

Policy 8400, Charter Public Schools Stimulus Fund

Comment Log

Comment Period: October 10, 2024 – November 25, 2024

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.

Date	Commenter	Comments	Action	Rationale
§126-205-1. General.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	The authorizing statute for the charter school growth fund does not impose restrictions on the use of these funds once awarded to a charter school or applicant that otherwise qualifies. All charter school funds, irrespective of the source, must be used for achieving the mission of the charter school under the existing provisions of the charter law in WV Code Sec 18-5G-1 et seq. As such, the imposition of further restrictions in this regulation is both unnecessary and, given the extensive scope of these restrictions, likely frustrates the entire purpose of this law. This fund is intended to offset startup costs broadly defined and the code provides two examples of permissible costs, which are not written as limitations. Specifically, WV Code Sec. 18-5G-17 indicates that the stimulus fund is to provide “financial support” related to “startup costs associated with renovating or remodeling existing buildings or structures and costs for the purchase of school buses.” The term “such as” indicates that these uses of funds are examples from a broader list and so imposing restrictions on the use of these funds is contrary to the	N	The term “start-up costs” is specifically used in West Virginia Code § 18-5G-17(a) to describe the purpose of the Charter Public Schools Stimulus Fund. The common understanding of the term “start-up costs” is initial expenses of starting a business or other entity. In contrast, the common understanding of “operating costs” is expenses for the basic operation of a business or entity throughout its lifetime. “Start-up costs” are typically incurred before a business or entity is launched or in the early stages of operation. “Operating costs” are typically incurred after the launch of a business or entity and are ongoing, day-to-day costs. That this distinction was recognized by the Legislature in creating the Charter Public Schools Stimulus Fund is borne out by the express examples set forth in statute to identify eligible start-up costs. Specifically, the Legislature identified “renovating or remodeling existing

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		<p>plain language of the statute. This renders the restrictions in this regulation invalid on their face because they directly contradict the plain language of the authorizing statute.</p> <p>Taken together with the substantial prohibitions or severe restrictions on use of funds elsewhere in this regulation that together preclude the use of funds for the purchase of real property, financed building purchases, fixtures in rented property, ongoing operational expenses, and consumable goods, this regulation prohibits virtually every imaginable use for startup funds, which renders the law completely meaningless.</p> <p>To correct this error, the following language in 1.1 should be deleted: “and establishes the standards applicable to the use of monies granted from such fund.”</p>		<p>buildings or structures” and the “purchase of school buses” as examples of “start-up costs.” Both of these examples are representative of one-time initial expenses and not on-going operating costs.</p> <p>In addition, once a charter school is authorized, the school is funded for ongoing operational costs pursuant to West Virginia Code § 18-5G-5, which provides that a charter school gets 99 percent of the per pupil total basic foundation allowance provided in the Public School Support Plan (W. Va. Code §§ 18-9A-1 et seq.) for each pupil enrolled in the charter school. The Public School Support Plan is designed to provide state funds for public schools, including charter schools, to meet basic operational needs.</p> <p>Limiting grants from the Charter Public Schools Stimulus Fund to one-time start-up costs is therefore consistent with applicable law. Such a limitation still allows for a variety of one-time start-up costs to be eligible for a CPSSF grant.</p>
<p>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair</p>	<p>The authorizing statute for the charter school growth fund does not impose restrictions on the use of these funds once awarded to a charter school or applicant that otherwise</p>	<p>N</p>	<p>See response above to same comment made by John Treu on 10-16-2024.</p>

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	Morgantown, WV	<p>qualifies. All charter school funds, irrespective of the source, must be used for achieving the mission of the charter school under the existing provisions of the charter law in WV Code Sec 18-5G-1 et seq. As such, the imposition of further restrictions in this regulation is both unnecessary and, given the extensive scope of these restrictions, likely frustrates the entire purpose of this law. This fund is intended to offset startup costs broadly defined and the code provides two examples of permissible costs, which are not written as limitations. Specifically, WV Code Sec. 18-5G-17 indicates that the stimulus fund is to provide “financial support” related to “startup costs associated with renovating or remodeling existing buildings or structures and costs for the purchase of school buses.” The term “ such as” indicates that these uses of funds are examples from a broader list and so imposing restrictions on the use of these funds is contrary to the plain language of the statute. This renders the restrictions in this regulation invalid on their face because they directly contradict the plain language of the authorizing statute.</p> <p>Taken together with the substantial prohibitions or severe restrictions on use of funds elsewhere in this regulation that together preclude the use of funds for the purchase of real property, financed building purchases, fixtures in rented property, ongoing operational expenses, and consumable goods,</p>		
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		<p>this regulation prohibits virtually every imaginable use for startup funds, which renders the law completely meaningless.</p> <p>To correct this error, the following language in 1.1 should be deleted: “and establishes the standards applicable to the use of monies granted from such fund.”</p>		
2024-11-25 14:41:09	James Paul West Virginia Professional Charter School Board Executive Director Kearneysville, WV	The introduction should acknowledge the unique financial challenges faced by new charter schools. I suggest clarifying that the CPSSF is intended to address both financial constraints and enable innovative approaches to education within charter schools, which may require added flexibility in fund allocation	N	The description of the “Scope” of the Policy adequately describes the basic purpose of the Policy, which is to establish a process by which applicants for grant funds may request financial support from the statutorily created CPSSF and to establish standards applicable to the use of such grant funds.
§126-205-2. Definitions.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>The definitions are poorly drafted because they include superfluous language. If a term is defined elsewhere in the code or regulations then a citation to that regulation or code section is all that is needed because adding superfluous language can create confusion as to whether the rule is attempting to alter the law.</p> <p>For example, the PCSB should be defined as just “The statutory body as defined under WV Code Sec 18-5G-2.” Describing the constitutional authority of the WVBE is unnecessary and irrelevant, and that authority is already described in the definition for the</p>	N	The definitions are accurate descriptions of all of the terminology used in the Policy and contain accurate citations to both the West Virginia Code and the West Virginia Constitution.

