

**Policy 3300, Charter Public Schools**

**Comment Log**

**6/9/2021-7/12/2021**

**Action**

A/S Comment was accepted and supports the proposed policy.

A/C Comment was accepted and resulted in changes to the proposed policy.

N Comment was not accepted.

<b>Date</b>	<b>Commenter</b>	<b>Comments</b>	<b>Action</b>	<b>Rationale</b>
<b>§126-79-1. General.</b>				
7/6/21	Sandy Williams n/a CHARLESTON West	I am against charter schools in WV. Our public schools are not adequately funded since teachers still use their own money to buy supplies for their classrooms and some of the school buildings are in need of improvements. Tax monies should first be used to correct issues with our public schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Leslie Wright Buckhannon West	Overall I think this policy puts WV students at risk and also exposes the state to wasting money. For-profit charter schools should not be allowed, as statistics from other states have shown that these schools do not successfully educate children	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Janet Manning Kindergarten Aide Raleigh County Board of Education Crab Orchard WV	I feel that West Virginia should make available charter schools because every parent should have the option where to send their child to school. I feel that all federal money that is being allotted per child should go with that child to whatever school they choose to go to. Parents and children have choices about every aspect of their life and education should be no different. As a public employee I understand that this is going to affect the school in which I work but I also feel that parents should	A/S	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

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		have a say in what their children are being taught. Thank you for taking the time to consider my comments.		
7/6/21	Lisa Weihman Morgantown WV	Charter schools are a terrible idea in West Virginia. They funnel money away from already underfunded public schools and there's not enough accountability to ensure a good return on the investment. They're money grabs by unscrupulous "experts" who profit off our concern for our children. They are not proven to offer better educational outcomes than our public schools, but they absolutely increase inequality of opportunity in the communities they steal resources from. Charter schools are vampires. Don't fall for their malarkey.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	When public hearings were held on charter schools the vote was 80% said no to charter schools. The Charter School board is just a way to force charter schools on the public. That overwhelmingly said no to Charter Schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Jeannie Huff costa West	Let me get this straight. The entire state of WV has spent the last 16 months complaining about online school, lack of internet, lack of personal interaction and a myriad of other issues associated with online school, and the natural response to an overwhelmig complaint against "online" school is to classify online charter schools?!? This sounds just like WV. Instead of finding new ways to spend limited money why don we invest in our schools and students that sre already here? If they really want online school WVleaarns, PennFoster and K12 are already options. Lets not find new ways to spend limited money.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  HB2012 also specifically allows for the creation of virtual charter schools.
7/6/21	Constance Pirner Retired teacher Barrackville WV	I totally support charter schools. Our unions protect terrible teachers and immoral adults. Our children deserve opportunities that can be gained from innovation.		

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7/6/21	Emily Helton Morgantown WV	Charter schools in WV are attempting to solve a problem that does not exist. Who advocated for them? Primarily out of state interest groups. You certainly did not consult the experts in education in this state. The creation of charter schools will undermine the resources of our already underfunded public schools, furthering inequity in this state. I strongly oppose this legislation.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Sarah Jane Kendall Sarah J. Kendall Charleston WV	This is the policy which will guide the creation, governance, etc. of public charter schools in WV is a fundamentally flawed policy, as there was no input from WV teachers and service personnel, and too much input from out-of-state special interest groups. Public tax dollars should not fund charter schools. Our public schools are already underfunded and understaffed for the great need of the students they serve; especially given the tremendous challenges of today. The loss of funds that will instead go to Charter schools hurts the neediest of WV students who remain in public schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  Numerous stakeholders and stakeholder groups were involved in the development of Policy 3300 following the passage of legislation allowing for the creation of charter schools in 2019.
7/6/21	Walter Farr teacher beckley wv	Not going to help students. Will be a big money maker for some politician.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	I am currently a public school teacher and will soon be a parent and I oppose the creation charter schools in WV. Even though your plan says that there will be no economic impact to the WV Department of Education, I don see any supporting evidence for this claim after having read the proposed legislation. Veronica Brooks-Uy and the other stake holders have no interest in protecting	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

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		the education of WV student and are not versed in our unique problems or situations.		
7/6/21	Chad Francis Parent of WV students Moundsville WV	This is a fundamentally flawed policy, as there was no input from WV teachers and service personnel, and too much input from out-of-state special interest groups. In the long run this will hurt the public education system in place W.V. Please stop selling out to out of state special interest groups and do what's right for Wv WV and properly fund public education.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  Numerous stakeholders and stakeholder groups were involved in the development of Policy 3300 following the passage of legislation allowing for the creation of charter schools in 2019.
7/6/21	Elizabeth Moore St. Albans WV	Online Charter Schools that have unelected board members and the ability to circumvent county boards of education should not be permitted or legalized.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  Per state law, all charter schools are overseen by a governing board; the requirements to serve on a governing board are also outlined in state code.
7/6/21	Mary Lickert Retired/Substitute Teacher Charleston WV	In a state with a tight educational budget, low test scores provided the rationale for new charter schools. But there was no need to mention them when the super majority party rammed more through this year. All statistics have been available to see where the low tests scores occur and their correspondence to free/reduced lunches, single parent households, unemployment numbers and much	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

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		<p>more. That's where extra resources are needed. No effort was made.</p> <p>Instead, we're looking at many unnecessary public-private schools and ESAs. I will not pay for corporate oversight of charter schools or the big giveaways of ESAs. These ventures were promoted and passed by sellout politicians with little knowledge of education. I'm giving serious thought to single or group legal action.</p> <p>You do NOT collect a public salary, then comply with their inverted, corporate program and misuse our tax dollars.</p>		
7/6/21	H. Gary Gillespie, PHD Glennville State College	<p>As a former public-school teacher in WV and Ohio as well as at Glennville State College and Marshall University, I am aware of the weaknesses and strengths of public-school education. The public school system in WV would not be tolerated were it not superior to all other practical educational systems. WV's public schools meet student needs in its present operation, a fact that is obvious when public schools are compared to charter schools and home-schooled methods. This is especially true concerning charter schools online.</p> <p>Because of poverty in Southern and Central WV, many families cannot afford computers, and limited access to the web and broadband often prevents online charter schooling to those with computers Online WV charter schools would inadvertently discriminate against students in these areas. In these same geographical areas public schools are the main source of live personal exposure to cultural and social experiences, but online charter schools could offer only virtual, less effective experiences. The creative and performing arts and much</p>	N	<p>W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.</p> <p>HB2012 specifically allows for the creation of virtual charter schools for students and families interested in that learning option. There is no requirement that a student attend a virtual charter school. Virtual charter school applications are required to address additional items (see §4.5 of this policy) to allow the authorizer the ability to appropriately evaluate the various concerning issues that have accompanied virtual charter schools in other states.</p>

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		<p>physical education are better suited to public schools than to online charter schools.</p> <p>In an undetermined number of families, both parents work outside the home. Who will then supervise their children's work in online charter schools? Unsupervised some children may play computer games rather than complete online charter school assignments. Online classes tempt some students to plagiarize, and how will anyone accurately know who completed the online charter school assignments? There are many serious problems that online charter schools cannot address: Without a public-school teacher's daily observations, who will report evidence of child abuse in the home and unattended health issues and improper hygiene—in short, who will safeguard these children? Who will make sure that online charter school pupils have daily adequate meals?</p> <p>Surveys reveal that students engaged in excessive amounts of TV and/or computer-time lose conversational skills, socializing skills, proper physical exercise leading to obesity, and even proper nutrition health. Public school classes are held accountable for academic standards and rightly so; but there are also other crucial social, psychological, and humanitarian benefits not offered in online charter schools: Students need classmates and challenging teachers present in order to realize the give-and-take of life's patterns. Real schools provide the environment to learn to cope with competition and failure that only observations and participation offers. Public schools are a venue for the development of tolerance and respect for others which contribute to</p>		
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		accepting cultural and racial diversity. Many of life's lessons are never online.		
7/7/21	Thomas Druge Morgantown WV	A charter school will take away funding from the public schools in its area, so it is bad for all students not enrolled in the charter school. Charter schools hire non qualified teachers and that is bad for the students. I am against having any charter schools in the state, and especially in Monongalia County. My daughters went to public schools here and received good educations, and attended very good colleges. Instead of siphoning off students from the public schools we should be improving the schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  No change to the qualifications to teach at a charter school are being recommended with this revision of the policy. Per §4.3.i. of this policy, the qualifications must be included in a charter application and approved by the appropriate authorizing entity.
7/7/21	Amy J Egress Citizen of West Virginia None Falling Waters WV	Overall, I do not understand why the great state of West Virginia needs an independent body to supervise Charter Schools. We should trust the current body, the West Virginia Board of Education, to supervise all the public and public charter schools in our state. If the West Virginia Board of Education cannot be trusted to supervise charter schools, it should not be trusted to supervise/approve public schools. Creating two supervising bodies is redundant and a waste of taxpayer dollars and resources. Perhaps there should be reform at the West Virginia Board of Education rather than creating two similar organizations under that state education umbrella.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  HB2012, passed during the 2021 legislative session, directs for the creation of the West Virginia Professional Charter School Board.
7/7/21	Gregory Fairmont WV	I am in favor of charter schools. It will be another avenue for our children to obtain an education. I have traveled and spent time in several other states that have charter schools and see nothing but positive results.	A/S	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and

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				implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/7/21	Sherry Everly Morgantown West	Taxpayer money should go to PUBLIC schools. We have trained, educated, capable teachers who care about their students. Charter schools do not require their teachers to have that education. Charter schools have a high failure rate as proven in other states. This issue should have been brought to the taxpayers on election day. I don believe that our representatives should have made this major decision on their own!!	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/7/21	Lisa Brewer Dr. New River CTC Summersville WV	I am wholeheartedly against the charter school legislation in West Virginia. The experiment in other states has proven to be a corrupt failure. It is time to start funding public education adequately instead of taking money away from it and taking students out of public schools. Lets make our public schools the best in the country instead of putting money in private pockets with no accountability.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/8/21	Evelyn Dale Morgantown, WV	I believe that local educational resources are not at peak. The lack of performance assessments for teachers along with tenure allow underperforming educators to stay in the classroom. We need education to push students to higher standards rather than provide pathways that only teach to the lowest performers'/students' abilities. rnThe violence and bad behaviors of the outliers in the school body are too readily tolerated in public schools. A private entity can manage this better. Non-traditional Curriculum and teachers' biases are often too much in evidence in the classroom. My three daughters were often mocked by teachers for their conservative and Christian beliefs. We need to get back to teaching the three Rs without political commentary. I believe this can only be down be	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  Pursuant to W.Va. Code §18-5G-3(a)(4), charter schools may not espouse any specific religious denomination, organization, sect., or belief and cannot promote or engage in any religious practices in their educational program, admissions, employment policies or

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		through charter schools where attendance is dependent on performance and commitment to participation.		operations. Pursuant to §18-5G-11, public charter schools are open to all students eligible to attend public school in this state.
7/8/21	Elaina Duley Elementary Teacher Morgantown WV	The law, as written, does not require that the organization that is to create and oversee the running of the charter school have any educational training and/or background. Teachers and school administrators are highly trained in methodology, classroom management, learner characteristics and best practices. It is unrealistic to expect someone who is focused on say, profit, to be qualified to make sound decisions on educational procedures, content and management.	N	W.Va. Code §18-5G-7(b) requires that members of a charter school governing board “collectively possess expertise in leadership, curriculum, and instruction, law, and finance.” The board must consist of at least five members, two of whom must be parents of students attending the charter school and two members who reside in the community served by the charter school.
7/8/21	Barbara Frierson St. Albans, WV	<p>It appears to me that the proposed changes legalize fully-online charter schools and create an unelected Professional Charter School Board with power to override County Boards of Education and the WV Board of Education. Since the State school board derives its power from the West Virginia Constitution, this arrangement appears to be unconstitutional and without merit. The WV Supreme Court wrote in a 2017 ruling that “legislative action that impedes the general supervisory powers of the [Board] is patently unconstitutional.” I object to these proposals first and foremost on that basis.</p> <p>From a practical and quality-education standpoint, there is abundant evidence from other states and from West Virginia’s experience of test outcomes after remote learning during the COVID-19 pandemic that fully-online education, whether in chart or public schools, has a poor academic track record. I object to using WV children as</p>	N	<p>W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.</p> <p>HB2012 also specifically allows for the creation of virtual charter schools.</p> <p>HB2012 requires the creation of the West Virginia Professional Charter School Board. The Professional Charter School Board is not an appellate body and cannot override a county board of education’s decision on a charter application. Rather, the Professional Charter School Board is a separate entity with its own authorizing authority. All authorizers must follow the</p>

