

## Charter School Task Force Report

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March 2010

### Introduction

#### Directive

In 2008, the Tennessee General Assembly passed Public Chapter 1133 directing the Comptroller's Office of Education Accountability (OEA), in consultation with the Tennessee Department of Education (DOE) and the State Board of Education (SBOE), to appoint a task force to study and evaluate Tennessee's charter school law.

#### Membership

The task force membership included representatives from each local education agency (LEA) with approved and operational charter schools, charter school representatives, and representatives from the DOE and SBOE.

##### **LEA Representatives**

Tomeka Hart  
Memphis City Schools Board of Education

Charisse Sales  
Memphis City Schools

Stacey Thompson  
Memphis City Schools

Alan Coverstone  
Metropolitan Nashville Public Schools

David Fox  
Metropolitan Nashville Public Schools Board of Education

Kecia Ray  
Metropolitan Nashville Public Schools

Rick Smith  
Hamilton County Department of Education

Mary Ann Voss  
Hamilton County Department of Education

##### **Charter School Representatives**

Craig Andreen  
LEAD Academy, Board Member

Sarah Carpenter  
Charter School Parent, Memphis City Schools

Randy Dowell  
KIPP Academy Nashville, Principal

Jennifer E. Johnson  
City University School of Liberal Arts, Board Member

Matt Throckmorton  
Tennessee Charter Schools Association

Curtis Weathers  
Memphis Academy of Health Sciences, Principal

##### **State Representatives**

Rich Haglund  
Tennessee State Board of Education

Eric Hilgendorf  
Tennessee Department of Education

#### Methodology & History of Task Force Communications

- On September 8, 2008, OEA (represented by Erin Do and Phillip Doss) met with Rich Haglund (SBOE) and Eric Hilgendorf (DOE). SBOE Executive Director Gary Nixon also attended. The purpose of the meeting was to discuss membership of the task force, issue areas for task force focus, and methods of communication.

After securing agreement to participate from members of the task force, OEA solicited input in various ways.

- On April 7, 2009, OEA created a website to house group documents and to serve as a discussion board for task force members.
- OEA developed subcommittees for focus on issue areas.
- On April 14, 2009, OEA sent an email with instructions for signing up for subcommittees.
- On May 7, 2009, OEA posted subcommittee brainstorming documents to the website and sent an e-mail to members with instructions for contributing to the discussion.
- On May 21, 2009, OEA sent subcommittee lists by e-mail to task force members. Subsequent communication with task force members occurred via e-mail, by telephone, or in person.
- OEA developed discussion questions for issue areas.
- From June 29, 2009 through July 22, 2009, task force members responded to discussion questions organized around the following issue areas:
  - Finance
  - Innovation
  - Accountability, Compliance, and LEA Relations
  - Logistical Support and Ancillary Needs and Services (See Appendix A.)
- On September 2, 2009, OEA e-mailed a survey to task force members. (See Appendix B.) The purpose of the survey was to solicit input from members regarding whether or not changes needed to be made in specific charter school policy areas. Members were asked to describe the change needed and to indicate the appropriate entity to address the issue (charter school, LEA, SBOE, DOE, or General Assembly).
- On November 12, 2009, OEA convened a meeting in Memphis to review input to-date and to continue to receive input from Memphis-area task force members.
- On January 7, 2010, OEA convened a meeting in Nashville to review input to-date and to continue to receive input from Nashville-area task force members.

## **Background**

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Charter schools are publicly funded schools sponsored and operated by not-for-profit organizations. They are affiliated with a school district through a written contract, but operate independent of many regulations that apply to traditional public schools. A charter agreement between an LEA and a charter school sponsor organization is “a shell, into which the operators place an instructional and management program.”<sup>1</sup> Charter schools therefore vary in their programmatic emphases and governance structures.

Charter school policy in large measure is guided by the two principles of autonomy and accountability. Charter schools are public schools, but have greater freedom to develop their own mission and values, educational programs, governance models, and organizational structures. In return they are subject to heightened accountability. LEAs monitor charter school performance on state assessments and hold charter schools accountable for fulfilling the conditions of charter agreements.

### **Tennessee’s Charter Schools**

Tennessee’s 22 charter schools constitute 1.3 percent of all public schools in the state.

- Memphis’s 15 charter schools constitute 7.5 percent of all public schools in Memphis.
- Nashville’s 5 charter schools constitute 3.7 percent of all public schools in Nashville.
- Chattanooga’s 2 charter schools constitute 2.7 percent of all public schools in Chattanooga.

Tennessee's 22 charter schools currently enroll 5,149 students, or 0.6 percent of all public school students in the state.

- Memphis's 15 charter schools enroll 3,839 students, or 3.7 percent of all public school students in Memphis.
- Nashville's 5 charter schools enroll 1,184 students, or 1.7 percent of all public school students in Nashville.
- Chattanooga's 2 charter schools enroll 126 students, or 0.3 percent of all public school students in Chattanooga.

