

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3139**

By Delegates Coop-Gonzalez, Kyle, and Ellington

[Introduced March 04, 2025; referred to the  
Committee on Education]

1 A BILL to amend and reenact §18-5G-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to permitting public non-charter schools converting to charter schools to apply after the  
 3 deadline and requiring that the approval process be expedited and granted as long as all  
 4 charter requirements are met.

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

**ARTICLE 18. 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 in  
 8 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. If a public charter school chooses to  
35 incorporate post-secondary embedded credit, dual credit, and industry and workforce credential  
36 programs into its educational program, institutions of higher education may not impose any  
37 requirements on the public charter school that are not required of noncharter public schools;

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

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

44 (D) May include before school and/or after school programs as a part of the public charter

45 school's education program. No part of the education program of a public charter school is subject  
46 to regulation as a childcare facility;

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

51 (6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic  
52 interscholastic leagues, competitions, awards, scholarships, and recognition programs for  
53 students, educators, administrators, and schools to the same extent as noncharter public schools.  
54 If a public charter school does not sponsor an extracurricular athletic and/or academic  
55 interscholastic activity for the students enrolled in the public charter school, the public charter  
56 school students may participate on the same basis as other public school students in those  
57 activities that are sponsored by the noncharter public school serving the attendance area in which  
58 the student resides;

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

71 employment in noncharter public schools; and

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

76 (c) A public charter school authorized pursuant to this article is exempt from all statutes,  
77 state board policies and rules applicable to a noncharter public school or board of education  
78 except the following unless otherwise specifically provided in this article:

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

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

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

85 (4) The same compulsory school attendance requirements applicable to noncharter public  
86 schools;

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

89 (6) The same student assessment requirements applicable to noncharter public schools in  
90 this state, but only to the extent that will allow the state board to measure the performance of public  
91 charter school students pursuant to §18-2E-5(d) and (e) of this code. Any virtual public charter  
92 school may administer any required state assessment, if available, in a virtual setting utilizing  
93 remote proctoring that best meets the educational needs of the student. Nothing precludes a  
94 public charter school from establishing additional student assessment measures that go beyond  
95 state requirements;

96 (7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-

97 2-5h of this code;

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

100 (9) Reporting information on student and school performance to parents, policy-makers,  
101 and the general public in the same manner as noncharter public schools utilizing the electronic  
102 format established by the West Virginia Department of Education. Nothing precludes a public  
103 charter school from utilizing additional measures for reporting information on student and school  
104 performance that go beyond state requirements;

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

111 (11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that  
112 would be required if the person was employed in a noncharter public school, unless a criminal  
113 history check has already been completed for that staff person pursuant to that section.  
114 Governing board members and other public charter school personnel are subject to criminal  
115 history record checks and fingerprinting requirements applicable to noncharter public schools in  
116 this state. Contractors and service providers or their employees are prohibited from making direct,  
117 unaccompanied contact with students and from access to school grounds unaccompanied when  
118 students are present if it cannot be verified that the contractors, service providers or employees  
119 have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code:  
120 *Provided*, That nothing in this subdivision, including the reference to §18A-3-10 of this code,  
121 requires public charter school employees to be certified or licensed as a condition of employment  
122 in a public charter school. A public charter school may, but is not required to, establish certification

123 or licensure as a condition of employment by the school;

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

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

130 (14) The same student transportation safety laws applicable to public schools when  
131 transportation is provided.

132 (d) Any public schools that are closed and apply to convert into charter schools shall have  
133 the application and charter processed after the deadline. These conversion schools' applications  
134 shall be processed within 30 days and, if all requirements are met, approved within that time  
135 frame.

NOTE: The purpose of this bill is to permit public non-charter schools converting to charter schools to apply after the deadline and requiring that the approval process be expedited and granted as long as all charter requirements are met.

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