

**Charter School Capital Outlay Funding**  
**TECHNICAL ASSISTANCE PAPER**

The Florida Department of Education's Office of Educational Facilities

Section 1013.62, F.S., provides procedures and guidance for the distribution of capital outlay funds appropriated to Florida's public charter schools. Furthermore, this section provides the Department of Education the authority to establish procedures for submitting and approving requests for these funds. The bulleted provisions below represent the Office of Educational Facilities' interpretation of Section 1013.62, F.S., in an effort to provide charter school sponsors and charter schools with information pertinent to qualifying for, receiving, and expending capital outlay funds. The following does not represent a legal opinion nor the official position of the Department on any matter.

**Eligibility**

1. Section 1013.62(1), F.S., provides that charter schools are eligible for capital outlay funds if they meet the following criteria (a, or b, or c; **plus** d, e, f, and g):
  - a. Have been in operation for three or more consecutive years; **or**
    - This provision means the school must have been open for three full school years, or be starting its fourth year of student instruction.
  - b. Be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds; **or**
    - A charter school may be considered a part of a feeder chain if it contains a provision in its charter to either send or receive a majority (51 percent or greater) of its students to or from another charter school currently receiving capital outlay funding with a similar provision. The grade level connection must be direct (e.g., a school serving grades K – 5 cannot be a feeder chain with a school serving grades 9 – 12). To receive funding under this requirement, the feeder pattern must be verified by the sponsor and reported to the Office of Educational Facilities to receive these funds.
  - c. Accredited by the Commission on Schools of the Southern Association of Colleges and Schools (SACS); **plus**
  - d. Have financial stability for future operation as a charter school, **and**
    - Statute does not define “financial stability” nor provide guidance on the length of term meant by “future operation”. A state of emergency as defined by Section 218.503, F.S., does not necessarily constitute financial instability for future operation; however, this should not preclude the guidance therein from being used to determine a charter school's financial stability. The best decision is unique to each charter school and should incorporate the school's financial history and future budgetary and financial plans. The sponsor must evaluate each charter school and its financial stability before recommending a charter school meets this requirement.
  - e. Have satisfactory student achievement based on state accountability standards applicable to the charter school, **and**
    - Student achievement in traditional schools is evaluated pursuant to the state's A+ Plan; however, the A+ Plan was not designed to cover small schools or those with special student populations typically served by charter schools. The best decision regarding a charter school's status of satisfactory student achievement should be determined by reviewing the school's unique mission and student population it serves, and any other student achievement benchmarks that may be present in the school's charter.

- f. Have received final approval from its sponsor pursuant to Section 1002.33, F.S., for operation during that fiscal year, **and**
- g. Serve students in facilities that are not provided by the charter school's sponsor.

### **Distribution of Funding**

1. Section 1013.62(1), F.S., provides an allocation process established by three priorities as follows:
  - a. The first priority of funds in the annual legislative appropriation is allocated to those schools that received capital outlay funding in the 2005-2006 fiscal year with the same amount per-student of the 2005-2006 fiscal year up to the lesser of the actual number of students enrolled in the current year or the number of students in the 2005-2006 fiscal year.
  - b. After calculating the first priority, any funds remaining in the appropriation are allocated with the same per-student amount to those schools not included in the first priority allocation and to those schools in the first priority allocation with growth in excess of the 2005-2006 student enrollments.
  - c. After the first and second priority calculations, any excess funds remaining in the appropriation are allocated among all eligible charter schools.
2. Section 1013.62(1), F.S. provides that a charter school's allocation must not exceed 1/15<sup>th</sup> of the cost per student station and that the department must disburse these funds to the sponsoring school district monthly based on 1/12<sup>th</sup> of the amount the department expects the school to receive during that fiscal year. Funds are transferred to the sponsoring school district the fourth Thursday of the month except November when they are transferred the fourth Wednesday of that month.
  - a. The cost per student station is updated annually by the Florida Legislature's Office of Economic and Demographic Research.
  - b. This section of statute directs the department to calculate a charter school's allocation based on student enrollment in elementary (PreK – 5), middle (6 – 8), and high (9 – 12) school grade levels. The enrollment data from which this calculation is derived is based upon the average of the second and third enrollment surveys.
    - When the new fiscal year begins (i.e., July), the department bases initial monthly allocations on the previous fiscal year's results of the second and third enrollment survey. Enrollment is updated upon receipt of the second enrollment survey then subsequently updated when the third enrollment data becomes available.
    - When both the second and third enrollment survey results become available for the current fiscal year, the Office of Educational Facilities takes the average, calculates the actual allocation for each school, subtracts the sum of the year-to-date allocations, then disburses the remaining balance monthly over the remaining fiscal year. This process ensures each school receives its actual entitlement of these funds for the year, regardless of lower or higher enrollment in previous months.
3. Section 1002.33(17)(d), F.S., provides that districts should apply due diligence in distributing federal and state funds to charter schools within 10 days of receipt. This applies to capital outlay funds disbursed by the Office of Educational Facilities. The intent is for the charter schools that earn these capital outlay dollars to receive them as soon as feasible following the receipt by the sponsor in order to continue providing educational services.