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		WVBE. This same superfluous language is used in 2.3 defining charter schools. The language in this regulation doesn't alter the constitutional authority of the WVBE and so it should be removed.		
2024-10-27 03:09:35	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>The definitions are poorly drafted because they include superfluous language. If a term is defined elsewhere in the code or regulations then a citation to that regulation or code section is all that is needed because adding superfluous language can create confusion as to whether the rule is attempting to alter the law.</p> <p>For example, the PCSB should be defined as just "The statutory body as defined under WV Code Sec 18-5G-2." Describing the constitutional authority of the WVBE is unnecessary and irrelevant, and that authority is already described in the definition for the WVBE. This same superfluous language is used in 2.3 defining charter schools. The language in this regulation doesn't alter the constitutional authority of the WVBE and so it should be removed.</p>	N	See response above to same comment made by John Treu on 10-16-2024.
§126-205-3. Eligibility.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	The eligibility requirements in 3.1 and 3.4 are appropriate and consistent with the plain language and evident purpose of the startup fund. The restrictions in 3.2 and 3.3, however, are excessively limiting in terms of the standard for establishing a need for these funds. The stimulus law has language that the	A/S N	<p>Agree that the eligibility requirements in Sections 3.1. and 3.4 of the Policy are appropriate and consistent with law.</p> <p>With regard to the remainder of the comment, Sections 3.2. and 3.3. in the</p>

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		<p>funds are available to schools that “would not otherwise have the financial capacity” to start a charter school. The purpose of that language is so that charter schools without a significant financial backer (like those with a corporate ESP or those described in section 3.4 of this proposed rule) do not qualify to receive these funds. A school has no such backer that can show it will use these startup funds simply to avoid incurring additional debt should meet this requirement. Any school that would likely operate at a loss in its first 2-3 years in the absence of these funds should qualify for the funding.</p>		<p>Policy are consistent with the plain language in West Virginia Code § 18-5G-17, which creates the CPSSF.</p>
<p>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<p>The eligibility requirements in 3.1 and 3.4 are appropriate and consistent with the plain language and evident purpose of the startup fund. The restrictions in 3.2 and 3.3, however, are excessively limiting in terms of the standard for establishing a need for these funds. The stimulus law has language that the funds are available to schools that “would not otherwise have the financial capacity” to start a charter school. The purpose of that language is so that charter schools without a significant financial backer (like those with a corporate ESP or those described in section 3.4 of this proposed rule) do not qualify to receive these funds. A school has no such backer that can show it will use these startup funds simply to avoid incurring additional debt should meet this requirement. Any school that would likely operate at a loss in its first 2-3 years in the</p>	<p>A/S N</p>	<p>See response above to same comment made by John Treu on 10-16-2024.</p>

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		absence of these funds should qualify for the funding.		
2024-10-30 16:15:45	Jennifer Hurt BridgeValley Community & Technical College Dean of High School Programs South Charleston, WV	<p>126-205-3: Focuses on eligibility criteria but does not mention incentives for innovative educational models.</p> <ul style="list-style-type: none"> Comment: Adding flexibility for innovative models, such as micro-schools or learning hubs, could align with the intent of fostering new charter approaches. <p>126-205-3.3.e: Specifies that funds must be requested during or before the first two years of the school's operation.</p> <ul style="list-style-type: none"> Comment: A provision for transition funding could support schools as they move from startup to sustainability, preventing disruption in services. 	N	<p>The Policy's eligibility criteria are basic pre-requisites that must be met to be considered for grant funds and are consistent with the eligibility criteria set forth in West Virginia Code § 18-5G-17. Nothing prevents the Professional Charter School Board from considering proposed innovations in evaluating an application for grant funds. However, microschoools are not eligible for CPSSF grants inasmuch as West Virginia Code § 18-8-1(n)(1)(B) defines microschoools as non-public schools that charge tuition. Only charter schools are eligible for CPSSF grants.</p> <p>West Virginia Code § 18-5G-17(c)(1) expressly states that CPSSF grants may only be sought during or before the first two years of the charter school's operation. The CPSSF is not established to cover costs beyond those parameters.</p>
§126-205-4. Allowable and Non-Allowable Costs.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	The authorizing statute for the charter school growth fund does not impose restrictions on the use of these funds. All charter school funds, irrespective of the source, must be used for achieving the mission of the charter school under the existing provisions of the charter law in WV Code Sec 18-5G-1 et seq. As such, the	N A/C	West Virginia Code § 18-5G-17 expressly limits such CPSSF grants to "start-up costs." To define that terminology as any costs that a charter school might have, would be to render meaningless the term "start-up costs." Not every cost can be a

