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OAKLAND UNIFIED
SCHOOL DISTRICT

Memo

To Board of Education

From Marion McWilliams, General Counsel
Andrea Epps, Staff Attorney
David Montes de Oca, Deputy Chief
Silke Bradford, Ed.D, Director

Board Meeting Date January 25, 2017

Subject Findings that the Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding

Action Requested Approval of Board Resolution 1617-0009 Findings that the Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding.

Background California regulations require findings and written statement of reasons by the Board of Education in the event a charter school, eligible for Proposition 39 facilities, makes a timely request and the District is not able to accommodate the charter school's request at a single school site.

Discussion For the 2017-2018 school year, the District received Proposition 39 facility requests from 16 charter schools. The District identified an inventory of facility spaces that are available to fulfill these requests. In matching the District's available space with charter school requests, the District considered many factors, including prioritizing no displacement of existing OUSD or charter school programs, safety, instructional and social implications as well as compatibility of the following features:

- The quantity of classroom space requested
- The grades served by the program
- The grades served by other programs, if co-located
- The school program and any identified special features; and
- The location requested

For the 2016-2017 school year, the following charters, under multi-year in lieu of Proposition 39 lease agreements, will continue to occupy single District sites:

- Community School for Creative Education
- Bay Area Technology School
- Roses in Concrete

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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

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Discussion For the 2017-2018 school year, the District received Proposition 39 facility requests from 16 charter schools. The District identified an inventory of facility spaces that are available to fulfill these requests. In matching the District's available space with charter school requests, the District considered many factors, including prioritizing no displacement of existing OUSD or charter school programs, safety, instructional and social implications as well as compatibility of the following features:

- The quantity of classroom space requested
- The grades served by the program
- The grades served by other programs, if co-located
- The school program and any identified special features; and
- The location requested

For the 2016-2017 school year, the following charters, under multi-year in lieu of Proposition 39 lease agreements, will continue to occupy single District sites:

- Community School for Creative Education
- Bay Area Technology School
- Roses in Concrete



- East Bay Innovation Academy
- Oakland Military Institute College Preparatory Academy
- Leadership Preparatory School Oakland R & D
- Education for Change – Lazear Academy
- Education for Change - Learning without Limits
- Education for Change - Ascend Charter School
- Education for Change- Achieve Academy
- Education for Change- Cox Academy
- KIPP Bridge Charter School
- Urban Montessori Charter School
- Yu Ming Charter School
- Aspire Berkley Maynard Academy

As provided in the Staff Report which is attached to the Resolution for the 2017-2018 school year, the District cannot accommodate single site offers for the following charter schools:

- American Indian Public Charter School II
- East Bay Innovation Academy
- Lodestar: A Lighthouse Community Charter Public School
- Envision Academy
- Aspire ERES Academy
- Conservatory of Vocal/Instrumental Arts

The Staff Report outlines the process used by the District to determine the multi-site offers to the charter schools that could not be accommodated at a single site.

Recommendation

Approval of Board Resolution 1617-0009 Finding that the Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Findings.

Fiscal Impact

n/a

Attachments

- Resolution
- Staff Report

**RESOLUTION OF THE BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
RESOLUTION No. 1617-0009**

**Finding that Charter Schools Could Not Be Accommodated at a Single Site and
Written Statement of Reasons Explaining the Finding
(Cal. Code Regs., tit. 5, § 11969.2, subd. (d))**

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 share 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 schools' in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other 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;" and

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"; and

WHEREAS, Cal. Code Regs., tit. 5, § 11969.2(d) requires the Board to make a finding that the charter school could not 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; and

WHEREAS, District staff has evaluated all feasible facilities allocation options, and considered capacity, condition, location and other relevant factors, using as a point of reference a set of "comparison schools" as required by Proposition 39, to offer a facility to the Charter School that meets Proposition 39 standards for "reasonable equivalence" in terms of "capacity" and "condition"; and

WHEREAS, Cal. Admin. Code tit. 5, § 11969.3 states that "[t]he district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration"; and

WHEREAS, school districts have the discretion, in determining reasonable equivalent facilities allocations to charter schools, and in meeting their Proposition 39 obligations, to

consider the impact upon existing district programs. (*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); and

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; and

WHEREAS, in making an allocation of space, the District materially considers the safety implications to charter school students of making a multi-site offer and balances the safety, instructional, and social consequences of displacing children from their neighborhood District schools, as well as the burdens associated with such an action on their parents and the community; and