**Exhibit 1: Tennessee Charter Schools, by Local Education Agency (LEA), 2009-10**

	<b>Year Opened</b>	<b>Current Grade Range</b>	<b>Planned Grade Range</b>	<b>Enrollment</b>
<b>Memphis</b>				
<b>Circles of Success Learning Academy</b>	2003	K-5	Reached	179
<b>Memphis Academy of Health Sciences</b>	2003	6-8	Reached	258
<b>Memphis Academy of Science &amp; Engineering</b>	2003	6-12	Reached	749
<b>City University School of Liberal Arts</b>	2004	9-12	Reached	338
<b>STAR Academy</b>	2004	K-5	Reached	233
<b>Memphis Business Academy</b>	2005	6-8	Reached	230
<b>Promise Academy</b>	2005	K-4	Reached	342
<b>The Soulsville Charter School</b>	2005	6-10	6-12	300
<b>Southern Avenue Charter School of Academic Excellence &amp; Creative Arts</b>	2005	K-5	Reached	209
<b>KIPP Diamond</b>	2008	5-8	Reached	279
<b>Memphis Academy of Health Sciences High School</b>	2008	9-10	9-12	207
<b>Memphis Business Academy High School</b>	2008	9-10	9-12	157
<b>Power Center Academy</b>	2008	6-7	6 <sup>t</sup> -8	200
<b>Freedom Preparatory</b>	2009	6	6-12	108
<b>City University Boys Prep</b>	2009	6	6-8	50
<b>Nashville</b>				
<b>Smithson-Craighead Academy</b>	2003	K-4	Reached	245
<b>KIPP Academy Nashville</b>	2005	5-8	Reached	251
<b>LEAD Academy</b>	2007	5-8	5-12	224
<b>Nashville Global Academy</b>	2009	K-3	K-12	186
<b>Smithson-Craighead Academy Middle School</b>	2009	5-8	5-8	278
<b>Chattanooga</b>				
<b>Chattanooga Girls Leadership Academy</b>	2009	6 and 9	6-12	70
<b>Ivy Academy</b>	2009	9	9-12	56
<b>Totals (2009-10)</b>	22 charter schools / 5,149 charter school students			

Sources: Memphis City Schools, Office of Charter Schools; Metropolitan Nashville Public Schools, Office of Charter Schools; Tennessee Department of Education, Office of Charter Schools and Choice.

## Issues Identified

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Working from the subcommittee lists and the sets of discussion questions, task force members identified the following issues:

- student enrollment
- funding
- special education and Section 504 students<sup>2</sup>
- facilities
- transportation
- financial relationship to teachers
- conversion of schools to charter status
- application process
- renewal process
- charter school boards (training; relationship to LEA boards)

The highlighted text in the following sections provides a summary or quote from the appropriate charter school statute (*T.C.A.*), rule (SBOE), or guidelines that govern the issue being presented.

### **Student Enrollment**

The following student populations are given priority in charter school enrollment:

- Students previously enrolled in a charter school,
- Students who are assigned to or enrolled in a school failing to make AYP,
- Students who failed to test proficient on TCAP reading or math in the previous school year, and
- Students who failed to test proficient on end-of-course assessments in reading or mathematics in the previous school year.

[*T.C.A.*49-13-106(a)(1)(A)-(D)]

In LEAs with ADM of 14,000 or more and 3 or more high priority schools, if the number of students seeking to enroll who meet these requirements does not exceed the school's capacity at the end of the initial student application period, then a charter school may enroll students who are eligible for free or reduced-price lunch (FRPL). Local school boards in other districts may vote to allow students eligible for FRPL to be eligible to attend charter schools at the end of the initial student application period. [*T.C.A.*49-13-113(a)(1)(E)]

### ***Variables that may affect enrollment policies***

The following variables identified by task force members may affect charter school enrollment policies.

- Student mobility
- FRPL eligibility
- Geographical attendance zones
- Policy consistency, year-to-year
- Focus on groups originally targeted for charter school enrollment
- Effect of enrollment policies and policy changes on charter school operators
- Special focus schools
- Conversion schools

### ***Policy Consideration: Open enrollment.***

A full open enrollment policy would mean that any student would be eligible to attend a charter school. If the demand for spaces at charter schools exceeded the supply under such a policy, a method for assigning students to schools would have to be developed.

Some task force members pointed out that open enrollment would remove the focus of charter schools from students in high priority schools and FRPL students. Other members pointed out that eligibility under the current policy is determined at a single point in time and persists for as long as a student wants to use it, despite any changes in the student's place of residence or economic situation.

Some task force members pointed out that open enrollment could serve as an incentive for nationally-recognized charter school operators to apply for charters in Tennessee, since they could be assured adequate student populations for new schools. Other members pointed out that under-enrollment has not been a problem for existing charter schools, and that year-to-year consistency in enrollment policy is important for planning purposes, both for LEAs and for charter operators.

Some task force members pointed out that the current eligibility priority of students attending high priority schools may not sufficiently address the needs of individual students. For example, students who may be currently attending a private school, but who are zoned to a high priority school, have enrollment priority over an FRPL-eligible student who is not zoned to a high priority school.

***Policy Consideration: Current enrollment eligibility requirements.***

Some task force members would like to see the enrollment eligibility requirements left as they are, pointing out that the effects of last year's eligibility changes have yet to be determined and that consistency is a positive characteristic for administrators, parents, and students.

***Policy Consideration: Expanded multi-phase eligibility.***

Task force members discussed expanding the current multi-phase eligibility policy. Current enrollment policy is multi-phase in that first priority for charter school enrollment is given to students who have demonstrated lack of proficiency on TCAP or Gateway tests and/or who are assigned to high priority schools, and secondary priority is given to students who qualify for FRPL.

Some task force members pointed out that enrollment policy could be amended to allow open enrollment once the charter school has been populated by students currently identified in statute as eligible for charter school enrollment. If, according to the charter agreement, there is still space available after the charter school has been populated in this manner, eligibility could be granted to all students.

***Policy Consideration: Additional criteria for special focus schools.***

Some task force members pointed out that current enrollment eligibility policy might make it difficult for charter schools to offer a curriculum with a specific focus. Task force members asked whether a charter school with a curriculum focused on music could require auditions in addition to the other admission criteria for charter schools.

