

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

lacb-csd-sep24item03

# California State Board of Education September 2024 Agenda Item #09

## Subject

Modification of a Funding Determination Pursuant to California *Education Code* Sections 47612.5 and 47634.2; *California Code of Regulations*, Title 5 Section 11963.7; 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 establish 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).

Pursuant to *California Code of Regulations*, Title 5 (5 *CCR*) Section 11963.4(a), the California Department of Education (CDE) reviews a charter school’s determination of funding request and presents it for consideration to the Advisory Commission on Charter Schools (ACCS). The ACCS shall develop a recommendation to the SBE, and the CDE shall present that recommendation to the SBE. Pursuant to 5 *CCR* Section 11963.7, any multi-year funding determination approved by the SBE may be modified by the SBE, in terms of both the multi-year approval and the funding authorized.

At its May 8, 2024, meeting, the SBE approved a determination of funding request from ASA Charter (Charter #0677) at 100 percent for four fiscal years (2024–25 through 2027–28) as the charter school’s expenditures, as reported at that time, met the regulatory criteria for 100 percent funding. The funding determination request that the SBE approved for ASA Charter at its May 2024 meeting is available on the April 2024 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr24item01a11.docx>.

The CDE recommends a modification of ASA Charter’s funding determination for fiscal year 2024–25 through 2027–28.

## Recommendation

Based on additional financial information received from ASA Charter after the May 2024 SBE meeting, the CDE recommends that the SBE modify ASA Charter’s funding determination for fiscal year 2024–25 through 2027–28 from 100 percent to 85 percent, as detailed in Attachment 1.

## Advisory Commission on Charter Schools Recommendation

At its August 6, 2024, meeting, the ACCS moved to accept the CDE’s recommendation that the SBE modify ASA Charter’s funding determination for fiscal year 2024–25 through 2027–28 from 100 percent to 85 percent, as detailed in Attachment 1. The motion passed unanimously.

The notice for the August 6, 2024, ACCS meeting and the determination of funding request for the charter school presented in this item are available under Item 03 of the August 2024 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice080624.asp>.

## Funding Determination Criteria

*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).

Pursuant to *EC* Section 47634.2 and SBE-adopted regulations, a charter school may qualify for 70 percent, 85 percent, or 100 percent funding, or may be denied funding (i.e., 0 percent) for its NCB instruction.

To qualify for a recommendation of 100 percent funding, a charter school must meet the following criteria as outlined in 5 *CCR* Section 11963.4(a)(3):

* Spend at least 40 percent of the charter school’s public revenues on salaries and benefits for all employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing and who work in the charter school in a position required to provide direct instruction or direct instructional support to students
* Spend at least 80 percent of the charter school’s total revenues on instruction and related services
* Maintain a ratio of average daily attendance (ADA) for independent study pupils to full-time certificated employees responsible for independent study 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 which a charter school may qualify to receive for its NCB instruction are specified in 5 *CCR* Section 11963.4(a). A summary of the criteria is provided in the table below:

*Nonclassroom-Based Instruction Funding Levels*

| **Funding Level** | **Percentage Spent on Certificated Salaries and Benefits** | **Percentage Spent on Instruction and Related Services** | **PTR[[1]](#footnote-1)** |
| --- | --- | --- | --- |
| **100%** | ≥ 40 | ≥ 80 | ≤ 25 to 1 |
| **85%** | ≥ 40 | ≥ 70 | Not Applicable |
| **70%** | ≥ 35 | ≥ 60 | Not Applicable |
| **0%** | < 35 | < 60 | Not Applicable |

### Funding Periods

A determination of funding may not exceed five years, pursuant to *EC* Section 47612.5(d)(2). For a new charter school in its first year of operation, a funding determination shall be for a period of two fiscal years, pursuant to 5 *CCR* Section 11963.6(a). For an existing charter school with an active funding determination, a funding determination shall be in increments of a minimum of two years and a maximum of five years in length, pursuant to 5 *CCR* Section 11963.6(c).

