





**Policy 8400, Charter Public Schools Stimulus Fund  
List of Stakeholders**

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**West Virginia Department of Education**

**External Stakeholders**

- James Paul, Executive Director, West Virginia Professional Charter School Board (Jefferson County)

**Internal Stakeholders**

Kelli Talbott, General Counsel, Office of Legal Services

Curtis Green, Attorney, Office of Legal Services

Tina Payne, Executive Assistant, WVBE

Uriah Cummings, Officer, Offices of School Operations

Jeff Kelley, Assistant Superintendent, Division of Accountability Programs

Jimmy Lacy, Director, Office of School Transportation



126CSR205

TITLE 126  
LEGISLATIVE EXEMPT RULE  
BOARD OF EDUCATION

SERIES 205  
CHARTER PUBLIC SCHOOLS STIMULUS FUND (8400)

**§126-205-1. General.**

1.1. Scope. -- This rule establishes the process by which applicants may request financial support from the Charter Public Schools Stimulus Fund (CPSSF) created by West Virginia Code §18-5G-17(a), and establishes the standards applicable to the use of monies granted from such Fund.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §§18-2-5, 18-5G-4(b)(5), §18-5G-17(b).

1.3. Filing Date. --

1.4. Effective Date. --

**§126-205-2. Definitions.**

2.1. Applicant. One or more persons or a West Virginia institution of higher education that intends to apply, or has applied, and been approved by an authorizer to operate a charter public school in this State, and has applied for financial support from the CPSSF.

2.2. Authorizer. An entity given the authority under W. Va. Code §§18-5G-1 *et seq.* to decide whether to approve or reject applications to operate charter public schools in this State.

2.3. Charter Public School. A public school, or program within a public school, authorized in accordance with W. Va. Code §§18-5G-1 *et seq.* and subject to the general supervision of the West Virginia Board of Education (WVBE).

2.4. Charter Public Schools Stimulus Fund (CPSSF). The special revenue fund established by W. Va. Code §18-5G-17(a) for the purpose of providing financial support to charter public school applicants and charter public schools that may not otherwise have the resources for start-up costs.

2.5. Grantee. One or more persons or a West Virginia institution of higher education that have been awarded Charter Public Schools Stimulus Fund monies by the Professional Charter School Board.

2.6. Professional Charter School Board (PCSB). The statutory body created by W. Va. Code §18-5G-15 which reports directly to, and is responsible to, the WVBE and subject to the general supervision of the WVBE pursuant to Article XII, §2 of the W. Va. Constitution.

2.7. West Virginia Board of Education (WVBE). The constitutional body established by the people of the State of West Virginia in Article XII, §2 of the W. Va. Constitution and vested by the people with the general supervision of the public schools of this State.

**§126-205-3. Eligibility.**

3.1. To be eligible for financial support from the CPSSF, applicants shall demonstrate that without the financial support from the CPSSF:

3.1.a. they cannot successfully apply to an authorizer; or,

3.1.b. they do not have the financial capacity for start-up costs associated with establishing a charter public school in the State.

3.2. To establish eligibility under section 3.1.a of this rule, the applicant shall:

3.2.a. demonstrate that it cannot meet specifically identified charter public school criteria and/or charter public school application requirements set forth in West Virginia Code §18-5G-3 and/or West Virginia Code §18-5G-8; as a result of its lack of financial capacity;

3.2.b. produce financial reports and/or other documents that supports that the applicant lacks the financial capacity to meet the specifically identified charter public school criteria and/or charter public school application requirements set forth in W. Va. Code §18-5G-3 and/or W. Va. Code §18-5G-8;

3.2.c. demonstrate that its inability to meet those specifically identified criteria and/or requirements will be remedied by an initial grant from the CPSSF; and,

3.2.d. demonstrate that it is not working with, or financed by, any organization that has started or financed other charter schools to the degree that facilitating and starting charter schools is a significant portion of the organization's purpose.

