

# TENNESSEE STATE BOARD OF EDUCATION

## QUALITY CHARTER AUTHORIZING STANDARDS

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### POLICY SECTIONS

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#### **1. Purpose**

These quality charter authorizing standards are adopted pursuant to the Tennessee High Quality Charter Schools Act.<sup>1</sup> Passed in 2017, this Act amended T.C.A. § 49-13-108 to require chartering authorities to adopt policies and practices for quality charter school authorizing standards as approved by the State Board of Education. These authorizing standards consist of the principles and standards outlined below and are based on the National Association of Charter School Authorizers Principles and Standards for Quality Charter School Authorizing. The principles represent the overarching values that authorizers should be guided by in all aspects of their work. The standards are essential practices that should govern the day-to-day operation of charter authorizers in the state.

Chartering authorities shall provide annual assurance of their adoption of these quality charter authorizing standards (inclusive of the principles and standards outlined below) as part of their submission of the annual authorizing report to the Department of Education as required by T.C.A. § 49-13-120.

#### **2. Quality Charter Authorizing Principles**

##### **Principle 1. Maintain High Standards**

A quality authorizer:

- a. Sets high but attainable standards for approving charter applicants.
- b. Maintains high standards for the schools it oversees.
- c. Effectively cultivates quality charter schools that meet identified educational needs.
- d. Oversees charter schools that, over time, meet the performance standards and targets on a range of measures and metrics set forth in their charter agreement.
- e. Closes schools that fail to meet standards and targets set forth in law and by the charter agreement, in accordance with state law.

##### **Principle 2. Uphold School Autonomy**

A quality authorizer:

- a. Honors and preserves core autonomies crucial to school success including:
  - i. Governing board independence from the authorizer;
  - ii. Personnel;

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<sup>1</sup> Public Acts of 2017, Chapter No. 307

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- iii. School vision and culture;
- iv. Instructional programming, design, and use of time; and
- v. Budgeting.
- b. Does not assume direct responsibility for the success or failure of individual schools but holds schools accountable for their performance.
- c. Minimizes administrative burdens on schools.
- d. Focuses on holding schools accountable for outcomes rather than processes.

### **Principle 3. Protect Student and Public Interests**

A quality authorizer:

- a. Makes the well-being and interests of students the fundamental value informing all the authorizer's actions and decisions.
- b. Holds schools accountable for fulfilling fundamental public education obligations to all students, which includes providing:
  - i. Nonselective, nondiscriminatory access to all eligible students;
  - ii. Fair treatment in admissions and disciplinary actions for all students; and
  - iii. Appropriate services for all students, including those with disabilities and English learners, in accordance with applicable law.
- c. Holds schools accountable for fulfilling fundamental obligations to the public, which includes providing:
  - i. Sound governance, management, and stewardship of public funds; and
  - ii. Public information and operational transparency in accordance with law.
- d. Ensures in its own work:
  - i. Ethical conduct;
  - ii. Focus on the mission of chartering high-quality schools;
  - iii. Clarity, consistency, and public transparency in authorizing policies, practices, and decisions;
  - iv. Effective and efficient public stewardship; and
  - v. Compliance with applicable laws and regulations.
- e. Supports parents and students in being informed about the quality of education provided by charter schools.

## **3. Quality Charter Authorizing Standards**

### **Standard 1. Agency Commitment and Capacity**

A quality authorizer engages in chartering as a means to foster excellent schools that meet student needs, clearly prioritizes a commitment to excellence in education and in authorizing practices, and creates organizational structures and commits human and financial resources necessary to conduct its authorizing duties effectively and efficiently.

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a. Planning and commitment to excellence.

A quality authorizer:

- i. Supports and advances the purposes of charter school law.
- ii. Ensures that the authorizer's local board of education or authorizing board, leadership, and staff understand and are committed to the quality charter authorizing principles and standards and developing as authorizing professionals.
- iii. Defines external relationships and lines of authority to protect its authorizing functions from conflicts of interest and political influence.
- iv. Implements policies, processes, and practices that streamline and systematize its work toward stated goals, and executes its duties efficiently while minimizing administrative burdens on schools.
- v. Evaluates its work regularly against national and state standards for quality authorizing and recognized effective practices, and develops and implements timely plans for improvement when necessary.
- vi. States a clear mission for quality authorizing.

b. Human resources.

