

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

eab-csd-may20item02

# California State Board of EducationMay 2020 AgendaItem #05

## Subject

Consideration of a 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 mitigating circumstances requests and approve the determination of funding requests at the percentages and for the time periods specified for the charter schools as provided in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At the April 7, 2020, meeting, the ACCS voted unanimously to approve the CDE recommendation that the SBE approve the mitigating circumstances requests and approve the determination of funding requests at the percentages and for the time periods specified for the charter schools as provided in Attachment 1.

The meeting notice for the April 7, 2020, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice040720.asp>.

## Brief History of Key Issues

NCB charter schools must request to obtain a determination of funding by the SBE 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 spent on salaries and benefits for all employees who possess a valid teaching certificate.
* At least 80 percent of all revenues are spent on instruction and instruction-related services.
* 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 examples of the types of mitigating circumstances that the ACCS might consider and allows for the ACCS to consider “documented data regarding individual circumstances of the charter school.”

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 ADA or that are in their first year of operation serious consideration of full funding.

5 *CCR* Section 11963.6(c) specifies that a determination of funding shall be for a minimum time period of two years and a maximum time period of five years.

When recommending a time period, the CDE considers the number of years a charter school has been in operation. Generally, the CDE proposes a funding determination period from two to four fiscal years (FYs) for existing NCB charter schools. However, for newly operational charter schools, 5 *CCR* Section 11963.6(a) requires a funding determination period of two FYs. Additionally, the CDE generally proposes a funding determination period of two FYs for NCB charter schools requesting consideration of mitigating circumstances, regardless of the number of years in operation.

### Come Back Butte Charter #1811

Come Back Butte Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 65.65 percent on certificated staff costs and a pupil teacher ratio of 15.49 to 1; however, it reported expenditures of 75.25 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances the 2018 Camp Fire, which had devastating impacts on Butte County and its educational system and caused significant interruptions to typical spending patterns. The school states that plans for using the beginning fund balance to hire an additional teacher did not come to fruition due to extremely unstable and unpredictable enrollment patterns following the Camp Fire. Because enrollment at the school remained unstable and unpredictable throughout the remainder of the year, the school determined that it was not the right time to use its ending fund balance to hire an additional staff member.

Administration at the school, local educational agency, and county office level was required to support the educational system across the county during and following the Camp Fire. Thus, larger picture school site planning (such as program expansion, hiring, outreach, and spending reserves) and associated expenditures, were put on hold while the school worked to stabilize the educational system locally and countywide. The school’s attention turned to providing wraparound supports for staff and the students enrolled in its programs who were primarily and secondarily impacted by the effects of the fire. These wraparound services were funded by grants awarded as a result of the Camp Fire. Site funds were not required to support this effort.

The school also moved from one site to another. The delays in moving hampered plans to hire additional instructional support due to the uncertainty of the timing of the move and potential unplanned, additional costs due to the new facility.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### HomeTech Charter #0067

HomeTech Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 44.92 percent on certificated staff costs and a pupil teacher ratio of 18 to 1; however, it reported expenditures of 56.77 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school is ineligible for a determination of funding, and the ACCS would be required to recommend that the SBE deny the school’s request, pursuant to 5 *CCR* Section 11963.4(a)(4).

The school cites as mitigating circumstances the 2018 Camp Fire greatly disrupting the school’s operation. The school states that all of the school’s board members lost their homes in the fire and nearly all of its staff and students lost their homes as well. As a result of the fire, the school was temporarily closed for more than three weeks and the school was forced to relocate to the neighboring town of Chico for the remainder of the 2018–19 school year. When the school reopened shortly after the fire, both its enrollment and its ADA were materially decreased and remained so for the remainder of the year as many students had to relocate due to the loss of their homes with some even leaving the state completely.