3.3. To establish eligibility under section 3.1.b of this rule, the applicant shall:

3.3.a. demonstrate that it does not have the financial capacity for specifically identified start-up costs that are allowable CPSSF costs under this rule;

3.3.b. produce financial reports and/or other documents that supports that the applicant lacks the financial capacity for specifically identified start-up costs that are allowable CPSSF costs under this rule;

3.3.c. demonstrate that its lack of financial capacity for the specifically identified start-up costs will be remedied by an initial grant from the CPSSF;

3.3.d. demonstrate that it is not working with, or financed by, any organization that has started or financed other charter schools to the degree that facilitating and starting charter schools is a significant portion of the organization's purpose; and,

3.3.e. demonstrate that it is seeking CPSSF funding during or before the first two years of the charter school's operation as required by W. Va. Code §18-56-17(c)(1).

3.4. In order to meet the eligibility criteria set forth in sections 3.2.d and 3.3.d of this rule, the applicant shall:

3.4.a. demonstrate that the charter held or sought to be held by the applicant is held or sought to be held by the school and not by a for-profit organization or a nonprofit subsidiary of a for-profit organization engaged in starting, facilitating, managing and/or financing charter schools as a significant portion of the organization's purpose or business.

3.4.b. provide an assurance that it has not and will not enter into a contract or contracts with a for-profit organization or a nonprofit subsidiary of a for-profit organization engaged in starting, facilitating, managing and/or financing charter schools as a significant portion of the organization's purpose or business.

**§126-205-4. Allowable and Non-Allowable Costs.**

4.1. Grant funds from the CPSSF must supplement, not supplant, any federal, state, local or other funds available to the applicant for the items for which the applicant seeks CPSSF funding. To meet its burden of showing that the CPSSF funds sought by the applicant will not be used to supplant any available federal, state, local, or other funds, the applicant must show that such other available funds are necessary to meet expenses other than the expenses at issue in the CPSSF application.

4.2. Recipients of CPSSF funding shall only use such funding in accordance with their CPSSF budget that is prepared and approved in accordance with this rule.

4.3. CPSSF funding shall only be expended for costs that are one-time in nature to allow the applicant to successfully apply to an authorizer or pay for start-up costs associated with establishing a charter public school. CPSSF funding shall not be expended for ongoing operational costs. Questions to be considered when making the distinction between one-time and ongoing costs are whether the expense is required to operate the school and whether the school will continue to incur the expense after the CPSSF grant has expired. If either of these questions are answered in the affirmative, then the expense is not likely to be a one-time expense and therefore, would not be allowed.

4.4. CPSSF funding shall not be used for real estate acquisitions.

4.5. CPSSF funding shall not be used to make permanently affixed improvements, alterations, or additions to a physical facility that the applicant does not own. Provided that, if a charter public school eligible for CPSSF funding is leasing a public facility from a county board of education or other public entity pursuant to West Virginia Code § 18-5G-12, it may seek to use CPSSF funding to make permanently affixed improvements, alterations, or additions to the facility with the approval of the county board or other public entity that owns the public facility. If the PCSB distributes any CPSSF funding for the purpose of making removable improvements to a facility that is not owned by the applicant, the improvements shall be accomplished in such a manner that they may be removed with minimal effort.

4.6. If the PCSB distributes CPSSF funding for the purpose of making permanently affixed improvements, alterations, or additions to a physical facility owned by the applicant, a lien in favor of the West Virginia Board of Education shall attach to the physical facility and the real property on which the physical facility is situated. The lien shall be in the amount of the CPSSF funding distributed by the PCSB and shall continue for a period of fifteen (15) years from the date of completion of the improvements, alterations, or additions to the physical facility. To protect and enforce the lien, the following requirements shall apply during the period of the lien:

4.6.a. For lien amounts greater than twenty-five thousand dollars (\$25,000.00), upon the applicant's own initiative, and at its own expense, the applicant shall record a notice of lien in the office of the county commission of the county in which the real property is situated. The notice of lien shall state the amount and expiration date of the lien, identify the West Virginia Board of Education as holder of the lien, state the West Virginia Board of Education's contact information, and contain a description of the real property subject to the lien.

4.6.b. The applicant must maintain appropriate insurance coverage on the physical facility.

4.6.c. If the physical facility is no longer needed for the original purpose, including but not limited to temporary or permanent cessation of operation of the public charter school, or failure to begin operation of a public charter school, the applicant shall compensate the PCSB in the full amount of the lien.

4.6.d. Before the physical facility or the real property on which the physical facility is situated may be disposed of or otherwise transferred, the applicant shall compensate the PCSB in the full amount of the lien.

