

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

lab-csd-mar23item01

# California State Board of EducationMarch 2023 AgendaItem #06

## Subject

Consideration of Requests for Determination of Funding 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, Consent

## Summary of the Issue

California *Education Code* (*EC*)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 that offers NCB instruction in excess of the amount authorized by *EC* Section 47612.5(e)(1) may receive apportionment funding for NCB instruction only if a determination of funding is made by the California 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*).

This item considers the determination of funding requests for three charter schools.

## Recommendation

At the February 7, 2023, ACCS meeting, the CDE proposed to recommend that the SBE approve the three schools’ determination of funding requests at 100 percent funding as follows:

* Sierra Charter: four years (2023–24 through 2026–27)
* Virtual Preparatory Academy at Lucerne: four years (2023–24 through 2026–27)
* Northern Summit Academy Shasta: three years (2023–24 through 2025–26)

However, upon consideration of the discussion and deliberation had amongst the commissioners at the ACCS meeting, the CDE has amended its recommendation to approve the three schools’ determination of funding requests at 100 percent funding as follows:

* Sierra Charter: four years (2023–24 through 2026–27)
* Virtual Preparatory Academy at Lucerne: two years (2023–24 through 2024–25)
* Northern Summit Academy Shasta: three years (2023–24 through 2025–26)

## Advisory Commission on Charter Schools Recommendation

At its February 7, 2023, meeting, the ACCS initially moved for recommendation to the SBE of the CDE staff recommendation to approve the funding determination requests for Sierra Charter and Northern Summit Academy Shasta at 100 percent funding for four and three years, respectively. For Virtual Preparatory Academy at Lucerne, the ACCS moved for recommendation to the SBE that the school’s funding determination request be approved at 100 percent funding for three years.

Following additional discussion and deliberation, the ACCS amended their initial motion and moved for recommendation to the SBE of the CDE staff recommendation to approve the funding determination requests for Sierra Charter and Northern Summit Academy Shasta at 100 percent funding for four and three years, respectively. For Virtual Preparatory Academy at Lucerne, the ACCS moved for recommendation to the SBE that the school’s funding determination request be approved at 100 percent funding for two years.

The motion passed unanimously.

The notice for the February 7, 2023, ACCS meeting and the funding determination forms for the schools are located on the SBE February 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice020723.asp>.

## Brief Analysis of Key Issues

*EC* Section 47634.2(a)(1) provides the following:

Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction…shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school’s total budget expended on certificated employee salaries and benefits and on schoolsites, as defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

*EC* Section 47634.2(a)(4) further states:

For the 2003–04 fiscal year and each fiscal year thereafter, the amount of funding determined by the State Board of Education pursuant to this section shall not be more than 70 percent of the unadjusted amount to which a charter school would otherwise be entitled, unless the State Board of Education determines that a greater or lesser amount is appropriate based on the criteria specified in paragraph (1) of subdivision (a).

Regulations provide that the ACCS shall develop a recommendation to the SBE regarding determination of funding requests. Pursuant to 5 *CCR* Section 11963.4(a), a charter school requesting a determination of funding may qualify for either 70 percent, 85 percent, or 100 percent funding, or may be denied (i.e., 0 percent funding).

To qualify for a proposed recommendation of 100 percent funding, an NCB charter school must meet the following criteria:

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

The expenditure and PTR criteria for all funding levels for NCB instruction are summarized in the table below.

Nonclassroom-Based Instruction Funding Levels

| **Funding Level** | **Percent of Public Revenues Spent on Certificated Salaries and Benefits** | **Percent of All Revenues Spent on Instruction and Related Services** | **Pupil-Teacher Ratio** |
| --- | --- | --- | --- |
| **100%** | ≥ 40% | ≥ 80% | ≤ 25 to 1 |
| **85%** | ≥ 40% | ≥ 70% | Not Applicable |
| **70%** | ≥ 35% | ≥ 60% | Not Applicable |
| **0%** | < 35% | < 60% | Not Applicable |

Pursuant to *EC* Section 47612.5(d)(2), a determination of funding may not exceed five years. Pursuant to 5 *CCR* Section 11963.6(a), an approved determination of funding for a new charter school in its first year of operation shall be for two years. Pursuant to 5 *CCR* Section 11963.6(c), an approved determination of funding for an existing NCB charter school shall be in increments of a minimum of two years and a maximum of five years in length. For existing NCB charter schools, it is the CDE’s current practice to recommend time periods between three to four years based on the number of times a charter school has renewed its funding determination with the SBE. At times, the CDE recommends a funding determination period of two years regardless of the number of times a charter school has renewed its funding determination with the SBE. A period of two years allows the CDE to timely revisit a charter school’s funding determination, ensure that the school meets the appropriate expenditure requirements for its approved level of funding for its NCB instruction, and follow up on other matters reported by the school on its funding determination form.

In the past, the CDE recommended five-year periods dependent on a charter school’s Academic Performance Index (API) rank, pursuant to *EC* Section 47612.5(d)(2); however, because API is no longer calculated, the CDE does not currently recommend five-year funding determination periods.

## 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. All charter schools presented in this item have obtained a funding determination from the SBE in the past.

## Fiscal Analysis

If approved by the SBE, the charter schools listed in Attachment 1 would receive apportionment funding for their NCB average daily attendance under the Local Control Funding Formula model.

## California Department of Education Staff Review

Direct links to the charter schools’ funding determination forms are provided below. The requests are also available under Agenda Item 1 of the SBE February 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice020723.asp>

* Determination of Funding Request for Sierra Charter, Charter #0898 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-feb23item01a2.pdf>)
* Determination of Funding Request for Virtual Preparatory Academy at Lucerne, Charter #1975 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-feb23item01a3.pdf>)
* Determination of Funding Request for Northern Summit Academy Shasta, Charter #2076 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-feb23item01a4.pdf>)

## Attachment

* **Attachment 1:** Recommendations for Nonclassroom-Based Determination of Funding (1 Page)