

State Board Rule 6A-6.0781 - Charter Appeals

Effective November 21, 2017

This rule discusses the process for appealing a denial of a charter application.

<https://www.flrules.org/gateway/RuleNo.asp?title=SPECIAL%20PROGRAMS%20I&ID=6A-6.0781>

6A-6.0781 Procedures for Appealing a District School Board Decision Denying Application for Charter School.

The procedures for filing and reviewing all appeals to the State Board of Education under provisions of Section 1002.33(6), F.S., shall be as follows:

(1) **Appealing a Charter School Application Denial.** The district school board letter of denial required by Section 1002.33(6)(b)3.a., F.S., shall be provided to the applicant by the district school board via certified mail unless the applicant agrees in writing to accept receipt by hand delivery, regular mail, facsimile or electronic mail. Receipt of delivery shall be documented and filed with the Agency Clerk for the Department of Education. Within thirty (30) days after receipt by certified mail, or other verified mode of transmittal as provided by the parties' agreement, the decision of a district school board denying an application for a Charter School, the charter applicant may appeal the decision by submitting one (1) electronic copy and five (5) hard copies of the appeal to the Agency Clerk for the Department of Education, 325 West Gaines Street, Room 1520, Tallahassee, Florida 32399-0400.

(a) A copy of the appeal shall be sent by the applicant via regular mail or hand delivery, or by other mode of transmittal as provided by the parties' agreement, to the district school board, via the Superintendent or a designee of the Superintendent as specified within the letter of denial on or before the date of filing with the Agency Clerk. The applicant shall certify that it has provided the district school board a copy of the appeal as provided herein by filing a certificate of service with the Agency Clerk stating the person and address to which the copy was provided and the date of mailing or other transmittal. The State Board of Education does not have jurisdiction to hear late-filed appeals. The appeal must include: name and address of applicant; name and address of the district school board; date of the district school board decision; name and address of applicant's attorney or representative of record, if any; and written argument limited to due process and the reasons for denial identified in the district school board's notice of denial.

(b) The Charter School application, Form IEPC-M2 Florida Charter School Application Evaluation Instrument as incorporated by reference in Rule 6A-6.0786, F.A.C., available transcripts of all meetings before the district school board in which the decision was considered, and all documents considered by the district school board in making its decision shall constitute the record on appeal and shall be filed as exhibits to the appeal.

(c) Within thirty (30) days after receipt of the appeal the district school board shall file one (1) electronic copy and five (5) hard copies of its written arguments with the Agency Clerk for the Department of Education and certify that it has provided a copy to the charter school applicant or representative identified in the applicant's appeal by U.S. Mail, hand delivery, or other agreed upon mode of transmittal. The district school board shall file with its written arguments all documents considered by the district school board in making its decision that were not filed as exhibits to the applicant's appeal. The written arguments are limited to the reasons for denial identified in the district school board's notice of denial and any issues

raised by the applicant in its appeal.

(d) Such written arguments required from both parties shall not exceed twenty (20) pages exclusive of any exhibit. The Chair of the Charter School Appeal Commission may grant leave to exceed the page limit only when necessary for both parties to address an extraordinarily large or complex set of issues on appeal. Written arguments may be produced by any duplicating or copying process which produces a clear black image on white paper. All written arguments shall be on 8 1/2" x 11" inch paper, double spaced, except quoted material and footnotes. Typewritten text, including footnotes must be no smaller than ten (10) pitch spacing, and there must be no more than twenty-six (26) lines of text per paper. Margins shall be no less than one inch at the top, bottom, left and right. All written arguments and exhibits must be bound with tabs for each exhibit with a table of contents detailing each section. Electronic and hardcopy appeal documents shall be numbered consecutively throughout the entire submission with no breaks.

(e) Failure to meet the requirements herein specified may cause rejection of the submission by the Chair of the Charter School Appeal Commission, where the failure could result in prejudice to the opposing party. The rejection shall describe the submission errors and the filing party shall have fifteen (15) days to resubmit an appeal that meets the requirements herein.

(2) Procedures for Charter School Appeals. Upon receipt of a timely filed appeal by a Charter School applicant, the Commissioner of Education or designee, shall convene a meeting of the Charter School Appeal Commission to consider the appeal, with at least seven (7) days notice to the applicant and the district school board of that hearing date.

(a) At the hearing before the Charter School Appeal Commission, each party will be given a maximum of ten (10) minutes to allow representative(s) to summarize the written arguments previously submitted. Each party will also be given additional time, as determined by the Chair of the Charter School Appeal Commission, to individually address each of the reasons for denial. No evidence will be received or testimony presented, only oral argument, will be heard by the Charter School Appeal Commission at this time.

(b) The Charter School Appeal Commission may question the parties. During these questions, the Charter School Appeal Commission may, in its discretion, request information to clarify the documentation presented to it by the charter school applicant and the district school board, as set forth in the appeal and exhibits thereto. Ex parte communications with either party or communication among commission members regarding the appeal is prohibited.

(c) Upon reviewing the record on appeal and hearing oral summaries of written arguments, if presented, and consideration of the answers to questions, if asked, the Charter School Appeal Commission shall then proceed by majority vote to either accept or reject the decision of the district school board.

(d) The Charter School Appeal Commission's recommendation, record on appeal, written arguments of the parties, and a copy of the Charter School Appeal Commission transcripts will be forwarded to the State Board of Education.

(e) The State Board of Education shall consider the appeal and the Charter School Appeal Commission's recommendation at the next scheduled State Board of Education meeting and no later than ninety (90) calendar days after an appeal is filed. Each party shall have five (5) minutes to summarize their arguments. Additionally, the State Board of Education may, in its discretion, ask questions to clarify the issues on appeal. Ex parte communications with either party or communication among board members regarding the appeal is prohibited. The State Board of Education shall approve or deny the appeal.

(3) Motions.

(a) Motions before the Charter School Appeal Commission or State Board of Education shall be filed with the Agency Clerk in the same format as required in paragraph (1)(d) of this rule, except that they are limited to three (3) pages. Motions shall include a statement that the movant has conferred with the other

party, shall state whether such party has any objection to the motion, and shall certify that the other party has been served with a copy of the motion. If there is an objection, the other party may file a response, subject to the same filing requirements as the motion, within five (5) business days of receipt of the motion, or the day before the hearing, whichever occurs first. A request for extension of the deadline or leave to exceed the maximum page limit must be requested prior to the date the motion or response is due and may be granted only where the opposing party will not be prejudiced. Oral arguments shall not be requested, but may be scheduled at the discretion of the ruling entity.

(b) The Chair of the Charter School Appeal Commission shall rule upon evidentiary, procedural, and non-jurisdictional motions submitted prior to the commission hearing.

(c) The Commissioner of Education shall rule upon evidentiary, procedural, and non-jurisdictional motions submitted before the State Board of Education. All other motions shall be ruled upon by the State Board of Education.

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