

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

oab-csd-jul20item03

# California State Board of Education July 2020 Agenda Item #14

## Subject

Consideration of Retroactive 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

## 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 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*).

Pursuant to 5 *CCR* Section 11963.6(a), a determination of funding request for a new NCB charter school must be submitted during its first year of operation by December 1. Pursuant to 5 *CCR* Section 11963.6(c), any determination of funding request approved by the SBE for an existing NCB charter school must be submitted by February 1 and be prospective (i.e., submitted during the fiscal year prior to the year the funding determination will be effective). Retroactive determination of funding requests refer to requests that are submitted after the regulatory deadlines and that require an approved SBE waiver to waive the aforementioned sections of 5 *CCR*.

Waivers requesting approval for a retroactive funding determination were submitted for each charter school and were approved by the SBE at its May 7, 2020, meeting. The waiver requests are provided in the May 2020 SBE Agenda Item W-01, which is located at <https://www.cde.ca.gov/be/ag/ag/yr20/documents/may20w01.docx>.

## Recommendation

The CDE recommends that the SBE approve the determination of funding requests at the percentages and for the time periods specified for the NCB charter schools as provided in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At its June 9, 2020, meeting, the ACCS moved to approve the CDE recommendation that the SBE approve the determination of funding requests at the percentages and for the time periods specified for the NCB charter schools as provided in Attachment 1. The motion passed by a vote of eight to one.

The notice for the June 9, 2020, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice060920.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.

Pursuant to 5 *CCR* Section 11963.6(a), a determination of funding request for a new NCB charter school must be submitted during its first year of operation by December 1. The CDE received a completed determination of funding request from Heartwood Charter (charter #2071) after the required December 1, 2019, deadline. As the charter school failed to submit a completed request by the regulatory filing deadline, it was required to request a waiver for SBE approval to allow the school to request a funding determination after the deadline.

Pursuant to 5 *CCR* Section 11963.6(c), any determination of funding request approved by the SBE for an existing NCB charter school must be prospective (not for the current year) and submitted by February 1. The CDE received a completed determination of funding request from Hart-Ransom Academic Charter (charter #0080) after the required February 1, 2020, deadline, thereby making the request retroactive, not prospective. As the charter school failed to submit a completed request by the regulatory filing deadline, it was required to request a waiver for SBE approval to allow the school to request a funding determination after the deadline.

Each charter school submitted a waiver to the SBE requesting approval to submit a funding determination request after the regulatory deadline. The waivers were approved at the May 7, 2020, SBE meeting. The waiver requests are provided on the May 2020 SBE Agenda web page at <https://www.cde.ca.gov/be/ag/ag/yr20/agenda202005.asp>.

For a newly operational NCB charter school, 5 *CCR* Section 11963.6(a) requires a funding determination period of two fiscal years (FYs).

For an existing NCB charter school, 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. It is the CDE’s current practice to recommend that an existing NCB charter school submitting a first-time renewal request of its funding determination be approved for a period of three FYs. For an existing NCB charter school that has previously renewed its funding determination, it is the CDE’s current practice to recommend a funding determination period of four FYs.

The CDE recommends a funding determination period of two FYs for a charter school requesting the consideration of mitigating circumstances, regardless of the number of years the charter school has been in operation.

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):

A charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination pursuant to subdivision (b) of Section 47634.2 shall receive a five-year determination and is not required to annually reapply for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board.

However, because API is no longer calculated, the CDE does not currently recommend five-year funding determination periods.

The CDE recommends that the SBE approve the determination of funding at the percentages and for the time periods specified for the NCB charter schools as provided in Attachment 1.

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

At its May 7, 2020, meeting, the SBE approved the CDE’s recommendation to approve the requests to waive specific portions of 5 *CCR* Section 11963.6(c), which allowed each of the charter schools identified in Attachment 1 to submit a determination of funding request after the regulatory deadline.

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 Local Control Funding Formula model.

## Attachment

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