

FAILED

DIRECTOR WILLIAMS AMENDMENT TO DIRECTOR GONZALES MOTION

**THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2122-0195A

**Finding That Yu Ming Charter School Cannot Be Accommodated At A Single Site and
Written Statement Of Reasoning; Adopting Issuance of Proposition 39 Facilities Offer at
Franklin and Prescott and Directing Staff to Issue Written Final Offer in Compliance with
Proposition 39**

WHEREAS, on November 7, 2000, California voters passed Proposition 39, which mandates that school districts make facility space available to in-district charter school students, if certain eligibility requirements are met, in a manner that ensures that public school facilities are shared fairly among all students attending traditional and charter schools;

WHEREAS, Education Code section 47614 and its interpreting regulations (Cal. Code Regs., tit. 5, section 11969.1 *et seq.*) (collectively “Proposition 39”) require a school district to make available, to each eligible charter school operating therein, facilities sufficient for the charter school to accommodate all of the charter school’s in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending traditional public schools of the district;

WHEREAS, Education Code section 47614 requires that the facility offered to the charter school be contiguous, furnished, and equipped;

WHEREAS, Cal. Code Regs., tit. 5, § 11969.2(d) states that “facilities are ‘contiguous’ if they are contained on the school site or immediately adjacent to the school site”;

WHEREAS, Cal. Code Regs., tit. 5, section § 11969.2(d) requires that “[i]f the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety”;

WHEREAS, Cal. Code Regs., tit. 5, § 11969.2(d) requires the Board to make a finding if a charter school cannot be accommodated at a single site, and adopt a written statement of reasons explaining the finding, should the District offer the charter school facilities on a non-contiguous site;

WHEREAS, District staff has evaluated all feasible facilities allocation options and considered capacity, condition, location, and other relevant factors using a set of “comparison schools” as a point of reference in order to make preliminary offers to charter schools that meets Proposition 39 standards for “reasonable equivalence”;

WHEREAS, Cal. Code Regs., tit. 5, § 11969.3 states that OUSD “is not obligated to pay for the modification of an existing school site to accommodate the charter school’s grade level configuration”;

WHEREAS, in determining reasonable equivalent facilities allocations to charter schools and in meeting their Proposition 39 obligations, school districts have the discretion to consider the impact upon existing district programs (*see, e.g., Los Angeles Intern. Charter High School v. Los Angeles* (2012) 209 Cal.App.4th 1348; *Westchester Secondary Charter School v. Los Angeles* (2015) 237 Cal.App.4th 1226);

WHEREAS, in making an allocation of space, the District attempts to place a charter school applicant on one school site or, when that is not feasible, alternatively attempts to minimize the number of school sites on which the charter school applicant is placed;

WHEREAS, for the 2022-23 school year, 10 charter schools requested facilities under Proposition 39, including Yu Ming Charter School (“Yu Ming”);

WHEREAS, as provided in the Final Staff Report entitled “Process for Determining that Yu Ming Charter School Cannot Be Accommodated at a Single School Site for 2022-23 School Year” (“Staff Report”) which is attached hereto as Appendix A and incorporated by reference herein, the District cannot accommodate single site offers for Yu Ming;

WHEREAS, the District can provide Yu Ming with a multi-site offer of reasonably equivalent facilities; and

WHEREAS, the Staff Report describes the basis for the District to offer Yu Ming a final offer of facilities on or before April 1, 2022 at the following sites:

- Franklin Elementary, 915 Foothill, Oakland, CA
- Prescott Elementary, 920 Campbell, Oakland, CA.

NOW, THEREFORE, BE IT RESOLVED, the Board of Education (“Board”) hereby allocates the following school sites to be the Final Offer of Facilities provided to Yu Ming for the 2022-23 school year under Proposition 39:

- Franklin Elementary, 915 Foothill, Oakland, CA
- ~~Community Day School, 4917 Mountain Boulevard, Oakland, CA~~
- ~~Prescott Elementary, 920 Campbell, Oakland, CA~~

BE IT FURTHER RESOLVED, the Board hereby directs the Superintendent or designee to issue the Final Offer of Facilities to Yu Ming under Proposition 39 as described herein by the required deadline and to add and resolve any additional details (e.g., space provided at each site, site selection rationale, specific room selection) to the Final Offer documents sent to Yu Ming; and

BE IT FURTHER RESOLVED, for the reasons set forth herein and as further expressed in the Staff Report, the Board hereby finds, determines, declares, orders, and resolves, in accordance with Proposition 39, that the District cannot accommodate the in-district average daily classroom

attendance of Yu Ming at a single school site for the 2022-23 school year and that the Final Offer of Facilities to Yu Ming minimizes the number of sites offered and considers the factors as permitted under Proposition 39.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 30YH day of March 30, 2022, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSED: None

AYES: VanCedric Williams, Vice President Benjamin “Sam” Davis

NOES: Aimee Eng, Mike Hutchinson, Shanthy Gonzales, Clifford Thompson, President Gary Yee

ABSTAINED: None

RECUSED: None

ABSENT: Samantha Pal (Student Director), Natalie Gallegos Chavez (Student Director)

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at the Meeting of the Board of Education of the Oakland Unified School District held on _____, 2022.

Legislative File	
File ID Number:	22-0575
Introduction Date:	3/23/2022
Enactment Number:	
Enactment Date:	

OAKLAND UNIFIED SCHOOL DISTRICT

Gary Yee
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education