

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education November 2019 Agenda Item #W-01

## Subject

Request by **two local educational agencies** to waive portions of *California Code of Regulations*, Title 5 Section 11963.6(c), relating to the submission and action on determination of funding requests regarding nonclassroom-based instruction.

## Waiver Numbers

* El Centro Elementary School District 3-8-2019
* Fort Sage Unified School District 6-8-2019

## Type of Action

Action, Consent

## Summary of the Issue

Two local educational agencies (LEAs) are requesting, on behalf of the charter schools identified in Attachment 1, that the California State Board of Education (SBE) waive portions of *California Code of Regulations*, Title 5 (5 *CCR*) Section 11963.6(c), in order to allow the charter schools to request a nonclassroom-based funding determination for their respective funding period.

The charter schools listed on Attachment 1 submitted a determination of funding request after the required deadline, thereby making the request retroactive. If the waivers are approved by the SBE, the charter schools may then submit the retroactive funding determination requests for consideration by the Advisory Commission on Charter Schools (ACCS) and the SBE.

## Authority for Waiver

*Education Code* (*EC*) Section 33050

## Recommendation

* Approval: Yes
* Approval with conditions: No
* Denial: No

The California Department of Education (CDE) recommends that the SBE approve the requests by the LEAs to waive specific portions of 5 *CCR* Section 11963.6(a) and 5 *CCR* Section 11963.6(c) in order to allow the specified charter schools to submit determination of funding requests for the specified fiscal year. Approval of these waiver requests will also allow the SBE to consider the requests, which are retroactive. Without the waiver, the SBE may not consider the determination of funding request and the charter school’s nonclassroom-based average daily attendance (ADA) may not be funded for the affected fiscal year.

## Summary of Key Issues

*EC* 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 SBE. The CDE reviews a charter school’s determination of funding request and presents it for consideration to the ACCS, pursuant to relevant 5 *CCR*.

Pursuant to 5 *CCR* Section 11963.6(c), any determination of funding request approved by the SBE for an existing nonclassroom-based charter school must be prospective (not for the current year) and in increments of a minimum of two years and a maximum of five years in length. In addition, the funding determination request must be submitted by February 1 of the fiscal year prior to the year the funding determination will be effective.

**Demographic Information:** The charter schools listed on Attachment 1 are requesting to submit a determination of funding request after the filing deadline, thereby making the request retroactive.

El Centro Elementary School District is requesting a waiver for Imperial Valley Home School Academy (Charter #1249), which serves a student population of 103 and is located in a small city in Imperial County.

Fort Sage Unified School District is requesting a waiver for Mt. Lassen Charter (Charter #1185), which serves a student population of 125 and is located in a rural city in Lassen County.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), which is available at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

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

The SBE has approved similar waiver requests regarding retroactive funding determination requests for charter schools that offer nonclassroom-based instruction.

## Fiscal Analysis

Approval of this waiver request will allow the SBE to consider the charter schools’ determination of funding requests. Subsequent approval of the determination of funding requests by the SBE will allow the charter schools’ nonclassroom-based ADA to be funded at the funding determination rate approved by the SBE for the specified fiscal year.

## Attachments

* **Attachment 1:** Nonclassroom-Based Funding Determination Deadline Waivers (1 page)
* **Attachment 2:** El Centro Elementary School District General Waiver Request 3-8-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Fort Sage Unified School District General Waiver Request   
  6-8-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Nonclassroom-Based Funding Determination Deadline Waivers

