

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 749**

By Senator Rucker

[Introduced March 13, 2025; referred  
to the Committee on Education]

1 A BILL to amend and reenact §18-5G-3, §18-5G-7, and §18-5G-8 of the Code of West Virginia,  
2 1931, as amended; and to amend the code by adding two new sections, designated §18-  
3 5G-14a and §18-5G-18, relating to public charter schools; modifying criteria public charter  
4 school must meet pertaining to tuition; authorizing public charter school employment of  
5 personnel to perform services relating to managing participation in a retirement system or  
6 insurance plan; providing that the school district of the student's county of residence  
7 becomes responsible to track the students for all purposes when the student is withdrawn  
8 from a public charter school and returns to the public school district of that county;  
9 authorizing public charter school teachers to proctor state assessments whether the  
10 teachers are certified or licensed or not; allowing members of a public charter school  
11 governing board to be removed by a vote of the governing board; allowing a public charter  
12 school to submit to its authorizer a proposed amendment to any information in its  
13 application at any time; allowing authorization and funding of alternative high-risk  
14 population public charter schools; providing eligibility requirements; specifying which  
15 students are included as high risk; requiring West Virginia Board of Education rule setting  
16 forth requirements for alternative high-risk population charter school funding; allowing an  
17 institution of higher education to apply to an authorizer to establish virtual or on-campus  
18 public charter microschools; and allowing any public charter school to partner with learning  
19 pods and microschools to provide instruction to those learning pods and microschools.

*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 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 full-time tuition and may only charge such tuition or fees as may be  
20 imposed by noncharter public schools in this state, such as for part-time Hope Scholarship  
21 enrollment or for participation in student activities; and

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

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

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

28 (2) Has no power to levy taxes;

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

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

(6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools. If a public charter school does not sponsor an extracurricular athletic and/or academic

interscholastic activity for the students enrolled in the public charter school, the public charter school students may participate on the same basis as other public school students in those activities that are sponsored by the noncharter public school serving the attendance area in which the student resides;

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

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

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

(1) All federal laws and authorities applicable to noncharter public schools in this state including, but not limited to, the same federal nutrition standards, the same civil rights, disability

rights and health, life and safety requirements applicable to noncharter public schools in this state;

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

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

(4) The same compulsory school attendance requirements applicable to noncharter public schools. When a student is withdrawn from a public charter school and returns to the public school district of that county, the school district of the student's county of residence becomes responsible to track the student for all purposes;

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

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of public charter school students pursuant to §18-2E-5(d) and (e) of this code. Any virtual public charter school may administer any required state assessment, if available, in a virtual setting utilizing remote proctoring that best meets the educational needs of the student. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements. Public charter school teachers shall be permitted to proctor state assessments whether the teachers are certified or licensed or not;

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

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

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

performance that go beyond state requirements;

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

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

**§18-5G-7. Public Charter school governing board.**

(a) To ensure compliance with this article, a public charter school shall be administered by a governing board accountable to the authorizer as set forth in the charter contract. A public charter school governing board shall consist of no fewer than five members elected or selected in a manner specified in the charter application, including at least the following:

(1) Two parents of students attending the public charter school operating under the governing board; and

(2) Two members who reside in the community served by the public charter school.

(b) Members of the governing board shall:

~~(A)~~ (1) Not be an employee of the public charter school administered by the governing board;

~~(B)~~ (2) Not be an employee of an education service provider that provides services to the public charter school, unless the services are provided by a state institution of higher education;

~~(C)~~ (3) File a full disclosure report to the authorizer identifying potential conflicts of interest, relationships with management organizations, and relationships with family members who are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school;

~~(D)~~ (4) Collectively possess expertise in leadership, curriculum and instruction, law, and finance; and

~~(E)~~ (5) Be considered an officer of a school district under the provisions of §6-6-7 of this code and removal from office shall be in accordance with the provisions of that section or by a vote of the governing board.

