

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-nov18item02

# California State Board of Education November 2018 AgendaItem #17

## Subject

Consideration of a Request for Determination of Funding with “Reasonable Basis”/Mitigating Circumstances as Required for a Nonclassroom-based Charter School Pursuant to California *Education Code* sections 47612.5 and 47634.2, and Associated *California Code of Regulations*, Title 5.

## Type of Action

Action, Information

## Summary of the Issue

California *Education Code* sections 47612.5 and 47634.2 established the eligibility requirements for apportionment funding for charter schools that offer nonclassroom-based instruction. The statutes specify that a charter school may receive apportionment funding for nonclassroom-based instruction only if a determination of funding is made by the State Board of Education (SBE). The California Department of Education (CDE) reviews a charter school’s determination of funding request and presents it for consideration by the Advisory Commission on Charter Schools (ACCS), pursuant to relevant *California Code of Regulations*, Title 5 (5 *CCR*). The ACCS may include the consideration of mitigating circumstances in conjunction with a recommendation to the SBE.

## Recommendation

The CDE recommends that the SBE approve the determination of funding for the time periods specified for the nonclassroom-based charter schools as provided in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At the October 9, 2018 meeting, the ACCS voted unanimously to approve the CDE recommendation that the SBE approve the determinations of funding and the time periods specified for the nonclassroom-based charter schools as provided in Attachment 1.

## Brief History of Key Issues

The three nonclassroom-based charter schools identified below submitted requests to obtain a determination of funding by the SBE with the consideration of mitigating circumstances to establish eligibility to receive apportionment funding.

Pursuant to 5 *CCR* Section 11963.4(a), a nonclassroom-based charter school may qualify for 70 percent, 85 percent, or 100 percent funding, or may be denied. To qualify for a proposed recommendation of 100 percent funding, a nonclassroom-based charter school must meet the following criteria:

* At least 40 percent of the school’s public revenues are to be spent on salaries and benefits for all employees who possess a valid teaching certificate;
* At least 80 percent of all revenues are to be spent on instruction and instruction- related services; and
* The ratio of average daily attendance (ADA) for independent study pupils to full-time certificated employees does not exceed a pupil-teacher ratio of 25:1, or the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates.

However, 5 *CCR* Section 11963.4(e) states that the ACCS may find a “reasonable basis” (also referred to as mitigating circumstances) by which to make a recommendation other than one that results from the criteria specified in the regulations.

5 *CCR* Section 11963.4(e) provides specific examples of the types of mitigating circumstances for the ACCS to consider well documented “one-time or unique or exceptional circumstances.” Mitigating circumstances described by a charter school in the funding determination process clarify and provide guidance as to whether or not a specific charter school meets the percentage requirements for a funding determination, as expressed in 5 *CCR* Section 11963.4(a).

Pursuant to 5 *CCR* Section 11963.4(e):

A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

The funding determination requests are provided in Attachments 2 through 7 of Agenda Item 02 on the October 9, 2018, Meeting Notice on the ACCS Meeting Agenda Web page located at <http://www.cde.ca.gov/be/cc/cs/accsnotice100918.asp>.

### Come Back Butte Charter #1811

Come Back Butte Charter does not meet the requirement to qualify for a proposed recommendation of 100 percent funding based on its expenditures reported on the request for a nonclassroom-based funding determination

Come Back is requesting a 100 percent determination of funding for two years with the consideration of mitigating circumstances. Come Back reported spending 48.97 percent on certificated staff costs; however, Come Back only reported spending 72.93 percent on instruction and instruction-related services costs which is below the 80 percent needed to qualify for full funding. Come Back would only qualify for a 85 percent determination of funding unless there is a reasonable basis to recommend otherwise.

Come Back, as a dependent charter school, cites as its mitigating circumstances its small school size with less than 50 average daily attendance (ADA). Also, the Butte County Office of Education provided additional instructional support to Come Back in the form of in-kind services and supplies that are not reflected in Come Back’s reported expenditures. The CDE agrees with Come Back’s mitigating circumstances and recommends that the SBE approve the request for 100 percent for a two year time period as specified in Attachment 1.

### Imperial Pathways Charter #1815

Imperial Pathways Charter does not meet the requirement to qualify for a proposed recommendation of 100 percent funding based on its expenditures reported on the request for a nonclassroom-based funding determination.

Pathways is requesting a 100 percent determination of funding for two years with the consideration of mitigating circumstances. Pathways reported spending 52.35 percent on certificated staff costs; however, Pathways only reported spending 67.62 percent on instruction and instruction-related services costs which is below the 80 percent needed to qualify for full funding. Pathways would only qualify for a 70 percent determination of funding unless there is a reasonable basis to recommend otherwise.

Pathways, as a dependent charter school, cites as its mitigating circumstances the need to be fiscally conservative in its first year of operation, fiscal year (FY) 2016–17. Pathways started with 35 students and was fiscally cautious due to the uncertainty of enrollment. The CDE agrees with Pathways’ mitigating circumstances and recommends that the SBE approve the request for 100 percent for a two year time period as specified in Attachment 1.

### Taylion High Desert Academy / Adelanto #1520

Taylion High Desert Academy / Adelanto does not meet the requirement to qualify for a proposed recommendation of 100 percent funding based on its expenditures reported on the request for a nonclassroom-based funding determination.

Taylion is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. Taylion reported spending for FY 2015–16, 20.49 percent on certified staff costs and 55.79 percent on instruction and instruction-related services which are both below the minimum 40 percent and 80 percent criteria to qualify for full funding and would not qualify for funding unless there is a reasonable basis to recommend otherwise.

Taylion cites as mitigating circumstances high staff turnover, difficulties in finding highly qualified teachers due to the remote location, and the back office provider failing to provide adequate financial and business services support. Taylion has replaced the back office provider and addressed operational deficiencies going forward. For FY 2016–17, as a result of actions taken, Taylion was able to report spending levels on instructional services that would qualify for a funding determination at 100 percent.

Further, Taylion understood that the due date for the renewal of its funding determination was February 1, 2018, based on the date listed on the CDE website. The CDE did subsequently correct the due date to February 1, 2017 but this did cause confusion as to when the funding determination needed to be submitted to CDE and which FY budget data would be required. For these reasons, the CDE recommends that the SBE approve the request for 100 percent for a two year period as specified in Attachment 1.

## Summary of Previous State Board of Education Discussion and Action

The SBE is responsible for approving a determination of funding to establish eligibility for apportionment funding for charter schools that offer nonclassroom-based instruction. The CDE notes that this request is a recurring action item for the SBE.

## Fiscal Analysis

If approved, the charter schools listed in Attachment 1 would receive apportionment funding under the Local Control Funding Formula model.

## Attachment

* **Attachment 1:** Determination of Funding Recommendation for Nonclassroom-based Charter Schools (1 Page)