

---

## Charter School Appeal

---

### **The Background:**

Pursuant to Tenn. Code Ann. § 49-13-108, newly-formed charter schools may appeal denial by a local board of education (the authorizer) to the State Board of Education.

Within 60 days of an appeal, the State Board hears the appeal at a public meeting before the Board or a designated representative in the school district in which the charter school sponsor applied for a charter. At that hearing, the Board or its representative reviews the decision of the local board and makes findings. “If the state board finds that the local board’s decision was contrary to the best interests of the pupils, school district or community, the state board shall remand such decision to the local board of education with written instructions for approval of the charter. The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.” Tenn. Code Ann. § 49-13-108(3).

On November 29, a hearing was held in Maryville to consider the appeals of the Hope Academy sponsors of the denial of their amended application by the Blount County Schools Board. The appeals were heard by the Executive Director of the State Board of Education.

### **The Master Plan Connection:**

By authorizing and monitoring public charter schools, school districts can model the effectiveness of greater accountability in exchange for greater school based autonomy, and allow sponsors to offer more choices to the students and parents in their communities. Public charter schools apply the four foundational principles of the *Master Plan*, using innovative teaching and learning models, to help more Tennessee children prepare for successful post-secondary work, education and citizenship.

### **The Recommendation:**

The Executive Director recommends that the Board affirm the decisions of the Blount County School Board to deny the applications of Hope Academy.

This recommendation is based on the attached findings and recommendations of Dr. Nixon for Hope Academy. Additional documents and letters are available for your review online. They include copies of the applications, scoring criteria and application evaluations used by each of the authorizers, as well as written comments submitted at and after the appeal hearings.

**BEFORE THE TENNESSEE STATE BOARD OF EDUCATION**

**2011 CHARTER SCHOOL APPEAL  
HOPE ACADEMY**

**FINDINGS AND RECOMMENDATION**

Pursuant to Tenn. Code Ann. § 49-13-108, sponsors proposing to open new charter schools may appeal the denial of their amended applications by a local board of education to the State Board of Education (State Board).

On November 29, 2011, a hearing was held at the Blount County Board of Education in Maryville, Tennessee, to consider HOPE Academy's appeal of the denial of its application by the Blount County Board of Education.

Based on the following procedural history and findings of fact, I believe that the decision to deny HOPE Academy's application was not "contrary to the best interests of the pupils, the school district, and the community", and therefore recommend that the Board affirm the decision of the Blount County Board of Public Education.

**PROCEDURAL HISTORY**

1. On August 4, 2011, the Blount County Board of Education unanimously denied HOPE Academy's initial application, following the unanimous recommendation of the Blount County charter school review committee.
2. HOPE Academy amended and resubmitted its application.
3. On September 8, 2011, Blount County voted to deny HOPE's amended application, following another unanimous recommendation of the review committee.

4. Because the denial was based, in part, on substantial negative fiscal impact, Blount County submitted documentation to the State Treasurer, David Lillard, on September 14, 2011.<sup>1</sup>

5. On October 27, 2011, the State Treasurer determined that HOPE Academy's chartering would not have a substantial negative fiscal impact.

6. HOPE Academy then appealed the denial by email to the State Board, received October 27, 2011.

### **FINDINGS OF FACT**

1. The Blount County Charter School Review Committee included the following individuals, who reviewed all of the applications submitted during this application window:

- a. Mr. Rob Britt, Blount County Director of Schools
- b. Mr. David Murrell, Assistant Director of Schools, Blount County Schools
- c. Dr. Jane Morton, 6-12 Instructional Supervisor, Blount County Schools
- d. Dr. Alisa Teffeteller, Supervisor of Federal Programs, Blount County Schools
- e. Mr. Scott Kirkham, Supervisor of Special Education Services, Blount County Schools
- f. Mr. Troy Logan, Fiscal Administrator, Blount County Schools
- g. Mr. Stan Burnette, Attendance and Transportation Supervisor, Blount County Schools

2. The committee did not include any members who were not employees of the school district.

3. Using the State Department of Education's (SDE) scoring criteria for the application, the review committee scored the application in each of the four domains outlined on the SDE scoring sheet: Mission, Education Plan, Founding Group, Business/Operations Plan.

---

<sup>1</sup> As provided in T.C.A. § 49-13-108 (b)(2).

4. Blount County held a work session to evaluate HOPE Academy’s charter application on August 2, 2011. Members of the review committee and board members for HOPE Academy participated in the session.

5. On the initial application, HOPE’s scores were labeled according to the scoring criteria developed and promulgated by the State Department of Education. HOPE Academy Charter School earned a total of 35.5 out of 100 possible points:

Mission	4.5 out of 10 possible (45%; considered “inadequate”)
Education Plan	15.5 out of 40 possible (39%; considered “inadequate”)
Governance	10.5 out of 20 possible (53%; considered “inadequate”)
Business/Operations	5 out of 30 possible (17%; considered “inadequate”)

6. After the Blount County School Board voted to deny HOPE’s initial application, Blount County sent HOPE the complete recommendation report of the committee, the average scores from the committee, and overall reasons for denying the HOPE Academy Charter School application.

