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

# April 2025 AgendaItem #02

## Subject

Consideration of Determination of Funding Requests with “Reasonable Basis”/Mitigating Circumstances 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 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).

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. The ACCS may include the consideration of mitigating circumstances in conjunction with a recommendation to the SBE, pursuant to 5 *CCR* Section 11963.4(e).

This item considers determination of funding requests with mitigating circumstances from six charter schools.

## Proposed Recommendation

The CDE proposes to recommend that the SBE take the following actions, which are further detailed in Attachment 1:

1. Approve the determination of funding requests for five charter schools at a funding level higher than what they qualify to receive pursuant to regulatory criteria, for two years
2. Approve the determination of funding request for one charter school at the funding level for which it qualifies to receive pursuant to regulatory criteria, for two years.

## 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 |

### Mitigating Circumstances

The ACCS may find that there is a “reasonable basis” (also referred to as mitigating circumstances) by which to make a recommendation other than what a charter school qualifies to receive for its NCB instruction based on the criteria specified in 5 *CCR* Section 11963.4(a). Specifically, 5 *CCR* Section 11963.4(e) allows the ACCS to consider “documented data regarding individual circumstances of the charter school” and provides examples of the types of mitigating circumstances that the ACCS might consider, which may include, but are not limited to, the following:

* Information provided by the charter school, pursuant to 5 *CCR* Section 11963.3(b)(2) through (8)
	+ PTR, calculated pursuant to 5 *CCR* Section 11704
	+ Listing of entities receiving $50,000 or 10 percent or more of total expenditures
	+ Identification of governing board members
	+ Explanation of outgo transfers; explanation of reserves, if over the allowable amount
	+ Facility costs and square footage
	+ Number of full-time equivalent (FTE) employees with a valid teaching certificate
* Documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a charter school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education)
* The size of the charter school
* The number of years the charter school has been in operation

Additionally, under 5 *CCR* Section 11963.4(e), the ACCS shall give charter schools with less than a total of 100 units of prior year second period ADA or that are in their first year of operation serious consideration of 100 percent funding for their NCB instruction.

When considering a charter school’s request for mitigating circumstances, the CDE also reviews other information provided by the charter school as a part of its determination of funding request. Additionally, the CDE may consider a charter school’s previous requests that included mitigating circumstances.

### 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.

For a charter school requesting the consideration of mitigating circumstances, the CDE typically recommends a funding determination period of two years. A period of two years allows the CDE to revisit a charter school’s funding determination sooner, ensure that the charter school meets the expenditure criteria for its approved level of funding for its NCB instruction, and follow up on other matters reported by the charter school in its determination of funding request.

## Review of Funding Determination Requests

Based on reported fiscal year (FY) 2023–24 data, the charter schools presented in this item do not meet the regulatory requirements to qualify for their requested level funding of 100 percent for their NCB instruction without the consideration of mitigating circumstances. A summary of each charter school’s mitigating circumstances as well as links to each charter school’s determination of funding request, is provided below.

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 approved at a funding level lower than requested, the CDE notes that pursuant to 5 *CCR* Section 11963.6(g),

If, during the effective period of a determination of funding, 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. During the effective period of a charter school's determination of funding, no more than one additional determination of funding request (which would replace the determination of funding then in effect) may be submitted by the charter school in the same fiscal year.

### Recommendations for Approval of a Higher Level of Funding

The CDE finds a reasonable basis for the charter schools included in this section to be approved for a higher level of funding than for which they qualify to receive and proposes to recommend that the charter schools receive the following levels of funding for their NCB instruction for two years.

#### Fusion Charter (Charter #1695)

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR as reported in its determination of funding request.

Fusion 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** | 40.31 | 71.39 | 18.91 to 1 |

Without the consideration of mitigating circumstances, the charter school qualifies for 85 percent funding for its NCB instruction.

The charter school’s complete determination of funding request with mitigating circumstances is provided on the April 2025 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr25item02a2.docx>. Mitigating circumstances cited by the charter school include the following:

* The charter school received one-time federal and state funding from the following sources: Learning Communities for School Success Program, Every Student Succeeds Act School Improvement Funding for LEAs, Arts and Music in Schools funding, and American Rescue Plan - Homeless Children and Youth.

The CDE finds that there is a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria. The charter school received $247,247 in one-time funding that had a direct impact on the charter school’s expenditure calculations. Had the one-time funding not been received, the charter school’s expenditure calculations would have been 45.26 percent and 80.15 percent, which meets the expenditure criteria for full funding.

