

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

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

## Subject

Requests by five 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

* Fort Sage Unified School District 26-1-2020
* Hart-Ransom Union Elementary School District 17-2-2020
* Liberty Elementary School District 19-1-2020
* Susanville Elementary School District 18-1-2020
* Turlock Unified School District 4-3-2020

## 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 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 a determination of funding request after the submission deadline, thereby making the requests retroactive.

Fort Sage Unified School District, on behalf of Long Valley (Charter #2067), has requested for a portion of 5 *CCR* Section 11963.6(a) relating to the submission deadline to be waived. Fort Sage Unified School District cites the reason the charter school missed the submission deadline as being that the charter school was unclear of the date by which they were to submit a funding determination request.

Hart-Ransom Union School District, on behalf of Hart-Ransom Academic Charter (Charter #0080) has requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. Hart-Ransom Union School District cites the reason the charter school missed the submission deadline as being that the charter school did not receive the CDE email reminding them of their requirement to submit a funding determination request.

Liberty Elementary School District, on behalf of Heartwood Charter (Charter #2071), has requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. However, because Heartwood Charter is a new nonclassroom-based charter school, the CDE recommends that a portion of 5 *CCR* Section 11963.6(a) relating to the submission deadline be waived instead. Liberty Elementary School District cites the reason the charter school missed the submission deadline as being that the charter school was given an incorrect date by which they were to submit a funding determination request.

Susanville Elementary School District, on behalf of Thompson Peak Charter (Charter #2066), has requested for a portion of 5 *CCR* Section 11963.6(a) relating to the submission deadline to be waived. Susanville Elementary School District cites the reason the charter school missed the submission deadline as being that the charter school was unclear of the date by which they were to submit a funding determination request.

Turlock Unified School District, on behalf of eCademy Charter at Crane (Charter #1309), have requested for a portion of 5 *CCR* Section 11963.6(c) relating to the submission deadline to be waived. Turlock Unified School District cites the reason the charter school missed the submission deadline as being that the charter school was unaware of the deadline to submit a funding determination request for renewal.

### Demographic Information

Fort Sage Unified School District is requesting a waiver for Long Valley, which serves a student population of 223 and is located in a rural city in Lassen County.

Hart-Ransom Union Elementary School District is requesting a waiver for Hart-Ransom Academic Charter, which serves a student population of 403 and is located in a rural city in Stanislaus county.

Liberty Elementary School District is requesting a waiver for Heartwood Charter, which serves a student population of 105 and is located in a rural city in Sonoma County.

Susanville Elementary School District is requesting a waiver for Thompson Peak Charter, which serves a student population of 159 and is located in a rural city in Lassen County.

Turlock Unified School District is requesting a waiver for eCademy Charter at Crane, which serves a student population of 138 and is located in a small city in Stanislaus 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:** Fort Sage Unified School District General Waiver Request 26-1-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Hart-Ransom Union Elementary School District General Waiver Request 17-2-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Liberty Elementary School District General Waiver Request 19-1-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** Susanville Elementary School District General Waiver Request 18-1-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 6:** Turlock Unified School District General Waiver Request 4-3-2020 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 26-1-2020 | Fort Sage Unified School District | Long Valley  2067 | 1980–81 | **Requested:** July 1, 2019 to June 30, 2022  **Recommended:** July 1, 2019 to June 30, 2021 | 1/28/2020 | Posted at each school site and three public places in the district | Board of Trustees  **No objections** |
| 17-2-2020 | Hart-Ransom Union Elementary School District | Hart-Ransom Academic Charter  0080 | 1995–96 | **Requested:**  July 1, 2020 to June 30, 2021  **Recommended:** July 1, 2019 to June 30, 2021 | 2/6/2020 | Posted on public buildings and website | Internal Process Team  **No objections** |
| 19-1-2020 | Liberty Elementary School District | Heartwood Charter  2071 | 2019–20 | **Requested:** July 1, 2019 to June 30, 2020  **Recommended:** July 1, 2019 to June 30, 2021 | 12/16/2019 | Posted on the district website and in three locations in the district | District Site Council  **No objections** |
| 18-1-2020 | Susanville Elementary School District | Thompson Peak Charter  2066 | 2017–18 | **Requested:**  July 1, 2019 to June 30, 2022  **Recommended:** July 1, 2019 to June 30, 2021 | 1/15/2020 | Locally and on website | Board of Trustees  **No objections** |
| 4-3-2020 | Turlock Unified School District | eCademy Charter at Crane  1309 | 2011–12 | **Requested:** July 1, 2020 to June 30, 2021  **Recommended:** July 1, 2019 to June 30, 2021 | 3/3/2020 | Posted on website and board agenda | District Executive Cabinet and Board of Trustees  **No objections** |

