

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4016

BY DELEGATES D. JEFFRIES, FOSTER, AND STEELE

[Introduced February 1, 2022; referred
to the Committee on Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §18-2-44; to amend said code by adding thereto a new article, designated
3 §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, and §18-2L-5; to amend said code by adding
4 thereto a new section, designated §18-5-50; to amend and reenact §18-5G-3 of said code;
5 to amend and reenact §18-5G-6 of said code; and to amend and reenact §18A-2-8 of said
6 code, all relating to creating the Anti-Racism, Anti-Sexism, and Prevention of Political-
7 Economic Bias in School Curriculum and Pedagogy Act of 2022; prohibiting curricula,
8 pedagogy, and employee training that is racist, sexist, biologically and/or genetically
9 counter-factual, or presents biased and/or historically inaccurate information concerning
10 political-economic systems in state public schools and public charter schools; providing
11 findings; defining terms; specifying controlling law to resolve conflicts with other
12 provisions; identifying prohibited content; providing for curricula transparency; requiring
13 cancellation, modification or reformation of existing inconsistent contractual provisions;
14 requiring county boards ensure their employees comply with the act; authorizing a county
15 board to dismiss an employee for violation of the act; providing that a public charter school
16 authorizer require charter schools and their employees comply with the act; providing that
17 violations of the act by a charter school or its employee may be grounds for suspension
18 and/or revocation of a charter school contract; and establishing an effective date;

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-44. Express Mandate to State Board of Education to Ensure Compliance of all West Virginia Public School Districts and Independent Charter Schools with the Anti-Racism, Anti-Sexism, and Prevention of Political-Economic Bias in School Curriculum and Pedagogy Act of 2022.

1 (a) The Department of Education shall ensure that all county boards of education and
 2 authorized charter schools within the state of West Virginia shall comply with the requirements of
 3 the Anti-Racism, Anti-Sexism, and Prevention of Political-Economic Bias in School Curriculum
 4 and Pedagogy Act of 2022, as set forth in and pursuant to §18-2L-1 et seq. of this code.

5 (b) County boards of education shall implement the required mandate outlined in
 6 subsection (a) of this section with the ultimate goal of improving the empirical, historical, biological
 7 and social-scientific validity and substantive academic quality of all West Virginia school curricula
 8 and pedagogies.

9 (c) The Department of Education shall provide any and all information, training and
 10 materials necessary for the strict and effective implementation of the required mandate outlined
 11 in subsection (a) of this section.

ARTICLE 2L. THE ANTI-RACISM, ANTI-SEXISM, AND PREVENTION OF

POLITICAL-ECONOMIC BIAS IN SCHOOL CURRICULUM AND PEDAGOGY

ACT OF 2022.

§18-2L-1. Definitions.

1 As used in this article:

2 “Authorizer” means the entity empowered pursuant to §18-5G-1 et seq. of this code to
 3 accept, reject, renew, or revoke public charter school contracts and to oversee the operation of
 4 public charter schools under its authority;

5 “Charter school” means a public charter school operating pursuant to §18-5G-1 et seq. of
 6 this code;

7 “County school board” or “school board” means a county board of education that
 8 supervises and controls its county school district pursuant to §18-5-1 et seq. of the code;

9 “Employee” means any person hired by a county school board or charter school for
 10 employment, on a full-time, part-time, temporary, or probationary basis or as an independent

11 contractor;

12 “Public school” means any public school under the general supervision of the West
13 Virginia Board of Education;

14 “State board” means the West Virginia Board of Education; and

15 “Stereotypes” means character traits ascribed to a particular race, sex, ethnicity, religion,
16 or national origin, or to an individual because of his or her race, sex, ethnicity, religion, or national
17 origin.

**§18-2L-2. Effect of the Anti-Racism, Anti-Sexism, and Prevention of Political-Economic
Bias in School Curriculum and Pedagogy Act of 2022.**

1 Notwithstanding any other provision of this code, or rule promulgated thereunder, that is
2 either expressly or implicitly to the contrary, the provisions of this Anti-Racism, Anti-Sexism, and
3 Prevention of Political-Economic Bias in School Curriculum and Pedagogy Act of 2022 shall
4 supersede such contrary code provisions and shall control the subject matter covered by this
5 article.