The CDE therefore proposes to recommend that the charter school receive 100 percent funding for its NCB instruction for two years.

#### Learning Works (Charter #1031)

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR as reported in its determination of funding request.

Learning Works 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** | 37.51 | 83.29 | 18.80 to 1 |

Without the consideration of mitigating circumstances, the charter school qualifies for 70 percent funding for its NCB instruction.

The charter school’s complete determination of funding request with mitigating circumstances is provided on the April 2025 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr25item02a3.docx>. Mitigating circumstances cited by the charter school include the following:

* The charter school was unable to fill a certificated staff position.

The CDE finds that there is a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria. The charter school estimates that had the open position been filled, the charter school would have spent an additional $106,250 on instruction and related services. The CDE notes that this would have caused the charter school’s calculated expenditure percentages to be 40.67 percent and 86.45 percent, which would qualify the charter school for a 100 percent funding recommendation.

The CDE therefore proposes to recommend that the charter school receive 100 percent funding for its NCB instruction for two years.

#### Maidu Virtual Charter Academy (Charter #1976)

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR as reported in its determination of funding request.

Maidu Virtual Charter Academy 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** | 67.81 | 70.70 | 15.82 to 1 |

Without the consideration of mitigating circumstances, the charter school qualifies for 85 percent funding for its NCB instruction.

The charter school’s complete determination of funding request with mitigating circumstances is provided on the April 2025 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr25item02a4.docx>. Mitigating circumstances cited by the charter school include the following:

* The charter school states that it had one-time restricted funds to spend down.
* The charter school is in the process of relocating to a larger space with an estimated cost of $250,000 in renovations to take place during the summer of 2025.
* The charter school is in the process of adding an Early College Program for the 2025–26 school year.

The CDE finds that there is a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria. Pursuant to 5 *CCR* Section 11963.4(e), one-time or unique or exceptional expenses for facilities may provide a reasonable basis for a recommendation other than one that results from the regulatory criteria. The charter school estimates that the cost of renovations will be $250,000. If this amount were instead spent on instruction and related services, the charter school’s calculated expenditure percentages would have been 67.81 percent and 84.92 percent, which would qualify the charter school for a 100 percent funding recommendation. Additionally, the charter school anticipates that its instructional expenditures in future years will increase with the addition of its Early College Program.

The CDE therefore proposes to recommend that the charter school receive 100 percent funding for its NCB instruction for two years.

#### Northwest Prep Charter (Charter #0526)

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR as reported in its determination of funding request.

Northwest Prep 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** | 37.71 | 50.15 | 21.76 to 1 |

Without the consideration of mitigating circumstances, the charter school’s determination of funding request shall be recommended for denial, which would mean the charter school would not receive funding for its NCB instruction.

The charter school’s complete determination of funding request with mitigating circumstances is provided on the April 2025 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr25item02a5.docx>. Mitigating circumstances cited by the charter school include the following:

* The charter school received one-time federal and state funding from the following sources: Elementary and Secondary School Emergency Relief III, Expanded Learning Opportunities, and Governor’s Emergency Education Relief.
* The charter school was unable to fill two teaching positions.

The CDE finds that there is a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria. The charter school states it received a total of $62,961 in one-time federal and state funding. The charter school also estimates that that had the open positions been filled, the charter school would have spent an additional $284,000 on instruction and related services. The CDE notes that had the one-time funding been excluded and the open positions been filled, the charter school’s calculated expenditure percentages would have been 53.08 percent and 65.67 percent, which would qualify the charter school for a 70 percent funding recommendation.

The CDE proposes to recommend that the charter school receive 70 percent funding for its NCB instruction for two years.

#### Uncharted Shores Academy (Charter #0859)

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR as reported in its determination of funding request.

Uncharted Shores Academy 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** | 36.93 | 82.82 | 22.87 to 1 |

Without the consideration of mitigating circumstances, the charter school qualifies for 70 percent funding for its NCB instruction.

The charter school’s complete determination of funding request with mitigating circumstances is provided on the April 2025 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr25item02a7.docx>. Mitigating circumstances cited by the charter school include the following:

* The charter school received one-time federal and state funding from the following sources: Elementary and Secondary School Emergency Relief II, Learning Recover Block Grant, Arts, Music, & Instructional Materials Block Grant, Universal PK, and Expanded Learning Opportunities.

The CDE finds that there is a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria. The charter school received $676,152.45 in one-time funding that had a direct impact on the charter school’s expenditure calculations. Had the one-time funding not been received, the charter school’s expenditure calculations would have been 43.58 percent and 97.72 percent, which meets the expenditure criteria for full funding.

The CDE therefore proposes to recommend that the charter school receive 100 percent funding for its NCB instruction for two years.

### Recommendation for Approval of the Funding Level for Which It Qualifies

The CDE does not find a reasonable basis for the charter school in this section to be funded at a higher level of funding than for which it qualifies. As such, the CDE proposes to recommend that the SBE deny the charter school’s request to consider mitigating circumstances and approve its determination of funding request at the funding level for which it qualifies pursuant to regulations, for two years.

#### Tehama eLearning Academy (Charter #0430)

The following table provides the regulatory criteria for funding levels and the charter school’s expenditures percentage calculations and PTR as reported in its determination of funding request.

Tehama eLearning Academy 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** | 41.03 | 62.04 | 23.18 to 1 |

Without the consideration of mitigating circumstances, the charter school qualifies for 70 percent funding for its NCB instruction.

The charter school’s complete determination of funding request with mitigating circumstances is provided on the April 2025 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-apr25item02a6.docx>. Mitigating circumstances cited by the charter school include the following:

* The charter school increased FTE, filled vacant positions, and increased salary schedules by 7.5 percent.
* The charter school added a medical pathway for Career and Technical Education offerings.
* The charter school purchased a new vehicle.
* The charter school started door-to-door transportation for students.
* The charter school cites periods of turnover.
* The charter school was unable to obtain a mobile Career and Technical Education unit due to delays in production and delivery.
* The charter school states that a virtual curriculum has “reduced the expenditures” compared to “traditional deliverables”.
* The charter school has been working toward becoming a “Trauma Informed School” and that this redirected attention from other initiatives.

The CDE does not find a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria. While the charter school states in its request that it made certain adjustments, such as increasing FTE, filling vacant positions, increasing salary schedules, and making purchases, the charter school has clarified that many of these adjustments were made during or before FY 2023–24, which is the FY that the financial information in the determination of funding request is based on, yet the charter school was unable to meet the expenditure requirements.

Additionally, the CDE notes that the charter school has sizable reserves that continue to grow. In the charter school’s previous determination of funding request based on FY 2021–22 data, the charter school had reported total reserves of $2,427,897, or 161.30 percent of total expenditures. In the charter school’s current request, based on 2023–24 data, the charter school reported total reserves of $3,746,987, or 189.56 percent of total expenditures. The charter school projects that its reserves will grow to $3,836,393 in FY 2024–25. The CDE finds that this information demonstrates a trend of increasing reserves, and the charter school has not provided a satisfactory explanation for the reserves pursuant to 5 *CCR* Section 11963(a)(5)(F). While the charter school cited purchases that it intends to make, such as a mobile Career and Technical Education unit estimated at $150,000 and professional development estimated at $60,000, deferred maintenance estimated at $100,000, vehicle replacements estimated at $300,000 every five years, and device replacements for staff and students estimated at $40,000 every three years, the CDE finds that the charter school’s overall explanation to not be satisfactory considering the total amount of the reserves and the projection that they will increase.

The CDE finds that the charter school has not otherwise established a reasonable basis to recommend a higher level of funding than what the charter school qualifies for according to the regulatory criteria.

The CDE therefore proposes to recommend that the charter school receive the funding level that the charter school qualifies for based on criteria, 70 percent, for its NCB instruction for two years.

## Attachments

* **Attachment 1:** Proposed Recommendations for Nonclassroom-Based Determination of Funding Requests (1 Page)
* **Attachment 2:** Determination of Funding Request from Fusion Charter (Charter #1695) (14 Pages)
* **Attachment 3:** Determination of Funding Request from Learning Works (Charter #1031) (15 Pages)
* **Attachment 4:** Determination of Funding Request from Maidu Virtual Charter Academy (Charter #1976) (14 Pages)
* **Attachment 5:** Determination of Funding Request from Northwest Prep Charter (Charter #0526) (13 Pages)
* **Attachment 6:** Determination of Funding Request from Tehama eLearning Academy (Charter #0430) (14 Pages)
* **Attachment 7:** Determination of Funding Request from Uncharted Shores Academy (Charter #0859) (16 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)