### **Uses of Capital Outlay Funds**

1. Section 1013.62(2), F.S., provides that charter schools may use capital outlay funds for the following purposes:
  - a. Purchase of real property;

- b. Construction of school facilities;
  - The purchase of furniture, computers for a computer lab, science lab equipment, and books for a library are permissible expenditures if they are necessary to make the new facility operational for the purpose for which it was built. Expenditures other than for equipment after a new facility is completed are considered operational expenses.
- c. Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- d. Purchase of vehicles to transport students to and from the charter school;
  - This does not include maintenance or repair expenditures or insurance costs associated with the operation of the vehicle.
  - The lease or rental (financing) of a vehicle is not permissible. The funds must be used for the direct purchase only.
- e. Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or a long-term lease of five years or longer.
  - Sections 1013.01(12) and 1013.01(18), F.S., define renovation, repair, and maintenance as any activity directly related to the upkeep of educational facilities which prolongs the useful life of the facility. This may include - but is not limited to - roof replacement, partial or complete replacement of structural membranes, plumbing, electrical fixtures, furniture, and equipment. Custodial services are not permissible expenditures.
  - A charter school governing board should be mindful of using public funds for renovation, repair, and maintenance towards a leased/rented facility which reverts back to private ownership upon completion or termination of the lease/rent. The governing board must use the following formula: Two percent of the current construction cost per square foot, multiplied by the gross square feet of the leased facility, multiplied by the number of years of the lease agreement (Section 2.1(9)(i), State Requirements for Educational Facilities). *(Example: If new permanent construction cost is \$150 per square foot, and the lease is for five years, the formula would be: 2 (%) times \$150 (cost per new construction) = \$3, times 5 (number of years of the lease) = \$15 per square foot.)* This is the same requirement to be followed by public schools and community colleges when using the same funds for remodeling, renovating, repairing, or conducting maintenance on a leased facility.

### **Reversion of Funds and Termination of Charter School Operations**

1. Section 1013.62(3), F.S., provides that when a charter school is terminated, all unencumbered operational funds, equipment and property purchased with district funds should revert back to the school district. Unencumbered capital outlay funds revert back to the Department of Education for redistribution among eligible charter schools.
2. Section 213.301(2)(c), F.S., provides that fixed capital outlay appropriations are subject to reversion if not encumbered or under contract within 31 months of the appropriation.
  - This provision applies to July 1 of the state fiscal year, not the month capital outlay funds were disbursed to the charter school. Given the immediate nature of the permissible uses of these funds, it is reasonable to assume a charter school should fully expend the funds within 31 months of the state appropriation.
  - A charter school is not required to expend its capital outlay allocation within the same fiscal year. Depending upon the type of project, it may be fiscally advantageous for a charter school to “save” its monthly allocations to fund a more extensive project; however, the funds must be under contract within 31 months of the state appropriation.

## **Capital Outlay Plan**

1. Section 1013.62(4), F.S., provides that the Department of Education is responsible for establishing procedures for submitting and approving requests of charter school capital outlay funds.
  - The Capital Outlay Plan (Plan) serves as a vehicle of communication between the charter school sponsor and the Office of Educational Facilities. The Plan requires the charter school sponsor to certify a school's eligibility based on the criteria presented in Section 1013.62(1), F.S. The Plan is due annually to ensure eligibility is current.
    - Detailed instructions and deadlines, including revisions to the Capital Outlay Plan, if any, will be available shortly after July 1 in an official memorandum to school district finance officers and made available on the Office of Educational Facilities' website.
  - The Office of Independent Education and Parental Choice independently verifies the eligibility criteria relating to the number of years in operation, transfers of students between feeder pattern schools, and SACS accreditation. The remaining eligibility criteria are left to the sponsor's discretion as the Department of Education lacks data to verify these criteria and is not privy to the day-to-day operations of the charter school.
  - Beginning each new fiscal year (July 1), the Office of Educational Facilities assumes charter schools eligible to receive capital outlay funds in the previous fiscal year will continue to be eligible in the new fiscal year. Unless otherwise indicated that a charter school has terminated operations or there is a compelling reason to believe the school will not meet all eligibility requirements during the new state fiscal year, the Office of Educational Facilities will continue allocating capital outlay funds as outlined above in the subsection Distribution of Funding.
    - It is the responsibility of the charter school sponsor to notify the Office of Educational Facilities if a charter school is no longer eligible in a new fiscal year.
  - For those charter schools that are newly eligible for capital outlay funding pursuant to Section 1013.62, F.S., monthly allocations will not commence until the verification of eligibility is determined.
  - The submission of the Capital Outlay Plan cannot be honored after the Office of Educational Facilities has determined each charter schools' final annual allocation of these funds (this calculation typically occurs in mid March after receipt of the third enrollment survey).