

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

oab-csd-jan22item01

# California State Board of Education January 2022 Agenda Item #10

## Subject

Consideration of 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 that offers NCB instruction in excess of the amount authorized by *EC* Section 47612.5(e)(1) 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*).

Three existing classroom-based charter schools that have not previously had a funding determination have submitted a determination of funding request for NCB instruction beginning in the 2021–22 fiscal year (FY).

## Recommendation

The CDE recommends that the SBE approve the determination of funding request at the percentage and for the time period specified for three charter schools as provided in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At its December 14, 2021, meeting, the ACCS moved for recommendation to the SBE of the CDE staff recommendation. The motion passed unanimously.

The notice for the December 14, 2021, ACCS meeting and the funding determination request forms for the schools are located on the SBE December 2021 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice121421.asp>.

## Background

### Senate Bill 820 Section 75

*EC* Section 47612.5(d)(1) states that a charter school that has an approved charter may receive funding for its NCB instruction only if a determination for funding is made by the SBE.

However, for FYs 2020–21 and 2021–22, certain schools are exempt from the requirement to obtain an approved funding determination from the SBE, pursuant to Senate Bill 820 Section 75:

A charter school with a nonclassroom-based funding determination pursuant to Section 47612.5 of the Education Code that expires on June 30, 2021, or June 30, 2022, shall receive its current funding level for two years upon submission of a complete funding determination request to the State Department of Education pursuant to Section 11963.3 of Title 5 of the California Code of Regulations. A charter school’s funding determination request shall be received by the State Department of Education no later than June 30, 2021 or June 30, 2022, as applicable.

Because the three schools presented in this item do not have an active funding determination that expires on June 30, 2021, or June 30, 2022, SB 820 is not applicable and the schools are each required to obtain an approved funding determination from the SBE.

The purpose of the funding determination requests presented in this item is to request funding for NCB instruction beginning in FY 2021–22.

### Submission Deadline for Classroom-Based Charter Schools

Pursuant to 5 *CCR* Section 11963.6(c), determination of funding requests approved by the SBE for existing NCB charter schools shall be prospective (not for the current year) and shall be submitted in the FY prior to the year the funding determination will be effective. This requirement does not apply to classroom-based charter schools; existing classroom-based charter schools are not required to submit a funding determination request prior to the year the funding determination will be effective. However, charter schools may experience significant fiscal impacts to their Local Control Funding Formula (LCFF) funding if funding determination requests are not submitted timely. Existing charter schools seeking funding for their NCB average daily attendance (ADA) for the 2021–22 school year must have a funding determination approved by the SBE by its January 2022 meeting. If a funding determination is not approved by the SBE by its January 2022 meeting, beginning with the First Principal (P-1) Apportionment for FY 2021–22, the CDE will not disburse LCFF funds to charter schools based on its NCB ADA. In order to receive disbursement of LCFF funds for NCB ADA for the Second Principal (P-2) Apportionment, funding determinations must be approved by the SBE by its May 2022 meeting.

In the above scenario, funding may be adjusted after funding determinations are approved. However, any funding withheld at the P-2 Apportionment will not be adjusted until the following FY P-1 Apportionment certified in February 2023. Additionally, the charter schools’ 2022–23 Advance Apportionment funding will be impacted. Other ADA-driven funding for charter schools, such as lottery funding, may also be impacted.

## Brief Analysis of Key Issues

Pursuant to 5 *CCR* Section 11963.4(a), an NCB charter school requesting a determination of funding may qualify for either 70 percent, 85 percent, or 100 percent funding, or may be denied.

To qualify for a recommendation of 100 percent funding, an NCB charter school must meet the following criteria:

* Spend at least 40 percent of the school’s public revenues on salaries and benefits for all employees who possess a valid teaching certificate.
* Spend at least 80 percent of all revenues on instruction and related services.
* Maintain a ratio of ADA for independent study pupils to full-time certificated employees that does not exceed a pupil-teacher ratio (PTR) of 25:1 or the PTR of the largest unified school district in the county or counties in which the charter school operates.

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 time periods based on the number of years a charter school has been in operation and the number of times it has obtained a funding determination.

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

The CDE notes that no charter schools were required to report ADA for FY 2020–21. Pursuant to *EC* Section 43505(a)(1), charter schools that began operations in FY 2020–21 received funding based on a proxy ADA calculated using California Longitudinal Pupil Achievement Data System enrollment data, which is not reflected in the funding determination form.

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

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 three charter schools listed in Attachment 1 would receive apportionment funding for their NCB ADA under the LCFF model.

## California Department of Education Staff Review

Direct links to the schools’ funding determination requests are provided below. The requests are also available under Agenda Item 1 of the SBE December 2021 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice121421.asp>.

* Determination of Funding Request for Five Keys Charter (SF Sheriff’s), Charter #0567 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-dec21item01a2.pdf>)
* Determination of Funding Request for Five Keys Adult School (SF Sheriff's), Charter #1029 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-dec21item01a3.pdf>)
* Determination of Funding Request for Architecture, Construction & Engineering Charter High (ACE), Charter #1126 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-dec21item01a4.pdf>)

## Attachment

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