Created by California Department of Education  
February 2020

# Attachment 2: Fort Sage Unified School District General Waiver Request 26-1-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1875036

Waiver Number: 26-1-2020

Active Year: 2020

Date In: 1/29/2020 11:12:35 AM

Local Education Agency: Fort Sage Unified

Address: 100 DS Hall St.

Herlong, CA 96113

Start: 7/1/2019

End: 6/30/2022

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Nonclassroom-Based Funding

Ed Code Section: *CCR* 11963.6 (a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *CCR* 11963.6 a

Outcome Rationale: Long Valley CDS Code 18 75036 6010763 opened in July 2019. Long Valley was formerly Long Valley Charter CDS Code 18 6416 26010763 (closed June 30, 2019) which received 100% funding during its prior period of operation. Functionally, Long Valley maintains the same programs, location, staff, governing board, non-profit corporation etc. as the prior existing school.

We were not aware that we had missed the deadline for filing until after the deadline and were unclear whether filing for first year still applied given the above. We have maintained full compliance with all instructional expenditure requirements during its operation.

Student Population: 223

City Type: Rural

Public Hearing Date: 1/28/2020

Public Hearing Advertised: Small School District: Formal notice posted at each school and three public places in District.

Local Board Approval Date: 1/28/2020

Community Council Reviewed By: Fort Sage Unified Board of Trustees, the School Governing Board.

Community Council Reviewed Date: 1/28/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: No

Submitted by: Ms. Heather Von Ins

Position: Chief Business Officer

E-mail: [hvonins@fortsage.org](mailto:hvonins@fortsage.org)

Telephone: 530-827-2129 x6502

Fax:

# Attachment 3: Hart-Ransom Union Elementary School District General Waiver Request 17-2-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5071092

Waiver Number: 17-2-2020

Active Year: 2020

Date In: 2/19/2020 4:39:16 PM

Local Education Agency: Hart-Ransom Union Elementary

Address: 3920 Shoemake Ave.

Modesto, CA 95358

Start: 7/1/2020

End: 6/30/2021

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: 330504

*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: Total charter = 403 students. All are non-classroom based (NCB). Hart-Ransom Academic Charter School (HRACS) was not on the California Department of Education’s renewal list, so by the time we received an email the deadline had passed. Therefore, HRACS filed its Nonclassroom-Based Funding Determination Form seeking a waiver for approval.

Student Population: 403

City Type: Rural

Public Hearing Date: 2/6/2020

Public Hearing Advertised: Posted on public buildings and website

Local Board Approval Date: 2/6/2020

Community Council Reviewed By: Internal Process Team

Community Council Reviewed Date: 2/3/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Matthew Shipley

Position: Superintendent

E-mail: [mshipley@hartransom.org](mailto:mshipley@hartransom.org)

Telephone: 209-523-9996 x301

Fax: 209-523-1064

# Attachment 4: Liberty Elementary School District General Waiver Request 19-1-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4970797

Waiver Number: 19-1-2020

Active Year: 2020

Date In: 1/22/2020 9:58:51 AM

Local Education Agency: Liberty Elementary

Address: 170 Liberty School Rd.