A quality authorizer:

- i. Through intra- or inter-agency collaborations, contractual relationships and/or staff, enlists expertise and competent leadership for all areas essential to charter school oversight—including, but not limited to, education leadership; instruction; assessment; local community needs; special education, English learners, and other diverse learning needs; performance management and accountability; law; finance; facilities; and nonprofit governance and management.
- ii. Employs competent personnel at a staffing level appropriate and sufficient to carry out all authorizing responsibilities in accordance with national and state standards, and commensurate with the scale of the charter school portfolio.
- iii. Provides for regular professional development for the agency's leadership, staff, and local board of education or authorizing board to achieve and maintain high standards of professional authorizing practice and to enable continual agency improvement.

c. Financial resources.

A quality authorizer:

- i. Determines the financial needs of the authorizing office and devotes financial resources to fulfill its authorizing responsibilities in accordance with national and state standards, commensurate with the scale of the charter school portfolio, and in accordance with Tennessee statute, including all relevant requirements for use of the authorizer fee.
- ii. Structures its funding in a manner that avoids conflicts of interest, inducements, incentives, or disincentives that might compromise its judgment in charter approval and accountability decision making
- iii. Deploys funds effectively, transparently, and efficiently with the public and student interests in mind.
- iv. Annually reports the authorizing obligations fulfilled using the authorizer fee in accordance with state law.

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**Standard 2. Application Process and Decision Making**

A quality authorizer implements a comprehensive application process that includes clear application questions and guidance; follows fair, transparent procedures and rigorous criteria; and grants charters only to applicants who demonstrate strong capacity to establish and operate a quality charter school.

a. Proposal information, questions, and guidance.

A quality authorizer:

- i. Issues a charter application information packet or request for proposals (RFP) that:
  - a) States any chartering priorities the authorizer may have established;
  - b) Articulates comprehensive application questions to elicit the information needed for rigorous evaluation of applicants' plans and capacities; and
  - c) Provides clear guidance and requirements regarding application content and format, while explaining evaluation criteria.
- ii. Welcomes proposals from first-time charter applicants as well as existing school operators/replicators, while appropriately distinguishing between the two kinds of applicants in proposal requirements and evaluation criteria.
- iii. Encourages expansion and replication of charter schools that demonstrate academic success, financial viability, organizational health, and capacity for growth.
- iv. Is open to considering diverse educational philosophies and approaches, and expresses a commitment to serve students with diverse needs.

b. Fair, transparent, quality-focused procedures.

A quality authorizer:

- i. Implements a charter application process that is open, well-publicized, and transparent, and is organized around clear, realistic timelines.
- ii. Allows sufficient time for each stage of the application and school pre-opening process to be carried out with quality and integrity.
- iii. Explains how each stage of the application process is conducted and evaluated.
- iv. Communicates the education needs of the district, the charter authorizing processes, approval criteria, and decisions clearly to the public.
- v. Informs applicants of their rights and responsibilities and promptly notifies applicants of approval or denial, while explaining the factors that determined the decision.

c. Rigorous approval criteria.

A quality authorizer:

- i. Requires all applicants to present a clear and compelling mission, a quality educational program, a demonstration of community support, a solvent and sustainable budget and contingency financial plans, a clear demonstration of the effectiveness of the model for the target student population, effective governance and management structures and systems, founding team members demonstrating diverse and necessary capabilities in all phases of the school's development, and clear evidence of the applicant's capacity to execute its plan successfully.

