



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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LEGAL UPDATE

November 22, 2021

To: Superintendents, Member School Districts (K-12)

From: Loren W. Soukup *LS*
Senior Associate General Counsel

Subject: Existing Charter Schools Offering Independent Study Must
Apply for Nonclassroom-Based Funding Determination by
February 1, 2022
Memo No. 40-2021

On November 9, 2021, the California Department of Education (“CDE”), Charter School Division, updated its Nonclassroom-Based Determination of Funding web page in light of the passage of Assembly Bill 98 and Section 75 of Senate Bill 820.¹ The update included CDE’s Charter School Funding for Nonclassroom-Based Instruction for Fiscal Year 2021-22 letter, dated August 13, 2021² and Nonclassroom-Based Charter Schools Determination of Funding Request for the Fiscal Year 2021-22 letter, dated November 3, 2021.³

Included in the update is an acknowledgment by CDE that current law requires existing charter schools offering independent study (compliant with Assembly Bill 130)⁴ to apply for a nonclassroom-based funding determination if their classroom-based ADA falls below 80%. In order to obtain a funding determination, the request must be heard by the State Board of Education (“SBE”) at its May 18-19, 2022 meeting, which requires the charter school to submit the request to the SBE on or before February 1, 2022.

The failure to obtain a timely funding determination will result in the charter school being ineligible to receive funding for their nonclassroom-based ADA for the 2021-22 Second Principal (P-2) Apportionment and any funding withheld at P-2 will not be adjusted until the following Fiscal Year P-1 certified in February 2023.

¹ <https://www.cde.ca.gov/sp/ch/nclrbifunddet.asp>
² <https://www.cde.ca.gov/sp/ch/cbfdlrfy2122.asp>
³ <https://www.cde.ca.gov/sp/ch/ncbfdlrfy2022.asp>
⁴ <https://www.cde.ca.gov/sp/eo/is/changesisab130.asp>



This information is of significant importance to school districts operating existing charter schools whose independent study will exceed 20% of their classroom-based ADA. It is recommended that charter schools whose classroom-based ADA is at or below 85% at P-1 submit the nonclassroom-based funding request to ensure that a funding determination is made within the required timelines.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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