**§18-2L-3. Requirements for curricula, pedagogy and employee training regarding race and
sex stereotyping, biological and genetic accuracy, and bias in presentation of
comparative political economic systems.**

1 (a) A school board or the operator of a charter school established under §18-5G-1 et seq.
2 of this code shall not allow a teacher in the course or scope of public service or employment to
3 teach, promote, embrace, or endorse: stereotyping based on sex, ethnicity, religion, or national
4 origin; biologically and/or genetically counterfactual curricula; or bias in the presentation of
5 comparative political economic systems including, but not limited to, any of the following concepts,
6 to pupils in any course or as part of any curriculum or instructional pedagogy:

7 (1) One race or sex is inherently superior to another race, sex, ethnicity, religion, or
8 national origin;

9 (2) An individual, by virtue of the individual’s race, sex, ethnicity, religion, or national origin,

10 is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

11 (3) An individual should be discriminated against or receive adverse treatment because of
12 the individual's race, sex, ethnicity, religion, or national origin;

13 (4) Individuals of one race, sex, ethnicity, religion, or national origin are not able to and
14 should not attempt to treat others without respect to race, sex, ethnicity, religion, or national origin.

15 (5) An individual's moral character is necessarily determined, in whole or in part, by the
16 individual's race, sex, ethnicity, religion, or national origin;

17 (6) An individual, by virtue of the individual's race, sex, ethnicity, religion, or national origin,
18 bears responsibility for acts committed in the past by other individuals of the same race, sex,
19 ethnicity, religion, or national origin, or should be blamed for actions committed in the past by
20 other members of the same race, sex, ethnicity, religion, or national origin;

21 (7) An individual should feel discomfort, guilt, anguish, or any other form of psychological
22 distress because of the individual's race, sex, ethnicity, religion, or national origin;

23 (8) That individuals should be required to recognize and address another individual's sex
24 in any manner not consistent with the biological sex of such person as determined by X and Y
25 chromosomes of such other person's genetic makeup;

26 (9) Systems based on meritocracy or traits such as a hard work ethic are racist or sexist
27 or are created by individuals of a particular race to oppress individuals of another race, sex,
28 ethnicity, religion, or national origin;

29 (10) The presentation or promotion of any political, economic, or political-economic system
30 that is based on ideological concepts rooted in or inspired by Marxism, Marxist-Leninism, Maoism,
31 socialism, communism, or so-called critical political theory or critical economic theory, of any form
32 or intellectual tradition whatsoever, without: (A) The inclusion of the historically documented
33 occurrences, scope and scale of state sponsored terror and murder, absence of legal process
34 and protection of civil and political rights, forced labor, economic inefficiency, and starvations
35 which have transpired under such forms of political economy; and (B) the provision of equal

36 pedagogical instruction time and student curricula material content dedicated to political-
37 economic systems based in the western tradition of constitutional representative democracy; (C)
38 the preservation in law of civil, political rights, private property rights, intellectual property rights in
39 constitutional representative democracies; (D) the historically documented greater efficiency and
40 productivity of free enterprise, and free market capitalism in constitutional representative
41 democracies; (E) the impact of monetary policy on pricing and inflation; and (F) presentation of
42 political spectrums as measured by the factors of state control versus individual liberty, regardless
43 of economic model; and

44 (11) The cloaking or obfuscation of the concepts described in subdivisions (1) through (10)
45 of this subsection under the guise of “social-emotional learning,” the “1619 Project” or any other
46 pedagogical euphemism or labeling intended to obscure the prohibited content of such curricula.

47 (b) Nothing in this section shall prohibit discussing:

48 (1) How such stereotypes have been or are wrongfully embraced or utilized to discriminate
49 on the basis of race, sex, ethnicity, religion, or national origin; or

50 (2) Data or scientific studies that categorize people based on race, sex, ethnicity, religion,
51 or national origin, or that reveal disparities between different groups within any of those
52 categories.

53 (c) A school board or the operator of a charter school established under §18-5G-1 et seq.
54 of this code shall not:

55 (1) Require its employees to attend training in which the school board or operator, or a
56 contractor hired by the school board or operator, teaches, advocates, acts upon, or promotes
57 race, sex, ethnicity, religion, or national origin stereotyping, including any of the concepts
58 described in subsection (a) of this section;

59 (2) Use public funds to contract with, hire, or otherwise engage consultants, trainers, or
60 other persons to:

61 (A) Direct or otherwise compel a student, teacher, administrator, or other employee to

62 affirm, adopt, or adhere to any belief or concept described in subsection (a) of this section; or

63 (B) Advocate concepts described in subsection (a) of this section, unless:

64 (i) The school, agency, or political subdivision expressly makes clear that it does not
65 sponsor, approve, or endorse such concepts or materials; and