The school made attempts to comply with the expenditure requirements by keeping a fully credentialed teaching staff and instructional support staff even after the fire, as well as purchasing a large amount of technology devices and instructional material during the year. However, the school states that it was difficult to develop a clear spending plan without knowing the future needs or resources of the school. The school built up large reserves in FY 2018–19 to protect against an anticipated decrease in Local Control Funding Formula (LCFF) revenue. While the school’s LCFF funding is being held harmless for two years, the school is now serving less than half of the number of students it was serving before the fire. This will likely cause a temporary difficulty in the school’s ability to meet the required expenditure percentages while under those funding levels because the revenue it will receive is based on the ADA of 150 students but school is currently serving only 70 students.

The school is currently still trying to recover and rebuild its program in the wake of the devastation. The revenue protection provided by state legislation ends in FY 2020–21. Based on current enrollment and revenue projections, the school could potentially see a decrease in revenue of $965,000 beginning in FY 2021–22. Reserves will need to continue to be built up and maintained to weather this potential decrease in funding.

Additionally, the school received over $207,000 in insurance revenue and local donations due to the fire, much of which was restricted to expenditures that were not instructional in nature, further contributing to the expenditure ratio being skewed against the school’s favor.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Carter G. Woodson Public Charter #0378

Carter G. Woodson Public Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 39.47 percent on certificated staff costs, 70.50 percent on instruction and instruction-related services costs, and a pupil teacher ratio of 24 to 1, which falls below the required expenditure percentages required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances an increase of 66 ADA from FY 2017–18 to FY 2018–19 due to the opening of a new facility. The school states that this increase in ADA was problematic due to the fact that schools are paid according to the prior year ADA. The school states that its cash flow would not allow it to spend more than what it had in reserves before the school would actually receive the increased LCFF revenue in July 2019.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Alder Grove Charter School 2 #1962

Alder Grove Charter School 2 does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for three years with the consideration of mitigating circumstances. The school reported expenditures of 52.45 percent on certificated staff costs and a pupil teacher ratio of 17 to 1; however, it reported expenditures of 77.24 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances the need to establish adequate facility project reserves. The school is currently authorized by South Bay Union Elementary School District but is located in Eureka City Schools District’s boundaries; the school is taking action to comply with Assembly Bill 1507. The school will be putting aside $2 million cash toward the facility project rather than obtaining costly loans. The facility project is scheduled to occur between FY 2020–21 and FY 2021–22. The remaining balance allows four to five months of cash to sustain the school during an economic downturn.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Imperial Pathways Charter #1815

Imperial Pathways Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for two years with the consideration of mitigating circumstances. The school reported expenditures of 47.04 percent on certificated staff costs and a pupil teacher ratio of 28 to 1. Imperial County Office of Education has verified that the pupil teacher ratio of the largest district in the county, Calexico Unified School District, is 34 to 1, which would mean the school’s 28 to 1 ratio would not disqualify the school from full funding. However, the school reported expenditures of 63.85 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances significant increases in enrollment and ADA from year to year and conservative operation of the school. The school has recognized its continually increasing ADA and has sought to address it. It has hired additional certificated and classified staff and purchased technology, classroom supplies, and additional facilities for students. A clerical assistant has already been hired and certificated teaching positions are posted. The school is also in the process of expanding its Career and Technical Education offerings, which will include an additional full-time instructor.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Da Vinci RISE High #2017

Da Vinci RISE High does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 99.48 percent on certificated staff costs and a pupil teacher ratio of 22.85 to 1; however, it reported expenditures of 64.94 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances being the recipient of a five-year $10 million private grant from the Emerson Collective via the XQ: The Super School Project to support its founding. This is about $2 million per year on average. The grant allows for some flexibility in terms of the timing of the payments, but the school still received $1.3 million in its first year of operation, which could not reasonably be spent for the school’s 97.96 ADA, resulting in a surplus of $719,000 for the year. The school states that its fast growth would mean that the surplus reserves provide essential cash flow support to FY 2019–20 operations since the school is still being funded at the prior year’s ADA despite becoming significantly larger. The school plans to use these funds as startup to open additional sites of approximately 100 to 125 students each throughout Los Angeles County. If the private grant were excluded from revenues, the school’s expenditures on instruction and instruction-related services would be 106.29 percent of total revenues.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1. Additionally, the CDE notes that any new sites opened by this charter must meet the new requirements and restrictions in law established by AB 1505 and AB 1507.