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- ii. Establishes distinct requirements and criteria for applicants who are existing school operators or replicators. (See Paragraph e., Elements for existing school operators or replicators.)
  - iii. Establishes distinct requirements and criteria for applicants proposing to contract with educational service providers (ESPs), including charter management organizations. (See Paragraph f., Elements for applicants proposing to contract with educational service providers.)
- d. Rigorous decision making.  
A quality authorizer:
- i. Grants charters only to applicants that have demonstrated competence and capacity to succeed in all aspects of their particular school model, consistent with the stated approval criteria.
  - ii. Rigorously evaluates each application through thorough review of the written proposal, a substantive in-person interview with each qualified applicant, and all appropriate due diligence to examine the applicant's experience and capacity, conducted by knowledgeable and competent evaluators.
  - iii. Engages, for both written application reviews and applicant interviews, highly competent teams of internal and external evaluators with relevant educational, organizational (governance and management), financial, and legal expertise, as well as thorough understanding of the essential principles of charter school autonomy and accountability.
  - iv. Provides orientation or training to application evaluators (including interviewers) to ensure consistent evaluation standards and practices, the elimination of real or perceived conflicts of interest, the observance of essential protocols, and the fair treatment of applicants.
  - v. Ensures that the application-review process and decision making are free of conflicts of interest, and requires full disclosure of any potential or perceived conflicts of interest between reviewers or decision makers and applicants.
- e. Elements for existing school operators or replicators (if applicable).  
A quality authorizer will require applicants who are existing school operators or replicators to:
- i. Provide clear evidence of their capacity to operate new schools successfully while maintaining quality in existing schools;
  - ii. Document their educational, organizational, and financial performance records based on all existing schools;
  - iii. Explain any never-opened, terminated, or non-renewed schools (including terminated or non-renewed third-party contracts to operate schools);
  - iv. Present their growth plan, business plan, and most recent financial audits;
  - v. Meet high standards of academic, organizational, and financial success to earn approval for replication; and
  - vi. Document any current or past litigation and the resolution of such litigation.

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- f. Elements for applicants proposing to contract with educational service providers, including charter management organizations (if applicable).

A quality authorizer will require applicants proposing to contract with educational service providers (ESPs) to provide:

- i. Evidence of the service provider’s educational and management success;
- ii. A description of the process for selecting the ESP;
- iii. A draft (or existing) service/management contract that sets forth proposed key terms, including roles and responsibilities of the school governing board, the school staff, and the service provider; the services and resources to be provided; performance-evaluation measures and mechanisms; detailed explanation of compensation to be paid to the provider; financial controls and oversight; investment disclosure; methods of contract oversight and enforcement; and conditions for contract renewal and termination; and
- iv. Disclosure and explanation of any existing or potential conflicts of interest between the school governing board and proposed service provider or any affiliated business entities.

### **Standard 3. Performance Contracting**

A quality authorizer executes a charter agreement with charter schools that articulates the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms. The charter agreement is an essential document, separate from the charter application,<sup>2</sup> that establishes the legally binding agreement and terms under which the school will operate and be held accountable.

- a. Charter agreement term, negotiation, and execution.

A quality authorizer:

- i. Executes a charter agreement with a legally incorporated governing board independent of the authorizer.
- ii. Grants charter agreements for an initial term of ten operating years with a high-stakes review every five years, in addition to annual performance reports.
- iii. Defines material and non-material terms of the charter agreement.
- iv. Ensures mutual understanding and acceptance of the terms of the charter agreement by the school’s governing board.
- v. Allows—and requires charter agreement amendments for—occasional material changes to a school’s plans, but does not require amending the charter agreement for non-material modifications.

- b. Rights and responsibilities.

A quality authorizer:

- i. Executes charter agreements that clearly:
  - a) State the rights and responsibilities of the school and the authorizer;

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<sup>2</sup> In order to align with national best practice, this standard calls for a charter agreement separate from the approved charter application. However, a LEA cannot require a charter school to sign a separate charter agreement from the application (See Op. Atty. Gen. No. 10-45 (April 9, 2010)).