66 (ii) The school, agency, or political subdivision affords students, teachers, administrators,
67 and other employees the opportunity to opt out of any speeches by or sessions with such outside
68 contractors, and schedules equal time and allocates equal resources for presentation of rebuttal
69 training, curriculum or pedagogy to any training, curriculum or pedagogy presented or allowed to
70 have been presented by the public school board, school, or the operator of a charter school
71 established under §18-5G-1 et seq. of this code; or

72 (C) Require a student, teacher, administrator, or other employee to attend or participate
73 in a training, seminar, continuing education, orientation, or therapy that promotes any concept
74 described subsection (a) of this section.

75 (d) If the state school board superintendent determines that a school board or the operator
76 of a charter school established under §18-5G-1 et seq. of this code has by curricula or pedagogy
77 violated subsection (a) or subsection (c) of this section, the state superintendent shall notify the
78 school board or operator of the violation, and shall also simultaneously notify the chairs of the
79 West Virginia House and Senate Education Committees, and the Office of the Governor of West
80 Virginia.

81 (e) If, at least 10 days after sending a notification under subsection (d) of this section to a
82 school board, the state superintendent determines that the school board has not remedied the
83 violation that is the subject of the notification, the state superintendent shall provide written
84 notification to all parents of students subjected to the curricula or pedagogy in violation subsection
85 (a) of this section, or the employees subjected to training in violation of subsection (c) of this code
86 of such determination.

87 (f) If, at least 10 days after sending a notification under subsection (d) of this section to

88 the operator of a charter school established under §18-5G-1 et seq. of this code, the state
89 superintendent determines that the governing body has not remedied the violation that is the
90 subject of the notification, the state superintendent shall provide written notification to all parents
91 of students subjected to the curricula or pedagogy in violation of subsection (a) of this section, or
92 to the employees subjected to training in violation of subsection (c) of this section of such failure
93 to remedy the violation.

94 (g) Nothing in this section shall be construed as prohibiting:

95 (1) Speech protected by the First Amendment of the U.S. Constitution or Article III, §7 of
96 the West Virginia Constitution;

97 (2) Voluntary attendance at a training session, seminar, continuing education, orientation,
98 or therapy, provided that no inducement or coercion for such attendance exists;

99 (3) Access to sources on an individual basis that advocate concepts described in
100 subsection (a) of this section for the purpose of research or independent study; or

101 (4) Discussion of concepts described in subsection (a) of this section or the assignment
102 of materials that incorporate such concepts for educational purposes: *Provided*, That the public
103 school, including a public primary school, public secondary school, or public charter school, state
104 agency, or political subdivision expressly makes clear that it does not sponsor, approve, or
105 endorse such concepts or materials, and schedules equal time and allocates equal resources for
106 presentation of rebuttal training, curriculum, or pedagogy to any training, curriculum or pedagogy
107 presented or allowed to have been presented by the public school board, school, or the operator
108 of a charter school established under §18-5G-1 et seq. of this code.

§18-2L-4. Curricula transparency.

1 (a) The governing body of a public school, including a public primary school, public
2 secondary school, or public charter school, shall ensure that the curricula and teacher training for
3 each public school and charter school shall be posted on that school's website, or, if the school
4 has no website, the curricula shall be posted on the county board or authorizer's website. The

5 posting on the appropriate website shall appear in a publicly accessible location and shall, at a
6 minimum, contain the following information:

7 (1) All training materials, including materials for instructors, concerning or used for staff
8 and faculty training on all matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity,
9 sex, or bias, or any combination of these concepts with other concepts:

10 (2) All instructional or curricular materials concerning nondiscrimination, diversity, equity,
11 inclusion, race, ethnicity, sex, or bias, or any combination of these concepts with other concepts,
12 including:

13 (A) The title, author, organization, and any website associated with each instructional
14 material;

15 (B) A brief description of the instructional material;

16 (C) A link to the instructional material, if publicly available on the internet, or information
17 on how to request review of a copy of the instructional material; and

18 (D) The identity of the teacher, if the instructional material was created by the teacher; and

19 (3) Any procedures for the documentation, review, or approval of the training, instructional,
20 or curricular materials used for staff and faculty training or student instruction at the school,
21 including by the principal, curriculum administrators, or other teachers.

22 (b) Nothing in this subsection shall be construed to require the digital reproduction or
23 posting of copies of the instructional materials themselves if such reproduction would infringe
24 upon copyrighted material; but in such cases, original materials should still be linked, if possible,
25 or provided upon request, as required under subdivision (2)(C) of this section.

