

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2020 Agenda Item #W-01

## Subject

Requests by **four local educational agencies** to waive portions of *California Code of Regulations*, Title 5 Section 11963.6, relating to the submission and action on determination of funding requests regarding nonclassroom-based instruction.

## Waiver Numbers

* Lindsay Unified School District 23-3-2020
* Vista Unified School District 7-4-2020
* Washington Unified School District 3-4-2020
* Western Placer Unified School District 15-4-2020

## Type of Action

Action, Consent

## Summary of the Issue

Local educational agencies (LEAs) are requesting, on behalf of the charter schools identified in Attachment 1, that the California State Board of Education (SBE) waive portions of *California Code of Regulations*, Title 5 (5 *CCR*) sections 11963.6(a) and 11963.6(c) in order to allow the charter schools to request a nonclassroom-based funding determination for their respective funding periods.

The charter schools listed in Attachment 1 submitted a determination of funding request after the required deadline, thereby making the request retroactive. If the waivers are approved by the SBE, the charter schools may then submit retroactive funding determination requests for consideration by the Advisory Commission on Charter Schools (ACCS) and the SBE.

## Authority for Waiver

California *Education Code* (*EC*) Section 33050

## Recommendation

* Approval: Yes
* Approval with conditions: No
* Denial: No

The California Department of Education (CDE) recommends that the SBE approve the requests by the LEAs to waive portions of 5 *CCR* sections 11963.6(a) and 11963.6(c) relating to the submission deadline in order to allow the charter schools listed in Attachment 1 to submit determination of funding requests for the specified fiscal years. Approval of these waiver requests will allow the SBE to consider the determination of funding requests, which are retroactive. Without an approved waiver, the SBE may not consider the determination of funding requests, and the charter schools’ nonclassroom-based average daily attendance (ADA) may not be funded for the affected fiscal years.

## 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 nonclassroom-based 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. The funding determination request must be submitted by February 1 of the fiscal year prior to the year the funding determination will be effective.

The charter schools listed in Attachment 1 are requesting to submit determination of funding requests after the submission deadline, thereby making the requests retroactive.

Lindsay Unified School District, on behalf of Loma Vista Charter (charter #1329), has requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. Lindsay Unified School District cites the reason the charter school missed the submission deadline as being the district inadvertently calendared the renewal due date for five years, as was requested, rather than the four years for which the school was actually approved.

Vista Unified School District, on behalf of Guajome Learning Center (charter #1351) has requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. Vista Unified School District does not cite the reason the charter school missed the submission deadline in the original waiver request; however, the school has clarified that it missed the deadline because the administrative staff were new to the process.

Washington Unified School District, on behalf of W.E.B. DuBois Public Charter (charter #0270), has requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. Washington Unified School District cites the reason the charter school missed the submission deadline as being the school attempted a last-minute submission of the funding determination form and did not realize the submission email had failed to send until after the deadline had passed.

Western Placer Unified School District, on behalf of Horizon Charter (charter #0015), has requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. Western Placer Unified School District cites the reason the charter school missed the submission deadline as being the school was not aware of the submission deadline because reminder emails were sent to the former Chief Business Officer, who is no longer employed by the school.

### Demographic Information

Lindsay Unified School District is requesting a waiver for Loma Vista Charter. In the original waiver submission, it was reported that the school serves a student population of 4085; however, the school has clarified that it serves a student population of 33. The school is located in a rural city in Tulare County.

Vista Unified School District is requesting a waiver for Guajome Learning Center, which serves a student population of 90 and is located in a suburban city in San Diego County.

Washington Unified School District is requesting a waiver for W.E.B. DuBois Public Charter, which serves a student population of 352 and is located in a small city in Fresno County.

Western Placer Unified School District is requesting a waiver for Horizon Charter, which serves a student population of 2032 and is located in a suburban city in Placer County.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), which is 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

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

## Attachments

* **Attachment 1:** Nonclassroom-Based Funding Determination Deadline Waivers (2 pages)
* **Attachment 2:** Lindsay Unified School District General Waiver Request 23-3-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Vista Unified School District General Waiver Request 7-4-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Washington Unified School District General Waiver Request 3-4-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** Western Placer Unified School District General Waiver Request 15-4-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Nonclassroom-Based Funding Determination Deadline Waivers