4.7. Costs must be incurred during the time period specified in the CPSSF grant award in order to be an allowable cost.

4.8. Non-Allowable costs for CPSSF funding include, but are not limited to:

4.8.a. After school programs;

4.8.b. Audits;

4.8.c. Authorizer Fees;

4.8.d. Alcohol;

4.8.e. Consumable goods such as office supplies;

4.8.f. Conference travel;

4.8.g. Contingency or "petty cash" funds;

4.8.h. Contributions and donations to others; and,

4.8.i. On-going equipment and supplies for building maintenance.

**§126-205-5. Applications for Grant Funds.**

5.1. When the West Virginia Legislature appropriates funds to the special revenue account designated and known as the Charter Schools Stimulus Fund or other allowable sources of funds are deposited in such account, the PCSB may accept applications for CPSSF grant awards. Applications for funds may not be

accepted in the absence of a legislative appropriation and/or the deposit of other allowable sources of funds in the Charter Schools Stimulus Fund special revenue account.

5.2. Every applicant for CPSSF funds shall complete a written application in which the applicant:

5.2.a. attests that upon the date of application, it meets all applicable eligibility criteria set forth in section 3 of this rule and produces in connection with its application all reports and/or other documents required by section 3 of this rule;

5.2.b. identifies and describes the items for which the applicant seeks CPSSF funding;

5.2.c. demonstrates that other available federal, state, local, or other funds available to the applicant for the items for which the applicant seeks CPSSF funding are necessary to meet expenses other than the expenses at issue in the CPSSF application;

5.2.d. specifies the time period in which it will complete the purchase and/or acquisition of the items for which it seeks CPSSF funding; and,

5.2.e. provides a vendor quotation of the cost of the items for which it seeks CPSSF funding and provides a detailed budget for the purchase and/or acquisition of the items.

5.3. If an applications seeks CPSSF funding for the purpose of new construction or permanently affixed improvements, alterations, or additions, the application must include the following documentation:

5.3.a. a project development schedule including specific timelines and/or progression dates relative to the award date if the application is granted;

5.3.b. a site feasibility study including geotechnical evaluation, boundary and topographical data, geological evaluation, archaeological evaluation, site access planning, and utility availability; and

5.3.c. the credentials of all architectural and/or engineering contractors being considered to perform services if the application is granted.

5.4. The PCSB may, in its discretion, allow an applicant to amend its budget submitted in accordance with section 5.2.e. of this rule provided that the amendment does not materially change the purpose for which the CPSSF funding is sought and provided that the amendment is made before the PCSB and/or a PCSB subcommittee begins evaluation of applications.

5.5. Every application for CPSSF funding shall be signed by the applicant and/or a duly authorized representative of the applicant. If the signatory is a duly authorized representative of the applicant, the signatory shall identify his or her position in relation to the applicant.

5.6. Every application for CPSSF funding shall contain an attestation clause that states that the applicant affirms that the information contained in the application, and any documents submitted in connection with the application, are true and accurate. Further, the application shall be signed and affirmed before a notary public.

**§126-205-6. Determination of Grant Awards.**

6.1. The PCSB may appoint a subcommittee to evaluate and make recommendations on all eligible applications for CPSSF funding. Such appointments shall be made in a public meeting held in compliance with the West Virginia Open Governmental Proceedings Act, W. Va. Code §§6-9A-1 *et seq.*

6.2. All subcommittee deliberations, discussions, and determinations regarding recommendations shall be conducted in a public meeting in compliance with the West Virginia Open Governmental Proceedings Act, W. Va. Code §§6-9A-1 *et seq.*

6.3. Any appointed subcommittee shall evaluate and rank the eligible applications for awarding CPSSF funding using a scoring system that includes identified evaluative criteria and a scoring strategy.

6.4. Any appointed subcommittee shall make a recommendation to the PCSB on the disposition of eligible applications. Any such recommendation shall be in writing and include an explanation of the subcommittee's evaluation and ranking of the eligible applications.

6.5. The PCSB will consider all eligible applications, taking into account the recommendations of any appointed subcommittee, to determine whether such applications should be granted, denied, or granted in part. In making such determinations, the PCSB will conduct all due diligence and use its subject-matter expertise to exercise reasonable discretion in providing for the most appropriate use of public funds.