26 (c) Any changes to posted curricula and teacher training shall be updated within five
27 business days.

28 (d) No changes to posted curricula or teacher training may be made which are inconsistent
29 with the Anti-Racism, Anti-Sexism, and Prevention of Political-Economic Bias in School
30 Curriculum and Pedagogy Act of 2022 as fully set forth in this article.

31 (e) Any individual may request printed copies of curricula offered by a public school or
32 charter school. The requested copies shall be provided at no cost to the individual.

§18-2L-5. State board rulemaking; effective date; effect on existing contracts.

1 (a) The Anti-Racism, Anti-Sexism, and Prevention of Political-Economic Bias in School
2 Curriculum and Pedagogy Act of 2022 shall be effective on passage.

3 (b) If there is any existing contract with any public school board, public school, or charter
4 school established under §18-5G-1 et seq. of this code that provides curricula, pedagogical
5 resources or teacher training that is inconsistent with the Anti-Racism, Anti-Sexism, and
6 Prevention of Political-Economic Bias in School Curriculum and Pedagogy Act of 2022, the parties
7 shall either cancel, modify, or reform, as of the effective date of this section to ensure compliance
8 with the Anti-Racism, Anti-Sexism, and Prevention of Political-Economic Bias in School
9 Curriculum and Pedagogy Act of 2022 as fully set forth in this article.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-50. County boards duty to enforce the Anti-Racism, Anti-Sexism, and Prevention of
Political-Economic Bias in School Curriculum and Pedagogy Act of 2022.

1 (a) County boards shall ensure that all their employees comply with the Anti-Racism, Anti-
2 Sexism, and Prevention of Political Economic Bias in School Curriculum and Pedagogy Act of
3 2022, as fully set forth in §18-2L-1 et seq.

4 (b) If a county superintendent finds that an employee has violated the provisions of this
5 act, the employee shall be subject to dismissal pursuant to §18A-2-8 of this code.

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
14 an entire class of people, typically for immutable characteristics, as identified through listings of
15 such groups as may be made by the U.S. Department of Justice, the Federal Bureau of
16 Investigation, 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;

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,

55 threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system
56 employee involved directly or indirectly with an application to establish a public charter school as
57 authorized under this section. All personnel in a public charter school who were previously
58 employed by the county board shall continue to accrue seniority with the county board in the same
59 manner that they would accrue seniority if employed in a noncharter public school in the county
60 for purposes of 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
64 met.

65 (c) A public charter school authorized pursuant to this article is exempt from all statutes
66 and rules applicable to a noncharter public school or board of education except the following:

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

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

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

73 (4) The same compulsory school attendance requirements applicable to noncharter public
74 schools;

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

77 (6) The same student assessment requirements applicable to noncharter public schools
78 in this state, but only to the extent that will allow the state board to measure the performance of
79 public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a
80 public charter school from establishing additional student assessment measures that go beyond

81 state requirements;

82 (7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-
83 2-5h of this code;

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

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

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

97 (11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that
98 would be required if the person was employed in a noncharter public school, unless a criminal
99 history check has already been completed for that staff person pursuant to that section.
100 Governing board members and other public charter school personnel are subject to criminal
101 history record checks and fingerprinting requirements applicable to noncharter public schools in
102 this state. Contractors and service providers or their employees are prohibited from making direct,
103 unaccompanied contact with students and from access to school grounds unaccompanied when
104 students are present if it cannot be verified that the contractors, service providers or employees
105 have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

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

107 state;

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

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

114 (15) The Anti-Racism, Anti-Sexism, and Prevention of Political-Economic Bias in School
115 Curriculum and Pedagogy Act of 2022, pursuant to §18-2L-1 et seq. of this code.

§18-5G-6. Authorizer powers and duties.

1 (a) Each authorizing authority is responsible for exercising in accordance with this article
2 the following powers and duties with respect to the oversight and authorization of public charter
3 schools:

4 (1) Demonstrate public accountability and transparency in all matters concerning its
5 charter-authorizing practices, decisions, and expenditures;

6 (2) Establish and maintain policies and practices consistent with the principles and
7 professional standards for authorizers of public charter schools, including standards relating to:

8 (A) Organizational capacity and infrastructure;

9 (B) Evaluating applications;

10 (C) Ongoing public charter school oversight and evaluation; and

11 (D) Charter approval, renewal, and revocation decision-making.

