

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

lab-csd-sep22item01

# California State Board of EducationSeptember 2022 AgendaItem #07

## 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, Consent

## 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 California 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*).

Two existing classroom-based charter schools that have not previously had a funding determination submitted determination of funding requests for NCB instruction.

## Recommendation

The CDE recommends that the SBE approve the determination of funding requests at 100 percent for the period of fiscal year (FY) 2022‒23 through FY 2023‒24, as specified in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At its August 11, 2022, meeting, the ACCS moved for recommendation to the SBE of the CDE staff recommendation. The motion passed unanimously.

The notice for the August 11, 2022, ACCS meeting and the funding determination request forms for the schools are located on the SBE August 2022 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice081122.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 (SB) 820 Section 75 [Chapter 110, Statutes of 2020]:

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 schools presented in this item do not have an active funding determination that expires June 30, 2021, or June 30, 2022, SB 820 Section 75 is not applicable, and the schools are required to obtain an approved funding determination from the SBE.

### 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 were required to have a funding determination approved by the SBE by its January 2022 meeting; otherwise, beginning with the First Principal (P-1) Apportionment for FY 2021–22, the CDE would 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, these charter schools were required to have a funding determination 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, which is certified in February 2023. Additionally, the charter schools’ 2022–23 Advance Apportionment funding would be impacted. Other ADA-driven funding for charter schools, such as lottery funding, may also be impacted.

## Brief Analysis of Key Issues

*EC* Section 47634.2(a)(1) provides the following:

Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction…shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school’s total budget expended on certificated employee salaries and benefits and on schoolsites, as defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

*EC* Section 47634.2(a)(4) further states:

For the 2003–04 fiscal year and each fiscal year thereafter, the amount of funding determined by the State Board of Education pursuant to this section shall not be more than 70 percent of the unadjusted amount to which a charter school would otherwise be entitled, unless the State Board of Education determines that a greater or lesser amount is appropriate based on the criteria specified in paragraph (1) of subdivision (a).

Regulations provide that the ACCS shall develop a recommendation to the SBE regarding determination of funding requests. As stated in 5 *CCR* Section 11963.4(a), a charter school requesting a determination of funding may qualify for either 70 percent, 85 percent, or 100 percent funding, or may be denied (i.e., 0 percent funding).

To qualify for a proposed 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.

The expenditure and PTR criteria for all funding levels for NCB instruction are summarized in the table below:

| **Funding Level** | **Percent of Public Revenues Spent on Certificated Salaries and Benefits** | **Percent of All Revenues Spent on Instruction and Related Services** | **Pupil-Teacher Ratio** |
| --- | --- | --- | --- |
| **100%** | ≥ 40% | ≥ 80% | ≤ 25 to 1 |
| **85%** | ≥ 40% | ≥ 70% | Not Applicable |
| **70%** | ≥ 35% | ≥ 60% | Not Applicable |
| **0%** | < 35% | < 60% | Not Applicable |

Pursuant to *EC* Section 47612.5(d)(2), a determination of funding may not exceed five years. It is the CDE’s current practice to recommend time periods between two to four years 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 two charter schools listed in Attachment 1 would receive apportionment funding for its NCB ADA under the LCFF model.

## California Department of Education Staff Review

A direct link to the school’s funding determination request is provided below. The request is also available under Agenda Item 1 of the SBE August 2022 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice081122.asp>.

* Determination of Funding Request for Anderson New Technology High, Charter #452 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-aug22item01a2.pdf>).
* Determination of Funding Request for BRIDGES Charter, Charter #1203 (<https://www.cde.ca.gov/be/cc/cs/documents/accs-aug22item01a3.pdf>).

## Attachment

* **Attachment 1:** Recommendations for Nonclassroom-Based Determination of Funding (1 Page)