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		<p>imposition of further restrictions in this regulation is both unnecessary and, given the extensive scope of these restrictions, likely frustrates the entire purpose of this law. Additionally, the fund is intended to offset startup costs broadly defined and the code provides two examples of permissible costs, which are not written as limitations. Specifically, WV Code Sec. 18-5G-17 indicates that the stimulus fund is to provide “financial support” related to “startup costs associated with renovating or remodeling existing buildings or structures and costs for the purchase of school buses.” The term “such as” indicates that these uses of funds are examples from a broader list and so imposing restrictions on the use of these funds is contrary to the plain language of the statute. This renders the restrictions in this regulation invalid on their face because they directly contradict the plain language of the authorizing statute.</p> <p>This entire section should be deleted. Alternatively, this section could simply state that CPSSF funds may be used for any purpose that is appropriate for the use of funds in general for a charter school under the charter law in WV Code Sec. 18-5G-1 et. seq.</p> <p>Subsection 4.1 improperly uses the term “supplement and not supplant” which is a term of art in the federal funding space, particularly in relation to IDEA funding. The concept of supplementing and not supplanting is to</p>	<p>“start-up cost.” Moreover, as previously noted in response to John Treu’s comments made with regard to §126-205-1. General, charter schools are given Public School Support Plan funds for ongoing operational costs. It is logical to conclude that Stimulus Funds satisfy a different purpose than Public School Support Plan funds or other funds for which charter schools may be eligible.</p> <p>The use of the words “supplement” and “supplant” in Section 4.1. is correct.</p> <p>Requiring applicants for CPSSF grants to specify what they intend to use the funds for and to identify a budget related to the use of such funds is necessary for accountability and transparency. Obviously, the funds involved are taxpayer dollars. Allowing applicants to obtain taxpayer dollars without any requirements or guardrails other than a general understanding that they can use them for anything that might be considered appropriate under West Virginia Code § 18-5G-1 <i>et seq.</i> is to invite misuse. What might be considered an allowable expense under broad statutory language is open to different interpretations. In order to ensure</p>
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		<p>ensure special education dollars are used to provide additional benefits to disabled students as opposed to simply using the additional funds to cover costs already paid for from state and federal sources. Avoiding double dipping is important in that context so that special needs funding is used for special needs. Using this language in the context of a startup stimulus fund makes no sense because there is no baseline state or federal funding available to a charter school applicant (or even to an authorized charter school) prior to it opening. Also, there is no logical reason for restricting the use of funds to only those activities that cannot in any way be paid for with sources of state or federal funding. Many sources of federal funding are not available in the first year of operations for a charter school, which is part of the reason why this stimulus fund was established. Section 4.1 should be deleted in its entirety.</p> <p>4.2 Startup funding is, in large part, designed to offset costs that cannot be anticipated in advance. Restricting the use of funds to only items identified in advance in a budget partially defeats the purpose of providing startup funding. The restrictions on spending should be no more extensive than the general restrictions to charter schools under the charter law. Section 4.2 serves no valid purpose and should be deleted in its entirety.</p>	<p>that taxpayer funds are spent on items that are vetted and are consistent with West Virginia Code § 18-5G-17, the process set forth in the Policy is appropriate and necessary.</p> <p>If there are no other state or federal funds available to a charter school applicant or a charter school seeking a CPSSF grant, then that may be acknowledged and it will not be a factor in a determination of a CPSSF grant award. To the extent, however, that other state or federal funding is available, that is relevant to the CPSSF award process to ensure that the taxpayers are getting the most value for the money expended from the CPSSF.</p> <p>Most start-up cost associated with operating a school can be readily anticipated in advance. To ensure accountability and transparency, those start-up costs can be identified and included in a budget to apply for a CPSSF grant.</p> <p>As noted in response to comments above, the term “start-up costs” is specifically used in West Virginia Code § 18-5G-17(a) to describe the purpose of the CPSSF. The common understanding of the term “start-up</p>
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		<p>4.3 The code imposes no restriction that funds be applied to “one time” costs as opposed to operating costs. Much of the funding for operating costs from federal sources is only available on a reimbursement basis and so a common use for startup funds would be to provide liquidity to the organization in the period where operating costs are incurred but not yet reimbursable. Imposing a limitation that restricts funds from being used for ongoing expenses is inconsistent with the very purpose of startup funds and runs directly contrary to the stated intent of this fund. As such, section 4.3 should be deleted in its entirety.</p> <p>4.4 The authorizing statute itself specifically mentions renovating existing structures as an example of a permissible use of the funds and there is no language in the statute suggesting that the costs associated with the purchase of the real estate such facility is located on is not a permissible use. The purchase of real estate is one of the major startup expenses for any school and so defining startup expenses to exclude the purchase of real estate is seems to redefine startup costs in a manner that is inconsistent with the natural use of that term. As such, Section 4.4 should be deleted in its entirety.</p> <p>4.5 A startup charter school that meets the other requirements under this regulation will almost certainly not own its building (section</p>	<p>costs” is that they are initial expenses of starting a business or other entity. In contrast, the common understanding of “operating costs” is that they are expenses for the basic operation of a business or entity throughout its lifetime. “Start-up costs” are typically incurred before a business or entity is launched or in the early stages of operation. “Operating costs” are typically incurred after the launch of a business or entity and are ongoing, day-to-day costs. That this distinction was recognized by the Legislature in creating the CPSSF is borne out by the express examples set forth in statute to identify eligible start-up costs. Specifically, the Legislature identified “renovating or remodeling existing buildings or structures” and the “purchase of school buses” as examples of “start-up costs.” Both of these examples are representative of one-time initial expenses and not on-going operating costs.</p> <p>In addition, once a charter school is authorized, the school is funded for ongoing operational costs pursuant to West Virginia Code § 18-5G-5, which provides that a charter school gets 99 percent of the per pupil total basic foundation allowance provided in the</p>
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		<p>4.4 basically ensures that this will be the case), so this provision essentially ensures that charter schools cannot use the funds for improvements, which is directly contrary to the plain language of the code indicating that “renovations” are a permissible use. Any school seeking to occupy a rented space will need funding for a leasehold improvements, which may be the largest single startup expense for the school.</p> <p>If the objective is to ensure that charter schools don’t use stimulus funding as a conduit to enrich the owners of a facility under a short-term lease where the school won’t receive an equivalent benefit over time, then a more reasonable restriction on the use of funds would be to state that funds used for permanent improvements of leased or rented facilities should be reasonable based upon the anticipated length of the leasehold. This way if an applicant seeks to use hundreds of thousands of dollars to improve a space that will only be used for a year or less, the PCSB could identify this use as a problem and decline to approve those funds. Improvements for a multi-year lease should be permissible because there aren’t facilities for rent that are turn-key ready for schools and so renovations will be required in almost every case. Also, there should be no restrictions whatsoever on making improvements to a facility owned by a public school district that is rented by a charter school.</p>	<p>Public School Support Plan (W. Va. Code §§ 18-9A-1 et seq.) for each pupil enrolled in the charter school. The Public School Support Plan is designed to provide state funds for public schools, including charter schools, to meet basic operational needs.</p> <p>Limiting grants from the CPSSF to one-time start-up costs is therefore consistent with applicable law. Such a limitation still allows for a variety of one-time start-up costs to be eligible for a CPSSF grant.</p> <p>Nothing in this Policy deters charter schools from owning their own buildings. Indeed, the Legislature recently passed a bill making charter schools eligible for School Building Authority (SBA) funds and the Legislature appropriated funds for that purpose. A grant of SBA funds would allow charter schools to acquire buildings and to renovate such buildings.</p> <p>With regard to the language in the Policy that prohibits making renovations or improvements to a facility that the charter school does not own, such language is copied nearly verbatim from amendments</p>
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		<p>4.6 The lien requirements are unduly restrictive. Startup funds of \$300K would be unlikely under almost any circumstance to cover the full cost of the purchase of an entire building, which means charter schools will generally have to use these funds for a down payment on some other type of financing. Imposing a lien on the use of funds would put a bank or investor in second position on such a loan, which would likely make such financing unobtainable to the charter school. The point of startup funding is to grease the wheels so that banks and investors risks are mitigated to open the doors for financing options for a startup school. Imposing a lien requirement defeats the purpose of the startup funds with respect to the purchase of a facility. At an absolute minimum, any lien requirement should include a subrogation provision so that any lender that funds the construction or purchase of a school facility in an amount exceeding the startup funds used would be in first position with respect to that loan. Otherwise, this lien provision will have the effect of forcing charter schools to choose either using startup funds OR seeking financing, when they actually will need both in most cases. Section 4.6 should be deleted in its entirety.</p> <p>4.8 The explicit restrictions on alcohol makes sense, but there is no logical basis for all other restrictions in this section and they should all be deleted. 4.8.e is particularly problematic as</p>	<p>made to West Virginia Code § 18-5-48 by the West Virginia Legislature in 2023 in which it made charter schools eligible for Safe Schools Funds, but prohibited the use of such funds for making permanently affixed improvements or alterations to a physical facility that a charter school does not own. Given that the Legislature enacted this prohibition in that relevant context, it is consistent to include such a prohibition in this Policy.</p> <p>The prohibition in the Policy on the use of CPSSF grants for the acquisition of real estate is nearly verbatim language contained in SBA policy. Given that the SBA does not allow LEAs to use SBA grant funds for real estate acquisitions, it is consistent to include such a prohibition in this Policy. However, for example, charter schools could seek CPSSF monies to conduct a site feasibility study with regard to real estate that a charter school may be seeking to acquire to construct a school building on.</p> <p>With regard to the lien requirement in Section 4.6, such a requirement is necessary to protect the interests of the taxpayers to recoup CPSSF monies in the event that a charter school</p>
