California Department of Education

Charter Schools Division

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**ADVISORY COMMISSION ON CHARTER SCHOOLS**

AN ADVISORY BODY TO THE STATE BOARD OF EDUCATION

# February 2021 AgendaItem #02

## Subject

Consideration of a Retroactive Request 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* 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 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 11963.6(c), any determination of funding request approved by the SBE for an existing NCB charter school must be submitted by February 1 and be prospective (i.e., submitted during the fiscal year [FY] prior to the year the funding determination will be effective). Retroactive determination of funding requests refer to requests that are submitted after the regulatory deadline and that require an approved SBE waiver to waive the aforementioned sections of 5 *CCR*.

Whitmore Union Elementary School District submitted a waiver (waiver number 5-9-2020) to the SBE on behalf of New Day Academy (charter #1920) requesting approval to submit a retroactive funding determination request. The waiver was initially scheduled to be heard by the SBE at its January 13–14, 2021, meeting; however, it was pulled from the agenda as additional clarifying information was needed from the district regarding the waiver. The CDE has received all clarifying information and plans to present the waiver to the SBE at its March 17–18, 2021, meeting. The school’s funding determination request may be acted on by the SBE if the SBE first approves the waiver at the same meeting.

## Proposed Recommendation

The CDE proposes to recommend that the SBE approve the determination of funding request at the percentage and for the time period specified for New Day Academy as provided in Attachment 1.

The CDE notes that its funding determination recommendation as well as the recommendation moved by the ACCS are contingent upon the SBE approving waiver number 5-9-2020 at its March 17–18, 2021, meeting.

## Brief Analysis of the Issue

NCB charter schools must request to obtain a determination of funding by the SBE to establish eligibility to receive apportionment funding. Pursuant to 5 *CCR* Section 11963.4(a), an NCB charter school may qualify for either 70 percent, 85 percent, or 100 percent full funding, or may be denied. 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 average daily attendance 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.

Pursuant to 5 *CCR* Section 11963.6(c), any determination of funding request approved by the SBE for an existing NCB charter school must be prospective (not for the current year) and submitted by February 1. The CDE received a completed determination of funding request from New Day Academy after the required February 1, 2020, deadline, thereby making the request retroactive, not prospective. Since the school did not submit a completed request by the regulatory filing deadline, it is required to request a waiver for SBE approval to allow the school to request a funding determination after the deadline. The waiver request is anticipated to be heard by the SBE at its March 17–18, 2021, meeting. Should the SBE approve the waiver, the SBE may then act on the school’s funding determination request.

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 that an existing NCB charter school submitting a first-time renewal request of its funding determination be approved for a period of three FYs.

## Attachments

* **Attachment 1:** Proposed Determination of Funding Recommendation for a Nonclassroom-Based Charter School (1 Page)
* **Attachment 2:** Determination of Funding Request for New Day Academy, Charter #1920 (9 Pages)