***Policy Consideration: Timeframe for enrollment lottery.***

If the number of students seeking to enroll who meet the FRPL requirement exceeds the school's capacity, then enrollment shall be determined on the basis of a lottery. Such a lottery must be conducted within 7 days of the initial student application period. [T.C.A.49-13-113(d)(1)]

Some task force members expressed concern that the lottery to enroll FRPL students must be conducted within seven days of the initial enrollment application period and argued that LEAs should be allowed to submit an alternative lottery process to DOE for approval. If the number of charter schools increases and the number of students seeking enrollment increases, a seven-day timeframe might not be sufficient to conduct a fair lottery.

**Policy Consideration: Enrollment guidelines for conversion charter schools.**

An eligible public school may convert to a public charter school pursuant to this chapter if the parents of sixty percent (60%) of the children enrolled at the school or sixty percent (60%) of the teachers assigned to the school agree and demonstrate support by signing a petition seeking conversion and the LEA agrees to the conversion. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty. [T.C.A.49-13-106(b)(2)(A)]

“A LEA may convert an eligible public school to a public charter school pursuant to subdivision (a)(1)(B). Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty.” [T.C.A.49-13-106(b)(2)(B)]

A public school in Restructuring 2 — Alternative Governance under § 49-1-602(g), at the option of the commissioner of education, may be converted to a public charter school. Parents whose children are enrolled at the school shall have the option to enroll their children in another public school without penalty. [T.C.A.49-13-106(b)(2)(E)]

Some task force members pointed out that the option granted to parents in the statute regarding conversion charter schools implies that students enrolled in the converting school are automatically eligible to attend the conversion charter school. This “grandfathered” eligibility may be at odds with other eligibility criteria.

Some task force members pointed out that geographic zoning may create transportation problems for students in “feeder schools” who are not eligible to attend the conversion charter school. For example, LEAs attempt to locate middle schools to accept students from elementary schools in close proximity. If a middle school converts to a charter school, all of the students from the elementary schools who would normally attend the middle school might not be eligible to attend the charter school.

**Funding**

How much?

“A local board of education shall allocate to the charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including, but not limited to, Title I and ESEA funds.” [T.C.A.49-13-112(a)]

“Allocations shall be based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes, excluding the proceeds of debt obligations and associated debt service.” [T.C.A.49-13-112(b)(1)]

When?

“Allocations must be delivered to the school at the time of receipt by the LEA. Allocations may be prepaid pursuant to agreement between the LEA and the charter school.” [SBOE Proposed Rule<sup>3</sup> 0520-14-01-.03 (1)(d)]

“...10 payments distributed by the State Department of Education...” [SBOE Proposed Rule 0520-14-01-.03 (2)]

Calculated based on ADA or ADM?

“State and local fund allocations are determined for each LEA on the basis of prior year average daily membership (ADM).” [SBOE Proposed Rule 0520-14-01-.03 (2)]

### Calculated based on prior year or current year?

“State and local fund allocations are determined for each LEA on the basis of prior year average daily membership (ADM)...However, twice a year, once in February and once in June, funds are adjusted based on actual enrollment in the current year.” [SBOE Proposed Rule 0520-14-01-.03 (2)]

“If payments to an LEA from the Department of Education are increased or reduced based on actual enrollment, and a charter school’s actual enrollment is higher or lower than its prior year enrollment, or than its anticipated enrollment in the charter agreement, the payments to the charter schools shall be adjusted by determining pro-rata shares of adjusted distributions based on the current year’s ADM for the LEA.” [SBOE Proposed Rule 0520-14-01-.03 (2)(a)]

“New charter schools or charter schools adding a new grade are funded based on anticipated enrollment in the charter agreement. Those figures are then subsequently adjusted to reflect the actual number of students enrolled.” [SBOE Proposed Rule 0520-14-01-.03 (2)(e)]

### ***Variables that may affect funding policies***

The following variables identified by task force members may affect charter school funding policies.

- Comparability of traditional public school budgets with public charter school budgets
- LEA as a “revenue pass-through” entity for charter schools
- Identifying per pupil revenue components
- Quantifying per pupil revenue components
- Teacher employment relationship to LEA compared to charter school

Although task force members expressed differences regarding the level of funding that charter schools should receive, there was consensus among most members that the actual amount due a particular charter school should be more clearly defined. Some task force members suggested that an “official” per pupil amount be determined and disaggregated into BEP and other components. The per pupil expenditures reported on the DOE Report Card include state, local, and federal funds and may create confusion regarding the amount a charter school should expect to receive for each student.

Some task force members pointed out that in general LEAs receive direct payments and provide traditional public schools with services, whereas charter schools receive direct payments from which they pay for services. This fundamental difference can make it difficult to determine a per pupil price for services that the LEA generally provides to traditional district schools as part of normal operations within the larger LEA infrastructure.

### ***Policy Consideration: Extra funds for districts with charter schools.***

Some members suggested that the state provide extra funding to districts with charter schools. This would help offset perceived losses in urban districts and provide an incentive for rural districts to open charter schools.

### ***Policy Consideration: Pay charter schools through the state.***

Some task force members pointed out that the Tennessee Department of Education could send the state’s share of per pupil funding directly to the charter schools, and the LEA could send the local share of funding. Other members noted that this would not solve disagreements regarding the amount of payment, but may help determine the components that are due from the state and from the LEA respectively.



