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Date: January 15, 2002

To: County and District Superintendents  
County and District Chief Business Officials  
Charter School Administrators

From: Janet Sterling, Director  
School Fiscal Services Division

Subject: Required Funding Determinations for Nonclassroom-based Charter  
Schools (Implementation of Senate Bill 740)

This letter provides forms and instructions for charter schools that offer nonclassroom-based instruction, to meet the requirements of Senate Bill (SB) 740 (Chapter 892, Statutes of 2001).

Senate Bill 740 amends *Education Code* Section 47612.5 and adds *Education Code* Section 47634.2 to make significant changes to the funding process, and to enact possible funding reductions, for charter schools that offer nonclassroom-based instruction. Nonclassroom-based instruction occurs when a school does not require attendance of its pupils be at the school site under the direct supervision and control of a qualified teaching employee of the school for at least 80 percent of the required instructional time.

Pursuant to this new law, **a charter school is prohibited from receiving any funding for nonclassroom-based instruction, unless the State Board of Education (SBE) determines its eligibility for funding.** The law also provides the SBE with the authority to adjust the apportionment of charter schools for average daily attendance (ADA) generated through nonclassroom-based instruction in the current and subsequent fiscal years. For the 2001-02 school year, the law limits any funding reduction for a school to no more than 10 percent. (However, in his signature message for SB 740, the Governor requested that the SBE impose no greater than a 5 percent reduction.)

The SBE has adopted emergency regulations to implement this new requirement. These regulations define classroom-based instruction as occurring when **all** of the following four conditions are met:

- 1) The charter school's pupils are engaged in education activities required of those pupils, and the pupils are under the immediate supervision and control of an employee of the charter school who is authorized to provide instruction to the pupils within the meaning of *Education Code* Section 47605(l);

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- 2) At least 80 percent of the instructional time offered at the charter school is at the school site;
- 3) The charter's school site is a facility that is used principally for classroom instruction; and
- 4) The charter school requires its pupils to be in attendance at the school site at least 80 percent of the minimum instructional time required pursuant to *Education Code* Section 47612.5(a)(1).

Furthermore the regulations define "at the school site" as satisfied if the facility in which the pupils receive instruction meets **any** of the following conditions:

- 1) The facility is owned, rented, or leased by the charter school principally for classroom instruction;
- 2) The facility is provided to the charter school by a school district pursuant to *Education Code* Section 47614 principally for classroom instruction; or
- 3) The facility is provided to the charter school free-of-charge principally for classroom instruction pursuant to a written agreement.

However, in no instance may a school site be an individual's personal residence.

Any charter school that does not meet all of the requirements for classroom-based instruction and at least one of the school site conditions is considered to offer nonclassroom-based instruction and must submit a determination of funding request form. **If a charter school offers nonclassroom-based instruction, as defined, and does not submit this form, the school will automatically lose some or all of its state funding.**

Attached is the "SB 740 Funding Determination Form for Fiscal Year 2001-02" and instructions. This form must be completed and **returned to the CDE no later than February 13, 2002.** The SBE will be making funding determinations at its March 2002 meeting. The funding determination form should be mailed to:

California Department of Education  
School Fiscal Services Division  
560 J Street, Suite 170  
Sacramento, CA 95814  
Attn: Charter Schools Office

Forms may also be faxed by February 13, 2002 to (916) 322-1465, with the original form to follow in the mail to the above address.

Each charter school is strongly encouraged to review these regulations and the new law to determine if its provisions apply to the charter school. A copy of the regulations may be

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found on our web site at [www.cde.ca.gov/charter/regs/](http://www.cde.ca.gov/charter/regs/). A complete copy of SB 740 may be found at [www.assembly.ca.gov/acs/acsframeset2text.htm](http://www.assembly.ca.gov/acs/acsframeset2text.htm).

For assistance in providing the financial data on the form, charter schools should contact their chartering agencies, and refer to the California School Accounting Manual on our web site at [www.cde.ca.gov/fiscal/sacs/csam](http://www.cde.ca.gov/fiscal/sacs/csam). For questions regarding SB 740, the emergency regulations, or whether your charter school should submit the attached funding determination form, please contact the Charter Schools Office at (916) 322-6029.