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- b) State and respect the autonomies to which schools are entitled—based on statute, waiver, or authorizer policy—including those relating to the school’s authority over educational programming, staffing, budgeting, and scheduling;
  - c) Define performance standards, criteria, and conditions for renewal, intervention, revocation, and non-renewal, while establishing the consequences for meeting or not meeting standards or conditions;
  - d) State the statutory, regulatory, and procedural terms and conditions for the school’s operation;
  - e) State reasonable pre-opening requirements or conditions for new schools to ensure that they meet all health, safety, and other legal requirements prior to opening and are prepared to open smoothly;
  - f) State the responsibility and commitment of the school to adhere to essential public-education obligations, including admitting and serving all eligible students so long as space is available, and not expelling or counseling out students except pursuant to a legal discipline policy approved by the authorizer; and
  - g) State the responsibilities of the school and the authorizer in the event of school closures.
- ii. Ensures that any fee-based services that the authorizer provides are set forth in a services agreement that respects charter school autonomy and treats the charter school equitably compared to district schools, if applicable; and ensures that purchasing such services is explicitly not a condition of charter approval, continuation, or renewal.
- c. Performance standards.  
A quality authorizer:
- i. Executes charter agreements that plainly:
    - a) Establish the performance standards under which schools will be evaluated, using objective and verifiable measures of student achievement as the primary measure of school quality, in accordance with state law;
    - b) Define clear, measurable, and attainable academic, financial, and organizational performance standards and targets that the school must meet as a condition of renewal, including but not limited to state and federal measures; (See Paragraph ii., Performance standards detailed information.)
    - c) Include expectations for appropriate access, education, support services, and outcomes for students with disabilities;
    - d) Define the sources of academic data that will form the evidence base for ongoing and renewal evaluation, including state-mandated and other standardized assessments, student academic growth measures, internal assessments, qualitative reviews, and performance comparisons with other public schools in the district and state;
    - e) Define the sources of financial data that will form the evidence base for ongoing and renewal evaluation, grounded in professional standards for sound financial operations and sustainability;

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- f) Define the sources of organizational data that will form the evidence base for ongoing and renewal evaluation, focusing on fulfillment of legal obligations, fiduciary duties, and sound public stewardship; and
  - g) Include clear, measurable performance standards to judge the effectiveness of alternative model schools, as defined by state law—requiring and appropriately weighting rigorous mission-specific performance measures and metrics that credibly demonstrate each school’s success in fulfilling its mission and serving its special population.
- ii. Performance standards detailed information.  
Performance standards enable schools and authorizers to know the outcomes for which authorizers will hold schools accountable. They are the basis for school evaluation and should be incorporated in the charter agreement, commonly as an attachment. Academic, financial, and organizational performance standards should include clearly defined and measurable indicators, measures, metrics, and targets that:
- a) Academic Performance
    1. Set expectations for student academic achievement status or proficiency, including comparative proficiency;
    2. Set expectations for student academic growth, including adequacy of growth toward state standards;
    3. Incorporate state and federal accountability systems, including state grading and/or rating systems;
    4. Set expectations for postsecondary readiness, including graduation rates (for high schools); and
    5. Provide schools an option to incorporate mission-specific performance measures for which the school has presented valid, reliable, and rigorous means of assessment approved by the authorizer.
  - b) Financial Performance
    1. Enable the authorizer to monitor and evaluate the school’s financial stability and viability based on short-term performance; and
    2. Enable the authorizer to monitor and evaluate the school’s long-term financial sustainability.
  - c) Organizational Performance
    1. Define the essential elements of the educational program for which the authorizer will hold the school accountable;
    2. Define financial management and oversight standards based on generally accepted accounting principles;
    3. Hold school governing boards accountable for meeting statutory and board-established operating and reporting requirements;
    4. Ensure school compliance with student and employee rights and obligations; and
    5. Establish expectations related to the school environment, including health and safety, transportation, facilities, and appropriate handling of records.



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d. Provisions for educational service provider (ESP) contracts (if applicable).

A quality authorizer:

- i. Includes, for any school that contracts with an ESP provider for the management of its educational program, finances, or school operations, additional contractual provisions that ensure rigorous, independent contract oversight by the school governing board and the school's financial independence from the external provider.<sup>3</sup> (See Paragraph e., ESP contracts additional provisions.)
- ii. Reviews the proposed ESP contract with the school governing board as a part of application review to ensure that it is consistent with applicable law, authorizer policy, and the public interest.

e. ESP contracts additional provisions.