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		<p>"guinea pigs" in a system already shown to produce poor results in terms of education.</p> <p>I strongly object to the proposed changes that would allow the new Professional Charter School Board to be an independent Authorizer of charter school applications. This board would have no accountability to parents, students or to any local community, yet could single-handedly approve charter school applications, with no recourse. This seems like a very dangerous precedent to set when education in West Virginia is already struggling to thrive.</p> <p>Full-time virtual charter schools will have very little oversight from independent agencies as there will be no bricks-and-boards classrooms to inspect nor in-person teachers to observe in action. The potential for poor outcomes, loss of students to boredom, incompetent or inexperienced teachers, and inappropriate teaching materials seems enormous.</p>		<p>process for considering charter applications as detailed in law and policy, and have the same duties and responsibilities relating to oversight of the charter school.</p>
7/8/21	Renee Mahon School Counselor Taylor County Middle School Grafton WV	<p>The state legislators decided to have charter schools despite all the protests from educators, community members and parents. There is no accountability or standards for charter schools. Teachers don even have to be certified. No one wants them. They are a drain on public school funding and research shows they fail. Please do everything you can to make sure they don exist. We don want them at all. Our students deserve better. Public schools provide virtual school, homebound, in person classes and so much more. Theres no need for charter schools. We need to invest in public schools.</p>	N	<p>W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.</p>
7/9/21	Karen L Simon Charleston Wv	<p>Why is WV selling our public schools, the core of our communities, to unregulated, for profit entities that have no elected boards, little accountability, and are often</p>	N	<p>W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is</p>

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		traded on Wall Street? We all know how the extractive industry left us in poverty. Learn from other states failures with charter schools, such as Ohio. No wonder our population continues to dwindle. Thank you for considering these comments.		revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/9/21	Marianna Ruggiero Berkeley Springs WV	I am against charter schools. I feel that they are a waste of tax dollars. Considering we have never properly funded our public schools, why create a new school system? I would rather we invest in our public schools: ensure they have highly qualified teachers, social workers, nurses, behavior interventionists, psychologists, counselors, and reduced class sizes.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/9/21	Shirley Goodfellow Early Childhood Classroom Assistant Teacher Tyler County Schools Middlebourne WV	I am opposed to allowing charter schools in every county of WV! Charter schools can accept or reject any student! They, most likely, will enroll the "cream of the crop" students; students with the best academic records, students with no behavior issues, students with no medical issues, and students with good at-home support in the best socioeconomic status. Public schools will be left with the remaining students; those most challenging and at risk students, which will be more costly to effectively educate. Speaking of cost, charter schools will decrease funding to regular public schools with each student that they enroll. Public schools will not have proper funding to provide quality education. This will devastate public schools! Not only financially. Charter schools will not bridge the great divide between those who have and those who have not. It will be cause greater separation of these two groups. All children deserve equal educational opportunity, and this is NOT the answer. Please reject this charter schools policy!	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  W.Va. Code §18-5G-1(c) acknowledges that charter schools are part of the public school system and therefore open to all students. An enrollment lottery is utilized if the number of student applicants exceeds the capacity of the charter school. W.Va. Code §18-5G-11(a)(8) requires such lotteries to be conducted in an open meeting and must be conducted in line with procedures and timelines that support equal and open access for all students. Policy 3300, §9.3.b.4.F. further requires that applications to attend a charter school cannot require applicants

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				<p>to demonstrate high achievement in order to be considered for enrollment.</p> <p>The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5 and requires 90% of the per pupil total basic foundation allowance to follow a student to a charter school; the remaining 10% stays with the local county board of education.</p>
7/11/21	Erin Burgess Poca WV	As a parent I oppose charter schools. They take money away from public schools, are not required to accept all students, and can pick and choose what rules to follow. They have done far more harm then good. I urge the board to reject charter schools. We need to spend our time and energy public education. The board has already said the online education is not “real teacher and learning”. So why bring in online charter schools? It makes no sense based on how the board acted during this past schools year.	N	<p>W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.</p> <p>HB2012 also specifically allows for the creation of virtual charter schools.</p> <p>W.Va. Code §18-5G-1(c) acknowledges that charter schools are part of the public school system and therefore open to all students. An enrollment lottery is utilized if the number of student applicants exceeds the capacity of the charter school. W.Va. Code §18-5G-11(a)(8) requires such lotteries to be conducted in an open meeting and must be conducted in line with procedures and timelines that support equal and open access for all students. Policy 3300, §9.3.b.4.F. further requires that applications to attend a</p>

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				charter school cannot require applicants to demonstrate high achievement in order to be considered for enrollment.
7/11/21	Franklin Roberts Morgantown WV	Charter schools should be limited by the extent permitted by law. Conspired with public schools, they are less publicly accountable, less transparent, and have a worse record on socio-economic and racial equity.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/12/21	Joyce Allen Charleston West	we have first hand experience that a Charter School program works. Our grandson was having so many problems in public school system that he dropped out. He went to a charter school in PA, excelled in class and given an opportunity to train in a trade that would prepare him for a job after graduating. He accomplished a true diploma, not a GED and now the program is going to continue his training to become a welder. The Charter School saved him from being a dropout and dysfunctional young adult depending on state assistance. He is a hard worker and has a plan for the future.		
7/12/21	Douglas E Allen Charleston WV	any additional educational opportunity in west Virginia is a boon.		
7/12/21	Dale Lee President WVEA CHARLESTON WV	The WVEA has long been an outspoken critic of charter schools and that has not changed with the proposed policy changes. We have seen funding for public education drop dramatically in the percentage of the budget of the State of West Virginia and the creation of charter schools will further erode the dollars going to our public schools. I know these are considered "public" charters but having authorized charter schools as their own local education agency (LEA) takes the authority out of the hands of the elected school board in each county. These newly created authorizers can adopt a charter	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

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		<p>school that does not have to provide transportation, lunch and breakfast, does not have to highly qualified educators, and can impose class/school enrollment limits that does not allow for every student to be enrolled.</p> <p>We recognize that our public schools should continuously look at ways to improve and try to reach every student. In my opinion, the best way to do this is to ask the true experts of public education, the educators who work with our students on a daily basis, how to best improve the system. In my 35+ years in education, I have rarely had anyone ask these educators what they recommend.</p>		
7/12/21	Jennifer Weddington teacher Putnam County School Hurricane WV	Many in the WV Legislature have complained that students didn't do well this past year because of online education. So why would money be given to online charter schools?		HB2012, passed during the 2021 legislative session, specifically allows for the creation of virtual charter schools.
<b>§126-79-2. Purpose.</b>				
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	The purpose of charter schools is not to offer school choice but in my opinion, it is a clear way to force counties to accept charter schools in their area, a legal way to discriminate, and a way to defund public education. Charter schools have been shown to be the wrong choice. Let us all look at other states and the problems that they have dealt with concerning charter schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	I see that the purpose of charter schools is to create more options for our students, but why can we do this within our existing structure which is already set up and mandated to serve all students regardless of family, income, race, gender, or sexual orientation? How can we be sure that all	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

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7/6/21	Arlie Asbury Mr. Hewett WV	Why create an entirely separate school system? Why not give our EXISTING schools the freedoms being afforded the charters? Can WV afford two school systems?	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/7/21	Lisa Brewer Dr. New River CTC Summersville WV	The purpose of the charter school is to privatize education so that some can profit from taxpayers without any accountability. It is wrong in every way.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/8/21	Renee Mahon School Counselor Taylor County Middle School Grafton WV	I don want charter schools at all.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/11/21	Franklin Roberts Morgantown WV	Charter schools should be limited by the extent permitted by law. Conspired with public schools, they are less publicly accountable, less transparent, and have a worse record on socio-economic and racial equity.	N	Policy 3300, §4.3.d. requires charter schools to have an accountability plan, which at a minimum must include adhering to the same student accountability measures as noncharter public schools. Section 12.9 of the policy requires charter schools to meet the same accounting and financial reporting requirements as noncharter schools.  While Policy 3300 cannot control which students will seek to enroll in an established charter school, the annual

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				enrollment and retention review required by §9.2.d. requires charter school governing boards to compare demographics of students applying to and enrolling in a charter school to surrounding noncharter schools.
7/12/11	Windsong Bergman Shepherdstown WV	Experience in other states with large numbers of charter schools (e.g. NY) shows that access to charter schools is not equal because lower income families often lack the time and know-how to enroll their children and keep up with charter school requirements. This results in a "skimming" of children from public schools that has a negative impact on the public schools and the children in them. Instead of a separate charter schools, opportunities for small schools and innovation should be provided within the public school system.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  While Policy 3300 cannot control which students will seek to enroll in an established charter school, the annual enrollment and retention review required by §9.2.d. requires charter school governing boards to compare demographics of students applying to and enrolling in a charter school to surrounding noncharter schools.
7/12/11	Jessica Weddington Hurricane WV	There are already multiple options of schooling for students and parents to choose from. Families in more well off areas are the ones who tend to benefit from this. A charter school would not be feasible in the areas whom are already having difficulties with the current options available.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
<b>§126-79-3. Definitions.</b>				
7/6/21	Crystal Adkins SPED Teacher	Very unclear. I need more information on how the charter school board is going to be chosen. This affects the communities overall over the state of West Virginia.	N	HB2012, specifically §18-5G-15, established the West Virginia Charter School Board. Requirements for

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	Marion AFT Rivesville WV	We need to leave the discussion up to the local county boards of educations		individuals to serve on the board, board member duties, and how members are appointed, are included in that section of Code.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	Section 3.1 makes no sense- what if the accountability plan for the charter comes into direct conflict with the educational outcomes set forth by the charter directed outcomes? How then can the charter be required to be accountable for to the state?  I oppose the WV charter school board as being able to serve as an authorizer for a charter school. The WVDE or a local school board should only be able to serve as authorizers because there would be too much conflict of interest. A WV charter school board would want to authorize as many charter school applications as possible and there would be no oversight or regulation for this committee as the wording in the documentation stands now.	N	The charter school applicant is responsible for including an accountability plan in the charter application. Adhering to the same accountability measures as noncharter public schools must be a part of the accountability plan.  HB2012, specifically §18-5G-15, established the West Virginia Charter School Board. Requirements for individuals to serve on the board, board member duties, and how members are appointed, are included in that section of Code.
7/12/21	Jessica Weddington Hurricane WV	If charter schools are consider their own local education agency and not to be considered part of the county BOE LEA than why will they receive public funding? Why is a virtual charter school necessary when we already have at least two options for virtual learning currently? It is usually found that the more options that are offered, in any situation, the more problems that arise.	N	The local education agency designation primarily affects the duties and responsibilities of charter schools and their governing boards under federal law. They will be directly responsible for adhering to federal requirements. State funding is not affected by this change in designation.  HB2012, passed during the 2021 legislative session, specifically allows for the creation of virtual charter schools.
7/12/21	Sheryl Tatum	Policy 3300 conflicts with statute, which states that a charter school applicant must “[h]ave obtained 501(c)(3) tax-exempt status or have submitted an application for	N	No change is being proposed to Policy 3300, §3.3. There is no basis for denying a

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	Senior Director, Academic Policy & Research Stride, Inc. Herndon, VA	501(c)(3) tax-exempt status.” W. Va. Code, § 18-5G-2(1)(a). Policy 3300, however, states that “an applicant must obtain 501(c)(3) status before operation of any charter school commences.” Policy 3300, §3.3. That requirement is not in statute and does not align with how the Internal Revenue Service operates. Non-profits who petition the IRS for the 501(c)(3) tax-exempt designation often wait years for final approval and would cause unwarranted delays to the application process. The legislature could have required all applicants to have a 501(c)(3) tax-exempt designation by the IRS, but chose to provide applicants with two options for compliance. The legislature recognized the burdensome process of getting the 501(c)(3) designation and provided applicants with flexibility to still qualify without the actual 501(c)(3) tax-exempt designation. We recommend that the Policy document be updated as it relates to 501(c)(3) tax-exempt status to align with statute.	charter application due to an applicant not yet receiving 501(c)(3) status. Not requiring obtainment of 501(c)(3) status would allow the charter school to operate as a for profit entity, which is contrary to the intent of the law. Additionally, requiring 501(c)(3) status prior to actual operation of the charter school further achieves the overall purpose and intent of W.Va. Code §18-5G-1, et seq. It prevents unnecessary disruption to students enrolled in a charter school if 501(c)(3) status is denied. It also allows the charter school to use funds received, all or at least a substantial portion of which is taxpayer money, in a tax exempt manner, thereby ensuring the buying capacity of such funds is at its peak.	
<b>§126-79-4. Charter School Application</b>				
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	4.3.e.2.B: support expansion of conflict of interest coverage to include individuals employed by <i>or receiving compensation from</i> an Education Service Provider	A/S	
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	4.3.f.1 & 4.3.f.2: support the proposed language implementing §18-5G-14(a)(1), a statutory virtual charter school enrollment cap. Implementing this enrollment cap by grade ban, rather than either full K-12 enrollment or grade specific enrollment, strikes an appropriate balance and ensures the legislative intent is fulfilled.	A/S	
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	4.3.r: support the clarifying language relating to <i>minimum</i> requirements for plans to serve students with special needs. The legal responsibility to provide a “free, appropriate public education” to students with special	A/S	