California *Education Code* sections 47612.5 and 47634.2

| Waiver Number | Local Educational Agency (Charter Authorizer) | Charter School and Charter Number | First Year of Operation | Period of Request | Public Hearing and Local Board Approval Date | Public Hearing Advertisement | School Site Council/Advisory Committee Position |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3-8-2019 | El Centro Elementary School District | Imperial Valley Home School Academy  1249 | 2010–11 | **Requested:**  July 1, 2019 to June 30, 2020  **Recommended:** July 1, 2019 to June 30, 2020 | 8/9/2019 | Posted at District Office and on website. | Board of Trustees  **No objections** |
| 6-8-2019 | Fort Sage Unified School District | Mt. Lassen Charter  1185 | 2010–11 | **Requested:** July 1, 2019 to June 30, 2024  **Recommended:** July 1, 2019 to June 30, 2020 | 8/14/2019 | Posted at each school site, at post offices, and on the district website. | District Site Council  **No objections** |

Created by California Department of Education  
August 2019

# Attachment 2: El Centro Elementary School District General Waiver Request 3-8-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1363123

Waiver Number: 3-8-2019

Active Year: 2019

Date In: 8/14/2019 4:14:57 PM

Local Education Agency: El Centro Elementary

Address: 1256 Broadway

El Centro, CA 92243

Start: 7/1/2019

End: 6/30/2020

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Charter School Program

Ed Code Title: Nonclassroom-Based Funding

Ed Code Section: 11963.6(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: 5 *CCR* 11963.6(c), any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. [Beginning with the 2007-08 fiscal year, nonclassroom-based charter schools that had a funding determination in the prior year must submit a funding determination request by February 1 of the fiscal year the funding determination will be effective.]

Outcome Rationale: In 2015-16 school year the District submitted a Nonclassroom-based form for the period of five years with an expiration date of 2019-20. When the funding determination was approved by CDE the expiration date was changed to 2018-19. The District did not realize this change was made and therefore did not submit timely in 2018-19, believing we had another year before it was due. Upon recognition of this oversight, the District contacted CDE and was told to submit a waiver.

Student Population: 103

City Type: Small

Public Hearing Date: 8/9/2019

Public Hearing Advertised: Posted at District Office and website.

Local Board Approval Date: 8/9/2019

Community Council Reviewed By: Board of Trustees

Community Council Reviewed Date: 8/9/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. KRISTY CURRY

Position: ASSISTANT SUPERINTENDENT

E-mail: [KCURRY@*EC*ESD.ORG](mailto:KCURRY@ECESD.ORG)

Telephone: 760-352-5712 x8517

Bargaining Unit Date: 07/18/2019  
Name: CSE  
Representative: RAMAS MORRISON  
Title: UNION PRESIDENT  
Position: Neutral  
Comments:

Bargaining Unit Date: 07/18/2019  
Name: *EC*ETA  
Representative: SHEAYLN BARKER  
Title: UNION PRESIDENT  
Position: Neutral  
Comments:

# Attachment 3: Fort Sage Unified School District General Waiver Request 6-8-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1875036

Waiver Number: 6-8-2019

Active Year: 2019

Date In: 8/16/2019 8:54:24 AM

Local Education Agency: Fort Sage Unified School District

Address: P.O. Box 35

Herlong, CA 96113

Start: 7/1/2019

End: 6/30/2024

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Nonclassroom-Based Funding

Ed Code Section: 5 *CCR* Section 11963.6(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: None

Outcome Rationale: Missed the deadline for submission of Funding Determination form for Mt. Lassen Charter School due to miscommunication. The district has had several changes in administration. It takes a few months for a new administrator to catch up on all the regulations and requirements specific the the individual school sites in a district.

Student Population: 125

City Type: Rural

Public Hearing Date: 8/14/2019

Public Hearing Advertised: Posted at each school site, post offices, and on the district website.

Local Board Approval Date: 8/14/2019

Community Council Reviewed By: The site council for the district reviewed the document.

Community Council Reviewed Date: 7/18/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Christopher Bonn

Position: Superintendent/Principal

E-mail: [cbonn@fortsage.org](mailto:cbonn@fortsage.org)

Telephone: 530-827-2129

Fax: 530-827-3239

Bargaining Unit Date: 07/18/2019  
Name: Fort Sage Federation of Teachers  
Representative: Kim Dieter  
Title: High School Teacher  
Position: Neutral  
Comments: