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Tenn. Code Ann. § 49-13-106**Copy Citation**

Current through 2017 Regular Session (Chapter 493).

[Tennessee Code Annotated](#) [Title 49 Education](#) [Chapter 13 Tennessee Public Charter Schools Act of 2002](#)**49-13-106. Creation or conversion of charter schools.****(a)**

(1) Public charter schools may be formed to provide quality educational options for all students residing within the jurisdiction of the chartering authority; provided, however, that a chartering authority may authorize charters to enroll students residing outside the LEA in which the public charter school is located pursuant to the LEA out-of-district enrollment policy and in compliance with §§ 49-6-3003 and 49-6-403(f).

(2)

(A) The achievement school district may authorize charter schools within the jurisdiction of the LEA for the purpose of providing opportunities for students within the LEA who are zoned to attend or enrolled in a school that is eligible to be placed in the achievement school district. For the purposes of this subdivision (a)(2), students shall not be considered "zoned" for a school that is open to all students within the LEA unless they are assigned to the school based on the LEA's geographic zoning policies.

(B) If the achievement school district (ASD) authorizes a charter school under § 49-1-614, the ASD shall receive an annual authorizer fee of up to three percent (3%) of the charter school's per student state and local funding as allocated under § 49-13-112(a). By May 1 of each year, the commissioner shall set the percentage of a charter school's per student state and local funding that the ASD shall receive as the annual authorizer fee for the next school year.

(3)

(A) Charter schools authorized by the achievement school district shall conduct an initial student application period of at least thirty (30) days. During this period, all students zoned to attend or currently enrolled in a school that is eligible to be placed in the achievement school district may enroll. If, at the end of the initial student enrollment period, the number of eligible students seeking to be enrolled does not exceed the school's capacity or the capacity of a program, class, grade level, or building, then the charter school may enroll the child or children of a teacher, staff member, sponsor, member of the governing body, or siblings of students already enrolled in the public charter school as well as students identified in subdivisions (b)(1)(C)(ii), (iii), and (iv) and in accordance with enrollment provisions contained in the charter agreement; provided, however, that no school's total enrollment of such students shall exceed twenty-five percent (25%) of the total school enrollment.

(B) Upon acquiring sufficient data to achieve a student achievement growth score as represented by the Tennessee Value-Added Assessment System (TVAAS), a charter school authorized by the ASD may not enroll additional students identified in subdivisions (b)(1)(C)(ii), (iii), and (iv) as permitted in subdivision (a)(3)(A) unless the school demonstrates student achievement growth at a level of "at expectations" or above. This restriction shall not affect students previously enrolled pursuant to subdivision (a)(3)(A).

(b) A public charter school may be formed by creating a new school or converting a school to charter status pursuant to this chapter.

(1) Newly created public charter schools:

(A) The sponsor of a public charter school must file a public charter school application with the chartering authority on or before April 1 of the year preceding the year in which the proposed public charter school plans to begin operation;

(B) Upon approval of a charter application, the sponsor shall authorize a governing body to operate the public charter school. A public charter school shall be operated by a not-for-profit organization with exemption from federal taxation under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)). No charter shall be granted to a for-profit corporation;

(C) In reviewing applications for newly created charter schools, the chartering authority, if an LEA, shall give preference to, and, if the achievement school district, shall exclusively accept, applications that demonstrate the capability to meet the needs of the following groups of students:

(i) Students who are assigned to, or were previously enrolled in, a school identified as a priority school, as defined by the state's accountability system;

(ii) Students who, in the previous school year, failed to test proficient in the subjects of reading/language arts or mathematics in grades three through eight (3-8) on the Tennessee comprehensive assessment program examinations;

(iii) Students who, in the previous school year, failed to test proficient in the subjects of reading/language arts or mathematics on the end of course assessments in grades nine through twelve (9-12); or



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(D) [Deleted by 2017 amendment.]

(E) Preference for applications with the focus of serving students from a group or groups set forth in subdivision (b)(1)(C) shall not reduce the score of applications that demonstrate other strengths or focuses.