California *Education Code* sections 47612.5 and 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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 23-3-2020 | Lindsay Unified School District | Loma Vista Charter  1329 | 2011–12 | **Requested:** July 1, 2019 to June 30, 2020  **Recommended:** July 1, 2019 to June 30, 2021 | 3/23/2020 | Posted at each school site plus three additional locations | Alternative Ed School Site Council  **No objections** |
| 7-4-2020 | Vista Unified School District | Guajome Learning Center  0080 | 2011–12 | **Requested:**  July 1, 2019 to June 30, 2020  **Recommended:** July 1, 2019 to June 30, 2021 | 4/9/2020 | Posted on website | Guajome Learning Center Board of Directors  **No objections** |
| 3-4-2020 | Washington Unified School District | W.E.B. DuBois Public Charter  0270 | 2000–01 | **Requested:** July 1, 2018 to June 30, 2019  **Recommended:** July 1, 2019 to June 30, 2021 | 3/11/2020 | Public posting and district website | Charter School Governing Board  **No objections** |
| 15-4-2020 | Western Placer Unified School District | Horizon Charter  0015 | 1993–94 | **Requested:**  July 1, 2019 to June 30, 2020  **Recommended:** July 1, 2019 to June 30, 2021 | 4/21/2020 | Posted online and on the District Office public news bulletin | District Board of Trustees  **No objections** |

Created by California Department of Education  
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# Attachment 2: Lindsay Unified School District General Waiver Request 23-3-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5471993

Waiver Number: 23-3-2020

Active Year: 2020

Date In: 3/24/2020 4:03:53 PM

Local Education Agency: Lindsay Unified

Address: 371 East Hermosa St.

Lindsay, CA 93247

Start: 7/1/2019

End: 6/30/2020

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Nonclassroom-Based Funding

Ed Code Section: 5 *CCR* Section 11963(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. Beginning with the 2007-08 fiscal year, 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: During the 2016-17 fiscal year, the district applied for a 5-year waiver of the above-referenced code but was granted only 4 years. The district administration inadvertently calendared the re-submission of the Funding Determination Form for 5 years based on the original waiver request, rather than the actual approval timeline. As such, the district is submitting a waiver for an additional 5 years but will make note of whatever actual approval is given so that the deadline is not missed again. The Funding Determination Form was sent to CDE on March 10, 2020.

Student Population: 4085

City Type: Rural

Public Hearing Date: 3/23/2020

Public Hearing Advertised: Notice was published at all school sites plus three additional locations

Local Board Approval Date: 3/23/2020

Community Council Reviewed By: Alternative Ed School Site Council

Community Council Reviewed Date: 3/10/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Grant Schimelpfening

Position: Chief Business Official

E-mail: [gschimelpfening@lindsay.k12.ca.us](mailto:gschimelpfening@lindsay.k12.ca.us)

Telephone: 559-562-5111 x5113

Fax:

Bargaining Unit Date: 03/10/2020  
Name: CSEA  
Representative: Erik Gonzales  
Title: Alt Ed CSEA Rep  
Phone: (559) 562-5913  
Position: Support  
Comments:

Bargaining Unit Date: 03/10/2020  
Name: Lindsay Teachers Association  
Representative: Candie Forrester  
Title: Alt Ed LTA Rep  
Phone: (559) 562-5913  
Position: Support  
Comments:

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# Attachment 3: Vista Unified School District General Waiver Request 7-4-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3768452

Waiver Number: 7-4-2020

Active Year: 2020

Date In: 4/15/2020 10:07:10 AM

Local Education Agency: Vista Unified

Address: 1234 Arcadia Ave.

Vista, CA 92084-3404

Start: 7/1/2019

End: 6/30/2020

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Nonclassroom-Based Funding

Ed Code Section: *CCR* Title 5 Section 11963.6(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *California Code of Regulations*, title 5, Section 11963.6(c) “Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. [Beginning with the 2007-08 fiscal year, 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: Due to missing the Non Classroom Based Funding application renewal deadline Guajome Learning Centers is seeking a waiver of the filing deadline of February 1, 2020 set forth in *California Code of Regulations*, title 5, Section 11963.6(c) to allow the school to apply to receive nonclassroom based funding for the 2020-21 and 2021-22 school years.

The nonclassroom based funding will ensure that the Guajome Learning Centers will be able to continue to provide instructional support for our students. Guajome Learning Centers provides an independent study/home school option for families who are looking for an alternative to a traditional classroom based model. This funding will help us to continue to provide the individualized instruction that help support academic growth for our students under this learning model.

Student Population: 90

City Type: Suburban

Public Hearing Date: 4/9/2020

Public Hearing Advertised: Following all procedures consistent with the Brown Act. Here is the link to the meeting: https://go.boarddocs.com/ca/vusd/Board.nsf/Public . Guajome was number 7A and 17D on the agenda.

