WEST VIRGINIA CODE: §18-5G-3

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

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

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

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

(3) Are not home school-based;

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

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

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

(7) Do not charge full-time tuition and may only charge such tuition or fees as may be imposed by non-charter public schools in this state, such as for part-time Hope Scholarship enrollment or for participation in student activities.

(8) Have no requirements that would exclude any child from enrollment who would not be excluded at a non-charter 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;

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(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 non-charter 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 non-charter public school, or students involved with the juvenile justice system; and

(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;

(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 non-charter 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 non-charter 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

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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 non-charter public school in the county for purposes of employment in non-charter 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 non-charter public school or board of education except the following unless otherwise specifically provided for in this article:

(1) All federal laws and authorities applicable to non-charter 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 non-charter 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 non-charter public schools;

(4) The same compulsory school attendance requirements applicable to non-charter public schools.

(A) When a parent or guardian withdraws a student from a public charter school and enrolls the child in a 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.

(B) When a parent or guardian withdraws a student from a public charter school and enrolls the child in another public charter school, home school, private school, learning pod, microschool, or out-of-state school, the receiving school or district becomes responsible to track the student for all purposes: *Provided*, That the public charter school from which the student is withdrawing shall immediately provide the attendance director of the student's county of residence with notification of withdrawal from the charter school by phone, electronically, or in writing.

(C) The written notification shall include, but is not limited to, the student's name, WVEIS

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identification number, parent/guardian contact information, and the anticipated or actual withdrawal date.

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

(6) The same student assessment requirements applicable to non-charter 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. The ratio for students to teachers shall be allowed up to 15 to one when utilizing remote proctoring during virtual testing. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements. Public charter school teachers who are not certified or licensed in the state shall be permitted to proctor state assessments: *Provided*, That the teacher has successfully completed the annual training to serve as proctor and the charter school maintains a list of all staff who have successfully completed that annual training.

(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 non-charter 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 non-charter 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 non-charter 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

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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 non-charter public schools in this state;

(13) The same building codes, regulations and fees for its facilities that apply to non-charter public schools in this state, including any inspections required for non-charter 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.

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