Regarding five-year funding periods, *EC* Section 47612.5(d)(2) provides the following:

A charter school that has achieved a rank of six or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination…shall receive a five-year determination.

Based on the CDE’s interpretation of statute and regulations, the CDE recommends a funding period between two to four years for an existing charter school with an active funding determination. Because the Academic Performance Index is no longer calculated, the CDE does not recommend five-year funding determination periods.

The CDE’s recommended funding period for an existing charter school with an active funding determination is dependent upon factors such as the number of times the charter school has obtained a funding determination from the SBE, and the information provided by the charter school as a part of its determination of funding request. The CDE typically recommends a funding period of three years for a charter school that is obtaining a funding determination with the SBE for the second time and a funding period of four years for subsequent times.

## Modification of Funding Determination

After the May 2024 SBE meeting, the CDE received information from ASA Charter that the charter school had incorrectly reported its expenditures on its funding determination form. The CDE requested that the charter school submit a corrected funding determination form, which is provided as Attachment 2.

The specific corrections made by the charter school to its funding determination form are outlined in the table below:

Comparison of ASA Charter Funding Determination Forms – Section 2. Financial Information, B. Total Expenditures and Other Uses

| **Section** | **May 2024 Funding Determination Form** | **Corrected Funding Determination Form** | **Difference** |
| --- | --- | --- | --- |
| Total Instruction and Related Services | $4,838,593 | $4,225,431 | ($613,162) |
| Total Operations and Facilities | $0 | $476,092 | $476,092 |
| Total Other Outgoing and Other Financing Uses | $0 | $137,070 | $137,070 |

The charter school’s May 2024 funding determination form is available on the April 2024 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr24item01a11.docx>.

The charter school’s corrected funding determination form is provided as Attachment 2 and is available on the August 2024 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug24item03a2.docx>.

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR, as reported on the charter school’s corrected funding determination form.

ASA Charter Nonclassroom-Based Instruction Funding Qualification

| **Criteria** | **Percentage Spent on Certificated Salaries and Benefits** | **Percentage Spent on Instruction and Related Services** | **PTR** |
| --- | --- | --- | --- |
| **100 Percent** | ≥ 40 | ≥ 80 | ≤ 25 to 1 |
| **85 Percent** | ≥ 40 | ≥ 70 | Not Applicable |
| **70 Percent** | ≥ 35 | ≥ 60 | Not Applicable |
| **Charter School** | 40.78 | 74.28 | 11.75 to 1 |

Upon review of ASA Charter’s corrected funding determination form, the CDE finds that the charter school meets the regulatory requirements to qualify for 85 percent funding for its NCB instruction. Therefore, the CDE recommends that the SBE modify ASA Charter’s funding determination for fiscal year 2024–25 through 2027–28 from 100 percent to 85 percent, as detailed in Attachment 1.

If ASA Charter’s funding determination is modified, the charter school will receive 85 percent funding for its ADA generated through NCB instruction for fiscal year 2024–25 through 2027–28, pursuant to *EC* Section 47634.2(c). If the charter school wishes to seek a higher or lower determination of funding, it may submit a funding determination reconsideration request, pursuant to 5 *CCR* Section 11963.6(g).

## Fiscal Analysis

If the modification of the funding determination is approved by the SBE, ASA Charter’s apportionment funding for its NCB ADA under the Local Control Funding Formula model will be adjusted accordingly.

## California Department of Education Staff Review

A direct link to the charter school’s determination of funding request is provided below. The request is also available under Item 03 of the August 2024 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice080624.asp>.

* Determination of Funding Request from ASA Charter (Charter #1962) (<https://www.cde.ca.gov/be/cc/cs/documents/accs-aug24item03a2.docx>)

## Attachment

* **Attachment 1:** Recommendation to Modify a Nonclassroom-Based Determination of Funding (1 Page)

1. The PTR criteria outlined in this table pertain only to charter schools submitting funding determination requests for their NCB instruction. All charter schools offering independent study are required to comply with the ADA to certificated-employee ratios outlined in *EC* Section 51745.6. [↑](#footnote-ref-1)