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		needs is one that charter schools must sufficiently understand and plan for, and the proposed regulatory language emphasizes this importance.		
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	4.5: support the proposed regulations regarding additional application requirements for virtual charter schools. Each additional requirement addresses a particular aspect that differentiates virtual schooling from in-person schooling, and the proposed regulations appropriately place an expectation on applicants to have adequately considered and planned for addressing these unique challenges. in particular, NACSA strongly supports inclusion of the following requirements: o 4.5.a (provision of appropriately hardware and internet connectivity) o 4.5.b (process for administration of summative assessments) o 4.5.c (method for documenting consistent attendance) o 4.5.e (method for measuring student progress towards graduation) o 4.5.f (requirements for student engagement in instructional activities) o 4.5.h (policy regarding student failure to participate instructional activities)	A/S	
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	4.6.f: support clarifying language to ensure non-discrimination in recruitment, admission, and enrollment policies	A/S	
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	4.6.g: support clarifying language to enforce charter school responsibility to evaluate students for appropriate federal supports	A/S	
6/28/21	Jason Zwara Policy Manager NACSA	4.6.h: support clarifying language extending responsibility of responding to Freedom of Information Act requests to the charter school's governing board	A/S	

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7/6/21	Kayla Medlen Teacher Cabell County Schools Barboursville WV	Charter school decisions need to remain at the local level. A state board should not be able to override a local decision regarding charter schools. If you believe the peoples voices of WV are important, then this should be left up to a county by county level in which they are experts on their students. The state board of education should not be able to override decisions made by the legislature regarding this issue if they choose to do so.	N	Per §18-5G-2(2), only county boards of education and the West Virginia Professional Charter School Board may authorize a charter school. While a denial of a charter application may be appealed to the West Virginia Board of Education (WVBE), that review is statutorily limited in scope. Per Policy 3300, §13.4, the WVBE may either deny an appeal or remand it back to the authorizer for further proceedings.
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	To easy for an application to be approved and forced on a county.	N	The application process is largely detailed in statute. The application requirements are numerous and further outlined in Policy 3300, §4.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	<p>The application should not be made available online to protect the interests of WV citizens. If the application is available online, anyone, including an out of state entity without the vested interest of our WV children, would have access. You should have to apply publicly in person in Charleston during legislative session.</p> <p>Will the ESP be required to be a WV resident or WV agency? What if the ESP is an out of state inspector? Who gets to determine who the ESP actually is? Is the ESP the WV BOE or WVDE? Whats the different between a charter and a public school at that point?</p> <p>What consequences will a governing board face if the contract is violated?</p>	N	<p>The application contents and process are outlined in W.Va. Code §18-5G-6 and 8, and further detailed in Policy 3300, §§4 and 5. Pursuant to §18-5G-2(1) an applicant is defined as “any one or more in combination of parents, community members, teachers, school administrators, or institutions of higher education <u>in this state</u> who are interested in organizing a public charter school...” Pursuant to W.Va. Code §18-5G-2(2), authorizers, rather than the Legislature, are the entities charged with considering applications.</p> <p>Charter school governing boards are permitted to contract with education service providers (ESPs) to manage the</p>

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				<p>day-to-day operations of the charter school so long as certain criteria are met and disclosed to the authorizer. See: W.Va. Code §18-5G-8(c); Policy 3300, §11. Those criteria include but are not limited to evidence of past success and financial disclosures. There is not a requirement that the ESP be a resident entity of WV, but likely must be properly registered to do business in this state.</p> <p>Consequences to the governing board for violating the charter contract can vary depending on the severity of the violation, up to and including revocation of the charter contract if the authorizer determines that any one of the conditions outlined in W.Va. Code §18-5G-10(h) exists.</p>
7/8/21	Renee Mahon School Counselor Taylor County Middle School Grafton WV	They should have to have the same standards and requirements as public schools. It should have to be approved by local School Board.	N	Charter schools are required to adhere to the same state accountability standards (Balanced Scorecard) as noncharter public schools. In addition to county boards of education, HB2012 allows for the West Virginia Public Charter School Board to authorize charter schools.
7/9/21	Marianna Ruggiero None None Berkeley Springs WV	I don think its right to take control away from local, elected school boards by creating a WV Professional Charter School Board. Decisions should remain local. Let the citizens of each county have the say, not the state legislature.	N	HB2012, specifically §18-5G-15, established the West Virginia Charter School Board. Requirements for individuals to serve on the board, board member duties, and how members are appointed, are included in that section of code.

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<p>7/11/21</p>	<p>George Monk Molly Schaffnit Poca, WV</p>	<p>Our comments to the proposed changes and additions to this regulation focus on the requirements for Charter School Application (126-79-4). As a preface to our comments, while the legislature has mandated the possibility of virtual charter schools in West Virginia, the record of virtual charter schools in other states is problematic. Student performance in virtual charter schools is consistently below that in other schools in those states, including charter schools, with a comparable student mix. One issue is severely flawed course programs offered by for-profit organizations such as Stride, Inc. (formerly K12 Inc.).</p> <p>Another issue is problematic student access discussed in The New Yorker and Propublica article by Alec MacGillis ("The Students Left Behind by Remote Learning," 28 September 2020, <a href="https://www.propublica.org/article/the-students-left-behind-byremote-learning">https://www.propublica.org/article/the-students-left-behind-byremote-learning</a>). Students are often the most knowledgeable in their families when it comes to the technology involved in virtual education, but students are not internet Technology professionals and will and do have problems with hardware and software. Internet access may be available if availability is very loosely defined. Is that internet access able to meet the challenges of regular and consistent access to course programming and the software used for that access? What happens if a student moves and internet access is not readily available or too expensive? If a student's primary access to coursework and the school is broken, will there be a backup resource such as a dedicated smart phone? Finally, how will a virtual charter school meet the challenges of a blind student in providing access? Will flawed virtual charter</p>	<p>A/C</p> <p>HB2012, passed during the 2021 legislative session, specifically allows for the creation of virtual charter schools.</p> <p>The West Virginia Supreme Court of Appeals (WVSCA) has held that "Section 1 of Article XII of the West Virginia Constitution creates a strong presumption in favor of making everything that is deemed a necessary component of public education cost free." <i>Randolph Co. Bd. of Ed. v. Adams</i>, 196 W.Va. 9 (1995). In the case the WVSCA struck down a book fee imposed on non-needy students reasoning that textbooks and materials were such an "integral and fundamental part of the elementary and secondary education" that they must be provided to all students for free.</p> <p>W.Va. Code §18-5G-1(c) reaffirms that charter schools are part of the public school system. As such, just as noncharter schools, charter schools must provide students with any item deemed an integral and fundamental part of education at no cost. For virtual charter schools, this would those items that allow enrolled students to participate in the educational offering.</p> <p>One of the proposed modifications to Policy 3300 lists 'Infrastructure' as an evaluation item, and specifically directs</p>
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		<p>school programs automatically prohibit participation by people because they do not meet an in-built bias?</p> <p>Our comments focus on provided technology, but these other concerns are also present.</p> <p>4.5.a Proposed additions to this condition of the regulation are indicated in italicized underline. <u>Virtual public charter schools are required to provide appropriate hardware (computer, tablet, etc.), software, and technical support for students to complete all learning activities and must also ensure each student enrolled in the school has appropriate access to reliable internet connectivity. An application to establish a virtual charter school shall identify the hardware and software to be provided to students and the plan for verifying that all enrolled students have sufficient connectivity to complete instructional activities and ultimately be successful at school. A plan for continuous technical support to solve student issues with hardware, software, and connectivity must be included.</u></p>	<p>evaluation of plan to assist students that experience technical difficulties (§5.4.c.5.D.). Calling an applicant's attention to the need to detail this plan in the application is appropriate.</p>
7/11/21	Franklin Roberts Morgantown WV	<p>Charter schools should be limited by the extent permitted by law. Conspired with public schools, they are less publicly accountable, less transparent, and have a worse record on socio-economic and racial equity.</p>	<p>N</p> <p>Policy 3300, §4.3.d. requires charter schools to have an accountability plan, which at a minimum must include adhering to the same student accountability measures as noncharter public schools. Section 12.9 of the policy requires charter schools to meet the same accounting and financial reporting requirements as noncharter schools.</p> <p>While Policy 3300 cannot control which students will seek to enroll in an established charter school, the annual</p>

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				enrollment and retention review required by §9.2.d. requires charter school governing boards to compare demographics of students applying to and enrolling in a charter school to surrounding noncharter schools.
7/12/21	Vickie Baker NAEP State Coordinator WVDE Charleston WV	4.5.b needs to include general summative assessment and alternate summative assessment, as well as the NAEP Assessment of Educational Progress (NAEP), if sampled.	A/C	This comment is appropriate for all charter schools in §4.6.b, not simply virtual charters.
7/12/21	Jessica Weddington Hurricane WV	From reading this section, it appears that charter schools would prominently be approved in highly concentrated and high earning areas. So these school will be the elite. Why are they necessary when we already have private school options that fulfill that role? Will political office holders be allowed to serve on governing boards? According to this document, yes. Won that allow them to serve their own interests as opposed to those of their constituents? If virtual charter schools are to assure and verify students have access to all necessary conveniences to be successful, doesn't that immediately discount a large population in the state that does not have access to the internet? If all charter schools are held to the same standard and regulations as a non-charter school, why do we need charter schools? Elected officials should not be allowed to be employed by a charter school.	N	There is no prohibition against an elected official serving on a charter school governing board. Notwithstanding, W.Va. Code §18-5G-1(f) prohibits an elected official from profiting or receiving any compensation from a charter school. All governing board members are required to comply with W.Va. Code §18-5G-7, including but not limited to filing a full disclosure report identifying potential conflicts of interest.  HB2012, passed during the 2021 legislative session, specifically allows for the creation of virtual charter schools.
7/12/21	Dale Lee President WVEA CHARLESTON WV	The virtual charter schools create another set of issues. The Governor and State Superintendent of Schools have both stated publicly that our "virtual" learning did not work during the COVID period. Increasing the number to two (2) statewide and the possibility of every county creating a "virtual Charter" will create a group of students who may not see an instructor daily. The virtual	N	HB2012, passed during the 2021 legislative session, specifically allows for the creation of virtual charter schools.  As with county boards of education, if a student transfers to a charter school after October 1 <sup>st</sup> , the charter school would

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		<p>charter does not have to employ WV educators. We have seen a low success rate with our students who opted to have a virtual school experience. Our students need the caring educator to not only ensure academic success, but to provide emotional support. The policy also states that "a student shall become subject to certain consequences, including disenrollment..." The policy goes on to state "the student's county of residence shall be immediately notified and the student shall be transferred to that county..." What happens to the funding the virtual charter has already received? What if this transfer puts a class over the enrollment size limit? This could result in unexpected costs to our county public schools.</p> <p>The policy also states in 4.5a that "Virtual public charter schools are required to provide appropriate hardware for students to complete all learning activities and must also ensure each student enrolled in the school has appropriate access to reliable internet connectivity." How does this work in areas of WV that does not have that connectivity capability? Could students be denied enrollment since the polity states "each student enrolled"?</p>		<p>receive no additional funding for that student until such time that the student is captured in the subsequent October 1<sup>st</sup> enrollment count for the charter school to determine future funding. Likewise, if a student transfers from a charter school to a noncharter school after October 1<sup>st</sup>, the noncharter school would receive no additional funding for that student until such time the that the student is captured in the subsequent October 1<sup>st</sup> enrollment count.</p>
7/12/21	Jennifer Weddington teacher Putnam County School Hurricane WV	Will the teachers in charter schools not be held to at least a bachelors degree since they may have "occupational qualifications or experiences that reasonably indicate they will be competent to fill the positions"?	N	No change is proposed to Policy 3300, §4.3.i. Examples of documentation that may be used to demonstrate qualifications or experiences that reasonably indicate they will be competent to fill the positions are provided that section and include: a four-year undergraduate degree or higher in a subject related to those the individual will teach, a professional certification in a field

