

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 531**

By Senators Rucker, Takubo, and Maroney

[Introduced January 24, 2024; referred  
to the Committee on School Choice; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §18-5G-3 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §18-31-8 of said code, all relating to allowing charter schools to charge  
3 Hope Scholarship students for classes the students enroll in at the charter school.

*Be it enacted by the Legislature of West Virginia:*

**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, except as permitted in accordance with §18-31-8(f) of this code,  
20 and may only charge such fees as may be imposed by noncharter 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, policymakers,  
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.

**ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.**

**§18-31-8. Renewal of Hope Scholarship accounts; participation in public school system.**

1 (a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis.  
2 Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously  
3 qualified for a Hope Scholarship account remains eligible to apply for renewal until one of the  
4 conditions set forth in §18-31-6(f) occurs: *Provided*, That the board shall verify with the  
5 Department of Education the following information by July 1 of every year:

6 (1) A list of all active Hope Scholarship Accounts;

7 (2) The resident school district of each Hope Scholarship student;

8           (3) For a Hope Scholarship student who chooses to attend a participating school, annual  
9 confirmation of his or her continued attendance at a nonpublic school that complies with all  
10 requirements that other nonpublic school students must comply with; and

11           (4) For a Hope Scholarship student who chooses an individualized instructional program:

12           (A) (i) He or she has annually taken a nationally normed standardized achievement test of  
13 academic achievement;

14           (ii) The mean of the child's test results in the subject areas of reading, language,  
15 mathematics, science and social studies for any single year is within or above the fourth stanine or,  
16 if below the fourth stanine, show improvement from the previous year's results; and

17           (iii) The child's test results are reported to the county superintendent; or

18           (B) (i) A certified teacher conducts a review of the student's academic work annually;

19           (ii) The certified teacher determines that the student is making academic progress  
20 commensurate with his or her age and ability; and

21           (iii) The certified teacher's determination is reported to the county superintendent.

22           (b) Each county superintendent shall submit the test results and determinations reported to  
23 him or her pursuant to subsection (a) of this section to the Department of Education each year on  
24 or before June 15.

25           (c) If a parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify  
26 the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent  
27 chooses not to renew or does not respond within 30 calendar days of receipt of notice, the board  
28 shall close the account and any remaining monies shall be returned to the state.

29           (d) If an eligible recipient decides to return to the Hope Scholarship Program after failing to  
30 renew, they must reapply.

31           (e) The board, in consultation with the Department of Education, may adopt rules and  
32 policies to provide the least disruptive process for Hope Scholarship students who desire to stop  
33 receiving Hope Scholarship payments and return full-time to a public school.

34 (f) The board, in consultation with the Department of Education, may adopt rules and  
35 policies for Hope Scholarship students who want to continue to receive services provided by a  
36 public school or district, including individual classes and extracurricular programs, in combination  
37 with an individualized instructional program. The board, in consultation with the Department of  
38 Education, shall ensure that any public school or school district providing such services receives  
39 the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of  
40 total instruction provided to the student by the public school or school district. County boards and  
41 charter school governing boards shall charge tuition to Hope Scholarship students who enroll for  
42 services in a public school within the county or in a public charter school. Hope Scholarship  
43 students who enroll for services part-time in public school shall not be included in net enrollment  
44 for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a  
45 Hope Scholarship student from using the funds deposited in his or her account on both services  
46 provided by a public school or district and other qualifying expenses as provided for in §18-31-7 of  
47 this code.

NOTE: The purpose of this bill is to allow charter schools to charge Hope Scholarship students for classes that students enroll in at the charter school.

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