

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2019 Agenda Item #W-02

## Subject

Request by **El Dorado County Office of Education** 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 Number

3-4-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

El Dorado County Office of Education (EDCOE) is requesting, on behalf of the Charter Community School Home Study Academy (CCSHSA – Charter #0005) identified in Attachment 1, that the California State Board of Education (SBE) waive a portion of the *California Code of Regulations*, Title 5 (5 *CCR*) Section 11963.6, in order to allow the charter school to request a nonclassroom-based funding determination for their respective funding time period.

CCSHSA submitted a determination of funding request after the February 1 filing deadline. This waiver is to allow CCSHSA to submit a late funding request that would cover the period from July 1, 2019**,** through June 30, 2022. CCSHSA is currently receiving funding based on estimated attendance submitted by the school. If the waiver is approved by the SBE, CCSHSA may then submit a retroactive funding determination request for consideration to 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

## 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(a), an approved determination of funding for a new charter school in its first year of operation shall be submitted by December 1 and shall be for two fiscal years.

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 school listed in Attachment 1 is requesting to submit a determination of funding request after the filing deadline, thereby making the request retroactive.

EDCOE is requesting a waiver for CCSHSA (Charter #0005), which serves a student population of 481 and is located in a rural area in El Dorado County.

**Because this is a general waiver, if the State Board of Education decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), 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 (as appropriate)

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

## Attachment(s)

* **Attachment 1:** Nonclassroom-Based Funding Determination Deadline Waiver (1 page). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 2:** El Dorado County Office of Education General Waiver Request 3-4-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Nonclassroom-Based Funding Determination Deadline Waiver

California *Education Code (EC)* Section 47612.5, 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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3-4-2019 | El Dorado County Office of Education | Charter Community School Home Study Academy  0005 | 1993–94 | **Requested:** 2019–20 through 2023–24  **Recommended:** July 1, 2019 through June 28, 2021 | 4/2/2019 | Posted at charter school, County Office of Education, and web site. | El Dorado County Board of Education  **No objections** |

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# Attachment 2: Waiver # 3-4-2019 and El Dorado County Office of Education

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 0910090

Waiver Number: 3-4-2019

Active Year: 2019

Date In: 4/5/2019 2:14:54 PM

Local Education Agency: El Dorado County Office of Education

Address: 6767 Green Valley Rd.

Placerville, CA 95667

Start: 7/1/2018

End: 6/30/2019

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Nonclassroom-Based Funding

Ed Code Section: 47612.5, 47634.2, 5 *CCR* § 11963.6

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: According to 5 *CCR* § 11963.6, "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 prior to the year the funding determination will be effective, when a new request is required under these regulations."

Outcome Rationale: Our last nonclassroom-based funding determination request was submitted in 2014-15 for a five year term for both our Charter Community School Home Study Academy (CDS 09 10090 0930123) and Charter Alternative Program (CAP) (CDS 09 10090 0123521). The CAP request was approved through 2019-20. We thought the Charter Community School Home Study Academy was under the same timelines. However, we discovered that the approved period of funding determination for Charter Community School Home Study Academy was different than that for CAP and was only through 2018-19. We learned of this difference after the February 1, 2019 deadline to submit a funding determination for 2019-20.

Student Population: 481

City Type: Rural

Public Hearing Date: 4/2/2019

Public Hearing Advertised: Posted at charter school, Office of Education, and website

Local Board Approval Date: 4/2/2019

Community Council Reviewed By: El Dorado County Board of Education

Community Council Reviewed Date: 4/2/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Diane Lacombe

Position: Senior Director, Internal Business

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