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				related to the one the individual will teach, and/or other comparable documentation deemed acceptable by the authorizer.
7/12/21	Sheryl Tatum Senior Director, Academic Policy & Research Stride, Inc. Herndon, VA	Policy 3300 requires that virtual charter schools provide “appropriate hardware (computer, tablet, etc.) for students to complete all learning activities and must also ensure each student enrolled in the school has appropriate access to reliable internet connectivity.” §4.5.a. State law, contrary to Policy 3300, does not require that virtual charter schools provide hardware and internet access to all students and ensure that every student has reliable internet connectivity. Virtual charter schools often help students in need, based on eligibility for free and reduced lunch, by arranging for the use of a loaner computer and a stipend for internet. However, this is not something customarily provided to all students, especially those already with the necessary hardware and internet connectivity. Moreover, Policy 3300 seems to require internet connectivity, not just where a student has a financial need, but where broadband is not technologically available to the student. For instance, §5.4.c.5.D. states that the school must “ensure all enrolled students have access to the online learning environment.” As previously mentioned, §4.5.a. requires that the school “ensure each student enrolled in the school has appropriate access to reliable internet connectivity.” We recommend that these provisions be stricken altogether as inconsistent with state law or in the alternative, tightened up so that the provision of a computer and internet access is only to those in need, using free and reduced lunch eligibility, and that reimbursement for internet meets that burden, not that the school needs to develop broadband access or	N	The West Virginia Supreme Court of Appeals (WVSCA) has held that “Section 1 of Article XII of the West Virginia Constitution creates a strong presumption in favor of making everything that is deemed a necessary component of public education cost free.” <i>Randolph Co. Bd. of Ed. v. Adams</i> , 196 W.Va. 9 (1995). In the case the WVSCA struck down a book fee imposed on non-needy students reasoning that textbooks and materials were such an “integral and fundamental part of the elementary and secondary education” that they must be provided to all students for free.  W.Va. Code §18-5G-1(c) reaffirms that charter schools are part of the public school system. As such, just as noncharter schools, charter schools must provide students with any item deemed an integral and fundamental part of education at no cost. For virtual charter schools, this would include the device to access the virtual learning program.

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		"ensure" internet access where it does not exist technologically.		
<b>§126-79-5. Charter School Application Process.</b>				
6/8/21	Patricia Rucker Harpers Ferry, WV	5.3.b.1. Clarification on timeline for applicant to request clarification from multiple county boards of education.	A/C	
6/8/21	Patricia Rucker Harpers Ferry, WV	5.5.a. Clarification on who must sign confirmation that the submission is complete.	A/C	
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	5.4.c.5: support proposed language related to additional application criteria for virtual charter school applicants	A/S	
7/6/21	Nicholas Amis teacher Cabell County Schools Huntington WV	I believe that county boards of education should remain the sole authorizer in approving charter school applications. The members of the board are voted in by the people, and are the voice of their local communities. Charter school decisions need to remain at the local level, and should not be overridden by a state board.	N	Per §18-5G-2(2), only county boards of education and the West Virginia Professional Charter School Board may authorize a charter school. While a denial of a charter application may be appealed to the West Virginia Board of Education (WVBE), that review is statutorily limited in scope. Per Policy 3300, §13.4, the WVBE may either deny an appeal or remand it back to the authorizer for further proceedings.
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	This needs to be left up to the local county board of education	N	Per §18-5G-2(2), only county boards of education and the West Virginia Professional Charter School Board may authorize a charter school. While a denial of a charter application may be appealed to the West Virginia Board of Education (WVBE), that review is statutorily limited in scope. Per Policy 3300, §13.4, the WVBE may either deny an appeal or remand it

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				back to the authorizer for further proceedings.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	<p>4.3f- How are you going to ensure that the application process is equitable for all students? What does charter school preference mean? How are you going to evaluate the preference to make sure that the process is equitable for all students?</p> <p>What is the evaluation criteria for all of these "plans" that the charter has to submit?</p> <p>4.6g2- What if a student who is identified as special needs doesn't fit the charter's preferred student? Is that child going to be denied access to the school because of their exceptionality? How do you reconcile the charter's preferred selection with the exceptionality of the child if that child doesn't appear to "fit" with the charter's model?</p> <p>4.5o- So, elected officials can profit from charters unless they are employed by one. What would those terms of employment be? Would you need to be a teacher at a charter? An administrator? A part-time custodian or service personnel, a "consultant"????</p>	N	<p>Pursuant to §18-5G-11, public schools are open to all students eligible to attend public school in this state. Preferences must be agreed upon and included in the charter contract, and are limited to those areas identified in statute: (1) siblings of students enrolled in the charter school; (2) children with special needs; and (3) children of governing board members or employees of the charter school, not to exceed 5% of the charter school population. Policy 3300, §9.3.b.4.F. further requires that applications to attend a charter school cannot require applicants to demonstrate high achievement in order to be considered for enrollment.</p> <p>Authorizers may use the evaluation criteria included in Policy 3300, §5.4, or may adopt other evaluation criteria so long as they are consistent with the principles and professional standards for charter school authorizers.</p>
7/8/21	Renee Mahon School Counselor Taylor County Middle School Grafton WV	Local School Board should have the authority to approve.	A/S	County boards of education do have the authority to approve charter school applications.

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7/11/21	Franklin Roberts Morgantown WV	Charter schools should be limited by the extent permitted by law. Conspired with public schools, they are less publicly accountable, less transparent, and have a worse record on socio-economic and racial equity.	N	<p>Policy 3300, §4.3.d. requires charter schools to have an accountability plan, which at a minimum must include adhering to the same student accountability measures as noncharter public schools. Section 12.9 of the policy requires charter schools to meet the same accounting and financial reporting requirements as noncharter schools.</p> <p>While Policy 3300 cannot control which students will seek to enroll in an established charter school, the annual enrollment and retention review required by §9.2.d. requires charter school governing boards to compare demographics of students apply to and enrolling in a charter school to surrounding noncharter schools.</p>
7/12/21	Windsong Bergman Shepherdstown WV	Virtual Charter Schools need more specific guidance. Will Pre-K be allowed to be included? Im concerned virtual education is not developmentally appropriate for Pre-K and should be specifically excluded. Also, how will health (vision, hearing) screenings be provided to children attending charter schools, including virtual charter schools?	N	W.Va. Code §18-5G-14(a)(14) specifically allows authorizers to put additional requirements on virtual charter schools that seek to enroll students in grades 6 and below to ensure they are developmentally appropriate for students.
7/12/21	Jessica Weddington Hurricane WV	What is the difference between soliciting high-quality applications for a charter school and recruiting in the public school system? Soliciting high-quality applications again does not allow the charter school to be an option for everyone, only the chosen few. What education opportunities are not available in the area for children to choose from? I do not see anything to guard against bias against the applicants. Parent and community	N	All students eligible to enroll in West Virginia public school are eligible to attend a charter school. If enrollment capacity is less than the number of applicants to attend the charter school, a random lottery is required to be utilized.

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		<p>involvement being a factor in evaluating students already discriminates against those from single parent, working parent, and older parent households. That should not be included at all. If a charter school is being created because it is allowed to have higher standards than a public school, why can we raise the standards of public schools and hold parents and student accountable for their actions?</p>	<p>In the charter application, pursuant to Policy 3300, §4.6.f., the applicant must affirm that they will not put in place any requirement or practice that would exclude any child from admission or enrollment at the charter school who would not be excluded at a noncharter public school. Additionally, there are many references throughout Policy 3300 to reaffirm the charter school's responsibility to comply with federal law, including but not limited to the Individuals with Disabilities Education Act (IDEA).</p>
7/12/21	<p>Sheryl Tatum Senior Director, Academic Policy &amp; Research Stride, Inc. Herndon, VA</p>	<p>Policy 3300 creates some confusion as it conflicts with state law and uses conflicting language within the Policy itself. Policy 3300 states that "failure of a potential authorizer to render a decision on a charter school application by the statutory deadline is statutorily deemed a conditional approval of the application." Policy 3300, §5.5.d.2. (emphasis added) However, state law indicates that "[a]ny failure to act on a charter application within the time specified shall be deemed an approval by the authorizer." W. Va. Code, § 18-5G-6(d). Statute deems the application approved unconditionally. The applicant need not do anything further to earn that "approval." We request that the Policy be updated to reflect that state law does not recognize a conditional approval for situations where the authorizer failed to act, but rather states that the application is deemed approved.</p> <p>In addition, in §8.2.h, the Policy states that "failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an approval of</p>	<p>A/C</p> <p>Charter applications call for certain items that may not be completed at the time the application is acted upon (i.e., obtaining tax exempt status). Final approval is contingent only upon the applicant's completion of those items, which are required under W.Va. Code §18-5G-1, et seq. Notwithstanding an authorizer's failure to act upon an application, an applicant is nevertheless required to have certain items in place to ensure operation of the charter school complies with federal law, state law, and Policy 3300.</p>

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		<p>the renewal application.” (emphasis added) Correctly, Policy 3300 does not attach a “conditional approval” in this instance. However, adding some confusion is §13.1 of the Policy, which states that an applicant may file an appeal of an authorizer’s failure to act on an application within 30 calendar days after “[t]he date by which the authorizer was to, but did not, take action on the charter application or charter renewal application.” If the authorizer’s failure to act is deemed an approval by law, it is unclear why an applicant would need to appeal that approval. We request that the Policy be updated to clarify that because inaction is deemed an approval, those decisions need not be appealed.</p>		
7/12/21	<p>Sheryl Tatum Senior Director, Academic Policy &amp; Research Stride, Inc. Herndon, VA</p>	<p>Policy 3300 includes language related to charter contract execution that conflicts with legislative intent. Just like state law, Policy 3300 requires the parties to negotiate and execute a charter contract within 90 days of the approval of the charter application. See W. Va. Code, § 18-5G-9(a); Policy 3300, §5.5.e.1. However, the Policy states that failure of the parties to execute a contract by March 15 will result in the charter school being delayed at least one full school year to open. Having such leverage in “negotiations” tips the scales in favor of the authorizer, who can wait the other side out, and calls into question whether the parties are really operating at arm’s length in negotiations, as is required by statute. Fortunately, state law provides a solution, which is used in charter school laws in other states. The approved charter school application should serve as the charter contract until such time as the parties come to agreement on a different executed charter contract. We recommend that the Department re-consider §5.5.e.1 and provide for a neutral solution should the parties not come to agreement – make the approved application,</p>	N	<p>Numerous stakeholders and stakeholder groups were involved in the development of Policy 3300 following its passage in 2019, including the development of the provision referenced. Numerous logistical details must occur between contract execution and opening of the charter school (i.e., sufficient time for students to apply, for charter school to conduct a lottery if needed, for county budgets to be revised, for necessary county personnel action to occur, etc.), and the deadline allows to occur. In the existing version of Policy 3300, the deadline for contract execution is March 1, thus an additional 15 days have been added. Unlike automatic statutory approval language for an authorizer’s failure to timely act on an application or renewal application, such language does not apply to the contract execution deadline. Notwithstanding, as</p>

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		which both parties are in agreement on, the charter contract until a different charter contract is executed.		stated in Policy 3300, §5.5.e.1., both parties must continue to negotiate in good faith.
<b>§126-79-6. Charter Contract.</b>				
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	6.1.a.2: recommend that regulatory language be amended to also include the importance of financial and operational performance metrics	A/C	
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	6.2: recommend that <i>key components</i> of the application, but not the entire application, may be incorporated into the contract. NACSA best practices suggest against incorporating the full application, which may lead to confusion later on. The goal should be to ensure that the contract faithfully and accurately captures the central components of the proposed model, permitting the authorizer to ensure these components are implemented with fidelity	N	The language included in Policy 3300, §6.2 tracks the statutory language included in W.Va. Code §18-5G-9(a).
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	6.2.b: recommend narrowing the scope of elements/aspects of the application to incorporate/address in the charter contract. Under NACSA's Principles & Standards, the contract should include and define the <i>material terms</i> of the agreement that 1) establishes the rights and responsibilities of the parties, and 2) establishes academic, financial, and operational performance standards. Overly broad contractual provisions risk confusion and becoming too cumbersome to enforce.	N	W.Va. Code §18-5G-9(b)(2) requires the charter contract to include agreements on each of the items required in the charter application.
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	6.2.o.5: support language ensuring that virtual charter school attendance indicators comply with federal requirements	A/S	
7/6/21	Crystal Adkins SPED Teacher	Need more information about contact	N	Comment unclear.

