

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2347

**FISCAL
NOTE**

By Delegates C. Pritt and Crouse

[Introduced January 11, 2023; Referred to the
Committee on Education then the Judiciary]

1 A BILL to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §18-2L-1, §18-2L-2, §18-2L-3, and §18-2L-4; and to amend and reenact §18-
 3 5G-3 of said code, all relating to prohibiting anti-stereotyping in state public schools and
 4 public charter schools; establishing the Anti-Stereotyping Act; providing that training,
 5 instructional or curricula materials be displayed on the public school, county board, or
 6 public charter school website provided that reproduction does not infringe copyrights;
 7 providing that county boards, public schools, public charter schools, and employees
 8 thereof, shall not, in the course or scope of employment, promote, embrace, or endorse
 9 stereotypes; ensuring that the county board, public school or charter school does not
 10 require or compel a student, teacher, administrator, or other employee to affirm, adopt, or
 11 adhere to any certain beliefs or concepts and preserving free speech protections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2L. ANTI-STEREOTYPING ACT.

§18-2L-1.		Title.
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This article shall be known and may be cited as the Anti-Stereotyping Act.

§18-2L-2.	Training	and	Curricula	Transparency.
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(a) Each public school and public charter school shall ensure that the following information is displayed on the school website, in a publicly accessible location: *Provided*, That if the public school has no website, the information shall be posted on the county board’s website:

(1) All training materials, including materials for teachers, concerning or used for school personnel training on all matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias, or any combination of these concepts with other concepts.

(2) All instructional or curricular materials concerning nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias, or any combination of these concepts with other concepts.

Such instructional materials shall identify, at a minimum:

(A) The title, author, organization, and any website associated with each instructional

11 material;

12 (B) A brief description of the instructional material;

13 (C) A link to the instructional material, if publicly available on the internet, or information on
14 how to request review of a copy of the instructional material; and

15 (D) The identity of the teacher, if the instructional material was created by the teacher.

16 (3) Any procedures for the documentation, review, or approval of the training, instructional,
17 or curricular materials used for school personnel training or student instruction at the school,
18 including by the principal, administrators, or other teachers.

19 (4) Nothing in this subsection shall be construed to require the digital reproduction or
20 posting of copies of the instructional materials themselves if such reproduction would infringe
21 upon copyrighted material; but in such cases, original materials should still be linked, if possible, or
22 provided upon request, as required under paragraph (2)(C) of this section.

23 (b) Each county board of education shall post on its website in a publicly accessible
24 location, all training materials, including materials for teachers and other school personnel, on all
25 matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias, or any
26 combination of these concepts with other concepts, except any materials that the board is required
27 to keep confidential: *Provided*, That nothing in this subsection shall be construed to require the
28 digital reproduction or posting of copies of the instructional materials themselves if such
29 reproduction would infringe upon copyrighted material; but in such cases, original materials should
30 still be linked, if possible, or provided upon request.

§18-2L-3

Stereotyping.

1 (a) A county board, public school, public charter school, or any employee thereof, may not,
2 in the course or scope of employment, promote, embrace, or endorse stereotypes based on race,
3 sex, ethnicity, religion, or national origin.

4 (b) "Stereotype" means character traits ascribed to a particular race, sex, ethnicity, religion,
5 or national origin, or to an individual because of his or her race, sex, ethnicity, religion, or national

6 origin.

7 (c) Nothing in this section shall prohibit discussing:

8 (1) How such stereotypes have been or are wrongfully embraced or utilized to discriminate
9 on the basis of race, sex, ethnicity, religion, or national origin; or

10 (2) Data or scientific studies that categorize people based on race, sex, ethnicity, religion,
11 or national origin, or that reveal disparities between different groups within any of those categories.

§18-2L-4. Preservation of Freedom of Speech.

1 (a) A county board, public school, or public charter school may not:

2 (1) Require or otherwise compel a student, teacher, administrator, or other employee to
3 affirm, adopt, or adhere to any belief or concept that:

4 (A) One race, sex, ethnicity, religion, or national origin is inherently superior or inferior to
5 another race, sex, ethnicity, religion, or national origin;

6 (B) An individual, by virtue of his or her race, sex, ethnicity, religion, or national origin
7 should be blamed for actions committed in the past by other members of the same race, sex,
8 ethnicity, religion, or national origin; or

9 (C) An individual’s moral character is necessarily determined, in whole or in part, by his or
10 her race, sex, ethnicity, religion, or national origin.