### Clear Passage Educational Center #1682

Clear Passage Educational Center does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 35.64 percent on certificated staff costs, expenditures of 61.43 percent on instruction and instruction-related services costs, and a pupil teacher ratio of 25 to 1. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances its status as a small school with Dashboard Alternative School Status certification due to the high-risk profile of its students and its program model. Additionally, the school needed to incur one-time planning, preparation, and facilitation costs to complete its Western Association of Schools and Colleges accreditation and charter renewal processes, which cost the school an estimated $40,000 and $42,000, respectively. The school expects that the renewal costs were mostly incurred due to it being the school’s first renewal, and given that many of the processes utilized in the charter renewal have been recorded and implemented, the school expects that the costs for future renewal processes will be significantly reduced.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### SIATech Academy South #1700

SIATech Academy South does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 35.19 percent on certificated staff costs and a pupil teacher ratio of 12.2 to 1; however, it reported expenditures of 77.38 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances the unanticipated opening of a new site. The school was approached by an education services partner, New Earth Organization, with the proposal of a new site after the budget had been approved by the board. The program was developed quickly within 60 days after the budget’s approval. The new site caused a growth in enrollment, and ADA exceeded budget projections by 52, resulting in an increase in revenues of approximately $668,000. This increase in ADA resulted in the need for more teaching staff to be hired. The school ended the 2018–19 school year with six teaching positions open, which equates to approximately $510,000 not expensed. The school continues to aggressively advertise the open teaching positions and hopes to have all positions filled for the start of FY 2020–21.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Community Collaborative Charter #1751

Community Collaborative Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for two years with the consideration of mitigating circumstances. The school reported expenditures of 40.12 percent on certificated staff costs and a pupil-teacher ratio of 16.55 to 1. However, it reported expenditures of 55.33 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school is ineligible for a determination of funding, and the ACCS would be required to recommend that the SBE deny the school’s request, pursuant to 5 *CCR* Section 11963.4(a)(4).

The school cites as mitigating circumstances a rapid and significant decline in ADA over the past two FYs due to students leaving the school for similar, newly formed nonclassroom-based programs within the same network of schools. ADA has declined from 2,143 in FY 2017–18, to 898 in FY 2018–19, and to approximately 280 in FY 2019–20. As enrollment dropped so significantly over this period, the school was not able to meet its instructional spending target in FY 2018–19. While the school has an ending fund balance of $4,911,694, or 83.73 percent of total expenditures, the school states that $4,237,978 would be reallocated on a pro-rata basis in 2019–20 to the charter schools in the same network that are serving its former students. For FY 2019–20 and going forward, ADA is anticipated to remain in the current 250 to 400 range, so the school believes it will meet the required expenditure percentages in future determination of funding requests.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Yosemite-Wawona Elementary Charter #1610

Yosemite-Wawona Elementary Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for four years with the consideration of mitigating circumstances. The school reported expenditures of 65.47 percent on certificated staff costs. However, it reported expenditures of 58.92 percent on instruction and instruction-related services costs, which falls below the 80 percent needed for full funding. Additionally, because the school did not operate during FY 2018–19, it did not have a pupil to teacher ratio. Without the consideration of mitigating circumstances, the school is ineligible for a determination of funding, and the ACCS would be required to recommend that the SBE deny the school’s request, pursuant to 5 *CCR* Section 11963.4(a)(4).

The school cites as mitigating circumstances the fact that the school suspended operations in FY 2018–19 due to its inability to hire a teacher. Yosemite-Wawona Elementary Charter is a very small school in a rural area that has trouble attracting teachers due to the low pay and no benefits. Additionally, inclement weather and other environmental hazards such as wildfires cause routine interruptions to the school's calendar. In the summer and fall, the danger of wildfires is ever-present. Families are subject to evacuations, and if not evacuated, the smoke in the air can be especially hazardous. In winter, there is often heavy snow, and, in spring, there is danger of floods and road washouts. It is not uncommon for the only road to the school to be closed for extended periods of time before and after a storm. The school has reopened in FY 2019–20 and is projecting an ADA of 10.78 with a pupil to teacher ratio of 11 to 1.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### National University Academy Homeschool/Independent Study Orange County #2025