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	Marion AFT Rivesville WV			
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	5.2- So you consulted with the 4 people listed as WV stakeholders? How did you consult with those people? What was your method of communication?  5.4a- What do you define as "best practices?"	N	Numerous stakeholders and stakeholder groups were involved in the development of Policy 3300 following the passage of legislation allowing for the creation of charter schools in 2019. Additionally, following the passage of W.Va. Code §18-5G-1, et seq. in 2019, the West Virginia Department of Education (WVDE) consulted with national recognized charter organizations, as required by W.Va. Code §18-5G-4(a), and conducted webinars covering the statutorily required topics. Recordings of the webinars are available on the WVDE's website.
7/8/21	Renee Mahon School Counselor Taylor County Middle School Grafton WV	We don't want any charter schools.	N	W.Va. Code §18-5G-1, et seq. authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
7/12/21	Jessica Weddington Hurricane WV	The title for this response box should be "Charter Contract."		
7/12/21	Sheryl Tatum Senior Director, Academic Policy & Research Stride, Inc. Herndon, VA	It appears that the Department did not update Policy 3300 as it relates to charter contract terms. It currently states that initial terms are for a term no longer than five years (§6.2.a) and that renewal terms are for a "specified term of years" (§8.2.d.5.A) set forth in the authorizer's ruling on the renewal application. However, statute provides that for virtual charter schools, the initial and renewal terms are both for exactly five years, no more	A/C	

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		and no less. See W. Va. Code, § 18-5G-14(a)(3). We request that the Policy document be updated to align with statute as it relates to virtual charter schools.		
<b>§126-79-7. Responsibilities of Parties to Charter Contract.</b>				
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	Need to make sure that they report all that is reported to them in a document accessible to the public	N	Policy 3300, §10.4.a. requires governing boards to submit various reports to its authorizer no later than September 30 annually. Policy 3300, §10.4.b. requires the authorizer to consider and make available the reports received at its next scheduled open meeting.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	<p>Charters have traditionally high teacher turn over rates. Having teachers with strong community ties and a vested interest in the school in which they teach is proven to improve outcomes. How can you ensure that teachers will stay in their position long term?</p> <p>There is no plan for protecting the students! What happens to the students in the meantime if the charter school is found to be in violation of their responsibilities or their contract?</p>	N	<p>Policy 3300, §4.3.1. requires a staffing plan to be included in the charter application. Authorizers are required to evaluate charter applications using either the evaluation criteria included in Policy 3300, or evaluation criteria adopted by the authorizer that is consistent with recognized standards for charter school authorizers. ‘Human Capital’ is one of the evaluation areas included in in Policy 3300 (§5.4.b.1.B.), and an evaluation of the charter school’s strategy for recruiting, developing, and retaining high quality staff is one of the specific criteria upon which the application is to be evaluated.</p> <p>Policy 3300, §4.3.aa. requires the applicant’s proposed process and procedures following a dissolution of the charter school be included in the charter application. That process must also comply with W.Va. Code §18-5G-10 and</p>

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				Policy 3300, §8.4. Ultimately, the agreed upon process and procedures between the applicant and the authorizer must be included in the charter contract.
7/12/21	Windsong Bergman Shepherdstown WV	Requirement for Virtual School Orientation should be changed to specify that an in-person orientation must be offered as well as a home visit option and that families must be required to participate, in-person, with one of these two options before their child can attend the virtual charter school. This is to provide the important social-emotional foundation of personal relationship as well as to increase the virtual charter schools ability to be aware of and meet the child's needs.	N	W.Va. Code §18-5G-13(a)(11) requires students and their parents/guardians to participate in student orientation prior to beginning instructional activity. The manner in which the orientation is conducted is within the purview of the charter school so long as the appropriate and required information is conveyed to participants.
<b>§126-79-8. Process for Renewal and Revocation of Charter Contract.</b>				
6/8/21	Patricia Rucker Harpers Ferry, WV	8.2.f. Clarification on what 'timely' means.	A/C	
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	Needs more details and all revocations need to be reported to the public as why and they need to pay all money back to the state	N	All authorizers are subject to open meeting law and thus action to revoke a charter contract will be public. W.Va. Code §18-5G-10(j)(2) and Policy 3300, §8.4.a.3. detail how charter school funds are to be dispersed following a school closure.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	There isn't a plan for the transfer of funds! How are you going to pay for the students who will need to be transferred to another, probably non-charter school, if their charter school closes down? What plans for their remediation for loss of education or services will be put in place to support the non-charter picking up the slack?	N	All authorizers are subject to open meeting law and thus action to revoke a charter contract will be public. W.Va. Code §18-5G-10(j)(2) and Policy 3300, §8.4.a.3. detail how charter school funds are to be dispersed following a school closure.
7/9/21	Marianna Ruggiero	I feel strongly that there needs to be clear language in here that details exactly what qualifies a charter as "failing" and ensures that charter schools that continue	N	Charter contract renewal decisions are to be based on a thorough analysis of the school's performance over the term of the

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	Berkeley Springs WV	to "fail" after three years will have their charter revoked. There is a lot of research that shows that virtual charter schools especially underperform their public school counterparts, and we do not want to waste taxpayers money if this ends up being the case.		charter contract as established in the accountability plan, public input, annual performance reports, financial audits, and any other provisions included in the charter contract. Policy 3300, §§8.2.d.1. and 8.2.d.4.
7/12/21	Sheryl Tatum Senior Director, Academic Policy & Research Stride, Inc. Herndon, VA	The Department updated Policy 3300 as it relates to renewal performance reports by deleting statutory language and replacing it with language that conflicts with statute. Current Policy language, which mirrors current law, states that when the performance report is issued, it "shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely rectified." Policy 3300, §8.2.a. It is not clear why the Department is proposing striking the language that mirrors statute to replace it with "if warranted, the prospect that the charter contract may not be renewed and the reasons for the potential non-renewal..." The proposed amended language is problematic because it defers on whether notice should be given and fails to recognize that the charter school is statutorily given time to rectify the matter and keep its renewal prospects on track. We recommend that Policy 3300, §8.2.a. retain its current language, which mirrors state law, and not strike and replace it with language that is being proposed.	A/C	
<b>§126-79-9. Enrollment, Recruitment and Retention.</b>				
6/28/21	Jason Zwara Policy Manager NACSA Chicago, IL	9.3.c.1: support proposed language clarifying virtual charter school responsibility to accordance with any special needs the student may have	A/S	
6/28/21	Jason Zwara Policy Manager NACSA	9.3.c.2: support the removal of the former section	A/S	

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	Chicago, IL			
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	Need to have a way to ensure discrimination does not happen because a student has special needs	N	In the charter application, pursuant to Policy 3300, §4.6.f., the applicant must affirm that they will not put in place any requirement or practice that would exclude any child from admission or enrollment at the charter school who would not be excluded at a noncharter public school. Additionally, there are many references throughout Policy 3300 to reaffirm the charter school's responsibility to comply with federal law, including but not limited to the Individuals with Disabilities Education Act (IDEA).
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	Again... what if the preferred selection of students that the charter wishes to serve is in conflict with the obligation to provide every child with a free and appropriate education? This section doesn't address this fact.	N	In the charter application, pursuant to Policy 3300, §4.6.f., the applicant must affirm that they will not put in place any requirement or practice that would exclude any child from admission or enrollment at the charter school who would not be excluded at a noncharter public school. Additionally, there are many references throughout Policy 3300 to reaffirm the charter school's responsibility to comply with federal law, including but not limited to the Individuals with Disabilities Education Act (IDEA).  Notwithstanding any preference properly established by a charter school, the charter school must comply with applicable federal law.

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7/7/21	Amy J Egress Citizen of West Virginia None Falling Waters WV	Charter schools should be held accountable in the same way public schools are held accountable to state and federal guidelines.	N	Charter schools are required to participate in the state's accountability system, and as their own LEA, are required to adhere to all federal laws and regulations applicable to noncharter public schools. Charter schools must also adhere to the same financial reporting requirements as noncharter public schools, and must participate in the State Auditor's transparency website.
7/8/21	Elaina Duley Elementary Teacher Morgantown WV	Children from low socio-economic families will not be given the same, equal education. These children come from families that do not have the same equal opportunities to be admitted to and transported to these schools.	N	While Policy 3300 cannot control which students will seek to enroll in an established charter school, the annual enrollment and retention review required by §9.2.d. requires charter school governing boards to compare demographics of students applying to and enrolling in a charter school to surrounding noncharter schools.
7/9/21	Marianna Ruggiero Berkeley Springs WV	What is the timeline and process for unenrolling a student who is not participating? As we know from virtual learning through the pandemic, many students aren't successful with the online platform. If a student isn't participating in a virtual charter, the money should follow the student if he/she returns to public school.	A/C	
7/12/21	Windsong Bergman Shepherdstown WV	Looking at the experience of charter schools in other states (eg. NY), there has been an issue of charter schools "counseling out" children who have learning or behavioral difficulties, despite rules that mandate inclusion of children with special needs. This needs to be specifically addressed here, otherwise existing public schools are burdened by having to meet the higher needs of these children while receiving less funding.	N	HB2012, passed during the 2021 legislative session, specifically allows for the creation of virtual charter schools.  In the charter application, pursuant to Policy 3300, §4.6.f., the applicant must affirm that they will not put in place any requirement or practice that would exclude any child from admission or

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				<p>enrollment at the charter school who would not be excluded at a noncharter public school. Additionally, there are many references throughout Policy 3300 to reaffirm the charter school's responsibility to comply with federal law, including but not limited to the Individuals with Disabilities Education Act (IDEA).</p> <p>Policy 3300, §4.f. expressly states that charter school admission and enrollment processes must be in accordance with applicable law and void of discrimination. Section 9.2.d. also requires annual enrollment/retention review so that data is available to authorizers on the charter school's turnover rates.</p>
7/21/12	Jessica Weddington Hurricane WV	<p>So children residing in the county in which the charter school is located will get preference in admission. The locations of all charter schools are going to be paramount to deciding what children can attend. This is its own form of discrimination and gerrymandering. If a student has previously attended a charter school then they are also given preference, this created inequality in the application process. So if a student does not get accepted in their early education years then they may be left behind. This will create competition among students and families. This outline is creating a legacy program establishing predominant families as being accepted. This also creates somewhat of a caste type system in education. Doesn't creating a charter school especially for students with exceptionalities go into the gray area of having special needs schools and inclusivity? If enrollment does increase significantly, where does the</p>	N	<p>W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.</p>

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		<p>funding for new buildings/improvements come from? what are the outlines of the enrollment lottery? How can it be guaranteed to be non-biased? Again, the lottery adds to the exclusivity of the charter school and separation of the county residents.</p>		
7/12/21	<p>Sheryl Tatum Senior Director, Academic Policy &amp; Research Stride, Inc. Herndon, VA</p>	<p>§§9.2.d.3 and 9.2.d.4 of Policy 3300 state that charter schools that experience “excessive turnover” are not providing a positive learning environment. To the contrary, as it relates to virtual charter schools, there are a host of reasons that could result in student transfers mid-year, including students who attend mandatory orientation and realize that virtual education is not the right fit for that student, students who are not engaged despite interventions and result in disenrollment, and students who enroll into a virtual school for a temporary purpose, whether it is due to a health or personal issue. We recommend that the Policy document be updated to reflect that any review of turnover shall disregard students who state during enrollment that they are only going to enroll for a temporary reason, those that leave after mandatory orientation, and those that are disenrolled due to failure to consistently participate in instructional activities pursuant to the school’s engagement policy.</p>	A/C	<p>Numerous stakeholders and stakeholder groups were involved in the development of Policy 3300 following its passage in 2019, including the development of the above cited provisions. The turnover review does not automatically trigger adverse consequences, but instead provides all parties with data from which they may then determine if corrective action is warranted. It is reasonable for the turnover review to include the reason a student is no longer enrolled in the charter school.</p>
<b>§126-79-10. Education Reporting Requirements.</b>				
7/6/21	<p>Crystal Adkins SPED Teacher Marion AFT Rivesville WV</p>	<p>Needs to be the same as a public school</p>	N	<p>Charter schools generally adhere to the same education reporting requirements as noncharter public schools.</p>
7/6/21	<p>Celi M Oliveto classroom teacher High School Fairmont WV</p>	<p>How does the application of a lottery maintain fairness for all students?</p>	N	<p>An enrollment lottery is utilized only if the number of student applicants exceeds the capacity of the charter school. W.Va. Code §18-5G-11(a)(8) requires such lotteries to be conducted in an open meeting and</p>