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		<p>it limits using the funds on “consumable goods,” which is extremely broad. Taken together with the substantial prohibitions or severe restrictions on using funds for the purchase of real property, financed buildings, fixtures in rented property, and ongoing operational expenses, this regulation prevents virtually every other imaginable use for these funds. What can charter schools actually spend this money on that complies with this regulation?</p>	<p>closes after opening. The Legislature has recently enacted similar protections for the State and the taxpayers in connection with the appropriation of SBA funds for charter schools. For example, the recently enacted SBA legislation requires a charter school building constructed with SBA funds to be forfeited to the State if the charter school closes. Because the amount of funding available for a CPSSF grant is statutorily limited it is unlikely to be sufficient to cover the entire cost of constructing a school building. As a result, a lien in the amount of the grant award is the appropriate way to protect the taxpayers’ interests. It is wholly speculative to suggest that a charter school applicant won’t be able to obtain other financing merely because the State will hold a lien against a property improved with a CPSSF grant.</p> <p>To the extent that the commenter seeks to have the Policy amended to allow CPSSF monies to be used to make renovations or improvements to a property leased by a charter school from a county board of education or other public entity, such comment is accepted and a change has been made to the Policy to allow this.</p>
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<p>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<p>The authorizing statute for the charter school growth fund does not impose restrictions on the use of these funds. All charter school funds, irrespective of the source, must be used for achieving the mission of the charter school under the existing provisions of the charter law in WV Code Sec 18-5G-1 et seq. As such, the imposition of further restrictions in this regulation is both unnecessary and, given the extensive scope of these restrictions, likely frustrates the entire purpose of this law. Additionally, the fund is intended to offset startup costs broadly defined and the code provides two examples of permissible costs, which are not written as limitations. Specifically, WV Code Sec. 18-5G-17 indicates that the stimulus fund is to provide “financial support” related to “startup costs associated with renovating or remodeling existing buildings or structures and costs for the purchase of school buses.” The term “such as” indicates that these uses of funds are examples from a broader list and so imposing restrictions on the use of these funds is contrary to the plain language of the statute. This renders the restrictions in this regulation invalid on their face because they directly contradict the plain language of the authorizing statute.</p> <p>This entire section should be deleted. Alternatively, this section could simply state that CPSSF funds may be used for any purpose that is appropriate for the use of funds in</p>	<p>N A/C</p>	<p>See response above to same comment made by John Treu on 10-16-2024</p>
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	<p>general for a charter school under the charter law in WV Code Sec. 18-5G-1 et. seq.</p> <p>Subsection 4.1 improperly uses the term “supplement and not supplant” which is a term of art in the federal funding space, particularly in relation to IDEA funding. The concept of supplementing and not supplanting is to ensure special education dollars are used to provide additional benefits to disabled students as opposed to simply using the additional funds to cover costs already paid for from state and federal sources. Avoiding double dipping is important in that context so that special needs funding is used for special needs. Using this language in the context of a startup stimulus fund makes no sense because there is no baseline state or federal funding available to a charter school applicant (or even to an authorized charter school) prior to it opening. Also, there is no logical reason for restricting the use of funds to only those activities that cannot in any way be paid for with sources of state or federal funding. Many sources of federal funding are not available in the first year of operations for a charter school, which is part of the reason why this stimulus fund was established. Section 4.1 should be deleted in its entirety.</p> <p>4.2 Startup funding is, in large part, designed to offset costs that cannot be anticipated in advance. Restricting the use of funds to only items identified in advance in a budget partially</p>		
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		<p>defeats the purpose of providing startup funding. The restrictions on spending should be no more extensive than the general restrictions to charter schools under the charter law. Section 4.2 serves no valid purpose and should be deleted in its entirety.</p> <p>4.3 The code imposes no restriction that funds be applied to “one time” costs as opposed to operating costs. Much of the funding for operating costs from federal sources is only available on a reimbursement basis and so a common use for startup funds would be to provide liquidity to the organization in the period where operating costs are incurred but not yet reimbursable. Imposing a limitation that restricts funds from being used for ongoing expenses is inconsistent with the very purpose of startup funds and runs directly contrary to the stated intent of this fund. As such, section 4.3 should be deleted in its entirety.</p> <p>4.4 The authorizing statute itself specifically mentions renovating existing structures as an example of a permissible use of the funds and there is no language in the statute suggesting that the costs associated with the purchase of the real estate such facility is located on is not a permissible use. The purchase of real estate is one of the major startup expenses for any school and so defining startup expenses to exclude the purchase of real estate is seems to redefine startup costs in a manner that is</p>		
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		<p>inconsistent with the natural use of that term. As such, Section 4.4 should be deleted in its entirety.</p> <p>4.5 A startup charter school that meets the other requirements under this regulation will almost certainly not own its building (section 4.4 basically ensures that this will be the case), so this provision essentially ensures that charter schools cannot use the funds for improvements, which is directly contrary to the plain language of the code indicating that “renovations” are a permissible use. Any school seeking to occupy a rented space will need funding for a leasehold improvements, which may be the largest single startup expense for the school.</p> <p>If the objective is to ensure that charter schools don’t use stimulus funding as a conduit to enrich the owners of a facility under a short-term lease where the school won’t receive an equivalent benefit over time, then a more reasonable restriction on the use of funds would be to state that funds used for permanent improvements of leased or rented facilities should be reasonable based upon the anticipated length of the leasehold. This way if an applicant seeks to use hundreds of thousands of dollars to improve a space that will only be used for a year or less, the PCSB could identify this use as a problem and decline to approve those funds. Improvements for a multi-year lease should be permissible because</p>		
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		<p>there aren't facilities for rent that are turn-key ready for schools and so renovations will be required in almost every case. Also, there should be no restrictions whatsoever on making improvements to a facility owned by a public school district that is rented by a charter school.</p> <p>4.6 The lien requirements are unduly restrictive. Startup funds of \$300K would be unlikely under almost any circumstance to cover the full cost of the purchase of an entire building, which means charter schools will generally have to use these funds for a down payment on some other type of financing. Imposing a lien on the use of funds would put a bank or investor in second position on such a loan, which would likely make such financing unobtainable to the charter school. The point of startup funding is to grease the wheels so that banks and investors risks are mitigated to open the doors for financing options for a startup school. Imposing a lien requirement defeats the purpose of the startup funds with respect to the purchase of a facility. At an absolute minimum, any lien requirement should include a subrogation provision so that any lender that funds the construction or purchase of a school facility in an amount exceeding the startup funds used would be in first position with respect to that loan. Otherwise, this lien provision will have the effect of forcing charter schools to choose either using startup funds OR seeking financing, when they actually will need both in</p>		
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		<p>most cases. Section 4.6 should be deleted in its entirety.</p> <p>4.8 The explicit restrictions on alcohol makes sense, but there is no logical basis for all other restrictions in this section and they should all be deleted. 4.8.e is particularly problematic as it limits using the funds on “consumable goods,” which is extremely broad. Taken together with the substantial prohibitions or severe restrictions on using funds for the purchase of real property, financed buildings, fixtures in rented property, and ongoing operational expenses, this regulation prevents virtually every other imaginable use for these funds. What can charter schools actually spend this money on that complies with this regulation?</p>		
2024-11-25 14:41:09	James Paul West Virginia Professional Charter School Board Executive Director Kearneysville, WV	<p>Restricting CPSSF funds to one-time expenses could limit a school’s ability to address ongoing start-up needs. 18-5G-17 explicitly mentions “start-up costs” rather than “one-time costs.” Therefore, I propose permitting limited operational expenses directly linked to establishing sustainable educational programs, such as funding for staffing, technology, and educational resources, which are critical in early years.</p>	N	<p>See responses above to similar comment made by John Treu on this topic. In addition, there are a variety of educational programs, technology and educational resources which would be one-time costs that would be eligible for CPSSF monies. Moreover, there may be one-time costs associated with staff training that would be eligible for CPSSF monies. However, ongoing staff salaries/payroll for the school would not be eligible.</p>
§126-205-5. Applications for Grant Funds.				