12 (3) Solicit applications and guide the development of high-quality public charter school
13 applications;

14 (4) Approve new charter applications that meet the requirements of this article and on the
15 basis of their application satisfying all requirements of §18-5G-8 of this code, that demonstrate
16 the ability to operate the school in an educationally and fiscally sound manner, and that are likely

17 to improve student achievement through the program detailed in the charter application;

18 (5) Decline to approve charter applications that fail to meet the requirements of §18-5G-8
19 of this code;

20 (6) Negotiate and execute in good faith a charter contract with each public charter school
21 it authorizes;

22 (7) Monitor the performance and compliance of public charter schools according to the
23 terms of the charter contract; and

24 (8) Determine whether each charter contract it authorizes merits renewal or revocation.

25 (b) After an applicant submits a written application to establish a public charter school, the
26 authorizer shall:

27 (1) Complete a thorough review process;

28 (2) Conduct an in-person interview with the applicant;

29 (3) Provide an opportunity in a public forum for local residents to provide input and learn
30 about the charter application;

31 (4) Provide a detailed analysis of the application to the applicant or applicants;

32 (5) Allow an applicant a reasonable time to provide additional materials and amendments
33 to its application to address any identified deficiencies; and

34 (6) Approve or deny a charter application based on established objective criteria or request
35 additional information.

36 (c) In deciding to approve a charter application, the authorizer shall:

37 (1) Approve charter applications only to applicants that possess competence in all
38 elements of the application requirements identified in this section and §18-5G-8 of this code;

39 (2) Base decisions on documented evidence collected through the application review
40 process; and

41 (3) Follow charter-granting policies and practices that are transparent, based on merit,
42 and avoid conflicts of interest.

43 (d) No later than 90 days following the filing of the charter application, the authorizer shall
44 approve or deny the charter application. The authorizer shall provide its decision in writing,
45 including an explanation stating the reasons for approval or denial of its decision during an open
46 meeting. Any failure to act on a charter application within the time specified shall be deemed an
47 approval by the authorizer.

48 (e) An authorizer's charter application approval shall be submitted to the West Virginia
49 Department of Education.

50 (f) An authorizer shall conduct or require oversight activities that enable it to fulfill its
51 responsibilities under this article, including conducting appropriate inquiries and investigations,
52 so long as those activities are consistent with the intent of this article, adhere to the terms of the
53 charter contract and do not unduly inhibit the autonomy granted to charter schools. In the event
54 that a public charter school's performance or legal compliance appears unsatisfactory, the
55 authorizer shall promptly notify in writing the public charter school governing board of perceived
56 problems and provide reasonable opportunity for the school to remedy the problems.

57 (g) An authorizer shall take appropriate corrective actions or exercise sanctions in
58 response to apparent deficiencies in a charter school's performance or legal compliance. If
59 warranted, the actions or sanctions may include requiring a charter school to develop and execute
60 a corrective action plan within a specified time frame;

61 (h) An authorizer shall require that all charter schools and their employees comply with
62 the mandates of the Anti-Racism, Anti-Sexism, and Prevention of Political Economic Bias in
63 School Curriculum and Pedagogy Act of 2022, pursuant to §18-2L-1 et seq. of this code. If an
64 authorizer finds that a charter school or its employee has violated the provisions of this act, the
65 authorizer shall make the charter school's contract subject to suspension pending confirmation
66 that violation has been remedied. Violation of the act may be grounds for revocation or
67 nonrenewal of the charter school contract.

68 ~~(h)~~(i) An authorizer shall require each charter school it oversees to submit an annual report

69 to assist the authorizer in gathering complete information about each school, consistent with the
70 statutory requirements of this act and the charter contract.

71 ~~(j)~~ (i) To cover authorizer costs for overseeing public charter schools, each public charter
72 school shall remit to its respective authorizer an oversight fee drawn from and calculated as a
73 uniform percentage of the per student operational funding allocated to each public charter school
74 as established by the state board by rule pursuant to §18-5G-5 of this code.

75 ~~(j)~~ (k) An authorizer may receive and expend appropriate gifts, grants and donations of
76 any kind from any public or private entity to carry out the purposes of this act, subject to all lawful
77 terms and conditions under which the gifts, grants or donations are given, and may apply for any
78 federal funds that may be available for the implementation of public charter school programs;

79 ~~(k)~~ (l) Notwithstanding any provision of this code to the contrary, no civil liability shall attach
80 to an authorizer or to any of its members or employees for any acts or omissions of the public
81 charter school. Neither the county board of education nor the State of West Virginia shall be liable
82 for the debts or financial obligations of a public charter school or any person or entity that operates
83 a public charter school.