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				must be conducted in line with procedures and timelines that support equal and open access for all students.
7/7/21	Amy J Egress Citizen of West Virginia None Falling Waters WV	Charter schools should be held accountable in the same way public schools are held accountable to state and federal guidelines.	N	Charter schools are required to participate in the state's accountability system, and as their own LEA, are required to adhere to all federal laws and regulations applicable to noncharter public schools. Charter schools must also adhere to the same financial reporting requirements as noncharter public schools, and must participate in the State Auditor's transparency website.
7/8/21	Elaina Duley Elementary Teacher Morgantown WV	I do not believe that it is fair to the children in the public schools that students in the charter schools are not required to follow the same educational procedures and policies set down by the Board of Education which governs the way public schools are managed. This is not an equal education so the performance of charter school students cannot and should not be compared to students in public schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.
<b>§126-79-11. Education Service Providers.</b>				
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	Need to comparable to those offered at public schools,	N	Policy 3300, §11.1 indicates the role of an education service provider (ESP) at a charter school is to manage the day-to-day education of students. ESPs are not utilized in noncharter schools as they are in charter schools. Rather, noncharter schools employ building administrators, such as principals, to oversee the day-to-day operations of a school.
7/6/21	Celi M Oliveto classroom teacher	Do Education Service providers have to be WV based organizations, companies, people? How can we guarantee that an ESP from another state won come in,	N	Charter school governing boards are permitted to contract with education service providers (ESPs) to manage the

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	High School Fairmont WV	set up a school, and then leave with the money mid-year? This has been documented in Florida and Ohio.		day-to-day operations of the charter school so long as certain criteria are met and disclosed to the authorizer. See: W.Va. Code §18-5G-8(c); Policy 3300, §11. Those criteria include but are not limited to evidence of past success and financial disclosures. There is not a requirement that the ESP be a resident entity of WV, but likely must be properly registered to do business in this state.
7/12/21	Sheryl Tatum Senior Director, Academic Policy & Research Stride, Inc. Herndon, VA	While data can be very important to inform decision-making, some of the data required by Policy 3300 has no timeframe limits and would result in a tremendous burden to compile old and stale data. For instance, §§11.2.b, 11.2.c, and 12.2.k.6 require all data, reports, and documentation related to current and past charter schools. However, some ESPs operate nationally in most states and have been in operation for decades. Policy 3300 would inadvertently require the production of documents and data from hundreds of schools going back 20 or more years without any timeframe attached to the requirement. We recommend that for these provisions that the Policy require a sample of this information from the past 3 years and not leave it open-ended as is currently the case. Moreover, §§11.2.c. and 12.2.k.6 speak to “actions, legal or otherwise,” but never define what is an “action” and what does “legal or otherwise” mean? Neither are defined. Is this meant to be actions taken by a past authorizer? And by actions, does this refer to corrective actions? Also, as is properly noted in Policy 3300, the charter school board is ultimately responsible for the operations of the charter school and sets policies and directs the ESP. If the ESP is following board directives and policies, is the Policy	N	No changes are being proposed to Policy 3300, §§11.2.b., 11.2.c., presumably 11.2.k.6 (12.2.k.6 is not a provision in the policy), or 11.2.j.1. Numerous stakeholders and stakeholder groups were involved in the development of Policy 3300 following its passage in 2019, including the development of the above referenced provisions.

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		<p>making conclusions that the ESP is responsible for all adverse actions taken against the school for those decisions? We recommend striking these provisions altogether or at the very least, providing more clarity as to what is being sought here keeping in mind the limited value of the data as ESPs provide services and do not set school policies or priorities.</p> <p>Another data point that needs to be defined is the use of the term “entanglements” in §11.2.j.1. What is meant by an “entanglements”? We recommend better defining that term or striking the term altogether if it is redundant with the term “interests.”</p>		
<b>§126-79-12. Finances.</b>				
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	The detailed report needs to be made public and available for questioning by the public, Should be done in a public hearing setting	N	Policy 3300, §10.4.a. requires governing boards to submit various reports, including financial reports, to its authorizer no later than September 30 annually. Policy 3300, §10.4.b. requires the authorizer to consider and make available the reports received at its next scheduled open meeting.
7/6/21	Celi M Oliveto classroom teacher High School Fairmont WV	<p>In the first couple of pages, you said that there would be no financial impact, but the first sentence says that you want to “mitigate” financial impact to counties. Which is it? no financial impact or a need for a mitigation?</p> <p>If local boards of education are responsible for 90% of the cost of each child, where does the last 10% come from?</p> <p>12.2c I am very, very opposed to the fact that county boards of educations are responsible for paying charters. This is unfair to saddle a local board of education with</p>	N	The fiscal note at the beginning of the policy asks for the financial impact on the state. Charter schools generally shift funding from existing county boards of education to the charter schools so there would be no additional cost to the state; however, under section C of the fiscal note it has been indicated that there will be an increase to the cost to the state under the Public School Support Plan but that we cannot project that cost since it will depend on the type, nature, and

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		<p>another added expense when we are already in a fiscal bind?</p> <p>Where does the money that follows the student go if the student moves or transfers after October 1?</p> <p>My tax dollars go to funding my board of education. How do I guarantee that the educational outcomes as defined by the charter will be secular, rigorous, and in line with current educational best practices?</p> <p>I didn't see a pay scale for teachers or other employees? What will determine the pay scale at a charter school?</p>	<p>characteristics of the charter schools that are authorized. By contrast, charter schools do have a financial impact on existing county boards of education, so the need for mitigation applies to them and not the state as a whole.</p> <p>W.Va. Code §18-5G-5(a) requires 90% of the per pupil total basic foundation allowance to follow a student to a charter school; the remaining 10% stays with the local county board of education.</p> <p>As with county boards of education, if a student transfers to a charter school after October 1<sup>st</sup>, the charter school would receive no additional funding for that student until such time that the student is captured in the subsequent October 1<sup>st</sup> enrollment count for the charter school to determine future funding.</p> <p>Pursuant to W.Va. Code §18-5G-3(a)(4), charter schools may not espouse any specific religious denomination, organization, sect., or belief and cannot promote or engage in any religious practices in their educational program, admissions, employment policies or operations.</p> <p>The pay scale for employees of the charter school will be determined and set by the charter school governing board.</p>
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7/6/21	Arlie Asbury Mr. Hewett WV	Why are the charters not being held to the same standard of accounting as the public schools. Public schools are being held back by the numerous accounting procedures.	N	Policy 3300, §12.9.a indicates that each charter school will meet the same accounting and financial reporting requirements required of non-charter public schools. Section 4.6.p requires the charter schools to utilize the WVEIS system. WVEIS includes a finance module which will be required for charter schools.
7/7/21	Amy J Egress Citizen of West Virginia None Falling Waters WV	Finances should be transparent. Yearly budgets should be available to the public to promote accountability of public funds.	N	Because the charter schools are following the same accounting and financial reporting requirements required of non-charter public schools, they will submit a proposed annual budget to the WVDE and that budget will be reported on the WVDE website. In addition, the financial data for the charter schools will be included on the West Virginia Auditor's Office transparency website.
7/8/21	Evelyn Dale Morgantown, WV	I believe families opting into charter schools should be allowed to direct their child's portion of state educational resources toward supporting a charter school.	N	The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5.
7/8/21	Barbara Frierson St. Albans, WV	<p>Meanwhile, the huge majority of communities maintaining public schools in West Virginia will suffer loss of funding and resources with every student transferred to the charter system.</p> <p>Public schools have been the backbone of American education for hundreds of years. Stripping communities of their local schools, teachers, funding, and input into the education their children receive is truly a low blow. Our children deserve much better than this.</p> <p>The proposals that financial performance measures be required for charter schools, for requirements that</p>	N	The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5.

**Policy 3300, Charter Public Schools  
Comment Log**

		charter students have up-to-date computers and reliable internet connections, and that charter schools have effective measures for documenting students' progress in learning make more sense. They do not in any way compensate for the negative points made above, however.		
7/8/21	Elaina Duley Elementary Teacher Morgantown WV	As a veteran classroom teacher, I am only allotted \$250 to spend for supplies for my classroom for an entire school year. The remainder of my students needs are provided for out of my own personal salary. This amount has never increased over more than 25 years. The funding for private charter school is being taken out of the funding for public schools. This means that there will be even less money funneled into the public schools. To me, this will not allow for an equal education for all children and will further reduce the spending for public schools.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.  The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5.
7/9/21	Marilou mcclung Teacher Capital high school Charleston Wv	Please make them non-profit and do not pull the money from local schools.	N	The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5.
7/9/21	Shirley Goodfellow Early Childhood Classroom Assistant Teacher Tyler County Schools Middlebourne WV	Speaking of cost, charter schools will decrease funding to regular public schools with each student that they enroll. Public schools will not have proper funding to provide quality education. This will devastate public schools! Not only financially. Charter schools will not bridge the great divide between those who have and those who have not. It will be cause greater separation of these two groups. All children deserve equal educational opportunity, and this is NOT the answer. Please reject this charter schools policy!	N	The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5.

**Policy 3300, Charter Public Schools  
Comment Log**

7/12/21	Jessica Weddington Hurricane WV	By taking the public money for a student to a charter school (which is not under county BOE) then public money is being taken from the public facility and given to the private one because the child chose to go to the charter school. So public funding will essentially be going towards elite children to go to an exclusive private school. If the charter school doesn't have to provide transportation but the county has to provide transportation to the charter school then again, money will be taken away from public entities. Also creating a divide inferring that children on that bus (to the charter school) are different from those going to public schools.	N	<p>The manner in which funding flows to charter schools is controlled by W.Va. Code §18-5G-5.</p> <p>Pursuant to W.Va. Code §18-5G-1(c), charter schools are public schools and part of the state's public education system.</p> <p>In the charter application, pursuant to Policy 3300, §4.6.f., the applicant must affirm that they will not put in place any requirement or practice that would exclude any child from admission or enrollment at the charter school who would not be excluded at a noncharter public school. Additionally, there are many references throughout Policy 3300 to reaffirm the charter school's responsibility to comply with federal law, including but not limited to the Individuals with Disabilities Education Act (IDEA).</p>
<b>§126-79-13. Appeal of Authorizers Decision to West Virginia Board of Education.</b>				
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	Needs to be fast. An appeal should not be drug out for months.	A/S	The timeline for charter application and renewal application appeals is set forth in Policy 3300, §13.
7/7/21	Irma ullrich Physician Retired wvu Morgantown Wv	I believe that charter schools as proposed would deprive the rest of WV students of sparse resources and diminish their education.	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

**Policy 3300, Charter Public Schools  
Comment Log**

7/8/21	Elaina Duley Elementary Teacher Morgantown WV	Charter schools will be governed by a separate board and not held accountable by the same State Board of Education. This is not an equal education.	N	Charter schools generally adhere to the same education reporting requirements as noncharter public schools. Additionally, pursuant to W.Va. Code §18-5G-3(a)(1), charter schools 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 performance standards required of other public school students.
7/12/21	Sheryl Tatum Senior Director, Academic Policy & Research Stride, Inc. Herndon, VA	Policy 3300 is very prescriptive in many areas of the application and approval process. However, as it relates to appeals to the WV Board of Education, there is no timeframe listed as to how many days after appealing that the appellant can expect a ruling. See Policy 3300, §13.4. As Policy 3300 states at the outset, the policy document is being established to provide "a clear and transparent process." Policy 3300, §2.2. However, Policy 3300 seems to fall short of that purpose when the appeals process to the Department is not transparent and set forth in this policy document. We recommend that Policy 3300 be revised to provide greater clarity and transparency in the expected timeframe for appeals to the Department.	N	Policy 3300, §13.4 requires the West Virginia Board of Education (WVBE) to provide parties with an anticipated timeline for review and decision. Depending on the grounds alleged supporting the appeal, it may be prudent to conduct additional inquiry of the parties to ensure the appeal is properly considered. Conversely, the basis for an appeal may be easily disposed of and not require further inquiry. Requiring the WVBE to provide a timeline to the parties once all materials are submitted strikes a balance between the differing situations.
<b>§126-79-14. Severability.</b>				
7/6/21	Crystal Adkins SPED Teacher Marion AFT Rivesville WV	I do not agree with charter schools. The decision on approval charter schools needs to be left up to local county board of education	N	W.Va. Code §18-5G-1, et seq authorizes the establishment of charter schools. The West Virginia Board of Education is revising Policy 3300 to conform and implement the changes to the law made with the passage of HB2012 during the 2021 legislative session.

