of closure based on performance, after they fell to the bottom 5% of performance statewide of all schools.

Charter Authorizing Practices:

Charter authorizers serve as gateways, filtering through charter applications for quality and rigor before approving them. Authorizers that implement strong screening practices are more likely to approve schools with a greater chance of success, preserve school autonomy, and close schools that simply do not perform well. Even after approving a charter, a quality authorizer should continuously monitor schools in its portfolio to ensure accountability and autonomy for its schools.

Tennessee currently does not have charter authorization caps (after legislation passed in 2011). Our state allows for multiple authorizers (after legislation passed in 2011 and 2014). However, the SBE and ASD are limited in their purview to specific applicants. For example, the SBE can serve as an authorizer for applications denied by LEAs with at least one school on the Priority Schools List. In terms of oversight of schools, charters are granted a 10-year term length, and subject to interim reviews every 5 years.

Recommendation 1: Strengthen existing charter authorizing practices

1A.

Create an independent statewide authorizer. Our state should permit charter applicants (other than LEA-sponsored applications) to apply directly to a non-district authorizer (currently, applicants must first go through their local governing body before appealing to the SBE).

1B.

Conduct semi-frequent rigorous reviews of charters. Tennessee should require initial 5-year term lengths or structure the 5-year interim review to be as rigorous as a renewal application review. While longer charter terms provide benefits for securing facilities and financing opportunities, authorizers should conduct a high-stakes review at least every 5 years.

1C.

Set a high threshold and expedited application track for renewal, replication, and expansion. Charter authorizers should outline an expedited application process with the necessary thresholds an existing charter operator must meet before approval. However, Recommendation 1C should not be implemented unless the state also puts strong charter accountability, including authorizer oversight, in place.

Charter School Accountability:

In exchange for providing greater flexibility around governance and operations, charter schools must be held accountable for their performance. Clear, objective, and rigorous standards for revocation, combined with a transparent public process, help parents and community leaders see evidence of a school's extreme underperformance or wrongdoing and highlight the necessity for urgent action to protect students. Establishing clear, strong mechanisms for closing low-performing schools and making authorizers answerable for their schools' performance can strengthen accountability for public charter schools.

Tennessee law requires schools that fall into the bottom 5% (starting with the 2017 school accountability lists) to be closed at the end of that school year. Schools overseen by the ASD are closed if they fall on two consecutive Priority Schools Lists. Charter schools may also be closed at the end of any year for poor academic, organizational, or fiscal performance.

Charter schools are required to submit an annual report to their authorizer and the Commissioner, but current law does not require authorizers to conduct annual reviews (there is only a requirement for the Commissioner to give the Legislature an annual report on the entire charter sector). Authorizers are also not required to submit annual reports regarding overall school performance in their portfolios.

Recommendation 2: Establish clear and consistent accountability structures for charter authorizers and schools in their portfolios

2A.

Require annual reviews of school performance. Annual reviews on school performance should include: examination of student proficiency, student growth, achievement gaps of major student subgroups, student attendance and enrollment from year to year for grades served in the school, college and career readiness indicators, financial performance, compliance with all applicable laws, and compliance with the charter agreement.

2B.

Create an oversight body that reviews the performance of individual authorizers. An independent oversight body needs to be established to ensure authorizers are conducting proper and frequent reviews of their portfolios.

2C.

Outline sanctions for authorizers with low performing portfolios. Sanctions should relate to the specific privileges or functions of authorizers and only be instituted after there are multiple authorizers operating within a state. Tennessee's current authorizing structure requires all applicants to apply to the local governing body as a first step, making sanctions for individual LEAs effectively restrict access to authorizing for applicants. Thus, Recommendation 2C should not be pursued unless there is an independent statewide authorizer as recommended above in Recommendation 1A.

Equitable Charter Funding:

As public schools serving public school students, charter schools should be funded at the same level as other public schools in the district. Our state should ensure that no functional barriers, such as local funding raised through property taxes, create disparities in how funding and resources are distributed to different public school types. While the Basic Education Program (BEP) funding formula provides an equal pass-through of state

and local funds to charter schools, charter schools should receive funds that amount to the proportion of their student population based on student needs. The state should also provide a funding mechanism for authorizers to perform their oversight duties.

Recommendation 3: Ensure funding parity between district-run and charter schools

3A.

Require detailed reporting from authorizers to ensure that schools are receiving equitable operating funding. Detailed reporting should include information on school-level budgets, district allocation of resources to schools of local, state, and federal funds.

3B.

Calculate ASD special education funding based on the actual student populations in ASD schools. Special education funding should not be determined based on the neighboring district, but rather on the actual student population of the ASD.

3C.

Establish a funding mechanism, either through a per-pupil authorizer fee, dedicated state funding, or a hybrid of the two. The state should establish an equitable authorizer fee to be taken from the per-pupil allocation to schools for authorizers to conduct authorizing functions. This may also be combined with dedicated state funding for authorizing functions that do not directly relate to student support services.

Charter Facilities Access:

Unlike district-run schools (including ASD), charter schools are responsible for securing their own facilities. Without significant dedicated funding for facilities from the state, charter schools deplete operating budgets to gain access to basic facilities. Also, while charter schools are eligible for local capital outlay allocations, in practice, they do not receive any revenue generated through local district bonds.

In Tennessee, LEAs must make underutilized and vacant properties available for use by charter schools at or below fair market value. Also, state law requires portions of underutilized properties be made available, allowing co-location in school district facilities. However, state law does not explicitly allow this for non-district public

facilities. In Tennessee, charter schools authorized by the ASD have the right to use all facilities and property that are part of the intervened school free of charge.

In terms of charter facility financing, Tennessee provides some financing for charter school facilities through a per-pupil facilities allowance calculated in the BEP. Charter schools may also be able to obtain financing through federal tax-credit bond programs. Charter schools that have the support of their local taxing authority are eligible to access tax-exempt financing through the Tennessee Local Development Authority (“TLDA”). Charter schools also have access to Tennessee Qualified Zone Academy Bonds (“QZAB”) with support from their LEA. However, access is often limited and generally not available for schools in non-district buildings.

Recommendation 4: Provide adequate facilities access to charter schools that does not disproportionately impact operating budgets

4A.

Grant charter schools access to available non-LEA public buildings. This includes unused or underutilized city, county, or state buildings. The law can also be strengthened to permit co-location in a variety of public spaces.

4B.

Provide multiple sources of funding and financing for facilities. This can include capital financial programs dedicated to charter schools, such as direct loan or credit enhancement programs. It may also include better access to tax-exempt bonds.

Sources:

Charter Authorizing Practices

T. C. A. § 49-13-104; § 49-13-108; § 49-13-141; Tennessee Charter Interim Review Guidelines (June 2013)

Charter School Accountability

T. C. A. § 49-13-120; § 49-13-121; § 49-13-122

Equitable Charter Funding

TCA § 49-13-112; § 49-13-106(a)(2)(B); Tenn. Comp. R. & Regs. 0520-14-01-.03

Charter Facilities Access

T. C. A. § 49-1-614(f); § 49-3-1210; § 49-13-124; § 49-13-135; § 49-13-136

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