6.6. The PCSB shall ensure that any appointed subcommittee member, PCSB member and/or PCSB staff member (member) involved in the determination of CPSSF evaluation and/or grant award does not have a conflict of interest that would call into question the fairness and impartiality of the grant award process. Conflicts of interest may include, but are not limited to, a personal interest that may impact a member's ability to fulfill his or her professional obligations in making a fair and impartial decision on a grant application. At all times, a member who participates in the grant application and award process shall avoid even the appearance of impropriety or of a conflict of interest.

6.7. When considering a recommendation made by an appointed subcommittee and/or acting upon an application for CPSSF grant funds, the PCSB shall deliberate and vote in a public meeting in compliance with the West Virginia Open Governmental Proceedings Act, W. Va. Code §§6-9A-1 *et seq.*

6.8. Pursuant to the requirements of section 8 of West Virginia State Auditor rule W. Va. 155CSR9, Accountability Requirements for State Funds and Grants (W. Va. 155CSR9), before awarding a CPSSF grant, the PCSB shall verify that the applicant seeking the grant is not barred from receiving the grant. The verification process shall include one of the following:

6.8.a. A clause within the formal grant agreement or other contractual document, signed by an authorized representative of the applicant seeking the grant before a notary public, stating as follows: "Under penalty of law for false swearing (W. Va. Code §61-5-3), [Applicant] certifies that by signing this grant agreement on the signature page that [Applicant] and all related parties have filed all reports for state grants received as required by W. Va. Code §12-4-14."; or,

6.8.b. A separate notarized sworn statement of compliance from the applicant seeking the grant stating that the applicant has filed all reports and sworn statements of expenditures pursuant to the requirements of W. Va. Code §12-4-14. An authorized representative of the applicant shall sign the

notarized statement and provide his or her printed name, title, and date of signature. The sworn statement shall include the following clause: "Under penalty of law for false swearing (W. Va. Code §61-5-3), [Applicant] certifies that by signing this sworn statement that the [Applicant] and all related parties have filed all reports for state grants received as required by W. Va. Code §12-4-14."

**§126-205-7. Grant Awards.**

7.1. All grant awards of CPSSF funding are subject to the following:

7.1.a. The Grantee shall only expend CPSSF grant funds for the item(s) identified in its application to the PCSB.

7.1.b. The Grantee shall comply with W. Va. 126CSR202, Purchasing Policies for Local Education Agencies, (Policy 8200), in procuring any goods or services in connection with the expenditure of its CPSSF funding.

7.1.c. If the Grantee has been awarded CPSSF grant funds to purchase a school bus or buses, such bus or buses shall conform to the West Virginia Minimum Requirements for Design and Equipment of School Buses contained in W. Va. 126CSR92, West Virginia School Bus Transportation Regulations, Procedures and Specifications for the Design and Equipment of School Buses, Policy 4336.

7.1.d. The PCSB, as the grantor of CPSSF grant funds, and the Grantee shall comply with the West Virginia Grant Transparency and Accountability established in W. Va. Code §12-4-14, W. Va. 155CSR9, and the requirements of this rule.

7.1.e. A Grantee shall not grant or assign any part of its CPSSF grant funds to a subgrantee or any other party.

7.2. The PCSB and the Grantee shall enter into a grant agreement that contains, at a minimum, the following:

7.2.a. The name and business address of the Grantee;

7.2.b. The amount of CPSSF funding granted by the PCSB to the Grantee and whether or not it is an initial grant of CPSSF funding under W. Va. Code §18-5G-17(c)(1) or an additional grant of CPSSF funding under W. Va. Code §18-5G-17(c)(2);

7.2.c. The item or items for which the CPSSF funding was granted;

7.2.d. The budget for the expenditure of the CPSSF funding that was granted;

7.2.e. The time period in which the CPSSF funding shall be expended;

7.2.f. A clause in compliance with section 8 of W. Va. 155CSR9 and section 6.8.a of this rule, unless the grantee has submitted a separate sworn notarized statement in compliance with section 8 of W. Va. 155CSR9 and section 6.8.b of this rule;

7.2.g. An affirmation, if applicable, that the Grantee shall reimburse the PCSB the full amount of the grant plus interest calculated at a prorated rate of ten percent a year if it fails to begin operating a charter school within thirty months after an initial grant is awarded and/or after an additional grant is awarded, unless the PCSB grants an extension of the thirty-month time period for extenuating circumstances;

7.2.d. A sworn affirmation by the Grantee that it shall conform to all requirements of W. Va. Code §§18-5G-1 *et seq.*, the West Virginia Grant Transparency and Accountability Act established in W. Va. Code §12-4-14, W. Va. 155CSR9, the requirements of this rule; and, the requirements of any other WVBE applicable rule including, but not limited to, Policy 8200 and Policy 4336.