Charter agreements for schools that are contracting with educational service providers (ESPs), including charter management organizations, for comprehensive services or management should include additional provisions that:

- i. Clearly establish the primacy of the charter agreement over the ESP contract;
- ii. Clearly identify the school governing board as the party ultimately responsible for the success or failure of the school, and clearly define the ESP as a vendor of services;
- iii. Prohibit the third party from selecting, approving, employing, compensating, or serving as school governing board members;
- iv. Provide for sufficient transparency around the spending of public monies; and
- v. Require all instructional materials, furnishings, and equipment purchased or developed with public funds to be the property of the school, not the ESP, in compliance with state law.
- vi. Contracts between the ESP and the school governing board should articulate:
  - a) The roles and responsibilities of the school governing board and the service provider, including all services to be provided under the contract;
  - b) The performance measures, consequences, and mechanisms by which the school governing board will hold the provider accountable for performance, aligned with the performance measures in the charter agreement;
  - c) All compensation to be paid to the provider, including all fees, bonuses, and what such compensation includes or requires;
  - d) Terms of any facility agreement that may be part of the relationship;
  - e) Financial reporting requirements and provisions for the school governing board's financial oversight;
  - f) All other financial terms of the contract, including disclosure and documentation of all loans or investments by the provider to the school, and provision for the disposition of assets in accordance with law;
  - g) Assurances that the school governing board, at all times, maintains independent fiduciary oversight and authority over the school budget and ultimate responsibility for the school's performance;
  - h) Provisions for contract termination; and

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<sup>3</sup> The standard does not apply to contracts with third-party vendors that do not have substantial responsibility for education, operational, and financial operations such as for payroll, textbooks, curriculum, etc.

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- i) Respective responsibilities of the governing board and service provider in the event of school closure, including transparency in the school's revenues and expenditures, as well as those managed by the ESP.

**Standard 4. Ongoing Oversight and Evaluation**

A quality authorizer conducts contract oversight that: competently evaluates performance and monitors compliance; ensures schools' legally entitled autonomy; protects student rights; informs intervention, revocation, and renewal decisions; and provides annual public reports on school performance.

a) Performance evaluation and compliance monitoring.

A quality authorizer:

- i. Implements a comprehensive performance accountability and compliance monitoring system that is defined by the charter agreement and provides the information necessary to make rigorous and standards-based renewal, revocation, and intervention decisions.
- ii. Defines and communicates to schools the process, methods, and timing of gathering and reporting school performance and compliance data.
- iii. Implements an accountability system that effectively streamlines federal, state, and local performance expectations and compliance requirements while protecting schools' legally entitled autonomy and minimizing schools' administrative and reporting burdens.
- iv. Provides clear technical guidance to schools as needed to ensure timely compliance with applicable rules and regulations.
- v. Visits each school as appropriate and necessary for collecting data that cannot be obtained otherwise and in accordance with the contract, while ensuring that the frequency, purposes, and methods of such visits respect school autonomy, minimize administrative burdens, and avoid operational interference.
- vi. Evaluates each school annually on its performance and progress toward meeting the standards and targets stated in the charter agreement, including essential compliance requirements, and clearly communicates evaluation results to the school's governing board and leadership.
- vii. Requires and reviews annual financial audits of schools, conducted by a qualified independent auditor.
- viii. Communicates regularly with schools as needed, including both the school leaders and governing boards, and provides timely notice of contract violations or performance deficiencies.
- ix. Provides an annual written report to each school, summarizing its performance and compliance to date and identifying areas of strength and areas needing improvement.
- x. Articulates and enforces stated consequences for failing to meet performance expectations or compliance requirements.

b) Respecting school autonomy.

A quality authorizer:

- i. Respects the school's authority over its day-to-day operations.

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- ii. Collects information from the school in a manner that minimizes administrative burdens on the school, while ensuring that performance and compliance information is collected with sufficient detail and timeliness to protect student and public interests.
  - iii. Periodically reviews compliance requirements and evaluates the potential to increase school autonomy based on flexibility in the law, streamlining requirements, demonstrated school performance, or other considerations.
  - iv. Refrains from directing or participating in educational decisions or choices that are appropriately within a school's purview under the charter law or contract.
- c) Protecting student rights.  
A quality authorizer:
- i. Ensures that schools admit students through a random selection process that is open to all students, is publicly verifiable, and does not establish undue barriers to application (such as mandatory information meetings, mandated volunteer service, or parent contracts) that exclude students as provided by federal, state, and local law.
  - ii. Ensures that schools provide access and services to all students as required by applicable federal and state law, including, but not limited to, students with disabilities, English learners, homeless students, students in foster care, migrant students, and gifted students.
  - iii. Ensures clarity in the roles and responsibilities of all parties involved in serving students with disabilities.
  - iv. Ensures that schools' student discipline policies and actions are legal, fair, and equitable and that no student is expelled or counseled out of a school outside of that process, and that schools have a clear process for addressing parent/ community grievances.
- d) School Intervention.  
A quality authorizer:
- i. Establishes and clearly communicates to schools at the outset an intervention and problem-solving policy that states the general conditions that may trigger intervention and the types of actions and consequences that may ensue.
  - ii. Gives schools clear, adequate, evidence-based, and timely notice of contract violations or performance deficiencies.
  - iii. Allows schools reasonable time and opportunity for remediation in non-emergency situations.
  - iv. Where intervention is needed, engages in intervention strategies that clearly preserve school autonomy and responsibility (identifying what the school must remedy without prescribing solutions) while clearly stating possible consequences for noncompliance.
- e) Public reporting.  
A quality authorizer:
- i. Produces an annual public report that provides clear, accurate performance data for the charter schools it oversees and reports on individual school and overall portfolio performance according to the framework set forth in the charter agreement in accordance with State law.