7. Blount County School Board declined to have a work session to review the amended application.

8. HOPE Academy’s amended application earned a total of 41 out of 100 possible points:

Mission	4.5 out of 10 possible (45%; considered “inadequate”)
Education Plan	15.5 out of 40 possible (39%; considered “inadequate”)
Governance	10.5 out of 20 possible (53%; considered “inadequate”)
Business/Operations	10.5 out of 30 possible (35%; considered “inadequate”)

9. After review of the application, the committee unanimously recommended denying the amended application. Ultimately, the Board determined that the authorization of the charter would be contrary to the best interests of the students of Blount County Schools and

would have a substantial negative fiscal impact to the overall school district budget. The committee had the following specific concerns:

a. Student Enrollment- In evaluating the application, the committee expressed concern about the many waivers that HOPE Academy requested; including the waiver of it's out of district enrollment policy, without justification. The committee also noted that the application failed to demonstrate the capability to meet the needs of students who were in previously failing schools, failed to test proficient on state assessments, or who were on free or reduced lunch, as required by state law. <sup>2</sup>

b. Instructional Programming- The committee noticed an absence of a plan for 6<sup>th</sup> – 8<sup>th</sup> grade instruction when HOPE Academy's mission statement reflected a K-8 configuration. Further, the committee believed that the amended application failed to adequately articulate a coherent set of standards and curriculum. Finally, the committee found the plan addressing the instructional needs of English Language Learners (ELL) and Students with Disabilities (SWD) to be insufficient. Specifically, the plan lacked due diligence, especially in regard to intervention strategies, and failed to identify a specific projection of the anticipated number of ELL and SWDs to be served.

c. Fiscal Planning- The review committee was not convinced by the submitted budget that the proposed school would be fiscally sound, citing deficiencies in the food service budget, funds to provide English Language Learner services, and in the budget to maintain the physical plant. The committee was also concerned that, if approved, HOPE Academy charter school application would require the Blount County Board of Education to redirect funds needed to address the academic needs of 5,840 students to provide a

---

<sup>2</sup> T.C.A. § 49-13-106(b)(1)(C)

program for 180 students, thus having a substantial negative fiscal impact on Blount County Schools.

### **CONCLUSION**

Pursuant to T.C.A. 49-13-108(b)(2), the State Treasurer, David Lillard, determined that the approval of HOPE Academy Charter School would not have a substantial negative fiscal impact on Blount County Schools. His determination is final, thus that issue will not be considered in my recommendation.

State law requires the State Board of Education to review the decision of the local board of education and determine whether the denial of the charter school was in the “best interest of the students, school district, and the community.”<sup>3</sup> This also means that the standard of proof for each side is whether or not the proposed charter is in the “best interest of the students, school district, and the community.” In order to meet this standard of proof, it is helpful to examine the scores received when measured against the application itself and supporting documentation.

In the November 29<sup>th</sup> public hearing, I expected to hear evidence to support or refute the scores that HOPE Academy received. In my opinion, it was Blount County’s task to state why HOPE Academy scored “insufficient” and to support the scoring with evidence. Conversely, it was HOPE Academy’s task to state why the scores they received from Blount County were erroneous and to refute the scores with evidence. Neither side did that. Instead, during the hearing, Blount County presented information comparing HOPE Academy to Fort Craig Elementary School, a closed school that does not even rest in the boundaries of the district, as evidence that HOPE Academy intended to duplicate everything about that closed school. Further, Blount County representatives stated that HOPE Academy should be denied because it would not

---

<sup>3</sup> T.C.A. § 49-13-108(a)(3).

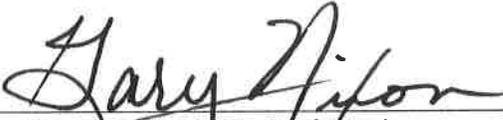
offer any services that were different from those currently offered in Blount County Schools. This declaration isn't relevant to the Board's analysis of whether the denial "was contrary to the best interests of the students, school district, and community." A charter school need not provide something other than what is already offered in the district to be approved. In fact, if the district offers programming that is popular, a charter school offering similar programming would make it available to more students and would, therefore, seem to actually be "in the best interests of the students, school district, and community."

While HOPE Academy attempted to provide through anecdotal evidence and constituent testimony that their existence would be "in the best interest of the students, school district, and community", they failed to address the deficiencies in their application. Representatives noted, through existing Adequate Yearly Progress (AYP) data, that there was a need for HOPE Academy; yet they failed to clearly define how the proposed strategies and research translated into an effective educational and business plan.

Without evidence to prove the contrary, I believe that Blount County acted in good faith in utilizing the rubric to score the application of HOPE Academy Charter School. Because neither side presented relevant and supporting evidence needed to make a sound recommendation, I deferred to the initial scoring process. First, to make certain that Blount County Schools did not act arbitrarily in its decision to deny the HOPE Academy Charter School application, I reviewed the amended application and noticed similar deficiencies. Second, I examined the scoring rubric, promulgated by the SDE, which Blount County relied on in scoring the applications. It can be assumed that when used with integrity and due diligence, a local board can use the SDE rubric to make a fair evaluation of whether a proposed charter school would be in the "best interests of the students, school district, and community." In examining the scores

that HOPE Academy received in the amended application, it could not be ignored that HOPE Academy scored “insufficient” in every category. Out of 100 points possible, the revised application scored only 41 points.

Based on the above findings, I recommend that the State Board of Education affirm the decision of the Blount County Board of Education to deny the application of HOPE Academy.

  
\_\_\_\_\_  
Dr. Gary A. Nixon, Executive Director  
State Board of Education

12-14-2011  
Date