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<p>2024-10-16 11:58:01</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<p>Charter schools already have a requirement to show financial viability as part of the charter application and section 5.2.c appears to require the charter school to show that it is not viable based on such other available funds without the startup funding. This application requirement is unduly restrictive and inconsistent with the charter law. The stimulus law has language that the funds are available to schools that “would not otherwise have the financial capacity” to start a charter school. The purpose of that language is so that charter schools without a significant financial backer (like those with a corporate ESP), qualify to receive these funds. A school that can show it will use these startup funds simply to avoid incurring additional debt should meet this requirement. Any school that it would likely operate at a loss in the absence of these funds should qualify.</p> <p>The vendor requirements in 5.2.e are unduly restrictive. The extent to which amounts allocated to certain expenditures are reasonable should be determined by the PCSB, which has extensive institutional knowledge and expertise of the costs for charter schools based on annual reporting by charter schools to the PCSB.</p> <p>Section 5.3 calls for costly plans and a feasibility study are the very types of costs that should be funded through the startup funds and should not be a condition precedent to</p>	<p>N</p>	<p>West Virginia Code § 18-5G-17(b)(1) expressly requires applicants for CPSSF funding to demonstrate that they would not otherwise have the financial capacity without money from the Fund to either apply to an authorizer or start a public charter school. Therefore, the language in the Policy is entirely consistent with the law. The West Virginia Legislature did not express in the law that the purpose of CPSSF monies is to provide funding to charter schools without financial backers to allow them to avoid additional debt or prevent operating at a loss. Had the Legislature intended that, it would have said it.</p> <p>Vendor requirements, required plans and studies are necessary to protect and ensure the proper expenditure of taxpayer funds.</p>
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		receiving such startup funds. Additionally, 5.3.c calls for credentials of contractors being considered, but those contractors may need to be identified through a procurement process if funds from federal grants or SBA funding is also being used. Imposing this requirement could impede or violate those procurement processes, so 5.3.c should be deleted.		
2024-10-27 03:09:35	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>Charter schools already have a requirement to show financial viability as part of the charter application and section 5.2.c appears to require the charter school to show that it is not viable based on such other available funds without the startup funding. This application requirement is unduly restrictive and inconsistent with the charter law. The stimulus law has language that the funds are available to schools that “would not otherwise have the financial capacity” to start a charter school. The purpose of that language is so that charter schools without a significant financial backer (like those with a corporate ESP), qualify to receive these funds. A school that can show it will use these startup funds simply to avoid incurring additional debt should meet this requirement. Any school that it would likely operate at a loss in the absence of these funds should qualify.</p> <p>The vendor requirements in 5.2.e are unduly restrictive. The extent to which amounts allocated to certain expenditures are reasonable should be determined by the PCSB,</p>	N	See response above to same comment made by John Treu on 10-16-2024.

