

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

oab-csd-may22item01

# California State Board of Education May 2022 Agenda Item #08

## 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*).

This item includes requests for funding determinations from five charter schools. Of these five schools, four are existing classroom-based charter schools that have not previously had a funding determination and have submitted a determination of funding request for NCB instruction beginning in the 2021–22 fiscal year (FY); one school is a continuing nonclassroom-based charter school with an active funding determination through FY 2021–22, requesting funding for FY 2022–23 and beyond.

## Recommendation

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

## Advisory Commission on Charter Schools Recommendation

At its April 12, 2022, meeting, the ACCS moved for recommendation to the SBE of the CDE staff recommendation. The motion passed unanimously.

The notice for the April 12, 2022, ACCS meeting and the funding determination request forms for the schools are located on the SBE April 2022 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice041222.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.[[1]](#footnote-1)

### 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.

### Audeo Charter

Audeo Valley Charter (charter number 2118), formerly a resource center for Audeo Charter (charter number 0406), separated to comply with geographic location restrictions for charter schools in *EC* Section 47605.1 as amended by Assembly Bills 1505 and 1507 [Chapters 486 and 487, Statutes of 2019]. Audeo Valley Charter is required by statute to be treated as continuing for all purposes, including funding; the school continues to receive funding based upon Audeo Charter’s approved funding determination, which was approved at the May 9, 2018, SBE meeting for 100 percent funding for FY 2018–19 through FY 2021–22.

However, to receive funding for FY 2022–23 and beyond, the CDE requested Audeo Valley Charter to obtain a new funding determination separate from Audeo Charter due to the material change to the school's charter, pursuant to 5 *CCR* Section 11963.6(d).

Information regarding Audeo Charter’s approved funding determination is provided in the May 2018 SBE Agenda Item 07, which is located at <https://www.cde.ca.gov/be/ag/ag/yr18/documents/may18item07.docx>.

## 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.

## 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 five 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 April 2022 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice041222.asp>.

* Determination of Funding Request for Coastal Grove Charter, Charter #0466 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-apr22item01a2.pdf>)
* Determination of Funding Request for New Village Girls Academy, Charter #0791 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-apr22item01a3.pdf>)
* Determination of Funding Request for Audeo Valley Charter, Charter #2118 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-apr22item01a4.pdf>)
* Determination of Funding Request for Spring Lake Charter, Charter #0525 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-apr22item01a5.pdf>)
* Determination of Funding Request for REACH, Charter #1107 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-apr22item01a6.pdf>)

## Attachment

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

1. While Audeo Valley Charter does have an active funding determination that expires on June 30, 2022, the school’s funding determination is under review due to a material change in its charter, pursuant to 5 *CCR* Section 11963.6(d). [↑](#footnote-ref-1)