WHEREAS, for the 2017-2018 school year, 16 charter schools requested facilities under Proposition 39; and

- American Indian Public Charter School I (6-8)
- American Indian Public Charter School II (K-8)
- American Indian Public High School (9-12)
- Aspire ERES Academy (K-8)
- Aspire Berkley Maynard Academy
- Aurum Preparatory Academy
- Castlemont Primary Academy
- Conservatory of Vocal/Instrumental Arts (K-8)
- East Bay Innovation Academy (6-12)
- Envision Academy of Arts and Technology (9-12)
- Francophone Charter School of Oakland (K-5)
- Lodestar: A Lighthouse Community Charter Public School
- Leadership Preparatory School Oakland R&D
- East Oakland Leadership Academy (K-8)
- Oakland Charter High School
- Yu Ming Charter School

WHEREAS, for the 2017-2018 school year, the following charters, under multi-year in lieu of Proposition 39 lease agreements, will continue to occupy single District sites;

- Community School for Creative Education
- Bay Area Technology School
- Roses in Concrete
- East Bay Innovation Academy
- Oakland Military Institute College Preparatory Academy
- Leadership Preparatory School Oakland R & D
- Education for Change – Lazear Academy
- Education for Change - Learning without Limits
- Education for Change - Ascend Charter School
- Education for Change- Achieve Academy
- Education for Change- Cox Academy

- KIPP Bridge Charter School
- Urban Montessori Charter School
- Yu Ming Charter School
- Aspire Berkley Maynard Academy

WHEREAS, for the 2017-2018 school year, the District will make Proposition 39 single site offers to the following charter schools;

- American Indian Public Charter School I
- American Indian Public High School
- East Oakland Leadership Academy
- Francophone Charter School of Oakland

WHEREAS, the District will make Proposition 39 multi-site offers to the following charter schools:

- American Indian Public Charter School II
- East Bay Innovation Academy
- Lodestar: A Lighthouse Community Charter Public School
- Envision Academy
- Aspire ERES Academy
- Conservatory of Vocal/Instrumental Arts

WHEREAS, on or before February 1, 2017, charter schools shall receive a Preliminary Offer of Facilities under Proposition 39;

WHEREAS, as provided in the Staff Report which is attached hereto as Appendix A and incorporated by reference herein, the District cannot accommodate a single site offer for some charter schools;

WHEREAS, District staff determined that to house all of the students at a single District location would not be feasible or in the best interests of all students, in-District and charter schools alike;

WHEREAS, having analyzed the available space in the specific area where charter schools wish to locate, the District is unable to extend a single site offer at their desired school site;

WHEREAS, having then expanded the search to other schools in the geographic area where the charter wishes to be located and beyond, the District determined that it cannot accommodate the charter's entire student population on a single site for the 2017-2018 school year;

WHEREAS, the District can provide charter schools with multi-site offers of reasonably equivalent facilities;

WHEREAS, the Staff Report recommends the District offer the following charter school a preliminary offer of facilities on or before February 1, 2017 involving co-location at the following sites;

- American Indian Public Charter School II
 - Allendale Elementary School
3670 Penniman Avenue, Oakland, CA 94619
 - Skyline High School
12250 Skyline Boulevard, Oakland, CA 94619
 - Carl B. Munck Elementary School
11900 Campus Drive, Oakland, CA 94619
 - Howard Elementary
755 Fontaine St, Oakland, CA 94605
 - Garfield Elementary School
1640 22nd Avenue, Oakland, CA 94606
- East Bay Innovation Academy
 - Marshall Elementary School
3400 Malcolm Avenue, Oakland, CA 94605
 - Roosevelt Middle School
1926 19th Avenue, Oakland, CA 94606
- Lodestar: A Lighthouse Community Charter Public School
 - Fruitvale Elementary School
3200 Boston Avenue, Oakland, CA 94602
 - Rise Elementary School
8521 A Street, Oakland, CA 94621
 - Brookfield Elementary School
401 Jones Avenue, Oakland, CA 94603
 - Franklin Elementary School
915 Foothill Boulevard, Oakland, CA 94606
- Envision Academy
 - Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607
 - Alliance Academy
1800 98th Avenue, Oakland, CA 94603
 - Westlake Middle School
2629 Harrison Street, Oakland, CA 94612
- Aspire ERES Academy
 - Markham Elementary
7220 Krause Avenue, Oakland, CA 94605
 - East Oakland Pride Elementary School
8000 Birch Street, Oakland, CA 94621
- COVA (Conservatory of Vocal/Instrumental Arts)
 - Bret Harte Middle School
3700 Coolidge Avenue, Oakland, CA 94602
 - Montera Middle School
5555 Ascot Drive, Oakland, CA 94611