## **Special Education and Section 504**

Charter schools in Tennessee are part of the LEA; they are not separate LEAs. Under the Individuals with Disabilities Education Act (IDEA), “Students with disabilities in charter schools that are part of an LEA must be served in the same manner as that LEA serves children with disabilities in its other schools including that the LEA must provide supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools. The LEA must also provide funds under this part to those charter schools on the same basis as that LEA provides funds to its other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as the agency distributes other federal funds to the agency’s other public schools, consistent with the state’s charter school law.”<sup>4</sup>

Section 504 of the Rehabilitation Act protects qualified individuals with disabilities. “Under this law, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities...Major life activities include caring for one’s self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. Some examples of impairments which may substantially limit major life activities, even with the help of medication or aids/devices, are” blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, drug addiction, heart disease, and mental illness.<sup>5</sup>

Children who have a chronic illness or physical impairment may require specific accommodations or services but do not meet the criteria of the IDEA definitions. These children are covered under Section 504 but not IDEA. However, “there are no funds available as part of Section 504 and IDEA funds may not be used to serve children who are eligible only under Section 504.”<sup>6</sup>

### ***Variables that may affect policy regarding special education and Section 504 in charter schools***

The following variables identified by task force members may affect policy regarding special education and Section 504 in charter schools.

- Charter schools’ LEA status
- Responsibility for service
- Charter agreement between school and LEA
- Difficulty in planning for “as needed” services
- Definition of “in the same manner”
- Economy of scale

For special education services, specific money follows the student. The Individuals with Disabilities Education Act (IDEA) requires any school in the LEA, chartered or not, to provide services to eligible students based on their Individualized Education Program (IEP). The LEA receives funds, both from federal IDEA money and the state high cost student funds, and is required to pass the funds through to the charter school. With those funds, the charter school can pay the LEA to provide the services or pay the school’s own personnel or another provider for the services.

For Section 504 services and modifications, there is no specific funding to follow the student. An LEA is not allowed to use IDEA funds to serve a child eligible under Section 504, but not IDEA. The LEA uses state and local funds to provide Section 504 services for students in district schools, but the LEA is not required to provide funds for Section 504 services in charter schools. Therefore, Section 504 services and modifications are paid for out of the individual charter school’s budget.

### ***Policy Consideration: Fund Section 504 in charter schools like other public schools in the district.***

Some task force members pointed out that hiring a student aide, modifying equipment, or altering a facility to meet the needs of a Section 504 student would have a larger financial impact on a charter school than on an



LEA. Some task force members pointed out that direct payment to the charter school for services for Section 504 students would allow the charter school to pay the LEA to provide needed accommodations, to pay school personnel, or to pay another provider to provide the services.

***Policy Consideration: Establish a working group to address special education and Section 504 in charter schools.***

Special education is a very detailed education policy topic. Some task force members discussed the benefits of convening a group of experts to discuss special education within the charter school setting.

**Facilities**

“...the department of education shall calculate the amount of state funding required under the BEP for capital outlay as a non-classroom component to be received in a fiscal year by an LEA in which one (1) or more charter schools operate. The department shall reserve from the sum for such LEA the funds that constitute the amount due to charter schools operating in the LEA and shall not distribute such reserved amount to the LEA. The department shall distribute from the reserved amount directly to each charter school its total per pupil share as determined by its average daily membership (ADM). The per pupil share of each charter school shall be based on prior year ADM, except that the per pupil share of any charter school in its first year of operation shall be based on the anticipated enrollment in the charter agreement... the per pupil funding required to be paid directly by the department to a charter school under this subsection (c) shall be used solely for charter school facilities.” [T.C.A.49-13-112(c)(1)-(2)]

The General Assembly added this language to Tennessee’s charter school law in 2009. However, it does not establish additional funding for charter school facilities. Instead, it establishes a new way of distributing one portion of the money that the LEA would have been sending to the charter schools already.

The legislation made Tennessee eligible for the federal facilities incentive grant, but the state did not receive this grant.

Finding and financing adequate facilities remains a significant challenge for Tennessee charter schools.

***Variables that may affect facilities policies***

The following variables identified by task force members may affect charter school facilities policies.

- Coordination of term of lease agreement with term of charter agreement
- Geographic zones
- Maintenance
- Facility as an LEA capital asset amortized over extended period
- Facility lease as a charter school liability

***Policy Consideration: Inventory of available school district buildings.***

Some charter school task force members identified securing adequate, serviceable facilities as a major problem for charter schools. There was disagreement among task force members regarding “fair” lease amounts for vacant, LEA-owned school buildings.

Some task force members noted that school facilities were managed as capital assets by LEAs and that facility leases were liabilities for charter schools.

Some task force members noted that inclusion of facilities requirements of charter schools in a long-term capital facilities management plan was not feasible, given that such plans included long-term bond debt and that charter schools were chartered for relatively short periods of time.

Some task force members noted that the options available to charter school operators were limited by the necessity to locate in proximity to a sufficient number of eligible students.

Some task force members suggested that charter operators should be viewed as a management group to whom LEAs were outsourcing management of a district building.

***Policy Consideration: Facilities fund.***

Some task force members suggested that the state or LEA should consider providing funding for charter school facilities through grants, loans, or increased per-pupil allocations.

***Policy Consideration: Incorporate charter schools into LEA capital outlay plans.***

Some task force members suggested that charter schools be incorporated into LEA capital plans, noting that even though no individual charter school had a long-term charter, there was a reasonable expectation that charter schools would continue to exist as educational entities over the long-term.