Local Board Approval Date: 4/9/2020

Community Council Reviewed By: Guajome Learning Centers Board of Directors

Community Council Reviewed Date: 2/19/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Craig Wiblemo

Position: Executive Director, Student Support Services

E-mail: [craigwiblemo@vistausd.org](mailto:craigwiblemo@vistausd.org)

Telephone: 760-726-2170 x92182

# Attachment 4: Washington Unified School District General Waiver Request 3-4-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1076778

Waiver Number: 3-4-2020

Active Year: 2020

Date In: 4/8/2020 9:23:38 AM

Local Education Agency: Washington Unified

Address: 7950 S Elm Ave

Fresno, CA 93706

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: 5 *CCR* Section 11963.6(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* or *CCR* to Waive: “Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. [Beginning with the 2007-08 fiscal year, 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: Outcome Rationale: \*Note: Total charter = 372 students. Of those, 140 are NCB and 232 are classroom-site based. During the process of submitting the funding determination we were uploading two charter schools including W.E.B. DuBois Public charter School. Unfortunately only one uploaded and the other document did not load which resulted in a error. We made a second attempt to load the document once we realized it did not upload properly and this caused the document to be one minute late pass the deadline. W.E.B. DuBois staff started two weeks prior to the deadline preparing our back up information but due to having trouble with the new format of Acrobatic Reader and the unexpected error uploading the form we were unable to meet the required deadline of Feb 1.The charter has never been late in filing the document in 20 years and upload the proper forms days in advance of the deadline to avoid this ever happening again. Therefore, Washington Unified School District on behalf of W.E.B. DuBois Public Charter School seeks a waiver of the filing deadlines of February 1 2020 as set forth in *California Code of Regulations*, title 5, Section 11963.6(c) to allow W.E.B. DuBois Public Charter School to apply to receive nonclassroom based funding for the 2020-2021 school year.

Student Population: 352

City Type: Small

Public Hearing Date: 3/11/2020

Public Hearing Advertised: Public posting and district website

Local Board Approval Date: 3/11/2020

Community Council Reviewed By: Charter School Governing Board

Community Council Reviewed Date: 2/24/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Chris Vaz

Position: Chief Business Official

E-mail: [cvaz@wusd.ws](mailto:cvaz@wusd.ws)

Telephone: 559-495-5603

Fax: 559-495-5659

# Attachment 5: Western Placer Unified School District General Waiver Request 15-4-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3166951

Waiver Number: 15-4-2020

Active Year: 2020

Date In: 4/29/2020 2:56:56 PM

Local Education Agency: Western Placer Unified

Address: 600 Sixth St., Ste. 400

Lincoln, CA 95648

Start: 7/1/2019

End: 6/30/2020

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Non-classroom - Independent Study Requirements

Ed Code Section: 5 *CCR* Section 11963.6(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: Waiver Request is for Horizon Charter Schools (31-66951-3130168). Western Placer Unified School District is the Authorizing LEA for Horizon Charter School therefore we are submitting this wavier on their behalf.

*Education Code* Section to be Waiver: “Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. [Beginning with the 2007-08 fiscal year, 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: Rationale:

Western Placer Unified School District) is requesting a waiver on behalf of Horizon Charter Schools (31-66951-3130168) for late submission of the Non-Classroom Based Funding Determination Form for the 2020/21 fiscal year.

Current Interim Chief Business Official (CBO) for Horizon Charter School was not aware of the requirement to submit a Non Classroom Based Funding Determination form to CDE by February 3, 2020. All CDE notifications were emailed to Rebecca Courtright Horizon (CBO), who is no longer employed by Horizon Charter School. Once the interim CBO realized that emails for the prior CBO were not being forwarded to her she reviewed all prior CBO emails.Unfortunately she did not get email notification from the CDE until after the submission deadline. The Horizon Non-Classroom Based Funding Determination Form for the 2020/21 fiscal year was submitted to the CDE on 2/28/20. Please see attached form submitted.

Student Population: 2032

City Type: Suburban

Public Hearing Date: 4/21/2020

Public Hearing Advertised: Posted on-line and publicly at the District Office public news bulletin

Local Board Approval Date: 4/21/2020

Community Council Reviewed By: Western Placer Unified School District Board of Trustees

Community Council Reviewed Date: 4/21/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Audrey Kilpatrick

Position: Asst. Supt. Business & Operations

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