

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3446

By Delegates Statler, Toney, Adkins, Browning,
Ellington, and Leavitt

[Introduced March 17, 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; and to
2 amend said code by adding a new section, designated §18-2-46, relating to requiring
3 public high school students to complete and submit a free application for federal student
4 aid (FAFSA) prior to graduation.

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)~~ §18-2E-5(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;

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

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

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

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

(2) Has no power to levy taxes;

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

(4) Provides a program of public education that:

(A) Includes one or more of the following: Prekindergarten and any grade or grades from kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit, advanced placement, internship, and industry or workforce credential programs that the public charter school chooses to incorporate into its programs. If a public charter school chooses to incorporate post-secondary embedded credit, dual credit, and industry and workforce credential programs into its educational program, institutions of higher education may not impose any requirements on the public charter school that are not required of noncharter public schools;

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

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

(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)~~ [§18-2E-5\(e\)](#) of this code. Any virtual
92 public charter school may administer any required state assessment, if available, in a virtual
93 setting utilizing remote proctoring that best meets the educational needs of the student. Nothing
94 precludes a public charter school from establishing additional student assessment measures that
95 go beyond 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

or licensure as a condition of employment by the school;

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

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

(14) The same student transportation safety laws applicable to public schools when transportation is provided; and

(15) The provisions of §18-2-46 of this code.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-46. Financial Aid Application Requirement for High School Graduation.

(a) Beginning with the 2025-2026 school year, in addition to any other requirement under this code, as a prerequisite to receiving a high school diploma from a public high school, the parent or guardian or each student legally eligible for federal student aid, or if a student is at least 18 years of age or legally emancipated under §49-4-115 of this code, the student, if legally eligible for federal student aid, must comply with either of the following:

(1) File a Free Application for Federal Student Aid with the United States Department of Education; or

(2) On a form created by the state board file a waiver with the student's high school indicating that the parent, current custodian, or guardian, or if applicable, the student, understands what the Free Application for Federal Student Aid (FAFSA) is and has chosen not to file an application under paragraph (1).

(b) The state board, as well as the county board, or authorizer, as applicable shall require each high school and each high school student to comply with this section. Each high school must provide to each high school student and, if applicable, his or her parent or guardian, any support or

- 15 assistance necessary to comply with this section. A county board or authorizer, as applicable,
16 shall award a high school diploma to a student who is unable to meet the requirements of §18-2-
17 44(a) of this code due to extenuating circumstances as determined by the county board if:
- 18 (1) The student has met all other graduation requirements under this code; and
19 (2) The principal attests that the high school has made a good faith effort to assist the
20 student, or if applicable, his or her parent or guardian in filing an application or a waiver under §18-
21 2-44(a) of this code.
- 22 (c) The state board may adopt rules to implement this section which shall include:
- 23 (1) Rules to ensure compliance with federal law regarding confidentiality of student
24 educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U. S.
25 C. 1232g); and
- 26 (2) Any state law relating or regarding the privacy of student information.

NOTE: The purpose of this bill is to require all public high school students to complete and submit a free application for federal student aid (FAFSA) prior to graduation.

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