11 (2) Use public funds to contract with, hire, or otherwise engage consultants, trainers, or
12 other persons to:

13 (A) Direct or otherwise compel a student, teacher, administrator, or other employee to
14 affirm, adopt, or adhere to any belief or concept described in subsection (a)(1) of this section; or

15 (B) Advocate concepts described in subdivision (a)(1) of this section, unless:

16 (i) The county board, public school, or public charter school, expressly makes clear that it
17 does not sponsor, approve, or endorse such concepts or materials; and

18 (ii) The county board, public school, or public charter school, affords students, teachers,
19 administrators, and other employees the opportunity to opt out of any speeches by or sessions

20 with such outside contractors.

21 (3) Require a student, teacher, administrator, or other employee to attend or participate in a
22 training, seminar, continuing education, orientation, or therapy that promotes any concept
23 described in subdivision (a)(1) of this section.

24 (b) Nothing in this section shall be construed as prohibiting:

25 (1) Speech protected by the First Amendment of the U.S. Constitution or Article III, Section
26 7 the West Virginia Constitution;

27 (2) Voluntary attendance at a training session, seminar, continuing education, orientation,
28 or therapy, provided that no inducement or coercion for such attendance exists;

29 (3) Access to sources on an individual basis that advocate concepts described in
30 subdivision (a)(1) of this section for the purpose of research or independent study; or

31 (4) Discussion of concepts described in subdivision (a)(1) of this section or the assignment
32 of materials that incorporate such concepts for educational purposes: *Provided*, That the county
33 board, public school or public charter school expressly makes clear that it does not sponsor,
34 approve, or endorse such concepts or materials.

ARTICLE 5G. PUBLIC CHARTER SCHOOLS.

§18-5G-3. Public charter school criteria, governance structure and statutory compliance requirements; applicable federal and state laws.

1 (a) Public charter schools authorized pursuant to this article shall meet the following
2 general criteria:

3 (1) Are part of the state’s system of public schools and are subject to general supervision
4 by the West Virginia Board of Education for meeting the student performance standards required
5 of other public school students under §18-2E-5(d) and (e) of this code;

6 (2) Are subject to the oversight of the school’s authorizer for operating in accordance with
7 its approved charter contract and for meeting the terms and performance standards established

8 in the charter contract;

9 (3) Are not home school-based;

10 (4) Are not affiliated with or espouse any specific religious denomination, organization,
11 sect, or belief and do not promote or engage in any religious practices in their educational
12 program, admissions, employment policies, or operations;

13 (5) Are not affiliated with any organized group whose espoused beliefs attack or malign an
14 entire class of people, typically for immutable characteristics, as identified through listings of such
15 groups as may be made by the U. S. Department of Justice, the Federal Bureau of Investigation,
16 or officials having similar jurisdiction in this state;

17 (6) Are public schools to which parents or legal guardians choose to send their child or
18 children;

19 (7) Do not charge tuition and may only charge such fees as may be imposed by noncharter
20 public schools in this state; and

21 (8) Have no requirements that would exclude any child from enrollment who would not be
22 excluded at a noncharter public school.

23 (b) A public charter school authorized pursuant to this article shall be governed by a board
24 that meets the requirements established in §18-5G-7 of this code and:

25 (1) Has autonomy over key decisions, including, but not limited to, decisions concerning
26 finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

27 (2) Has no power to levy taxes;

28 (3) Operates in pursuit of a specific set of educational objectives as defined in its charter
29 contract;

30 (4) Provides a program of public education that:

31 (A) Includes one or more of the following: Prekindergarten and any grade or grades from
32 kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit,
33 advanced placement, internship, and industry or workforce credential programs that the public

34 charter school chooses to incorporate into its programs;

35 (B) May include in its mission a specific focus on students with special needs, including,
36 but not limited to, at-risk students, English language learners, students with severe disciplinary
37 problems at a noncharter public school, or students involved with the juvenile justice system; and

38 (C) May include a specific academic approach or theme including, but not limited to,
39 approaches or themes such as STEM education, mastery-based education, early college, or fine
40 and performing arts;