National University Academy Homeschool/Independent Study Orange County does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 34.97 percent on certificated staff costs, expenditures of 68.92 percent on instruction and instruction-related services costs, and a pupil teacher ratio of 22.41 to 1. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances being the recipient of a one-time transfer of $238,938 from a closed charter school, National University Academy (Charter #0991). Without the one-time transfer of funds, the school would have reported 84.27 percent expenditures on instruction and instruction-related services. However, it would still have failed to meet the required expenditure percentage on certificated staff costs, which would have remained at 34.97 percent.

The school also states that volatility in enrollment during the early part of FY 2018–19, the school’s first year of operation, contributed to the failure to meet the required expenditure percentages. The volatility made the school reluctant to hire too many permanent staff members. The school states that enrollment has since stabilized to a steady growth of 25 additional students per year and that more faculty are being added to meet the growth, including the recent hire of one additional teacher.

The CDE agrees with the mitigating circumstances regarding volatility in enrollment in a school in its first year of operation. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Pivot Charter School Riverside #1984

Pivot Charter School Riverside does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 52.26 percent on certificated staff costs and a pupil teacher ratio of 18 to 1; however, it reported expenditures of 76.08 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of $106,000 from its sister school, Pivot Charter School - San Diego II (Charter #1983). If this one-time transfer of funds were not recorded as revenue, the school would have reported 82.17 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### JCS - Pine Hills #2018

JCS - Pine Hills does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 56.33 percent on certificated staff costs and a pupil teacher ratio of 21.51 to 1; however, it reported expenditures of 68.85 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of funds related to the splitting up of Julian Charter School (Charter #0267) to comply with the *Anderson Union High School District v. Shasta Secondary Home School* (*Anderson*) court decision. The original Julian Charter School under the Julian Charter School, Inc. nonprofit corporation split into the original charter school and five new “JCS” charter schools. In compliance with guidance from the Financial Crisis & Management Assistance Team (FCMAT) and following board approval, $1,328,974 in existing net assets of the original Julian Charter School were allocated in a one-time transfer to JCS - Pine Hills, representing the pro-rata allocation of the combined net assets across the five new JCS charter schools. Without the one-time transfer, the school would have reported 80.07 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### SAVA - Sacramento Academic and Vocational Academy - EGUSD #1949

SAVA - Sacramento Academic and Vocational Academy - EGUSD does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 60.41 percent on certificated staff costs and a pupil teacher ratio of 15.56 to 1; however, it reported expenditures of 75.75 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances the intention of purchasing $196,404 of instruction-related furniture in FY 2018–19, but the selecting and ordering of the furniture took longer than expected and wasn’t completed until June of 2019. This meant that the furniture could not be delivered until the early part of FY 2019–20, and it could not be considered expensed for FY 2018–19. If the furniture was delivered and expensed in FY 2018–19 as originally intended, the school’s reported expenditures would have been 81.04 percent on instruction and instruction-related services, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### SAVA - Sacramento Academic and Vocational Academy - SCUSD #1948

SAVA - Sacramento Academic and Vocational Academy - SCUSD does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 58.98 percent on certificated staff costs and a pupil teacher ratio of 14.54 to 1; however, it reported expenditures of 73.18 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances the need to build reserves for a new facility. The school is losing its rented space from the City of Sacramento at the Sim Community Center and needs funds to improve a new facility. The school is currently in negotiation on a lease for a new facility, but it needs an estimated $1.5 million to improve the facility for a Career and Technical Education classroom and shop space. The lease contract is ready to be signed as of March 11, 2020, but the school is waiting for Sacramento City Unified School District to act on the school’s material revision of the charter, which is a request to move the school. The public hearing is on March 19, 2020. If approved, it will likely take a year to make the necessary tenant improvements.