**Transportation**

“If a public charter school elects to provide transportation for its pupils, the transportation shall be provided by the school or by agreement with the LEA within the district in which the school is located in the same manner it would be provided if the students were enrolled in any other school within the LEA. If a public charter school elects not to provide transportation for its pupils, the school shall not receive the funds that would otherwise have been spent to do so.” [T.C.A.49-13-114(a)]

***Variables that may affect transportation policies***

The following variables identified by task force members may affect charter school transportation policies.

- Multiple zones
- Eligibility
- Economy of scale
- Difficulty in planning for “as needed” services
- Definition of “in the same manner”

If charter schools are to receive funding for providing transportation, the school must provide transportation (on their own or with the LEA) in the same manner as the district. Some task force members pointed out that in some districts, the manner of transportation varies for elementary, middle, and high school. In other districts, the manner of transportation varies by school zone.

Some task force members pointed out that charter school grade ranges can cross the typical elementary, middle, or high school grade ranges and the school can enroll students from multiple school zones. Creating a transportation plan for a charter school that is consistent with transportation for other district schools is often not practical.

Some task force members pointed out that it is difficult to assign a price per student for transportation services. Transportation for traditional district schools is provided within a larger infrastructure – a fleet of buses and drivers, mechanics, garages, and so forth – which creates an economy of scale that reduces the cost per student. Charter schools may have access to this economy of scale if they have an agreement with the LEA. However, if charter schools are providing transportation without access to this infrastructure, the cost per student would be higher.

***Policy Consideration: Remove the specification that in order for a charter school to receive transportation funding, transportation must be provided “in the same manner it would be provided if the students were enrolled in any other school within the LEA.”***

Some task force members noted that if the “in the same manner” stipulation were removed from statute, the charter school and LEA could arrange a transportation plan within the charter agreement. Charter schools could provide transportation and receive funding regardless of the school’s grade level or enrolled students’ assigned school zones.

Some task force members argued that the current statute is sufficient with regard to transportation, noting that LEA transportation plans are specific and charter schools can choose whether to provide transportation according to the LEA plan. Other task force members noted that transportation services are not provided uniformly within all LEAs. Transportation is provided within zones for some schools, but may not be provided at all for other schools (e.g., optional/magnet schools). Task force members also pointed out that transportation services are never provided to all students in an LEA. Some students walk to school; others provide their own transportation. Task force members pointed out that the cost of transportation services would rise significantly if LEAs were required to provide transportation services to all students in an LEA.

### **LEA/Charter School Relationship to Teachers**

#### ***Variables that may affect teacher policies***

The following variables identified by task force members may affect charter school teacher policies.

- Health insurance
- Disciplinary action
- Retirement

Some task force members noted that the relationship between charter school teachers and the LEA is not well defined. Because charter school teachers are employees of the school rather than the LEA, the financial responsibility of the LEA in regard to health insurance and retirement is problematic. Task force members also pointed out that the authority of the LEA may not be well defined in regard to disciplinary action for a charter school teacher.

## **Conversion Charter Schools**

An eligible public school may convert to a public charter school pursuant to this chapter if the parents of sixty percent (60%) of the children enrolled at the school or sixty percent (60%) of the teachers assigned to the school agree and demonstrate support by signing a petition seeking conversion and the LEA agrees to the conversion. [T.C.A.49-13-106(b)(2)(A)]

A LEA may convert an eligible public school to a public charter school pursuant to subdivision (a)(1)(B). [T.C.A.49-13-106(b)(2)(B)]

A public school in Restructuring 2 — Alternative Governance under § [49-1-602](#)(g), at the option of the commissioner of education, may be converted to a public charter school. If the commissioner selects this option for the school, then during the fifth year of improvement status, the commissioner is authorized to solicit applications for the conversion of the school to a charter school. Applications for conversion of a school may be submitted to the commissioner of education by any entity that qualifies as a sponsor of a charter school under § [49-13-104](#) or by the LEA. If the commissioner, with the advice of the state board of education, approves an application for conversion of the school to a charter school, the school shall become a public charter school at the beginning of the school year following the fifth year of improvement status. If no charter application is submitted to the commissioner, the commissioner may direct the LEA to submit a charter application for conversion of the school, so that the school may commence operation as a charter school at the beginning of the school year following the fifth year of improvement status. Parents whose children are enrolled at the school shall have the option to enroll their children in another public school without penalty. [T.C.A.49-13-106(b)(2)(E)]

### ***Variables that may affect conversion policies***

The following variables identified by task force members may affect charter school conversion policies.

- LEA acting simultaneously as chartering agent and charter operator
- Funding through the LEA of different kinds of schools
- Teacher employment relationships in different kinds of schools

Some task force members noted that conversion charter schools will differ from non-conversion charter schools in their financial relationships with the LEA, particularly regarding facilities, transportation, and teachers.

Some task force members pointed out that charter school teachers are employed by the charter school, whereas traditional school teachers are employed by the LEA. It was unclear to task force members whether teachers in conversion charter schools would be employed by the LEA or by the conversion charter school. Charter school operators point to the direct employment of teachers as a significant factor for their operation.

### ***Policy Consideration: Specify the governance structure for conversion charter schools.***

Some task force members pointed out that the statute might need to be revised to clearly establish the governance structure for conversion charter schools.

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**OEA Note:** According to an Attorney General's opinion from September 2009, "the chartering authority and the governing body of a charter school must be separate entities. The Act certainly contemplates that they be separate entities."<sup>7</sup> The opinion specifies that "the chartering authority approves the application, controls funding, and decides whether to renew or revoke the charter agreement....The governing body operates the charter school in accordance with the charter agreement, is accountable to the chartering authority, and must make

periodic reports to the chartering authority regarding the progress of the mission of the school and financial information.”<sup>8</sup>

This is a change from the March 2009 Attorney General’s opinion on the same issue. That opinion concluded that “No such governing body is needed for a converted public school because it is operated by the LEA.”<sup>9</sup>

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## **Charter School Applications**

“The sponsor of a public charter school must file a public charter school application with the local board of education on or before October 1 of the year preceding the year in which the proposed public charter school plans to begin operation.” [T.C.A.49-13-106(b)(1)(A)]

### ***Issues that may affect charter school application policies***

The following issues identified by task force members may affect charter school application policies.

- Timing to accommodate school opening
- Multistage application process

### ***Policy Consideration: Allow LEAs to establish an earlier application deadline and specify that the LEA is required to conduct only 1 application period each year.***

Some task force members noted that with an earlier application deadline, approved schools would have more time to prepare to open. Additionally, approved schools could receive federal start-up grants earlier in the start-up process.

### ***Policy Consideration: Allow LEAs to establish a multistage application process.***

Some task force members noted that a multistage application process might be more efficient, both for LEAs and applicants. If LEAs were required or allowed to review a preliminary application, or the first part of a multistage application, subsequent stages of the application process might proceed more efficiently. Applicants could be apprised of strengths and weaknesses prior to compiling an entire application.

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**OEA Note:** In Massachusetts and the District of Columbia, charter school applicants follow a multistage process.<sup>10</sup> The multiple steps allow the chartering agency to identify weaker proposals before the applicant group and chartering agency have invested substantial time in the application.

#### **Massachusetts**

July: applicants submit a letter of intent

August: applicants submit a 20-page prospectus

September: applicants who meet the state’s criteria are invited to submit a final application

November: applicants submit final application

November through January: the chartering agency reviews the application, holds public hearings on the application, and conducts interviews with the applicant group and founding board of education.

February: the chartering authority votes on new charter schools

#### **District of Columbia**

March: applicants submit Phase I Applications (preliminary plan for the school)

April-May: chartering authority votes on applicants moving to Phase II

June: applicants submit Phase II Applications

September through October: chartering authority approves or denies applications

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“The local board of education shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application within sixty (60) days of receipt of the completed application. Should the local board of education fail to either approve or deny a charter application within the sixty (60) day time limit prescribed in this subdivision (1), the application shall be deemed approved.” [T.C.A.49-13-108(1)]

***Policy Consideration: If an LEA establishes an earlier application deadline, 1) allow the local board of education 120 days to approve or deny the charter application or 2) establish a date by which the local board of education must act on all charter applications.***

Lengthening the application review period would allow LEAs time to conduct more in-depth application reviews, to hold public hearings on the application, to conduct site visits, and to interview members of the applicant group and proposed governing body.

## **Charter Renewal**

“A public charter school renewal application shall contain a report of the school’s operations, including students’ standardized test scores, financial statements and performance audits of the nine (9) years preceding the date of the renewal application. The department of education shall develop guidelines that govern the charter renewal application process.” [T.C.A.49-13-121(c)]

### ***Variables that may affect charter renewal policies***

The following variables identified by task force members may affect charter renewal policies.

- Achievement as a guide for renewal requirements
- Tiered renewal process

Some task force members noted that the charter renewal process can be burdensome for both the charter school operators who must prepare renewal documents and for LEA staff who must review them. Some task force members suggested a tiered renewal process based on the performance of the charter school.

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**OEA Note:** The Department of Education is currently developing guidelines for a tiered renewal process.

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## **Charter Boards**

“‘Governing body’ means the organized group of persons who will operate a public charter school by deciding matters, including, but not limited to, budgeting, curriculum and other operating procedures for the public charter school and by overseeing management and administration of a public charter school. The membership of a charter school’s governing body shall include at least one (1) parent representative whose child is currently enrolled in the charter school.” [T.C.A.49-13-104(3)]

### ***Variables that may affect charter school board policies***

The following variables identified by task force members may affect charter school board policies.

- Relationship between LEA board and charter school board
- Conflicting authority of the LEA board and charter school board

Each charter school has an individual school board that serves as its governing body. Board responsibilities during the charter school’s first year include preparing the charter application, defining the mission, hiring the principal, helping choose curriculum, and securing a facility.

Once a school is operating, the board becomes more focused on the business aspects of the school, such as development and fundraising. Typical ongoing board responsibilities include:

- Fundraising, monitoring financial stability, and approving the budget
- Setting policy
- Coordinating volunteers and creating and maintaining partnerships
- Providing guidance to the principal and evaluating the principal
- Handling teacher appeals.

***Policy Consideration: Training for charter school board members.***

Some task force members noted that in some respects individual charter school boards function much like LEA boards (e.g., setting various teacher, student, and administrative policies, and interacting with parents and other members of the community). Some task force members suggested that the training which is made available and/or required for LEA board members be made available and/or required for charter school board members.

***Policy Consideration: Articulation of charter board authority and responsibility.***

Some task force members noted that the authority and responsibility of charter school boards is not as clearly articulated as the authority and responsibility of the LEA board.

## Endnotes

- 1 National Alliance for Public Charter Schools, *Charter School Achievement: What We Know*, 3rd edition, October 2006, p. 3.
- 2 Under Section 504 of the Rehabilitation Act, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. Some examples of impairments which may substantially limit major life activities include blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, drug addiction, heart disease, and mental illness.
- 3 The proposed charter school funding and enrollment rules were approved by the State Board of Education on January 28, 2010. Following review by the Attorney General and filing with the Secretary of State, the revised rules will become effective 105 days after publication in the Tennessee Administrative Register, absent a stay of the effective date by the Government Operations Committee.
- 4 National Association of State Directors of Special Education, *Special Education in Tennessee Public Charter Schools: A Primer*, prepared by the National Association of State Directors of Special Education (nasdse.org), with the assistance of Tennessee state and local education officials and public charter school leaders, 2006, page 6, [http://www.uscharterschools.org/cs/spedp/download/uscs\\_rs/2463/Tennessee\\_Primer.pdf](http://www.uscharterschools.org/cs/spedp/download/uscs_rs/2463/Tennessee_Primer.pdf) (accessed Jan. 14, 2010).
- 5 U.S. Department of Health and Human Services, Office for Civil Rights, "Your Rights Under Section 504 of the Rehabilitation Act," <http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf> (accessed Jan. 14, 2010).
- 6 National Association of State Directors of Special Education, *Special Education in Tennessee Public Charter Schools: A Primer*, p. 8.
- 7 Tennessee Attorney General, Opinion No. 09-159, September 2009, <http://www.tn.gov/attorneygeneral/op/2009/op/op159.pdf> (accessed Nov. 24, 2010).
- 8 Ibid.
- 9 Tennessee Attorney General, Opinion No. 09-39, March 2009, <http://www.tn.gov/attorneygeneral/op/2009/op/op39.pdf> (accessed Nov. 24, 2010).
- 10 Massachusetts Department of Elementary and Secondary Education, *Application for a Massachusetts Public Charter School, 2009-1010*, pp. 16-54, <http://www.doe.mass.edu/charter/app/full.pdf> (accessed Jan. 21, 2010). State Superintendent of Education, District of Columbia, "Resolution SR-06 06, Charter Application Process," November 2005, <http://www.seo.dc.gov/seo/frames.asp?doc=/seo/lib/seo/sboe/resolutions/2006/sr06-06.pdf> (accessed Jan. 21, 2010)



## Appendix A: Charter Schools Task Force Discussion Questions

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### Accountability, Compliance, and LEA Relations

- Communication between LEAs and charter schools' boards
- Charter school boards' accountability

#### 1) Definitions and Expectations

- How do school districts define charter public school and charter school board autonomy? What are the school districts' expectations of charter public school and charter school board autonomy?
- How do charter public schools define autonomy? What are the public charter schools' expectations of autonomy?
- How do school districts define charter public school and charter school board accountability? What are the school districts' expectations of charter public school and charter school board accountability?
- How do charter public schools define accountability? What are the charter public schools' expectations of accountability?
- How do school districts define charter public school and charter school board compliance? What are the school districts' expectations of charter public school and charter school board compliance?
- How do charter public schools define compliance? What are the charter public schools' expectations of compliance?
- Do any of these definitions or expectations need clarification to produce meaningful and enforceable charter agreements? If so, which ones?

#### 2) Collaboration

- What are some examples of district-led collaboration with charter public schools (teachers, administration, charter boards, students, parents)? Have these been effective?
- What are some examples of public charter school-led collaboration with school districts, traditional public schools, or other charter public schools? Have these been effective?
- How can school districts and charter public schools establish a mutually beneficial relationship and shared vision for public charter schools?

#### 3) Communication

- What are some examples of district-led communication with charter public schools (teachers, school administration, charter school boards, students, parents)? Have these been effective?
- What are some examples of public charter school-led communication with school districts, traditional public schools, or other charter public schools? Have these been effective?
- What is being done to educate districts throughout the state about charter public schools?

#### 4) Please identify any related statutory inconsistencies or technical issues within Tennessee Code Annotated 49-13.

- T.C.A. 49-13, Tennessee Public Charter Schools Act <http://michie.lexisnexis.com/tennessee/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=tncode/1aa22/1c925>
- 2009 charter school legislation <http://state.tn.us/sos/acts/106/pub/pc0555.pdf>

## **Finance**

- 1) State, Local, and Federal Funds
  - a. How does the amount of state and local funding of charter public schools compare to the amount of state and local funding of traditional public schools? Please specify differences.
  - b. How are BEP funds distributed to charter public schools? How does this process differ from the distribution of such funds to traditional public schools?
  - c. What federal funds are charter schools eligible to receive? What federal funds do charter schools receive?
  
- 2) School Budgets
  - a. How do employee salaries and benefits in charter public schools compare to those in traditional public schools?
  - b. How do charter public schools fund facility acquisition and capital projects?
  
- 3) Budget Process
  - a. What is the role of the charter public school/board, the school district (administration and Board), and the Tennessee Department of Education in charter school financial matters (school budgets, audits, etc.)?
  - b. How do charter public schools' end of year reporting procedures and reports (budget format, categories, and accounts) compare to those used by the school district and traditional public schools?
  
- 4) Please identify any related statutory inconsistencies or technical issues within Tennessee Code Annotated 49-13.
  - a. T.C.A. 49-13, Tennessee Public Charter Schools Act <http://michie.lexisnexis.com/tennessee/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=tncode/1aa22/1c925>
  - b. 2009 charter school legislation <http://state.tn.us/sos/acts/106/pub/pc0555.pdf>

## **Innovation**

- 1) Content
  - a. What constitutes “educational innovation?”
  - b. What makes an innovation a “promising practice?”
  - c. How does the accountability structure (possibility of charter revocation or nonrenewal) for charter schools influence innovation? Does it encourage or discourage innovation?
  - d. How does the authorization process for charter schools influence innovation? Does it encourage or discourage innovation?
  - e. How does the charter school start-up process influence innovation? Does it encourage or discourage innovation?
  
