California Department of Education
Charter Schools Division
Revised 5/2018
accs-apr23item03

**ADVISORY COMMISSION ON CHARTER SCHOOLS**

AN ADVISORY BODY TO THE STATE BOARD OF EDUCATION

# April 2023 AgendaItem #03

## Subject

Reconsideration of a Request for Determination of Funding as Required for Nonclassroom-Based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, *California Code of Regulations*, Title 5Section 11963.6(g), 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 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*).

Pursuant to 5 *CCR* Section 11963.4(c), 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 percentage of funding authorized, if any information that may change the conclusion to approve the original multi-year funding determination is found.

Pursuant to 5 *CCR* Section 11963.6(g), if during the effective period of an approved determination, a charter school wishes to seek a higher or lower determination of funding, it shall do so by the filing of a new determination of funding request for consideration by the SBE. The CDE refers to funding determination requests submitted under this subdivision as “reconsideration requests.”

This item includes a reconsideration request from Guajome Learning Center, charter number 1351.

## Proposed Recommendation

The CDE proposes to recommend that the SBE approve Guajome Learning Center’s reconsideration request and increase its current funding determination level from 85 percent to 100 percent for fiscal year (FY) 2022–23 and FY 2023–24 as specified in Attachment 1.

## 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 either 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 for 100 percent funding, a 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 average daily attendance (ADA) for independent study pupils to full-time certificated employees that does not exceed a pupil-to-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:

Table of Nonclassroom-Based Instruction Funding Levels

NA: Not Applicable

| **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 | NA |
| **70%** | ≥ 35 | ≥ 60 | NA |
| **0%** | < 35 | < 60 | NA |

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). For an existing charter school with an active funding determination, it is the CDE’s current practice to recommend a time period of three or four years based on the number of times the charter school has renewed its funding determination with the SBE.

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.

### Reconsideration of a Funding Determination

Pursuant to *5 CCR* Section 11963.6(g), if, during the effective period of its funding determination, a charter school wishes to seek a higher or lower determination of funding, it shall do so by the filing of a new determination of funding request for consideration by the SBE. A charter school may only submit one reconsideration request per year. If approved by the SBE, the reconsideration request would replace the determination of funding then in effect. A charter school may not request an increase to the number of years that the funding determination is active, only the amount of funding received. A denial of a charter school’s reconsideration request means that the school’s current determination of funding remains in effect with no change.

For this type of request, a charter school typically requests a higher amount of funding for the entire period of the funding determination. However, the SBE may approve a modification of the funding determination for only one year, if deemed appropriate, pursuant to 5 *CCR* Section 11963.7.

### 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 FY 2020–21 and FY 2021–22, certain schools were exempt from the requirement to obtain an approved funding determination from the SBE, pursuant to Senate Bill 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. A charter school that submits a funding determination request after the applicable deadline shall receive 85 percent funding for two fiscal years for nonclassroom-based instruction attendance. Either the charter school or the State Department of Education may request that the Advisory Commission on Charter Schools or the State Board of Education consider a higher or lower funding level pursuant to Section 11963.6 or 11963.7 of Title 5 of the California Code of Regulations.

Pursuant to SB 820 Section 75, upon a charter school’s submission of a complete funding determination request to the CDE, the school shall receive its current level of funding (i.e., its funding level in FY 2020–21 or FY 2021–22) for two years.

## Guajome Learning Center, Charter #1351

### Previous Funding Determination Requests

At its November 2020 meeting, the SBE approved a funding determination for Guajome Learning Center at 85 percent for FY 2020‒21 through FY 2021‒22, as the school’s reported FY 2018–19 financial data demonstrated that it met the requirements for 85 percent funding for its NCB instruction. The school did not submit the consideration of mitigating circumstances with its funding determination request to receive a higher level of funding.

Detailed information regarding this funding determination request is provided in Item 9 of the SBE Agenda for November 2020 web page, which is available at <https://www.cde.ca.gov/be/ag/ag/yr20/agenda202011.asp>.

Guajome Learning Center’s determination of funding, approved at the November 2020 SBE meeting, expired on June 30, 2022. Pursuant to SB 820 Section 75, the school received its current level of funding (i.e., its funding level in FY 2021–22) for 85 percent for two years as it submitted a complete and timely determination of funding request to the CDE. Although permitted by SB 820 Section 75, at the time of its June 30, 2022, submission, the school did not request that the ACCS or SBE consider a higher level of funding.

The CDE notes that the school’s determination of funding request submitted by
June 30, 2022, which was based on FY 2020–21 data, demonstrated that the school met the requirements for 100 percent funding for its NCB instruction as it reported spending 72.02 percent of public revenues on certificated salaries and benefits and 90.58 percent of total revenues on instruction and related services while maintaining a PTR of 25 to 1. Despite meeting the criteria for full funding, the school continued to receive 85 percent funding for its NCB instruction, pursuant to SB 820 Section 75.

### Current Reconsideration Request

Guajome Learning Center is requesting reconsideration of its funding determination. Specifically, the school is requesting that its current funding determination of 85 percent be increased to 100 percent for FY 2022–23 through FY 2023–24.

Upon review of Guajome Learning Center’s reconsideration request, the CDE finds that the school qualifies for 100 percent funding for its NCB instruction based on FY 2021–22 data. The school met the requirements for a recommendation of 100 percent funding, as detailed in the table below:

Table of Expenditures and PTR for Guajome Learning Center

| **Criteria** | **Percentage Spent on Certificated Salaries and Benefits** | **Percentage Spent on Instruction and Related Services** | **PTR** |
| --- | --- | --- | --- |
| **100 Percent Funding** | ≥ 40 | ≥ 80 | ≤ 25 to 1 |
| **Charter School** | 97.97 | 111.18 | 16.00 |

## Conclusion

The CDE proposes to recommend that the SBE approve Guajome Learning Center’s reconsideration request and increase its current funding determination level from 85 percent to 100 percent for FY 2022–23 and FY 2023–24 as specified in Attachment 1.

If the school’s reconsideration request is approved, the school will be eligible to receive 100 percent funding for ADA generated through NCB instruction for FY 2022–23 and FY 2023–24.

## Attachments

* **Attachment 1:** Proposed Recommendation to Reconsider a Nonclassroom-Based Determination of Funding (1 Page)
* **Attachment 2:** Determination of Funding Request for Guajome Learning Center, Charter #1351 (9 Pages)
1. The PTR criteria outlined in this table pertain only to charter schools submitting NCB 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)