84 ~~(k)~~ (m) Regulation of public charter schools by the state board and a county board shall be
85 limited to those powers and duties of authorizers prescribed in this article and general supervision
86 consistent with the spirit and intent of this article.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-8. Suspension and dismissal of school personnel by board; appeal.

1 (a) Notwithstanding any other provisions of law, a board may suspend or dismiss any
2 person in its employment at any time for: Immorality, incompetency, cruelty, insubordination,
3 intemperance, willful neglect of duty, unsatisfactory performance, a violation of the Anti-Racism,
4 Anti-Sexism, and Prevention of Political-Economic Bias in School Curriculum and Pedagogy Act

5 of 2022, as provided in §18-2L-1 et seq. of this code, a finding of abuse by the Department of
6 Health and Human Resources in accordance with §49-1-1 et seq. of this code, the conviction of
7 a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a
8 rational nexus between the conduct and performance of the employee's job, the conviction of a
9 felony or a guilty plea or a plea of nolo contendere to a felony charge.

10 (b) A charge of unsatisfactory performance shall not be made except as the result of an
11 employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be
12 stated in writing served upon the employee within two days of presentation of the charges to the
13 board.

14 (c) The affected employee shall be given an opportunity, within five days of receiving the
15 written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions
16 of §6C-2-1 et seq. of this code, except that dismissal for a finding of abuse or the conviction of a
17 felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a
18 grievance proceeding. An employee charged with the commission of a felony, a misdemeanor
19 with a rational nexus between the conduct and performance of the employee's job, or child abuse
20 may be reassigned to duties which do not involve direct interaction with pupils pending final
21 disposition of the charges.

22 (d) A county board of education has the duty and authority to provide a safe and secure
23 environment in which students may learn and prosper; therefore, it may take necessary steps to
24 suspend or dismiss any person in its employment at any time should the health, safety, and
25 welfare of students be jeopardized or the learning environment of other students has been
26 impacted. A county board shall complete an investigation of an employee that involves evidence
27 that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of
28 students despite the employee's resignation from employment prior to completion of the
29 investigation.

30 (e) It shall be the duty of any county superintendent to report any employee suspended or

31 dismissed, or resigned during the course of an investigation of the employee's alleged
32 misconduct, in accordance with this section, including the rationale for the suspension or
33 dismissal, to the state superintendent within seven business days of the suspension, dismissal,
34 or resignation. The state superintendent shall maintain a database of all individuals suspended
35 or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the
36 learning environment of other students. The database shall also include the rationale for the
37 suspension or dismissal. The database shall be confidential and shall only be accessible to county
38 human resource directors, county superintendents, and the state superintendent.

NOTE: The purpose of this bill is to prohibit race or sex stereotyping, biologically and or genetically counter factual instruction, and/or or a biased and historically inaccurate account of comparative political economic systems in 1) instruction provided to pupils in school districts and independent charter schools; and 2) training provided to employees of school boards and independent charter schools. Under the bill, any course or part of any curriculum or pedagogy, or employee training that violates the requirements of the act is prohibited. Among the concepts that are prohibited from being taught under the bill are the following: that one race or sex is inherently superior to another race or sex and that an individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other individuals of the same race or sex, that persons must recognize identifications contrary to biology and/or genetics, and the presentation of any socialist, communist, or otherwise Marxist, Maoist or critical theory inspired system of political economy without the accurate inclusion of the historically documented scale of state sponsored terror and murder, economic inefficiency, and starvations which have occurred under such forms of political economy and co-equal instructional time dedicated to free-market economies, capitalism and freely elected constitutional democratic republics. The bill provides that the state superintendent of public instruction notify parents and employees of violations of the act, waives sovereign immunity for violations of the act, and provides a private right of action by a parent, guardian or employee for violations of the act.

The bill also requires each school board to post all curricula and training for teachers used in schools in the school district on the school district's internet site and, if a school board maintains an internet site for an individual school, on the individual school's internet site. If an internet site is maintained for an independent charter school, the bill requires the authorizer of the independent charter school to ensure that all curricula used in the independent charter school are posted on the independent charter school's internet site. Under the bill, upon request, a school board or independent charter school operator must provide a printed copy of any curriculum that it is required to post on its internet site, at no cost to the requester.

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