The school states that it also spent an additional $155,738 in instructional equipment that is not reflected in the determination of funding request, because under general accepted accounting principles for non-profit organizations, fixed assets over $5,000 are to be depreciated over the life of the asset instead of the year it is purchased in. In addition, the school was unable to fill $310,202 (including benefits) in open positions that were in the budget during the year.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Pacific Springs Charter #1989

Pacific Springs Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 68.19 percent on certificated staff costs and a pupil teacher ratio of 19.7 to 1; however, it reported expenditures of 64.05 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances the one-time need to fund initial reserve balances as part of its first year of operations. The school states that this set-aside of the first-year surplus for reserves is one-time in nature and will not be recurring. If the school had already had reserves, it states that the funds would have been entirely allocated to instruction-related expenses such as new curriculum, classroom items, and student materials, and the school would have met the expenditure ratio required by regulations and would qualify for full funding.

The school states that it is aware that the initial reserve level is fairly high based on current ADA levels, and also states that based on the historical performance of other Springs Charter Schools, it anticipates continuing growth in coming years. As the school grows, it will require a working capital reserve to cover cash flow. Additionally, the current reserve amount will be a significantly smaller percentage of those future years’ expenditures. The school projects it will grow from 453.97 ADA in FY 2018–19 to 504 ADA in FY 2019–20 per the First Interim Budget. The reserve level is not a current board policy, but the school states it will prepare a Reserve Policy to formalize this reserve allocation.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### JCS - Manzanita #2024

JCS - Manzanita does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 62.06 percent on certificated staff costs and a pupil teacher ratio of 12.11 to 1; however, it reported expenditures of 77.84 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of funds related to the splitting up of Julian Charter School (Charter #0267) to comply with the *Anderson* court decision. The original Julian Charter School under the Julian Charter School, Inc. nonprofit corporation split into the original charter school and five new “JCS” charter schools. In compliance with guidance from the FCMAT and following board approval, $176,166 in existing net assets of the original Julian Charter School were allocated in a one-time transfer to JCS - Manzanita, representing the pro-rata allocation of the combined net assets across the five new JCS charter schools. Without the one-time transfer, the school would have reported 88.31 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### JCS - Mountain Oaks #1992

JCS - Mountain Oaks does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 58.37 percent on certificated staff costs and a pupil teacher ratio of 19.62 to 1; however, it reported expenditures of 76.54 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of funds related to the splitting up of Julian Charter School (Charter #0267) to comply with the *Anderson* court decision. The original Julian Charter School under the Julian Charter School, Inc. nonprofit corporation split into the original charter school and five new “JCS” charter schools. In compliance with guidance from the FCMAT and following board approval, $176,166 in existing net assets of the original Julian Charter School were allocated in a one-time transfer to JCS - Mountain Oaks, representing the pro-rata allocation of the combined net assets across the five new JCS charter schools. Without the one-time transfer, the school would have reported 88.31 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### JCS - Cedar Cove #2022

JCS - Cedar Cove does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 53.70 percent on certificated staff costs and a pupil teacher ratio of 17.32 to 1; however, it reported expenditures of 74.08 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of funds related to the splitting up of Julian Charter School (Charter #0267) to comply with the *Anderson* court decision. The original Julian Charter School under the Julian Charter School, Inc. nonprofit corporation split into the original charter school and five new “JCS” charter schools. In compliance with guidance from the FCMAT and following board approval, $268,885 in existing net assets of the original Julian Charter School were allocated in a one-time transfer to JCS - Cedar Cove, representing the pro-rata allocation of the combined net assets across the five new JCS charter schools. Without the one-time transfer, the school would have reported 84.79 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### JCS - Pine Valley #2021

JCS - Pine Valley does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 43.39 percent on certificated staff costs and a pupil teacher ratio of 18.38 to 1; however, it reported expenditures of 71.67 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of funds related to the splitting up of Julian Charter School (Charter #0267) to comply with the *Anderson* court decision. The original Julian Charter School under the Julian Charter School, Inc. nonprofit corporation split into the original charter school and five new “JCS” charter schools. In compliance with guidance from the FCMAT and following board approval, $228,707 in existing net assets of the original Julian Charter School were allocated in a one-time transfer to JCS - Pine Valley, representing the pro-rata allocation of the combined net assets across the five new JCS charter schools. Without the one-time transfer, the school would have reported 82.08 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### National University Academy 1001 STEAM #1981

National University Academy 1001 STEAM does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 42.13 percent on certificated staff costs and a pupil teacher ratio of 15.59 to 1; however, it reported expenditures of 64.11 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances a one-time transfer of $248,983 from a closed charter school, National University Academy (Charter #0991). The school states that without the one-time transfer of funds, the school would have met the 80 percent spending requirement.