- 2) Responsibility and Structure
  - a. What is the role of the charter public school/board, the school district (administration and Board), and the Tennessee Department of Education in identification and dissemination of charter schools' best practices?
  - b. What role can university partnerships play in innovative efforts?

- c. How do charter innovations currently match with identified district needs?
  - d. How could a connection be fostered between the strategic planning and vision of the chartering agency (the school district) and charter public schools?
  - e. How can innovation be shared effectively and scaled throughout a district? What hinders traditional public schools or school districts from implementing charter public schools' innovations?
- 3) Capacity for and Cost of Innovation
- a. How does a school district or charter public school acquire/develop the human capital capacity (leaders, teachers, and communities) for innovation?
  - b. Which charter public school innovations cost money, and which do not? Which innovations require additional funds, and which can be implemented by reallocation of existing funds?
  - c. How does a school district or charter public school acquire the financial resources for innovation?
- 4) Please identify any related statutory inconsistencies or technical issues within Tennessee Code Annotated 49-13.
- a. T.C.A. 49-13, Tennessee Public Charter Schools Act <http://michie.lexisnexis.com/tennessee/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=tncode/1aa22/1c925>
  - b. 2009 charter school legislation <http://state.tn.us/sos/acts/106/pub/pc0555.pdf>

### **Logistical Support/Ancillary Needs and Services**

- Facilities acquisition and maintenance
- Transportation
- Food Service
- Technology (hardware, software)
- Exceptional education (transportation and support services)
- Administrative support (student/employee data management)

- 1) Please describe the relationship between charter public schools and school districts in the delivery of these services.
  - a. Which services are charter public schools eligible to receive from the school district? How do charter public schools request these services from the school district?
  - b. Which services do school districts provide charter public schools? How do school districts deliver these services to charter public schools?
  - c. What is the financial arrangement for these services? Are these services provided through a fee-for-service arrangement?
  - d. What are the expectations of school districts regarding the content and delivery of these services?
  - e. What are the expectations of public charter schools/boards regarding the content and delivery of these services?

- f. How can district-school communication improve regarding the availability of logistical support and ancillary services?
- 2) How does the content of these services differ between charter public schools and traditional public schools?

How does the delivery structure of these services differ between charter public schools and traditional public schools?

- 3) Please identify any related statutory inconsistencies or technical issues within Tennessee Code Annotated 49-13.
- a. T.C.A. 49-13, Tennessee Public Charter Schools Act <http://michie.lexisnexis.com/tennessee/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=tncode/1aa22/1c925>
  - b. 2009 charter school legislation <http://state.tn.us/sos/acts/106/pub/pc0555.pdf>

## Appendix B: Charter Schools Task Force Survey

Agree	Undecided	Disagree		Please explain.
			State, local, and federal funding adequately covers charter school operations.	
			Charter schools receive 100% of entitled state and local funds.	
			Charter schools receive state and local funds in a timely manner.	
			Charter schools receive 100% of entitled federal funds.	
			Charter schools receive federal funds in a timely manner.	
			Charter school and non-charter school employees receive the same employee benefits.	
			LEAs should set aside capital funding for charter schools.	
			LEAs should incorporate charter schools in their capital plans.	
			LEAs make surplus district school buildings available to charter schools.	
			LEAs should make surplus district school buildings available to charter schools.	
			The transportation funding mechanism adequately serves charter schools.	
			The food service mechanism adequately serves charter schools.	
			The facility maintenance mechanism adequately serves charter schools.	
			Charter schools provide adequate special education services.	
			Charter schools have sufficient autonomy.	
			Charter schools are using innovative education practices.	
			Charter schools currently address identified school district needs.	
			Charters schools carry out the education plans contained in their applications.	
			Charter school practices are being disseminated to non-charter schools.	
			LEA strategic planning contains charter public schools.	
			LEA strategic planning should contain charter public schools.	
			Charter schools initiate communication/collaboration with non-charter schools.	
			Non-charter schools initiate communication/collaboration with charter schools.	
			Education innovation requires additional funds.	
			Education innovation can be implemented by reallocating existing funds.	

Are changes necessary in this charter school policy area?		Please indicate the level(s) at which the issue needs to be addressed.					
Yes	No	Charter School Policy Area	Charter School	School District	State Board of Education (Rules and Regulations)	Tennessee Department of Education	General Assembly (State Law)
		Transportation					
		Facilities					
		Food service					
		Special Education					
		Funding					
		Employee salaries					
		Employee benefits					
		School autonomy					
		School accountability					
		Application process					
		Start-up process					
		Renewal process					
		School authorizers					
		School sponsors					
		Identification of best practices					
		Dissemination of best practices					
		School district relations					
		Authority of charter school boards					
		Role of charter school boards					
		Reporting requirements					
		Budgeting requirements					
		Conversion charter schools					
		Other: (please insert)					

**Tennessee Public Charter Schools Act**

In the space below, please identify any statutory inconsistencies or technical issues within the Tennessee Public Charter Schools Act. Which specific sections of the law need amended? Even if you are not sure of the exact code reference, please describe any policy areas that need to be addressed within the Tennessee Public Charter Schools Act.

Please refer to: 1) T.C.A. 49-13, Tennessee Public Charter Schools Act, <http://michie.lexisnexis.com/tennessee/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=tncode/1aa22/1c925> (click on the folder by "Title 49 Education," then the folder by "Chapter 13"), and 2) 2009 charter school legislation, <http://state.tn.us/sos/acts/106/pub/pc0555.pdf>.



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