(c) The public charter school governing board shall:

(1) Operate under the oversight of its authorizer in accordance with its charter contract;



(2) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:

(A) Receive and disburse funds for school purposes;

(B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(3) Enroll students in the public charter school pursuant to §18-5G-11 of this code;

(4) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board; and

(5) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(d) A public charter school authorized under this article may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools;

and

(5) Participate in extracurricular activities to the same extent as noncharter public schools.

(e) The public charter school governing board is responsible for the operation of its public charter school, including, but not limited to, ensuring compliance with the public charter school criteria, governance and statutory compliance set forth §18-5G-3 of this code, the preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(f) The public charter school governing board shall comply with the provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings.

(g) Notwithstanding anything else in this Code, when a state institution of higher education is an applicant and after its application is approved by an authorizer, the governing board of the public charter school may be an administrative unit of the state institution of higher education, and the governing board may enter into the charter contract on behalf of the state institution of higher education.

**§18-5G-8. Application to establish public charter school.**

(a) To establish a new public charter school, to convert an existing noncharter public school to a public charter school or establish a program conversion public charter school, an applicant shall submit a charter application to an authorizer. Charter authorizers shall accept and document the date and time of receipt of all charter applications.

(b) The application shall contain, at a minimum, the following information:

(1) A mission statement and a vision statement for the public charter school, including specialized academic focus, if any, to be promoted and advanced through the establishment of the public charter school;

9 (2) A detailed description of the public charter school's proposed program;

10 (3) The student achievement goals for the public charter school's program and the chosen  
11 methods of evaluating whether students have attained the skills and knowledge specified for those  
12 goals;

13 (4) The school's plan for using data derived from student evaluations and assessments,  
14 including the statewide summative assessment, to drive instruction and promote continued school  
15 improvement;

16 (5) An explanation of how the school's proposed program is likely to improve the  
17 achievement of traditionally underperforming students in the local school district;

18 (6) The proposed governance structure of the school, including a list of members of the  
19 initial governing board, a draft of bylaws that include the description of the qualifications, terms,  
20 and methods of appointment or election of governing board members, and the organizational  
21 structure of the school that clearly presents lines of authority and reporting between the governing  
22 board, school administrators, staff, any related bodies such as advisory bodies or parent and  
23 teacher councils, and any external organizations that will play a role in managing the school;

24 (7) Plans and timelines for student enrollment, including the school primary recruitment  
25 area and policies and procedures for conducting transparent and random admission lotteries  
26 when applications for enrollment exceed capacity that are open to the public and consistent with  
27 this article;

28 (8) A proposed five-year budget, including the start-up year and projections for four  
29 additional years with clearly stated assumptions;

30 (9) Proposed fiscal and internal control policies for the public charter school;

31 (10) Acknowledgement that the public charter school will participate in the state's  
32 accountability system;

33 (11) A proposed handbook that outlines the personnel policies of the public charter school,  
34 including the criteria to be used in the hiring of qualified teachers, school administrators, and other

35 school employees, a description of staff responsibilities, and the school's plan to evaluate  
36 personnel on an annual basis;

37 (12) An explanation of proposed student discipline procedures, including disciplinary  
38 procedures for students with disabilities, which shall be consistent with the requirements of due  
39 process and with state and federal laws and regulations governing the placement of students with  
40 disabilities;

41 (13) A description of the facilities to be used by the public charter school, including the  
42 location of the school and how the facility supports the implementation of the school's program.  
43 The school shall obtain all required occupation and operation certificates and licenses prior to the  
44 first instructional day for students;

45 (14) The proposed ages and grade levels to be served by the public charter school,  
46 including the planned minimum and maximum enrollment per grade per year;

47 (15) The school calendar and school day schedule;

48 (16) Types and amounts of insurance coverage to be obtained by the public charter school,  
49 which:

50 (A) Shall include adequate insurance for liability, property loss, and the personal injury of  
51 students comparable to noncharter public schools within the local school district operated by the  
52 county board; and

53 (B) May include coverage from the Board of Risk and Insurance Management pursuant to  
54 §29-12-5a of this code;

55 (17) A description of the food services to be provided to students attending the school;

56 (18) Process and procedures to be followed in the case of the closure or dissolution of the  
57 public charter school, including provisions for the transfer of students and student records to the  
58 appropriate local school district and an assurance and agreement to payment of net assets or  
59 equity after payment of debts;

(19) A code of ethics for the school setting forth the standards of conduct expected of its governing board, officers, and employees;

(20) The public charter school's plan for successfully serving students with disabilities, students who are English language learners, bilingual students, and students who are academically behind and gifted, including, but not limited to, the school's plan for compliance with all applicable federal and state laws and regulations;

(21) A description of cocurricular and extracurricular programs to be offered by the public charter school and how they will be funded and delivered;

(22) The process by which the school will resolve any disputes with the authorizer;

(23) A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan;

(24) The public charter school's plan for notice to parents and others of enrollment in the school as an option available for students and the school's primary recruitment area; and

(25) The public charter school's plan for parental involvement.

(c) If the applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to provide the following information with respect to the educational service provider:

(1) Evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Student performance data and financial audit reports for all current and past public charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

(8) Performance evaluation measures and timelines;

(9) Methods of contract oversight and enforcement;

(10) Investment disclosure;

(11) Conditions for renewal and termination of the contract; and

(12) Disclosure and explanation any existing or potential conflicts of interest between the governing board and the proposed education service provider or any affiliated business entities.

(d) A public charter school may submit to its authorizer a proposed amendment to any information in its application at any time and the authorizer may approve or reject the proposed amendment.

**§18-5G-14a. Alternative high-risk population public charter schools.**

(a) Alternative high-risk population public charter schools may be authorized and funded pursuant to this article. To be eligible for an alternative high-risk population public charter school, the school must have an unduplicated count of at least 70 percent of their total enrollment, upon first entry to the school, comprised of high-risk students and obtain approval from the Charter School Board certifying the school meets the criteria. "High Risk" students include the following:

(1) Students who have been expelled;

(2) Students who have been suspended more than 10 days in a school year;

(3) Wards of the court or dependents of the court;

(4) Recovered dropouts;

(5) Students who are habitually truant;

(6) Students who have been retained more than once in kindergarten through grade eight;

(7) Students who are credit deficient;

(8) Students who have a high-level transiency such as being enrolled in more than two schools during the past academic year or have changed secondary schools more than two times since entering high school;

(9) Foster youth;

(10) Homeless youth; and

(11) Students who need greater flexibility in scheduling or have circumstances which would benefit from this type of schooling.

(b) The state board shall promulgate a rule pursuant to the provisions of §29A-3B-1 et seq. of this code setting forth requirements for alternative high-risk population charter school funding.

**§18-5G-18. Higher education institution public charter mjcroschool; public charter school assistance to learning pods and microschools.**

(a) An institution of higher education may apply to an authorizer pursuant to this article to establish virtual or on-campus public charter microschools which are required to meet the microschool related requirements of §18-8-1 of this code.

(b) Any public charter school, including one that is affiliated with an institution of higher education, may partner with learning pods and microschools created pursuant to §18-8-1 of this code to provide instruction on-campus or virtually to those learning pods or microschools.

NOTE: The purpose of this bill is to allow authorization and funding of alternative high-risk population public charter schools; provide eligibility requirements to be an alternative high-risk population public charter school; specify which students are included as "high risk"; require West Virginia Board of Education rule setting forth requirements for alternative high-risk population charter school funding; allow an institution of higher education to apply to an authorizer to establish virtual or on-campus public charter microschools; allow any public charter school to partner with learning pods and microschools to provide instruction to those learning pods and microschools; and make other changes to the public charter school law.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.