**Policy 3300, Charter Public Schools  
Comment Log**

7/8/21	Elaina Duley Elementary Teacher Morgantown WV	What grounds would a charter school lose its application? Also, what standards are they required to follow?	N	Failing to adequately complete a charter application would be grounds for its denial. Policy 3300, §4.3.d requires charter schools to adhere to the accountability plan included in the charter contract, which in part must include participation in the state's accountability system (Balanced Scorecard).
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W. Va. 126CSR79, Policy 3300, Charter Public Schools  
Comment Response Form

Comment Period Ends: July 9, 2021

**NOTICE:** Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.

The following form is provided to assist those who choose to comment on **Policy 3300, Charter Public Schools**. Additional sheets may be attached, if necessary.

Name: Jason Zwara Organization: National Association of Charter School Authorizers (NACSA)  
Title: Policy Manager  
City: Chicago State: IL

Please check the box below that best describes your role.

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> County Board Member  | <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Higher Education |
| <input type="checkbox"/> Superintendent       | <input type="checkbox"/> Principal                  | <input type="checkbox"/> Parent/Family     | <input type="checkbox"/> Legislator       |
| <input type="checkbox"/> Central Office Staff | <input type="checkbox"/> Teacher                    | <input type="checkbox"/> Community Member  | <input checked="" type="checkbox"/> Other |

**COMMENTS/SUGGESTIONS**

Thank you for the opportunity to

**§126-79-4. Charter School Application.**

- 4.3.e.2.B: support expansion of conflict of interest coverage to include individuals employed by or receiving compensation from an Education Service Provider
- 4.3.f.1 & 4.3.f.2: support the proposed language implementing §18-5G-14(a)(1), a statutory virtual charter school enrollment cap. Implementing this enrollment cap by grade bar, rather than either full K-12 enrollment or grade specific enrollment, strikes an appropriate balance and ensures the legislative intent is fulfilled.
- 4.3.r: support the clarifying language relating to *minimum* requirements for plans to serve students with special needs. The legal responsibility to provide a "free, appropriate public education" to students with special needs is one that charter schools must sufficiently understand and plan for, and the proposed regulatory language emphasizes this importance.
- 4.5: support the proposed regulations regarding additional application requirements for virtual charter schools. Each additional requirement addresses a particular aspect that differentiates virtual schooling from in-person schooling, and the proposed regulations appropriately place an expectation on applicants to have adequately considered and planned for addressing these unique challenges. In particular, NACSA strongly supports inclusion of the following requirements:
  - 4.5.a (provision of appropriately hardware and internet connectivity)
  - 4.5.b (process for administration of summative assessments)
  - 4.5.c (method for documenting consistent attendance)
  - 4.5.e (method for measuring student progress towards graduation)
  - 4.5.f (requirements for student engagement in instructional activities)
  - 4.5.h (policy regarding student failure to participate in instructional activities)

- 4.6.f: support clarifying language to ensure non-discrimination in recruitment, admission, and enrollment policies
- 4.6.g: support clarifying language to enforce charter school responsibility to evaluate students for appropriate federal supports
- 4.6.h: support clarifying language extending responsibility of responding to Freedom of Information Act requests to the charter school's governing board

**§126-79-5. Charter School Application Process.**

- 5.4.c.5: support proposed language related to additional application criteria for virtual charter school applicants

**§126-79-6. Charter Contract.**

- 6.1.a.2: recommend that regulatory language be amended to also include the importance of financial and operational performance metrics
- 6.2: recommend that *key components* of the application, but not the entire application, may be incorporated into the contract. NACSA best practices suggest against incorporating the full application, which may lead to confusion later on. The goal should be to ensure that the contract faithfully and accurately captures the central components of the proposed model, permitting the authorizer to ensure these components are implemented with fidelity
  - 6.2.b: recommend narrowing the scope of elements/aspects of the application to incorporate/address in the charter contract. Under NACSA's Principles & Standards, the contract should include and define the *material terms* of the agreement that 1) establishes the rights and responsibilities of the parties, and 2) establishes academic, financial, and operational performance standards. Overly broad contractual provisions risk confusion and becoming too cumbersome to enforce.
- 6.2.o.5: support language ensuring that virtual charter school attendance indicators comply with federal requirements

**§126-79-7. Responsibilities of Parties to a Charter Contract.**

**§126-79-8. Process for Renewal and Revocation of Charter Contracts.**

**§126-79-9. Enrollment, Recruitment, and Retention.**

- 9.3.c.1: support proposed language clarifying virtual charter school responsibility to accordance with any special needs the student may have
- 9.3.c.2: support the removal of the former section

**§126-79-10. Educational Reporting Requirements.**

**§126-79-11. Education Service Providers**

**§126-79-12. Finances.**

**§126-79-13. Appeal of Authorizer's Decision to West Virginia Board of Education.**

**§126-79-14. Severability.**

To: Sarah A. Stewart, Government Affairs Council, WVDE Legal Service

From: H. Gary Gillespie, PhD, Glenville State College Faculty Emeritus

Re: Comment on WV Policy 3300 regarding Charter Schools Online

Date:

As a former public-school teacher in WV and Ohio as well as at Glenville State College and Marshall University, I am aware of the weaknesses and strengths of public-school education. The public school system in WV would not be tolerated were it not superior to all other practical educational systems. WV's public schools meet student needs in its present operation, a fact that is obvious when public schools are compared to charter schools and home-schooled methods. This is especially true concerning charter schools online.

Because of poverty in Southern and Central WV, many families cannot afford computers, and limited access to the web and broadband often prevents online charter schooling to those with computers. Online WV charter schools would inadvertently discriminate against students in these areas. In these same geographical areas public schools are the main source of live personal exposure to cultural and social experiences, but online charter schools could offer only virtual, less effective experiences. The creative and performing arts and much physical education are better suited to public schools than to online charter schools.

In an undetermined number of families, both parents work outside the home. Who will then supervise their children's work in online charter schools? Unsupervised some children may play computer games rather than complete online charter school assignments. Online classes tempt some students to plagiarize, and how will anyone accurately know who completed the online charter school assignments? There are many serious problems that online charter schools cannot address: Without a public-school teacher's daily observations, who will report evidence of child abuse in the home and unattended health issues and improper hygiene---in short, who will safeguard these children? Who will make sure that online charter school pupils have daily adequate meals?

Surveys reveal that students engaged in excessive amounts of TV and/or computer-time lose conversational skills, socializing skills, proper physical exercise leading to obesity, and even proper nutrition health. Public school classes are held accountable for academic standards and rightly so; but there are also other crucial social, psychological, and humanitarian benefits not offered in online charter schools: Students need classmates and challenging teachers present in order to realize the give-and-take of life's patterns. Real schools provide the environment to learn to cope with competition and failure that only observations and participation offers. Public schools are a venue for the development of tolerance and respect for others which contribute to accepting cultural and racial diversity. Many of life's lessons are never online.

George Monk and Molly Schaffnit  
199 Bronco Lane  
Poca, WV 25159  
(304) 533-8622  
gmonk@citynet.net

## Comments 126CSR79, Charter Public Schools (3300)

Our comments to the proposed changes and additions to this regulation focus on the requirements for Charter School Application (126-79-4). As a preface to our comments, while the legislature has mandated the possibility of virtual charter schools in West Virginia, the record of virtual charter schools in other states is problematic. Student performance in virtual charter schools is consistently below that in other schools in those states, including charter schools, with a comparable student mix. One issue is severely flawed course programs offered by for-profit organizations such as Stride, Inc. (formerly K12 Inc.).

Another issue is problematic student access discussed in *The New Yorker* and *Propublica* article by Alec MacGillis ("The Students Left Behind by Remote Learning," 28 September 2020, <https://www.propublica.org/article/the-students-left-behind-by-remote-learning>). Students are often the most knowledgeable in their families when it comes to the technology involved in virtual education, but students are not Internet Technology professionals and will and do have problems with hardware and software. Internet access may be available if availability is very loosely defined. Is that internet access able to meet the challenges of regular and consistent access to course programming and the software used for that access? What happens if a student moves and internet access is not readily available or too expensive? If a student's primary access to coursework and the school is broken, will there be a backup resource such as a dedicated smart phone? Finally, how will a virtual charter school meet the challenges of a blind student in providing access? Will flawed virtual charter school programs automatically prohibit participation by people because they do not meet an in-built bias?

Our comments focus on provided technology, but these other concerns are also present.

4.5.a Proposed additions to this condition of the regulation are indicated in italicized underline.

Virtual public charter schools are required to provide appropriate hardware (computer, tablet, etc.), software, and technical support for students to complete all learning activities and must also ensure

each student enrolled in the school has appropriate access to reliable internet connectivity. An application to establish a virtual charter school shall identify the hardware *and software* to be provided to students and the plan for verifying that all enrolled students have sufficient connectivity to complete instructional activities and ultimately be successful at school. A plan for continuous technical support to solve student issues with hardware, software, and connectivity must be included.

July 8, 2021

Sarah Stewart, Government Affairs Counsel  
WVDE Legal Services  
Capitol Building 6, Room 362  
1900 Kanawha Boulevard East  
Charleston, WV 25305

Received

JUL 12 2021

WVDE Legal Services

Dear Ms. Stewart:

I regret that I was unable to use the online comment form for proposed updates to the WV charter schools Policy 3300. The online document (PDF) contained print far too small for me to read. I could not determine which numbered sections of the proposal included information I wished to comment upon.

Please accept my apologies and statement of concerns in the form of this letter.

It appears to me that the proposed changes legalize fully-online charter schools and create an unelected Professional Charter School Board with power to override County Boards of Education and the WV Board of Education. Since the State school board derives its power from the West Virginia Constitution, this arrangement appears to be unconstitutional and without merit. The WV Supreme Court wrote in a 2017 ruling that "legislative action that impedes the general supervisory powers of the [Board] is patently unconstitutional." I object to these proposals first and foremost on that basis.

From a practical and quality-education standpoint, there is abundant evidence from other states and from West Virginia's experience of test outcomes after remote learning during the COVID-19 pandemic that fully-online education, whether in chart or public schools, has a poor academic track record. I object to using WV children as "guinea pigs" in a system already shown to produce poor results in terms of education.

I strongly object to the proposed changes that would allow the new Professional Charter School Board to be an independent Authorizer of charter school applications. This board would have no accountability to parents, students, or to any local community, yet could single-handedly approve charter school applications, with no recourse. This seems like a very dangerous precedent to set when education in West Virginia is already struggling to thrive.

Full-time virtual charter schools will have very little oversight from independent agencies as there will be no bricks-and-boards classrooms to inspect nor in-person teachers to observe in action. The potential for poor outcomes, loss of students to boredom, incompetent or inexperienced teachers, and inappropriate teaching materials seems enormous.

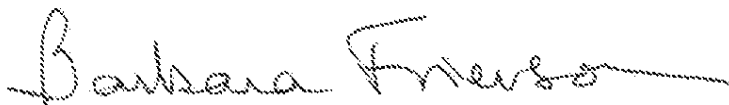
Meanwhile, the huge majority of communities maintaining public schools in West Virginia will suffer loss of funding and resources with every student transferred to the charter system.

Public schools have been the backbone of American education for hundreds of years. Stripping communities of their local schools, teachers, funding, and input into the education their children receive is truly a low blow. Our children deserve much better than this.

The proposals that financial performance measures be required for charter schools, for requirements that charter students have up-to-date computers and reliable internet connections, and that charter schools have effective measures for documenting students' progress in learning make more sense. They do not in any way compensate for the negative points made above, however.

Thank you for inviting public comment on the proposals for implementing charter schools in West Virginia.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Frierson". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right.

Barbara Frierson  
888 Observatory Drive  
Saint Albans, WV 25177

W. Va. 126CSR79, Policy 3300, Charter Public Schools  
 Comment Response Form

Comment Period Ends: July 12, 2021

NOTICE: Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.

The following form is provided to assist those who choose to comment on Policy 3300, Charter Public Schools. Additional sheets may be attached, if necessary.

Name: Sheryl Tatum Organization: Stride, Inc.  
 Title: Senior Director, Academic Policy & Research  
 City: Herndon State: VA

Please check the box below that best describes your role.

Please check the box below that best describes your role.