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		<p>which has extensive institutional knowledge and expertise of the costs for charter schools based on annual reporting by charter schools to the PCSB.</p> <p>Section 5.3 calls for costly plans and a feasibility study are the very types of costs that should be funded through the startup funds and should not be a condition precedent to receiving such startup funds. Additionally, 5.3.c calls for credentials of contractors being considered, but those contractors may need to be identified through a procurement process if funds from federal grants or SBA funding is also being used. Imposing this requirement could impede or violate those procurement processes, so 5.3.c should be deleted.</p>		
§126-205-6. Determination of Grant Awards.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	The review of applications by the PCSB subcommittee members individually should not have to be in a public meeting as only the subcommittee’s combined deliberations should be subject to public scrutiny.	N	The Policy does not require a public meeting for individual subcommittee members who review applications on their own time. The Policy requires a public meeting for any collective review, discussion of that review and/or deliberations or actions inasmuch as a public meeting is required pursuant the Open Governmental Proceedings Act. Numerous Ethics Commission opinions issued on this topic confirm that subcommittee meetings are subject to Open Governmental Proceedings Act requirements.

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2024-10-27 03:09:35	John Treu West Virginia Academy Board Chair Morgantown, WV	The review of applications by the PCSB subcommittee members individually should not have to be in a public meeting as only the subcommittee’s combined deliberations should be subject to public scrutiny.	N	See response above to same comment made by John Treu on 10-16-2024.
§126-205-7. Grant Awards.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>7.1.a - Startup funds are commonly used for unexpected expenses. So this provision should permit use on both budgeted items as well as unexpected expenses.</p> <p>7.1.b - Charter schools are not subject to Policy 8300 according to the charter law and so this regulatory requirement is inconsistent with WV Code Sec. 18-5G-3(c) and so this section should be deleted in its entirety.</p> <p>7.1.c - Charter schools are not subject to Policy 4336 according to the charter law and so this regulatory requirement is inconsistent with WV Code Sec. 18-5G-3(c). As such, this section should be deleted in its entirety.</p>	N	<p>See responses above on the topic of start-up costs and the requirement for a budget.</p> <p>West Virginia Code § 18-5G-17(b) specifically authorizes the West Virginia Board of Education to promulgate a Policy to implement the CPSSF statute without limitation. Moreover, the West Virginia Board of Education derives its public education policymaking authority directly from Article XII, § 2 of the West Virginia Constitution giving the WVBE general supervision of the public schools. <i>See West Virginia Board of Education v. Hechler</i>, 376 S.E.2d 839 (1988) (“Therefore, we hold that rule-making by the State Board of Education is within the meaning of “general supervision” of state schools pursuant to art. XII, § 2 of the <i>West Virginia Constitution</i>, and any statutory provision that interferes with such rule-making is unconstitutional.”) As a result, the WVBE is not limited in its authority to establish policy requirements for</p>

