

AUSTRALIAN COUNCIL FOR THE DEFENCE OF GOVERNMENT SCHOOLS

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American Public School Supporters Fight Privatisations- Court Ruling Blocks West Virginia Charter Schools

Peter Greene **Forbes** 19 December 2025

<https://www.forbes.com/sites/petergreene/2025/12/18/court-ruling-a-roadblock-to-west-virginia-charter-schools/>

On December 3, Kanawha Circuit in Virginia , Judge Jennifer Bailey issued a permanent injunction that prevents the West Virginia Professional Charter School Board from authorizing any new charter schools without the approval of the voters in the county where the charter wants to do business.

West Virginia passed a charter school law in 2019. That law stated that charter schools would be authorized by county school boards, or in some rare cases, the state school board. But local elected school boards can be reluctant to open up competing schools funded with local taxpayer dollars (in fact, the very first application for establishing a charter school was rejected by the county board). In 2021, the state modified the charter law. The bill turned every mention of “charter school” into “public charter school,” and it created the West Virginia Professional Charter School Board, a new path for charter authorization.

The board members are appointed by the governor, and they had the power to authorize a charter school anywhere in the state, even if that charter had been previously rejected by the local elected school board.

Current members of the PCSB (Professional Charter School Board) include chair Adam Kissel, a visiting fellow on higher education reform for the Heritage Foundation and a former deputy assistant secretary for Higher Education Programs under Betsy DeVos, Senior Program Officer at the Charles Koch Foundation, and Vice President of Programs at the Foundation for Individual Rights in Education. The board also includes Karen Bailey-Chapman, Senior Vice President

for the Specialty Equipment Market Association; Chanda Adkins, president of [West Virginians for Health Freedom](#), an anti-vax group; and Latonia Page, most recently a Senior Executive Service member at the U.S. Office of Personnel Management. The board also includes Senator Amy Grady and Delegate Joe Ellington, chairs of the education committees of their respective legislative bodies.

The law was challenged in court in 2021 by Sam Brunett and Robert McCloud. Their lawsuit did not challenge the effectiveness of charter schools, but argued that the new approval process violated the state constitution.

[West Virginia's constitution](#) offers a clear statement about establishing new schools:

No independent free school district, or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

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Judge Bailey issued a [preliminary injunction in 2021](#), but two years later the state supreme court [tossed out that injunction](#), finding that the plaintiffs had sued the wrong people. This new ruling comes from the same suit with PCSB added as a defendant.

The state argued that charter schools are not really “independent school districts” as the constitution originally intended. But Judge Bailey remained unconvinced.

There is no question that PCSB charter schools are free school organizations for purposes of section 10 because they are statutorily defined as free, public schools. HB 2012 was designed to make PCSB charter schools as independent as they could possibly be and still be called public schools – that was the whole point, to evade county school board authorization and supervision, as the Court’s factual findings make clear.

The PCSB has remained quiet about the ruling, but [Brunett told MetroNews “Talkline”](#) that expects the decision to be appealed. Brunett, a teacher and parent, argued that the lawsuit was not filed in opposition to charter schools. “It’s not about shutting charter schools down; it’s about giving the community and taxpayers in those communities the opportunity to decide if charter schools are right for their community or not.”

The order prohibits the PCSB from authorizing any new schools without the consent of the affected voters. It allows the legislature and governor some time to react to the new reality, but Bailey warns that if the legislature and governor fail to act, she will consider another injunction to shut down the eight charter schools that the PCSB has already authorized without voter consent.

The case has already made one trip to the state supreme court, so it seems almost certain to travel there again. West Virginia taxpayers will finally learn whether or not they get to have a say in what schools their taxes fund.

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