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

# June 2025 AgendaItem #01

## Subject

Consideration of Determination of Funding Requests 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 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*), 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.

This item considers the determination of funding requests from six charter schools.

## Proposed Recommendation

The CDE proposes to recommend that the SBE take the following actions:

1. Approve the determination of funding requests from the charter schools below at their requested levels of funding and for the time periods provided in Attachment 1:
	1. Chawanakee Academy Charter
	2. Clovis Online Charter
	3. Denair Charter Academy
	4. La Vida Charter
	5. Spring Lake Charter
2. Deny the determination of funding request from Phoenix Charter Academy College View.

## 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 school has obtained a funding determination from the SBE, and the information provided by the 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.

## Review of Funding Determination Requests

Based on reported fiscal data, all six charter schools presented in this item meet the regulatory criteria to qualify for their requested level of funding for their NCB instruction. Additionally, all charter schools presented in this item that are requesting a funding determination period of four or five years have had a funding determination approved by the SBE two or more times.

The CDE proposes to recommend that the SBE approve the determination of funding requests from five of the charter schools at the levels of funding and for the time periods provided in Attachment 1. Specifically, the CDE proposes to recommend that the determination of funding requests be approved for Chawanakee Academy Charter, Clovis Online Charter, Denair Charter Academy, La Vida Charter, and Spring Lake Charter.

### Phoenix Charter Academy College View (Charter Number 2126)

Although Phoenix Charter Academy College View (Phoenix) meets the regulatory criteria for its requested level of funding based on reported fiscal year 2022–23 audited data, the CDE proposes to recommend that the SBE deny Phoenix’s funding determination request, pursuant to 5 *CCR* Section 11963.4(a)(3), which provides for an exception to a recommendation for full funding when there is a reasonable basis to do so, even if the regulatory criteria have been met.

The CDE finds that approval of the request would improperly fund a new NCB charter school, which was established in direct violation of the moratorium on the establishment of new NCB charter schools under *EC* Section 47612.7(a). Specifically, *EC* Section 47612.7(a) provides the following:

Notwithstanding any other law and except as provided in subdivision (b), from January 1, 2020, to January 1, 2026, inclusive, the approval of a petition for the establishment of a new charter school, as defined in paragraph (2) of subdivision (e) of Section 47612.5, is prohibited.

*EC* Section 47612.5(e) provides the following:

(1) Notwithstanding any other law, and as a condition of apportionment, “classroom-based instruction” in a charter school, for purposes of this part, occurs only when charter school pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid certification document registered as required by law. For purposes of calculating average daily attendance for classroom-based instruction apportionments, at least 80 percent of the instructional time offered by the charter school shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 80 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a).

(2) For the purposes of this part, “nonclassroom instruction” or “nonclassroom-based instruction” means instruction that does not meet the requirements specified in paragraph (1). The state board may adopt regulations pursuant to paragraph (1) of subdivision (d) specifying other conditions or limitations on what constitutes nonclassroom-based instruction, as it deems appropriate and consistent with this part.

The petition to establish Phoenix as a classroom-based charter school, pursuant to *EC* Section 47605, was approved by the Governing Board of the Columbia Elementary School District on December 16, 2021, for a five-year term beginning July 1, 2022, through June 30, 2027. Phoenix began serving students in the 2022–23 fiscal year, during the moratorium on new NCB charter schools.

In its first year of operation, Phoenix’s classroom-based ADA fell below the 80 percent threshold set forth in *EC* Section 47612.5(e)(1). As a result, in the 2022–23 school year, Phoenix classified as an NCB charter school as defined in *EC* Section 47612.5(e)(2). To receive funding for the NCB instruction it provided, Phoenix requires an approved funding determination by the SBE, pursuant to *EC* Section 47612.5(d)(1).

As the Phoenix petition was granted by the Columbia Elementary School District and began serving students after January 1, 2020, when the prohibition on the establishment of new NCB charter schools was in effect, and offered instruction during its first year of operation that qualified as NCB, the CDE finds the approval of a funding determination would be inconsistent with the prohibition set out in *EC* Section 47612.7(a). Therefore, the CDE proposes to recommend that the SBE deny Phoenix’s funding determination request.

If Phoenix’s funding determination request is denied by the SBE, Phoenix will not receive funding for the NCB instruction that it provided in its first year of operation, 2022–23. Phoenix has adjusted its instruction in current years so that it provides at least 80 percent instruction in a classroom setting and now meets the definition of classroom-based instruction under *EC* Section 47612.5(e).

## Conclusion

In conclusion, the CDE proposes to recommend the following to the SBE:

1. Approve the determination of funding requests from the charter schools below at their requested levels of funding and for the time periods provided in Attachment 1:
	1. Chawanakee Academy Charter
	2. Clovis Online Charter
	3. Denair Charter Academy
	4. La Vida Charter
	5. Spring Lake Charter
2. Deny the determination of funding request from Phoenix Charter Academy College View.

If a charter school’s determination of funding request is approved, the charter school will be eligible to receive funding for its ADA generated through NCB instruction as approved by the SBE, pursuant to *EC* Section 47634.2(c).

If a charter school’s determination of funding request is denied, funds shall not be apportioned for ADA identified as being generated through NCB instruction.

## Attachments

* **Attachment 1:** Proposed Recommendations for Nonclassroom-Based Determination of Funding Requests (1 Page)
* **Attachment 2:** Determination of Funding Request from Chawanakee Academy Charter (Charter #1763) (13 Pages)
* **Attachment 3:** Determination of Funding Request from Clovis Online Charter (Charter #1006) (15 Pages)
* **Attachment 4:** Determin7ation of Funding Request from Denair Charter Academy (Charter #0357) (12 Pages)
* **Attachment 5:** Determination of Funding Request from La Vida Charter (Charter #0822) (11 Pages)
* **Attachment 6:** Determination of Funding Request from Phoenix Charter Academy College View (Charter #2126) (16 Pages)
* **Attachment 7:** Determination of Funding Request from Spring Lake Charter (Charter #0525) (12 Pages)
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)