**§126-205-8. Grant Extensions.**

8.1. Pursuant to W. Va. Code §18-5G-17(c)(1) and (2), the PCSB is authorized to grant an extension of the thirty-month time period within which a Grantee is required to begin operating a charter public school after either an initial grant and/or an additional grant of CPSSF funds is awarded. Such extensions shall:

8.1.a. Only be granted for extenuating circumstances which have been demonstrated to have prevented the Grantee from beginning the operation of a charter public school within the thirty-month period; and

8.1.b. Only be granted for a specific and defined time period, not to exceed one year.

8.2. For the purpose of this rule, the term “extenuating circumstances” shall mean an unforeseen, exceptional, nonrecurring event that is beyond the Grantee’s control. “Extenuating circumstances” shall not mean mismanagement, poor planning, disorganization, lack of competence or other malfeasance.

8.3. Any grant extension considered, or acted upon, by the PCSB shall be done in a public meeting held in compliance with the West Virginia Open Governmental Proceedings Act, W. Va. Code §§6-9A-1 *et seq.*

8.4. If a grant extension is granted by the PCSB after a majority vote at a public meeting:

8.4.a. The PCSB shall notify the Grantee in writing of the extenuating circumstances that the PCSB found to justify the extension and the specific time period of the extension.

8.4.b. The PCSB and the Grantee shall enter into a written amendment to the grant agreement required by section 7.2 of this rule in which the terms and conditions of the grant extension are specified.

**§126-205-9. Administration, Transparency, and Reporting.**

9.1. The PCSB, Applicants and/or Grantees shall administer the CPSSF in accordance with the requirements of W. Va. Code §18-5G-17, W. Va. 155CSR9, and the requirements of this rule.

9.2. In order to allow the WVBE to fulfill its general supervisory responsibilities under Article XII, §2 of the W. Va. Constitution and its responsibility under W. Va. Code §18-5G-4(b)(5) to establish reporting requirements to monitor the performance and legal compliance of authorizers and public charter schools, the PCSB shall report the following:

9.2.a. Beginning on July 1 of the first full year following a legislative appropriation and/or other allowable funding being deposited into the CPSSF, the PCSB shall annually submit a written report to the WVBE on the status of monies granted from such Fund. The report shall contain, at a minimum, the following:

9.2.a.1. The name(s) and addresses of the Applicants for CPSSF financial support;

9.2.a.2. Whether each Applicant sought CPSSF funding to enable it to successfully apply to an authorizer or whether the Applicant has already been approved by an authorizer to operate a charter public school and sought funding for start-up costs.

9.2.a.3. Whether each Applicant's application was denied or approved and, if approved, the amount of CPSSF funding granted to each Applicant.

9.2.a.4. A copy of each application and accompanying documentation for CPSSF funding received by the PCSB.

9.2.a.5. A copy of each CPSSF funding agreement the PCSB entered into with a Grantee.

9.2.b. If a Grantee fails to begin operating a charter public school within thirty months from the date it receives an initial grant made pursuant to W. Va. Code § 8-5G-17(c)(1) or an additional grant made pursuant to W. Va. Code §18-5G-17(c)(2), the PCSB shall immediately notify the WVBE in writing.

9.2.c. If the PCSB extends the thirty-month period within which a Grantee may begin operating a charter school in accordance with W. Va. Code §18-5G-17(c)(1) and (2), the PCSB shall make a written report of the extension to the WVBE. The report shall include, at a minimum, the name of the Grantee; a description of the extenuating circumstances justifying the extension; and, the length of time for which the extension was granted.

9.2.d. If a Grantee fails to begin operating a charter public school within an extension period granted by the PCSB in accordance with W. Va. Code §18-5G-17(c)(1) and/or (2), the PCSB shall immediately notify the WVBE in writing. The notification shall include a description of the PCSB's plan to obtain reimbursement of grant funds from the recipient.