- County Board Member   
  Professional Support Staff   
  Service Personnel   
  Higher Education  
 Superintendent   
  Principal   
  Parent/Family   
  Legislator  
 Central Office Staff   
  Teacher   
  Community Member   
 Other

\*All comments are attached to this form

COMMENTS/SUGGESTIONS		
§126-79-1. General.	See attached comments	
§126-79-2. Purpose.	u	u
§126-79-3. Definitions	u	u
§126-79-4. Charter School Application.	u	u
§126-79-5. Charter School Application Process.	u	u
§126-79-6. Charter Contract.	u	u
§126-79-7. Responsibilities of Parties to a Charter Contract.	u	u

W. Va. 126CSR79, Policy 3300, Charter Public Schools  
 Comment Response Form

§126-79-8. Process for Renewal and Revocation of Charter Contracts.		
§126-79-9. Enrollment, Recruitment, and Retention.	ll	ll
§126-79-10. Educational Reporting Requirements.	ll	ll
§126-79-11. Education Service Providers	ll	ll
§126-79-12. Finances.	ll	ll
§126-79-13. Appeal of Authorizer's Decision to West Virginia Board of Education.	ll	ll
§126-79-14. Severability.	ll	ll

*See attached comments*

Please direct all comments to:

Sarah Stewart, Government Affairs Counsel  
 Legal Services  
 West Virginia Department of Education  
 Capitol Building 6, Room 362  
 1900 Kanawha Boulevard, East  
 Charleston, West Virginia 25305-0330  
 E-Mail Address: [sarah.a.stewart@k12.wv.us](mailto:sarah.a.stewart@k12.wv.us)  
 Telephone No.: 304.558.3667.

## Policy 3300 Charter Public Schools – Comments Submission by Stride, Inc. – July 12, 2021

These comments are submitted on behalf of Stride, Inc., a national leader in providing educational services to K-12 customers throughout the United States, including state departments of education, school districts, charter schools, and families. Founded over twenty years ago, we provide innovative, high-quality, tech-enabled education solutions, curriculum, and programs directly to students and schools. With this wealth of experience, we are submitting these comments as it relates to the Department's proposed amendments to *Policy 3300 Charter Public Schools*.

We appreciate the Department's diligent effort to incorporate the changes in state law into the Department's policy documents, namely *Policy 3300 Charter Public Schools*. We realize that this was a tremendous endeavor to amend a document that stands at 65 pages long, and we appreciate that you are seeking feedback from the public so that the policy document can be improved upon and be a reliable and accurate resource for the stakeholder community.

As a preliminary matter, we would like to encourage the Department to cast a broader net when seeking stakeholder input on topics, such as online education. Based on what was published by the Department, it appears three out-of-state public policy organizations were the only stakeholders included in stakeholder discussions, but not practitioners, operators, administrators, teachers, or parents who have real virtual education experience, including many who are residents of West Virginia. We would have welcomed the opportunity to discuss best practices and issues to navigate when setting up virtual charter schools in West Virginia or to connect you with West Virginians that could speak to these topics. While we realize the Department has already done a great deal of work on this issue, we stand ready to help with ongoing stakeholder feedback on a going forward basis. We are providing quite a bit of feedback in this submission and welcome the opportunity to further discuss these issues with you.

Policy 3300 is a very comprehensive document. From a public policy standpoint, we are initially concerned that this approach runs counter to the charter school model, which champions flexibility, innovation, less red tape, and not being overly prescriptive. That said, we are submitting these comments to draw your attention to specific provisions of the policy document that directly conflict with statute. We have also noted in our comments certain sections of Policy 3300 that would benefit from greater clarity and transparency. Please note that while we are raising some serious concerns below, this list is not comprehensive, and we reserve the right to raise additional concerns at a later date. Thank you again for your consideration of the concerns set forth below.

### Provisions in Conflict with State Law

#### Tax-Exempt Status of Applicants

Policy 3300 conflicts with statute, which states that a charter school applicant must “[h]ave obtained 501(c)(3) tax-exempt status or have submitted an application for 501(c)(3) tax-exempt status.” W. Va. Code, § 18-5G-2(1)(a). Policy 3300, however, states that “an applicant must obtain 501(c)(3) status before operation of any charter school commences.” Policy 3300, §3.3. That requirement is not in statute and does not align with how the Internal Revenue Service operates. Non-profits who petition the IRS for the 501(c)(3) tax-exempt designation often wait years for final approval and would cause unwarranted delays to the application process. The legislature could have required all applicants to have a 501(c)(3) tax-exempt designation by the IRS, but chose to provide applicants with two options for compliance. The legislature recognized the burdensome process of getting the 501(c)(3) designation and provided applicants with flexibility to still qualify without the actual 501(c)(3) tax-exempt designation.

We recommend that the Policy document be updated as it relates to 501(c)(3) tax-exempt status to align with statute.

#### Charter Application Approval

Policy 3300 creates some confusion as it conflicts with state law and uses conflicting language within the Policy itself. Policy 3300 states that “failure of a potential authorizer to render a decision on a charter school application by the statutory deadline is statutorily deemed a *conditional* approval of the application.” Policy 3300, §5.5.d.2. (emphasis added) However, state law indicates that “[a]ny failure to act on a charter application within the time specified shall be deemed an approval by the authorizer.” W. Va. Code, § 18-5G-6(d). Statute deems the application approved *unconditionally*. The applicant need not do anything further to earn that “approval.” We request that the Policy be updated to reflect that state law does not recognize a conditional approval for situations where the authorizer failed to act, but rather states that the application is deemed approved.

In addition, in §8.2.b, the Policy states that “failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an *approval* of the renewal application.” (emphasis added) Correctly, Policy 3300 does not attach a “conditional approval” in this instance. However, adding some confusion is §13.1 of the Policy, which states that an applicant may file an appeal of an authorizer’s failure to act on an application within 30 calendar days after “[t]he date by which the authorizer was to, but did not, take action on the charter application or charter renewal application.” If the authorizer’s failure to act is deemed an approval by law, it is unclear why an applicant would need to appeal that approval. We request that the Policy be updated to clarify that because inaction is deemed an approval, those decisions need not be appealed.

#### Charter Contract Terms

It appears that the Department did not update Policy 3300 as it relates to charter contract terms. It currently states that initial terms are for a term no longer than five years (§6.2.a) and that renewal terms are for a “specified term of years” (§8.2.d.5.A) set forth in the authorizer’s ruling on the renewal application. However, statute provides that for virtual charter schools, the initial and renewal terms are both for exactly five years, no more and no less. See W. Va. Code, § 18-5G-14(a)(3). We request that the Policy document be updated to align with statute as it relates to virtual charter schools.

#### Performance Report

The Department updated Policy 3300 as it relates to renewal performance reports by deleting statutory language and replacing it with language that conflicts with statute. Current Policy language, which mirrors current law, states that when the performance report is issued, it “shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely rectified.” Policy 3300, §8.2.a. It is not clear why the Department is proposing striking the language that mirrors statute to replace it with “if warranted, the prospect that the charter contract may not be renewed and the reasons for the potential non-renewal...” The proposed amended language is problematic because it defers on whether notice should be given and fails to recognize that the charter school is statutorily given time to rectify the matter and keep its renewal prospects on track. We recommend that Policy 3300, §8.2.a. retain its current language, which mirrors state law, and not strike and replace it with language that is being proposed.

## Provisions Needing Greater Clarity and Transparency

### Charter Contract Execution

Policy 3300 includes language related to charter contract execution that conflicts with legislative intent. Just like state law, Policy 3300 requires the parties to negotiate and execute a charter contract within 90 days of the approval of the charter application. See W. Va. Code, § 18-5G-9(a); Policy 3300, §5.5.e.1. However, the Policy states that failure of the parties to execute a contract by March 15 will result in the charter school being delayed at least one full school year to open. Having such leverage in “negotiations” tips the scales in favor of the authorizer, who can wait the other side out, and calls into question whether the parties are really operating at arm’s length in negotiations, as is required by statute. Fortunately, state law provides a solution, which is used in charter school laws in other states. The approved charter school application should serve as the charter contract until such time as the parties come to agreement on a different executed charter contract. We recommend that the Department reconsider §5.5.e.1 and provide for a neutral solution should the parties not come to agreement -- make the approved application, which both parties are in agreement on, the charter contract until a different charter contract is executed.

### Hardware and Internet

Policy 3300 requires that virtual charter schools provide “appropriate hardware (computer, tablet, etc.) for students to complete all learning activities and must also ensure each student enrolled in the school has appropriate access to reliable internet connectivity.” §4.5.a. State law, contrary to Policy 3300, does not require that virtual charter schools provide hardware and internet access to all students and ensure that every student has reliable internet connectivity. Virtual charter schools often help students in need, based on eligibility for free and reduced lunch, by arranging for the use of a loaner computer and a stipend for internet. However, this is not something customarily provided to all students, especially those already with the necessary hardware and internet connectivity. Moreover, Policy 3300 seems to require internet connectivity, not just where a student has a financial need, but where broadband is not technologically available to the student. For instance, §5.4.c.5.D. states that the school must “ensure all enrolled students have access to the online learning environment.” As previously mentioned, §4.5.a. requires that the school “ensure each student enrolled in the school has appropriate access to reliable internet connectivity.” We recommend that these provisions be stricken altogether as inconsistent with state law or in the alternative, tightened up so that the provision of a computer and internet access is only to those in need, using free and reduced lunch eligibility, and that reimbursement for internet meets that burden, not that the school needs to develop broadband access or “ensure” internet access where it does not exist technologically.

### Excessive Turnover

§§9.2.d.3 and 9.2.d.4 of Policy 3300 state that charter schools that experience “excessive turnover” are not providing a positive learning environment. To the contrary, as it relates to virtual charter schools, there are a host of reasons that could result in student transfers mid-year, including students who attend mandatory orientation and realize that virtual education is not the right fit for that student, students who are not engaged despite interventions and result in disenrollment, and students who enroll into a virtual school for a temporary purpose, whether it is due to a health or personal issue. We recommend that the Policy document be updated to reflect that any review of turnover shall disregard students who state during enrollment that they are only going to enroll for a temporary reason, those that leave after

mandatory orientation, and those that are disenrolled due to failure to consistently participate in instructional activities pursuant to the school's engagement policy.

### Overly Burdensome Data

While data can be very important to inform decision-making, some of the data required by Policy 3300 has no timeframe limits and would result in a tremendous burden to compile old and stale data. For instance, §§11.2.b, 11.2.c, and 12.2.k.6 require all data, reports, and documentation related to current and past charter schools. However, some ESPs operate nationally in most states and have been in operation for decades. Policy 3300 would inadvertently require the production of documents and data from hundreds of schools going back 20 or more years without any timeframe attached to the requirement. We recommend that for these provisions that the Policy require a sample of this information from the past 3 years and not leave it open-ended as is currently the case. Moreover, §§11.2.c and 12.2.k.6 speak to "actions, legal or otherwise," but never define what is an "action" and what does "legal or otherwise" mean? Neither are defined. Is this meant to be actions taken by a past authorizer? And by actions, does this refer to corrective actions? Also, as is properly noted in Policy 3300, the charter school board is ultimately responsible for the operations of the charter school and sets policies and directs the ESP. If the ESP is following board directives and policies, is the Policy making conclusions that the ESP is responsible for all adverse actions taken against the school for those decisions? We recommend striking these provisions altogether or at the very least, providing more clarity as to what is being sought here keeping in mind the limited value of the data as ESPs provide services and do not set school policies or priorities.

Another data point that needs to be defined is the use of the term "entanglements" in §11.2.j.1. What is meant by an "entanglements"? We recommend better defining that term or striking the term altogether if it is redundant with the term "interests."

### Appeal Timeline

Policy 3300 is very prescriptive in many areas of the application and approval process. However, as it relates to appeals to the WV Board of Education, there is no timeframe listed as to how many days after appealing that the appellant can expect a ruling. See Policy 3300, §13.4. As Policy 3300 states at the outset, the policy document is being established to provide "a clear and transparent process." Policy 3300, §2.2. However, Policy 3300 seems to fall short of that purpose when the appeals process to the Department is not transparent and set forth in this policy document. We recommend that Policy 3300 be revised to provide greater clarity and transparency in the expected timeframe for appeals to the Department.

### Conclusion

As we have set forth above, there are serious concerns with how certain provisions of Policy 3300 conflict with state law. There are also a number of provisions that would benefit from greater clarity and transparency from the Department. We respectfully request that the Department favorably act on our recommendations.