WHEREAS, the Board incorporates into this Resolution the 2017-18 Staff Report "Finding that Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding," which is attached hereto as Appendix A;

WHEREAS, based on historical precedent, the District anticipates that the number of multi-site offers will decrease between the issuance of the preliminary and final offers. For the 2016-2017 school year, the District initially received 14 requests for facilities, resulting in a number of multi-site preliminary offers. Because a number of charter schools withdrew their requests, or entered into agreements in lieu of Proposition 39, the District ultimately issued 4 Final Offers for 2016-2017, and only 2 of the 4 Final Offers included multi-site offers because the decreased number of requests resulted in the number of potential sites for the requesting charter schools to increase.

NOW, THEREFORE, the Board of the District hereby finds, determines, declares, orders and resolves in accordance with Cal. Admin. Code tit. 5, § 11969.2(d), for the reasons set forth herein and as further expressed by District Staff in the Staff Report, the Board of Education finds that the District cannot accommodate the in-district average daily classroom attendance of some charter schools at a single school site for the 2017-18 school year;

AND BE IT FURTHER RESOLVED, that The District has considered student safety and has minimized to the extent possible the number of sites at which charter schools would be located.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 25th day of January, 2017, by the following vote, to wit:

AYES: Roseann Torres, Aimee Eng, Shanthi Gonzales, Jody London, Jumoke Hinton Hodge, Vice President Nina Senn, President James Harris

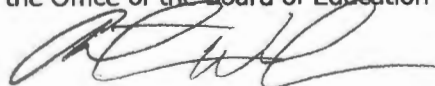
NOES: None

ABSTAINED: None

ABSENT: None

CERTIFICATION

I hereby certify that the foregoing Resolution was duly approved and adopted by the Board of Education of said district at a meeting thereof held on the 25th day of January, 2017, with a copy of such Resolution being on file in the Office of the Board of Education of said district.



Antwan Wilson, Superintendent and Board Secretary

Staff Report

Process for Determining that Charter Schools
Cannot Be Accommodated at a Single School
Site for 2017-2018 School Year

Staff Report

Process for Determining Charter Schools That Cannot Be Accommodated at a Single Site for the 2016-2017 School Year

Proposition 39:

Education Code section 47614 ("Proposition 39") requires that OUSD provide reasonably equivalent facilities to charter schools that meet the requirements for eligibility. Education Code section 47614(a) states that "public school facilities should be shared fairly among all public school pupils, including those in charter schools."

Specifically, Education Code section 47614(b) provides that:

Each school district shall make available, to each charter school operating in the school district, 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 other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

Education Code section 47614(b)(4) states that "[f]acilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district."

Under the regulations implementing Proposition 39, facilities shall be considered contiguous "if they are contained on the school site or immediately adjacent to the school site." (Cal. Admin. Code tit. 5, § 11969.2.) Under the regulations, a school district making a non-contiguous facilities offer must make certain findings. Specifically:

If 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 ... [T]he district's governing board must first make a finding that the charter school could not be accommodated at a single site and adopt a written statement of reasons explaining the finding.

Impact on Existing District Students and Programs:

California courts have recognized that school districts are not obligated to ignore the potential impact of meeting Proposition 39 obligations on district students and programs. The court in

Westchester Secondary Charter School v. Los Angeles Unified School District (2015) 237 Cal.App.4th 1226 interpreted the provision in Proposition 39 that “[t]he school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate.” (Education Code section 47614(b).) The Court rejected the charter school’s attempts to second-guess the district’s other facilities allocations, including a decision to place a district pilot program, and not the charter school, at the charter school’s second choice campus; the decision not to place both the district pilot program and the charter school at the second choice campus; the decision not to eliminate “set-asides” (classrooms used for purposes other than general education) to free up more classrooms; and not placing the charter school at a closed adult education school site. In reaching its ruling, the Court recognized that school districts must have the discretion to balance the impact on district programs in meeting their obligations to provide reasonably equivalent facilities to charter school students under Proposition 39. “In sum, the law requires the District to treat charter and noncharter students fairly, but not favor one group over the other,” the court stated.