41 (5) Provides programs and services to a student with a disability in accordance with the
42 student's individualized education program and all federal and state laws, regulations, rules, and
43 policies. A charter school shall deliver the services directly or contract with a county board or
44 another provider to deliver the services as set forth in its charter contract;

45 (6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic
46 interscholastic leagues, competitions, awards, scholarships, and recognition programs for
47 students, educators, administrators, and schools to the same extent as noncharter public schools;

48 (7) Employs its own personnel as employees of the public charter school and is ultimately
49 responsible for processing employee paychecks, managing its employees' participation in the
50 applicable retirement system, and managing its employees' participation in insurance plans:
51 *Provided*, That nothing in this subdivision prohibits the public charter school from contracting with
52 another person or entity to perform services relating to managing its employees' participation in
53 the retirement system or insurance plan. A county board may not require any employee of its
54 school system to be employed in a public charter school. A county board may not harass, threaten,
55 discipline, discharge, retaliate, or in any manner discriminate against any school system employee
56 involved directly or indirectly with an application to establish a public charter school as authorized
57 under this section. All personnel in a public charter school who were previously employed by the
58 county board shall continue to accrue seniority with the county board in the same manner that they
59 would accrue seniority if employed in a noncharter public school in the county for purposes of

60 employment in noncharter public schools; and

61 (8) Is responsible for establishing a staffing plan that includes the requisite qualifications
62 and any associated certification and/or licensure necessary for teachers and other instructional
63 staff to be employed at the public charter school and for verifying that these requirements are met.

64 (c) A public charter school authorized pursuant to this article is exempt from all statutes
65 and rules applicable to a noncharter public school or board of education except the following:

66 (1) All federal laws and authorities applicable to noncharter public schools in this state
67 including, but not limited to, the same federal nutrition standards, the same civil rights, disability
68 rights and health, life and safety requirements applicable to noncharter public schools in this state;

69 (2) The provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and
70 the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings;

71 (3) The same immunization requirements applicable to noncharter public schools;

72 (4) The same compulsory school attendance requirements applicable to noncharter public
73 schools;

74 (5) The same minimum number of days or an equivalent amount of instructional time per
75 year as required of noncharter public school students under §18-5-45 of this code;

76 (6) The same student assessment requirements applicable to noncharter public schools in
77 this state, but only to the extent that will allow the state board to measure the performance of public
78 charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public
79 charter school from establishing additional student assessment measures that go beyond state
80 requirements;

81 (7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-
82 2-5h of this code;

83 (8) Use of the electronic education information system established by the West Virginia
84 Department of Education for the purpose of reporting required information;

85 (9) Reporting information on student and school performance to parents, policy-makers,

86 and the general public in the same manner as noncharter public schools utilizing the electronic
87 format established by the West Virginia Department of Education. Nothing precludes a public
88 charter school from utilizing additional measures for reporting information on student and school
89 performance that go beyond state requirements;

90 (10) All applicable accounting and financial reporting requirements as prescribed for public
91 schools, including adherence to generally accepted accounting principles. A public charter school
92 shall annually engage an external auditor to perform an independent audit of the school's
93 finances. The public charter school shall submit the audit to its authorizer and to the state
94 superintendent of schools within nine months of the end of the fiscal year for which the audit is
95 performed;

96 (11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that
97 would be required if the person was employed in a noncharter public school, unless a criminal
98 history check has already been completed for that staff person pursuant to that section.
99 Governing board members and other public charter school personnel are subject to criminal
100 history record checks and fingerprinting requirements applicable to noncharter public schools in
101 this state. Contractors and service providers or their employees are prohibited from making direct,
102 unaccompanied contact with students and from access to school grounds unaccompanied when
103 students are present if it cannot be verified that the contractors, service providers or employees
104 have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

105 (12) The same zoning rules for its facilities that apply to noncharter public schools in this
106 state;

107 (13) The same building codes, regulations and fees for its facilities that apply to noncharter
108 public schools in this state, including any inspections required for noncharter public schools under
109 this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate of
110 occupancy for any facility used by the public charter school; and

111 (14) The same student transportation safety laws applicable to public schools when

112 transportation is provided; and

113 (15) The Anti-Stereotyping Act, pursuant to §18-2L-1 et seq. of this code.

NOTE: The purpose of this bill is to prohibit anti-stereotyping in public school training and curriculum.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.