

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-csd-jul18item02

# California State Board of Education July 2018 Agenda Item #12

## Subject

Consideration of Requests 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 periods specified for the nonclassroom-based charter schools as provided in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At the June 12, 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

These nonclassroom-based charter schools identified below and on Attachment 1 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 ACCS June 12, 2018, Meeting Notice on the ACCS Meeting Agenda Web page located at <http://www.cde.ca.gov/be/cc/cs/accsnotice061218.asp>.

### Nevada City Home Study Charter #0069

Nevada City Home Study Charter (Nevada) does not meet the requirement to qualify for a proposed recommendation of 100 percent funding based on reported fiscal year (FY) 2016–17 data.

Nevada is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. Nevada reported expenditures of 56.2 percent on certificated staff costs; however, Nevada only reported expenditures of 79.9 percent on instruction and instruction-related services costs which is below the 80 percent (or $690) needed to qualify for full funding. Nevada would only qualify for 85 percent determination of funding.

Nevada cites as its mitigating circumstances higher than anticipated receipt of property tax transfers from the chartering school district and the delayed receipt of instructional material that resulted in expenditures budgeted for FY 2016–17 being spent in the subsequent FY. The amounts for both reasons were more than adequate to satisfy the criteria for full funding. The CDE agrees with Nevada’s mitigating circumstances. Nevada also satisfied the alternative Academic Performance Index conditions, hence, the CDE recommends that the SBE approve the request for 100 percent for a five year time period as specified in Attachment 1.

### Hart-Ransom Academic Charter School #0080

Hart-Ransom Academic Charter School (HR) does not meet the requirement to qualify for a proposed recommendation of 100 percent funding based on reported FY 2016–17 data. HR is a K–12 dependent charter school of the Hart-Ransom Union School District.

HR is requesting a 100 percent determination of funding for five years with the consideration of mitigating circumstances. HR reported expenditures of 52.17 percent on certificated staff costs; however, HR only reported expenditures of 75 percent on instruction and instruction-related services costs, which falls below the 80 percent (or $162,500) needed to qualify for full funding. HR would only qualify for 85 percent determination of funding.

HR cites as its mitigating circumstances the delay of over $383,000 in construction spending, originally budgeted for FY 2016–17, not being spent until FY 2017–18. The delays were due to delays in other construction projects within the charter authorizer’s district. Also, HR deferred $50,000 in curriculum materials, budgeted for FY 2016–17, into 2017–18 in order to review and align purchases with state standards. HR contends that the delayed construction spending and the deferred curriculum material purchases, if allowed to be included as expenditures in FY 2016–17, would result in HR meeting the conditions for full funding. The CDE agrees with HR’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.

### Evergreen Institute of Excellence #1754

Evergreen Institute of Excellence (Evergreen) does not meet the requirement to qualify for a proposed recommendation of 100 percent funding based on reported FY 2015–16 data, its first FY of operation.

Evergreen is requesting a 100 percent determination of funding for two years with the consideration of mitigating circumstances. Evergreen reported expenditures of 51.21 percent on certificated staff costs; however, Evergreen only reported expenditures of 60.15 percent on instruction and instruction-related services costs which falls below the 80 percent needed to qualify for full funding. Evergreen would only qualify for 70 percent determination of funding.

Evergreen cites as its mitigating circumstances the need to be fiscally conservative in its first year of operation, since beginning enrollment was low. Evergreen started with 42 students that grew to over 100 students by the end of its first fiscal year. Also, Evergreen understated instructional costs by not including the costs of Special Education instructional support services provided to Evergreen by its authorizing school district. Allowing these costs would result in Evergreen meeting the 80 percent threshold. Further, a review of Evergreen’s FY 2016–17 audited data shows Evergreen is in compliance with the criteria for full funding The CDE agrees with Evergreen’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.

## 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)