Petaluma, CA 94952

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: 47612.5, 47634.2, 5*CCR* 11963.6

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: Request by Liberty Elementary School District 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.

Outcome Rationale: Liberty Elementary School District (4970797) is requesting, in behalf of Heartwood Charter School, that the California State Board of Education waive a portion of the *CCR*, Title 5 Section 11963.6, in order to allow the charter school to request a nonclassroom-based funding determination for the respective time period. In its first year of operation, Heartwood Charter School was given an incorrect date on submission of their nonclassroom-based funding request. They didn't discover the oversight until a week after the due date and thus missed the cut-off for making this request.

Student Population: 105

City Type: Rural

Public Hearing Date: 12/16/2019

Public Hearing Advertised: Posted on the District website and in three locations in District.

Local Board Approval Date: 12/16/2019

Community Council Reviewed By: Site Council

Community Council Reviewed Date: 12/13/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Christopher Rafanelli

Position: Superintendent

E-mail: [crafanelli@libertysd.org](mailto:crafanelli@libertysd.org)

Telephone: 707-795-4380

Fax: 707-795-6468

# Attachment 5: Susanville Elementary School District General Waiver Request 18-1-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1864196

Waiver Number: 18-1-2020

Active Year: 2020

Date In: 1/17/2020 1:29:24 PM

Local Education Agency: Susanville Elementary

Address: 109 South Gilman St.

Susanville, CA 96130

Start: 7/1/2019

End: 6/30/2022

Waiver Renewal: No

Waiver Topic: Charter School Program

Ed Code Title: Other Waiver

Ed Code Section: *CCR* 11963.6(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *CCR* 11963.6(a)

Outcome Rationale: Thompson Peak Charter opened in July 2019. Thompson Peak Charter was formerly Long Valley-Susanville CDS Code 18 6416 20135756 (closed June 30, 2019) which received 100% funding during its time of operation. Functionally, Thompson Peak maintains the same programs, location, staff, governing board, non-profit corporation etc.as the prior existing school.

We were not aware that we had missed the deadline for filing until after the deadline and were unclear whether filing for first year still applied given the above. We have maintained full compliance with all instructional expenditure requirements during its operation.

Student Population: 159

City Type: Rural

Public Hearing Date: 1/15/2020

Public Hearing Advertised: locally and website

Local Board Approval Date: 1/15/2020

Community Council Reviewed By: Susanville School District Governing Board of Trustees

Community Council Reviewed Date: 1/15/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Sherri Morgan

Position: Executive Director/Superintendent

E-mail: [smorgan@longvalleycs.org](mailto:smorgan@longvalleycs.org)

Telephone: 530-827-2395

Fax:

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# Attachment 6: Turlock Unified School District General Waiver Request 4-3-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5075739

Waiver Number: 4-3-2020

Active Year: 2020

Date In: 3/4/2020 3:09:19 PM

Local Education Agency: Turlock Unified

Address: 1574 East Canal

Turlock, CA 95380

Start: 7/1/2020

End: 6/30/2021

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: 5 *CCR* 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: Staff involved with eCademy Charter at Crane School were unaware of the February 3, 2020 deadline to submit the continuance of a nonclassroom-based funding determination. Upon receipt of notification from CDE the charter began the waiver submission process. The CDE Nonclassroom-Based Funding Determination Form will be filed following the waiver.

Student Population: 138

City Type: Small

Public Hearing Date: 3/3/2020

Public Hearing Advertised: Posted on website, board agenda

Local Board Approval Date: 3/3/2020

Community Council Reviewed By: TUSD Executive Cabinet and Board of Trustees

Community Council Reviewed Date: 2/18/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Marjorie Bettencourt

Position: Assistant Superintendent, Finance & Accountability

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