(2) Conversion of schools to charter status:

(A) A 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. The percentage of parents signing a petition shall be calculated on the basis of one (1) vote for each child enrolled in the school. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty;

(B)

(i) An LEA may convert a school to a public charter school. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty. An LEA's decision on whether to convert a school may not be appealed to the state board of education;

(ii) Conversion of a public school to a public charter school at the request of the local board of education:

(a) Upon a local board's review of a charter school application, the local board may request that the sponsor amend the application to provide for the conversion of an existing public school;

(b) If the sponsor declines the request of the local board, then the local board shall proceed with the review of the application under § 49-13-108;

(C)

(i) The conversion must occur at the beginning of an academic school year and shall be subject to compliance with this chapter; and

(ii) At the time of conversion to a charter school, any teacher or administrator in the charter school shall be allowed to transfer into vacant positions for which they are certified in other schools in the school system prior to the hiring of new personnel for those positions. Personnel who transfer into vacant positions in other schools in the school system shall suffer no impairment, interruption or diminution of the rights and privileges of a then existing teacher or administrator, and the rights and privileges shall continue without impairment, interruption or diminution with the local board of education. "Rights and privileges," as used in this subdivision (b)(2)(C)(ii), include, but are not limited to, salary, pension or retirement benefits, sick leave accumulation, tenure, seniority and contract rights with the local board of education. The director of schools shall have the option to specifically assign these teachers or administrators to those vacant positions;

(3) Conversion of a school to a charter school by a charter school sponsor:

(A) A charter school sponsor may apply to an LEA to convert an existing public school to a charter school to serve the students zoned to the school. A charter school sponsor shall submit its application to the LEA and the LEA shall act on the application within the time frames set under §§ 49-13-107 and 49-13-108;

(B) [Deleted by 2017 amendment.]

(C) The conversion shall occur at the beginning of an academic school year and shall be subject to compliance with this chapter;

(D) If the application to convert an existing public school to a charter school is approved, then the charter school shall occupy the existing public school's facility;

(E)

(i) If the application to convert an existing public school to a charter school is approved, then any teacher or administrator in the school converted to a charter school may be allowed to transfer into vacant positions for which they are certified in other schools in the LEA. Personnel who transfer into vacant positions in other schools in the LEA shall suffer no impairment, interruption or diminution of the rights and privileges of a then existing teacher or administrator, and the rights and privileges shall continue without impairment, interruption or diminution with the local board of education;

(ii) "Rights and privileges," as used in this subdivision (b)(3)(E), include, but are not limited to, salary, pension or retirement benefits, sick leave accumulation and tenure with the local board of education. The director of schools shall have the option to specifically assign these teachers or administrators to those vacant positions;

(F) If the LEA denies the application, the LEA's decision is final and no appeal of the denial may be made.

(c)

(1) No charter agreement shall be granted under this chapter that authorizes the conversion of any private, parochial, cyber-based or home-based school to charter status.

(2) No cyber-based public charter school may be authorized.

(d) Nothing in this chapter shall be construed to prohibit any individual or organization from providing funding or other assistance to the establishment or operation of a public charter school, but the funding or assistance shall not entitle the individual or organization to any ownership interest in the school other than a security interest for repayment of a loan or mortgage. The funding or assistance shall be disclosed as provided in § 49-13-107.



History

Acts 2002, ch. 850, § 6; 2005, ch. 414, §§ 2-5; 2008, ch. 888, § 5; 2008, ch. 1133, §§ 1, 4; 2009, ch. 262, § 6; 2009, ch. 555, §§ 2, 3, 5, 6, 14, 18; 2011, ch. 466, §§ 2-6; 2011, ch. 507, § 3; 2012, ch. 962, § 3; 2012, ch. 1021, § 2; 2012, ch. 1097, § 1; 2013, ch. 326, §§ 2, 3, 13, 14; 2014, ch. 850, § 4; 2015, ch. 507, §§ 1, 2; 2017, ch. 307, §§ 4, 5.

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