9.2.e. If at any time, a Grantee fails to fully reimburse grant funds to the PCSB and/or fails to make a timely reimbursement payment pursuant to requirements imposed by the PCSB, the PCSB shall immediately notify the WVBE in writing. Such notification shall include a description of the PCSB's plan to collect the amount owed by the Grantee.

9.2.f. The PCSB shall provide copies of all reports, notifications, or other documents it generates, issues, or receives in connection with W. Va. 155CSR9 compliance to the WVBE.



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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
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	<p align="center"><b>§126-205-1. General.</b></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 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</p>	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>	N	<p>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.</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 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</p>		<p><b>§126-205-2. Definitions.</b></p> <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>
<p>2024-10-16 11:58:01</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>		N	<p>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.</p>

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		<p>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>		
<p>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<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>	<p>N</p>	<p>See response above to same comment made by John Treu on 10-16-2024.</p>
<b>§126-205-3. Eligibility.</b>				
<p>2024-10-16 11:58:01</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</p>	<p>A/S N</p>	<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>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<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>A/S N</p>	<p>Policy are consistent with the plain language in West Virginia Code § 18-5G-17, which creates the CPSSF.</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>See response above to same comment made by John Treu on 10-16-2024.</p>

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2024-10-30 16:15:45	Jennifer Hurt BridgeValley Community & Technical College Dean of High School Programs South Charleston, WV	absence of these funds should qualify for the funding. 126-205-3: Focuses on eligibility criteria but does not mention incentives for innovative educational models. <ul style="list-style-type: none"> <li>Comment: Adding flexibility for innovative models, such as micro-schools or learning hubs, could align with the intent of fostering new charter approaches.</li> </ul> 126-205-3.3.e: Specifies that funds must be requested during or before the first two years of the school's operation. <ul style="list-style-type: none"> <li>Comment: A provision for transition funding could support schools as they move from startup to sustainability, preventing disruption in services.</li> </ul>	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>
<b>§126-205-4. Allowable and Non-Allowable Costs.</b>				
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	<p>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</p>

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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 <b>§126-205-1. General</b>, 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 4.1.1 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.</p> <p>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 et seq. is to invite misuse.</p> <p>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>	
<p>2024-11-25 14:41:09</p>	<p>James Paul West Virginia Professional Charter School Board Executive Director Kearneysville, WV</p>	<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>	<p>N</p> <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>
<b>\$126-205-5. Applications for Grant Funds.</b>			

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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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<p>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<p>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>	<p>N</p>	<p>See response above to same comment made by John Treu on 10-16-2024.</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,</p>		

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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>	
<b>§126-205-6. Determination of Grant Awards.</b>			
<p>2024-10-16 11:58:01</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<p>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.</p>	<p>N</p> <p>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.</p>

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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.
<b>§126-205-7. Grant Awards.</b>				
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. See <i>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 <b>and</b> 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 <b>any LEA</b> (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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<p>2024-10-27 03:09:35</p>	<p>John Treu West Virginia Academy Board Chair Morgantown, WV</p>	<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>	<p>N</p>	<p>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.</p>
				<p>See response above to same comment made by John Treu on 10-16-2024.</p>

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<p>2024-10-30 16:15:45</p>	<p>Jennifer Hurt BridgeValley Community &amp; 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"> <li>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.</li> </ul>	<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>
<b>§126-205-9. Administration, Transparency, and Reporting.</b>			
2024-10-16 11:58:01	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>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.</p>	<p>N</p> <p>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.</p>
2024-10-27 03:09:35	John Treu West Virginia Academy Board Chair Morgantown, WV	<p>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</p>	<p>N</p> <p>See response above to same comment made by John Treu on 10-16-2024.</p>

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<p>2024-10-30 16:15:45</p>	<p>Jennifer Hurt BridgeValley Community &amp; Technical College Dean of High School Programs South Charleston, WV</p>	<p>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.</p> <p>126-205-9: Outlines administration, transparency, and reporting requirements but focuses more on financial oversight than educational outcomes.</p> <ul style="list-style-type: none"> <li>• Comment: Adding metrics for student success, retention, or enrollment milestones would align the funding with performance goals.</li> </ul>	<p>N</p>	<p>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.</p>
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