**Standard 5. Revocation and Renewal Decision Making**

A quality authorizer designs and implements a transparent and rigorous process that uses comprehensive academic, financial, and operational performance data to make merit-based renewal decisions and revokes charters when necessary to protect student and public interests.

a) Revocation.

A quality authorizer:

- i. Revokes a charter during the charter term if there is clear evidence of extreme underperformance or violation of law or the public trust that imperils students or public funds, in accordance with state law.

b) Renewal decisions based on merit and inclusive evidence.

A quality authorizer:

- i. Bases the renewal process and renewal decisions on thorough analyses of a comprehensive body of objective evidence defined by the performance framework in the charter agreement.
- ii. Grants renewal only to schools that have achieved the standards and targets stated in the charter agreement, are organizationally and fiscally viable, and have been faithful to the terms of the contract and applicable law.
- iii. Does not make renewal decisions on the basis of political or community pressure or solely on promises of future improvement.

c) Cumulative report and renewal application.

A quality authorizer:

- i. Provides to each school, in advance of the renewal decision, a cumulative performance report that:
  - a) Summarizes the school's performance record over the charter term; and
  - b) States the authorizer's summative findings concerning the school's performance and its prospects for renewal.
- ii. Requires any school seeking renewal to apply for it through a renewal application, which provides the school a meaningful opportunity and reasonable time to respond to the cumulative report; to correct the record, if needed; and to present additional evidence regarding its performance.

d) Fair, transparent process.

A quality authorizer:

- i. Clearly communicates to schools the criteria for charter revocation, renewal, and non-renewal decisions that are consistent with the charter agreement, including any policy changes thereto.
- ii. Promptly notifies each school of its renewal (or, if applicable, revocation) decision, including written explanation of the reasons for the decision.
- iii. Promptly communicates renewal or revocation decisions to the school community and public within a time frame that allows parents and students to exercise choices for the upcoming school year.

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- iv. Explains in writing any available rights of legal or administrative appeal through which a school may challenge the authorizer's decision, including appeal to the State Board of Education.
  - v. Regularly updates and publishes the process for renewal decision making, including guidance regarding required content and format for renewal applications.
- e) Closure.  
A quality authorizer:
- i. In the event of a school closure, oversees and works with the school governing board and leadership in carrying out a detailed closure protocol that ensures timely notification to parents; orderly transition of students and student records to new schools; and disposition of school funds, property, and assets in accordance with law.

### **Standard 6. Advanced Standards (Optional)**

The National Association of Charter School Authorizers identifies advanced standards for authorizing. Chartering authorities in Tennessee are not required to adopt these advanced standards to be in compliance with T.C.A. § 49-13-108. However, chartering authorities may want to consider implementing these standards if they are already successfully implementing the required standards identified in this policy.

A quality authorizer:

- a) Articulates and implements an intentional strategic vision and plan for chartering, including clear priorities, goals, and time frames for achievement.
- b) Evaluates its work regularly against its chartering mission and strategic plan goals, and implements plans for improvement when falling short of its mission and strategic plan.
- c) Provides an annual public report on the authorizer's program and performance in meeting its strategic plan goals.
- d) Broadly invites and solicits charter applications while publicizing the authorizer's strategic vision and chartering priorities, without restricting or refusing to review applications that propose to fulfill other goals.

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