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			<p>expenditures of CPSSF monies inasmuch as charter schools are part of the public school system over which the WVBE has general supervision.</p> <p>In addition, with regard to Policy 4336, the Policy requires that any buses that may be purchased with CPSSF monies must adhere to the design/equipment requirements in Policy 4336. Those design/equipment requirements are student transportation safety rules/laws. Specifically, W. Va. Code § 18-5G-3(c)(14) requires charter schools to adhere to “the same student transportation safety laws applicable to public schools when transportation is provided.” Therefore, requiring charter schools who seek to use CPSSF monies for school buses fits squarely within that statutory provision. And, as discussed above, is within the WVBE’s broad policymaking authority under the West Virginia Constitution.</p> <p>With regard to Policy 8200, the Policy requires purchases made with CPSSF monies to be made according to the purchasing rules in Policy 8200. One relevant reference point for this requirement is the Safe Schools</p>
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			<p>Funding Process Policy (Policy 8300) enacted by the WVBE this year which requires any Safe Schools funds granted to both traditional public schools and charter public schools to be expended in accordance with purchasing requirements set forth in Policy 8200. The WVBE enacted Policy 8300 to apply to both traditional and charter public schools as directed by the Legislature in West Virginia Code 18-5-48(d). The Safe Schools Funding Process Policy is now in effect. In addition, the WVBE recently enacted Policy 8500 (Competitive Grant Application and Award Process) that also requires any grants awarded by the WVDE to any LEA (which would include charter schools) to be expended in accordance with the purchasing requirements set forth in Policy 8200. While the WVBE could have conceivably lifted all of requirements in Policy 8200 and recited them verbatim in 8300, 8500 and the Charter Public Schools Stimulus Fund Policy – instead of simply referring to those Policies as applicable requirements – it was determined to be more economical and efficient to simply refer to them. Consistent with the discussion above about the WVBE’s broad rulemaking authority under § 18-5G-</p>
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				17(b) and Article XII, § 2 of the Constitution, imposing these purchasing requirements is within the scope of the WVBE’s authority. Also, requiring granted public funds to be expended by public bodies using certain purchasing guardrails ensures that taxpayer dollars are used properly; that there is fairness and free market competition in the procurement process; that fraud, waste and abuse are prevented; and, that the taxpayers get value for their investment. These principles apply to all public schools, including charter schools.
2024-10-27 03:09:35	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>7.1.a - Startup funds are commonly used for unexpected expenses. So this provision should permit use on both budgeted items as well as unexpected expenses.</p> <p>7.1.b - Charter schools are not subject to Policy 8300 according to the charter law and so this regulatory requirement is inconsistent with WV Code Sec. 18-5G-3(c) and so this section should be deleted in its entirety.</p> <p>7.1.c - Charter schools are not subject to Policy 4336 according to the charter law and so this regulatory requirement is inconsistent with WV Code Sec. 18-5G-3(c). As such, this section should be deleted in its entirety.</p>	N	See response above to same comment made by John Treu on 10-16-2024.

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<p>2024-10-30 16:15:45</p>	<p>Jennifer Hurt BridgeValley Community & Technical College Dean of High School Programs South Charleston, WV</p>	<p>126-205-7.1.c: Mentions CPSSF funds can be used to purchase buses, but no alternative transportation options are specified.</p> <ul style="list-style-type: none"> • Comment: This section could be expanded to include leasing vehicles or contracting transportation services, which would provide more flexible and cost-effective solutions for transportation needs. Partnering with local organizations could enhance efficiency and reduce duplication of services. Currently, the language incentivizes purchasing new buses rather than fostering collaborative partnerships. 	<p>N</p>	<p>West Virginia Code § 18-5G-17(a) expressly mentions the purchase of school buses as a start-up costs that would be eligible for CPSSF monies. That is the reason school bus purchases are referenced in the Policy. If an applicant seeking CPSSF funding can identify other one-time transportation-related items for which it wishes to obtain funding, such items may be determined to be eligible costs. Nothing in this section prevents charter schools from finding other flexible or cost-effective solutions for transportation.</p>
<p>2024-11-25 14:41:09</p>	<p>James Paul West Virginia Professional Charter School Board Executive Director Kearneysville, WV</p>	<p>The requirement that grant funds be used exclusively for the items identified in the application could limit schools' ability to adapt to unforeseen start-up needs. I suggest allowing reallocations within approved budgets, provided that they align with the original grant's purpose. Grantees should also have the opportunity to amend their budgets, with approval from PCSB.</p> <p>Moreover, charter schools are intentionally designed to foster innovative approaches to education by operating with more flexibility than traditional public schools. Policy 8200 can impose rigid procurement rules that may hinder the agile needs of charter schools, particularly in their formative years.</p>	<p>N A/C</p>	<p>Because grant funds are taxpayer monies, it is necessary to require CPSSF applicants to identify what they are seeking grant funds for at the outset. Allowing the funds to be spent on evolving, fluid start-up needs could lead to misuse. Most start-up costs for running a school are easily identified in advance of operation.</p> <p>To the extent that the commenter seeks to allow amendment of budgets with approval by the Professional Charter School Board, such comment is accepted and a change has been made to the Policy to allow this. The change allows budget amendments before evaluation and review of</p>

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				<p>applications starts to ensure fairness in the process.</p> <p>With regard to the application of Policy 8200, see the response to the comment made by John Treu above regarding the policy reasons that support the application of Policy 8200 to purchases made with CPSSF monies.</p>
§126-205-9. Administration, Transparency, and Reporting.				
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	This section creates an unnecessary and wasteful reporting system for the PCSB to provide minute details in relation to the awarding of these grants to the WVBE, when those details are already available. The WVBE already has access to all of the documentation for any grant award because they are subject to open records laws. If the PCSB must report to the WVBE on this grant, the requirement should be no more extensive than providing an annual summary of grants awarded and appearing in a WVBE meeting. The WVBE members won't read anything that is more detailed anyway, nor should they be expected to do so given the proportionally minor amount of these funds compared to the billions of dollars they otherwise manage each year.	N	West Virginia Code §18-5G-4(b)(5) expressly provides that the WVBE shall establish reporting requirements that will enable it to monitor the performance and legal compliance of authorizers and public charter schools. The reporting requirements in the CPSSF Policy are consistent with that legislative directive. In addition, such reporting requirements will allow the WVBE to exercise its general supervisory responsibilities over charter public schools which it is obligated to do under Article XII, Section 2 of the West Virginia Constitution.
2024-10-27 03:09:35	John Treu West Virginia Academy Board Chair Morgantown, WV	This section creates an unnecessary and wasteful reporting system for the PCSB to provide minute details in relation to the awarding of these grants to the WVBE, when those details are already available. The WVBE already has access to all of the documentation	N	See response above to same comment made by John Treu on 10-16-2024.

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		for any grant award because they are subject to open records laws. If the PCSB must report to the WVBE on this grant, the requirement should be no more extensive than providing an annual summary of grants awarded and appearing in a WVBE meeting. The WVBE members won't read anything that is more detailed anyway, nor should they be expected to do so given the proportionally minor amount of these funds compared to the billions of dollars they otherwise manage each year.		
2024-10-30 16:15:45	Jennifer Hurt BridgeValley Community & Technical College Dean of High School Programs South Charleston, WV	126-205-9: Outlines administration, transparency, and reporting requirements but focuses more on financial oversight than educational outcomes. <ul style="list-style-type: none"> • Comment: Adding metrics for student success, retention, or enrollment milestones would align the funding with performance goals. 	N	This Policy is limited to requirements for CPSSF grant funds. The WVBE exercises oversight of the educational outcomes of charter public school students pursuant to other policies and statutes.