Additionally, the school has allocated $354,904, or 33 percent of total expenditures, to reserves designated for a potential change in facility. Currently, NUA 1001 STEAM has a partnership with National University System (NUS), who had been providing space to operate the school at no cost. The school’s relationship with NUS is changing, so the school will need a new location for the school. The school anticipates vacating the property by June 30, 2020, and hopes to finish relocating in time for the next school year. The school is early in the process. It has contacted the charter authorizer for support and has also contacted a realtor to help find a location suitable for a school nearby so as to not adversely impact students.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Without the one-time transfer, the school would have reported 77.05 percent expenditures on instruction and instruction-related services costs, which would only qualify the school for only an 85 percent determination of funding, but it would be a higher determination of funding than otherwise required under regulation without the consideration of mitigating circumstances. However, the CDE also agrees with the mitigating circumstances regarding the need to plan for a new facility. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Olive Grove Charter - Orcutt/Santa Maria #2011

Olive Grove Charter - Orcutt/Santa Maria does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 54.95 percent on certificated staff costs and a pupil teacher ratio of 12.35 to 1; however, it reported expenditures of 75.23 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances that FY 2018–19 was the first year of operation for the school, and the school has adopted a budgeting policy requiring the ending fund balance for the charter school maintain five percent of LCFF revenues for reserves. If the $116,943 placed in reserves pursuant to the school’s budgeting policy was instead allocated toward instruction and instruction-related services costs, the school would have reported only 79.06 percent expenditures on instruction and instruction-related services costs, which still falls short of the 80 percent required by regulation, meaning the school would still only qualify for an 85 percent determination of funding.

The school also cites as mitigating circumstances a large amount of one-time administrative costs in FY 2018–19 related to the splitting up of Olive Grove Charter (Charter #1768) to comply with the *Anderson* court decision. In addition to other administrative expenses, Olive Grove Charter - Orcutt/Santa Maria incurred extraordinary legal costs related to this split of $31,566.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Olive Grove Charter - Lompoc #2012

Olive Grove Charter - Lompoc does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 52.45 percent on certificated staff costs and a pupil teacher ratio of 17 to 1; however, it reported expenditures of 77.24 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances that FY 2018–19 was the first year of operation for the school, and the school has adopted a budgeting policy requiring the ending fund balance for the charter school maintain five percent of LCFF revenues for reserves.

The school cites as mitigating circumstances FY 2018–19 being the first year of operation for the school and the school’s adoption of a budgeting policy requiring the ending fund balance for the charter school to maintain 5 percent of LCFF revenues for reserves. If the $73,980 placed in reserves pursuant to the school’s budgeting policy was instead allocated toward instruction and instruction-related services costs, the school would have reported 81.17 percent expenditures on instruction and instruction-related services costs, which would have qualified the school for full funding.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Northern United - Siskiyou Charter #1958

Northern United - Siskiyou Charter does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 43.62 percent on certificated staff costs and a pupil teacher ratio of 16.00 to 1; however, it reported expenditures of 63.63 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only a 70 percent determination of funding.

