

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

eab-csd-nov19item01

# California State Board of EducationNovember 2019 AgendaItem #13

## Subject

Consideration of Request for Determination of Funding with “Reasonable Basis”/Mitigating Circumstances as Required for Nonclassroom-based Charter Schools 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 (NCB) instruction. The statutes specify that a charter school may receive apportionment funding for NCB 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 request with mitigating circumstances at the percentage and time period specified for the charter school listed on Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At the October 8, 2019, meeting, the ACCS voted unanimously to approve the CDE recommendation that the SBE approve the determination of funding and the time period specified for the NCB charter school as provided in Attachment 1.

The meeting notice for the October 8, 2019, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice100819.asp>.

## Brief History of Key Issues

The NCB charter school identified on Attachment 1 submitted a request to obtain a determination of funding by the SBE to establish eligibility to receive apportionment funding. This NCB charter school submitted a request 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), an NCB charter school may qualify for either 70 percent, 85 percent, or 100 percent full funding, or may be denied. To qualify for a proposed recommendation of 100 percent funding, an NCB 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.
* The ratio of average daily attendance 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.

### South Bay Charter School #1303

South Bay Charter School (SBCS) does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported fiscal year 2017–18 unaudited data.

SBCS is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. SBCS reported expenditures of 47.85 percent on certificated staff costs; however, it reported expenditures of 73.16 percent on instruction and instruction-related services costs, which falls below the 80 percent needed for full funding and qualifies SBCS for only an 85 percent determination of funding.

SBCS cites as mitigating circumstances Prop 39 funding which allowed the charter school the opportunity to upgrade facilities. The facility costs reduced the percentage of instruction and instruction-related services below the required 80 percent, which if excluded, would have resulted in SBCS meeting the minimum 80 percent threshold. SBCS states that Prop 39 implementation will be complete at the end of 2018–19, and that the budget would revert to a higher percentage spent on instruction. The CDE agrees with SBCS’s mitigating circumstances and recommends that the SBE approve the request for 100 percent funding for a time period of two years 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 request to establish eligibility for apportionment funding for charter schools that offer NCB instruction. The CDE notes that this request is a recurring action item for the SBE.

## Fiscal Analysis

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

## Attachment

* **Attachment 1:** Determination of Funding Recommendation for a Nonclassroom-Based Charter School (1 Page)