The school cites as mitigating circumstances that as a condition of its charter authorization, Siskiyou County Office of Education (SCOE), its authorizer, requires the school use its budget services. It is a very small county office with few staff members in its fiscal services department. During FY 2018–2019, the county office budget analyst assigned to complete the school’s budget took a job at another county office, leaving SCOE short-staffed. A second county office budget analyst had an accident requiring an extended leave. This placed an even larger burden on their existing staff, ultimately having only two budget analysts to complete the interim reports, unaudited actuals and annual budgets for approximately 25 districts and one charter school. One of the two staff members was brand new and needed to be trained and then went on maternity leave, leaving one person for an extended period of time. The SCOE fiscal staff members were extremely busy and overworked, and as a result, they were difficult to reach and were unable to give the school status reports of its budget and cash flow. In addition, Northern United - Siskiyou Charter is the only charter school they have ever worked with, meaning there was a steep learning curve regarding how to complete budgets and unaudited actuals for charter schools and they were unaware of our spending requirements. This meant that many of the school’s fiscal documents (including the second interim, the FY 2019–2020 annual budget, and FY 2018–2019 unaudited actuals) arrived to the school late. These unique and exceptional circumstances severely impacted the school’s ability to closely monitor its spending thresholds.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Kairos Public School Vacaville Academy #1635

Kairos Public School Vacaville Academy does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for four years with the consideration of mitigating circumstances. The school reported expenditures of 49.44 percent on certificated staff costs and a pupil teacher ratio of 18.9 to 1; however, it reported expenditures of 78.49 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school qualifies for only an 85 percent determination of funding.

The school cites as mitigating circumstances the intention to commit a large amount of expenses toward capital expenses by purchasing 11 acres of land, and saving for building a permanent long-term facility to serve the school’s current students and to serve its average yearly waitlist of 500 students. In FY 2018–19, the school purchased the 11-acre site. In FY 2019–20, the school is in the process of adding portables to the Elm Street site-based campus for the school’s middle school program expansion. The estimated cost is $638,000. The school plans to start construction of its permanent long-term facility in April 2020 and anticipates the facility to be completed by June 2020. Additionally, the Board of Directors of Kairos Public School requires the school to maintain a large reserve.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding request for 100 percent funding for a time period of two years as specified in Attachment 1.

### Eleanor Roosevelt Community Learning Center #0395

Eleanor Roosevelt Community Learning Center does not meet the requirements to qualify for a proposed recommendation of 100 percent funding based on reported FY 2018–19 data.

The school is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. The school reported expenditures of 59.64 percent on certificated staff costs and a pupil teacher ratio of 22.17 to 1; however, it reported expenditures of 52.08 percent on instruction and instruction-related services costs, which falls below the 80 percent required for full funding. Without the consideration of mitigating circumstances, the school is ineligible for a determination of funding, and the ACCS would be required to recommend that the SBE deny the school’s request, pursuant to 5 *CCR* Section 11963.4(a)(4).

The school cites as mitigating circumstances a facilities construction project, for which the school had been saving reserves for the past 10 years. Completed in FY 2018–19, the construction project included administrative offices, classrooms, and family spaces, which were previously housed in portable classroom buildings that were about 25 years old when acquired. The cost of the construction and associated expenses, $3,689,898, or 59.32 percent of total expenditures, was not able to be considered as instruction and instruction-related services costs, so the resources put toward the project could not contribute toward the school’s expenditure percentage. Necessary improvements to the existing campus were also done in conjunction with the construction of the new facilities. Furnishings for new facilities also contributed to increased facilities spending. One-time costs related to demolition of an old portable, temporary office space, and construction related soft costs were also necessary.

The school believed it necessary to be fiscally cautious due to the construction project. This also had a negative impact on the school’s expenditure percentage toward instruction and instruction-related services costs. The school’s enrollment was also less than projected due to construction and the limited available space on campus for student use. The school states that if it were it not for the construction project, it would have met the 80 percent expenditure required by regulation.

The CDE has determined that the information submitted supports the claim for mitigating circumstances. Therefore, the CDE recommends that the SBE approve the school’s request for consideration of mitigating circumstances and approve the determination of funding 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 determination of funding requests to establish eligibility for apportionment funding for charter schools that offer NCB instruction. The CDE notes that this type of request is a recurring action item for the SBE.

## Fiscal Analysis

If approved, the charter schools listed in Attachment 1 would receive apportionment funding for NCB ADA under the LCFF model.

## Attachment

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