The Court in *Los Angeles Intern. Charter High School v. Los Angeles Unified School Dist.* (2012) 209 Cal.App.4th 1348 upheld the school district’s determination that placing the charter school in its preferred location would have harmed district students by forcing the district to “redistribute eight classrooms serving 40 classes, displace 240 students, and force eight teachers with five different periods each day to vacate their classrooms, so as to provide the 157 [charter school] students with eight contiguous classrooms in the midst of the school year.” The District was permitted to consider the disruptive impact on district students that would have been caused by supplanting district programs to accommodate the charter school’s location preference.

Factors Considered by OUSD:

The District received 16 Proposition 39 requests from charter schools for the 2017-2018 school year. In determining its allocation of reasonably equivalent facilities to the charter schools, the District considered the following factors:

- Identification of an inventory of potential available space in which charter school requests can be accommodated;
- Whether the offered facilities meet Proposition’s “reasonable equivalence” requirements with respect to capacity and condition;
- The charter school’s preferred location;
- Whether the District can avoid moving a charter school from its existing location;
- The capacity, if any, at each District school site, to accommodate additional students or programs;
- The feasibility of moving existing District programs, including the potential impact on OUSD students, schools and programs, in response to a charter school’s Proposition 39 request.
- The right of OUSD students to enjoy reasonably equivalent facilities;

- The quantity of classroom space requested;
- The grades served by the program;
- The grades served by other programs, if co-located;
- The school program and any identified special features;
- The location requested.

Identification of Potential District School Sites with Projected Capacity:

| School | Capacity/Number of Classrooms |
|--------------------|-------------------------------|
| Garfield | 5 |
| Skyline | 3 |
| Munck | 4 |
| Howard | 6 |
| Allendale | 5 |
| Marshall | 12 |
| Roosevelt | 8 |
| Fruitvale | 2 |
| Alliance | 5 |
| Rise | 4 |
| McClymonds | 8 |
| Franklin | 5 |
| Bunche | 4 |
| Brookfield | 6 |
| East Oakland Pride | 6 |
| Markham | 5 |
| Montera | 7 |
| Bret Harte | 3 |
| Westlake | 9 |

Matching Guidelines Utilized by the District:

District staff first attempts to accommodate a charter school's entire in-District ADA at either the charter school's projected ADA, or the District's counterprojection under Cal. Admin. Code tit. 5, § 11969.9(d)) at a single school site, or OUSD school sites that are immediately adjacent to each other. (Cal. Admin. Code tit. 5, § 11969.2.)

American Indian Public Charter School II requires twenty-two (22) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

East Bay Innovation Academy requires twenty-two (22) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Envision Academy requires seventeen (17) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Lodestar: Lighthouse requires seventeen (17) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Aspire Eres requires eleven (11) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at an available single site.

Conservatory of Vocal/Instrumental Arts requires ten (10) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at an available single site.

Student Safety Considerations:

Where the District allocates a charter school's population over more than one school site, it made the following safety considerations specific to the placement of each charter school across multiple sites:

- **American Indian Public Charter School II**

American Indian Public Charter School II (K-8) requested that the twenty-three classrooms be made available at Lincoln Elementary School, La Escuelita Elementary School, or Bella Vista Elementary School. The charter school identified downtown Oakland as its preferred geographical location. Unfortunately, the requested sites were already at capacity. Accordingly, the District considered how to allocate the charter school's population over more than one school site. Specifically, the District determined that the charter school's population could be placed across the following sites:

- Allendale Elementary School
3670 Penniman Avenue, Oakland, CA 94619
- Skyline High School
12250 Skyline Boulevard, Oakland, CA 94619
- Carl B. Munck Elementary School
11900 Campus Drive, Oakland, CA 94619
- Howard Elementary School
755 Fontaine St, Oakland, CA 94605
- Garfield Elementary School
1640 22nd Avenue, Oakland, CA 94606

Where the District allocates a charter school's population over more than one school site, it made the following safety considerations specific to the placement of American Indian Public Charter School II (K-8):

The District was mindful of keeping campus occupancy and traffic at a level that would not subject students or personnel to increased physical safety risks. The safety concern of managing student safety would be disproportionately exacerbated if total in-District classroom ADA was located at any one site.

The District evaluated grade-alike space and determined that students in elementary grades should be housed on an elementary campus that is physically responsive to safety concerns surrounding bathroom design and accessibility.

The District offered a site that was not at capacity within District 2, the District which houses Lincoln Elementary School, La Escuelita Elementary School, and Bella Vista Elementary School. Thus, the District tried to accommodate the preferred geographical location to the best of its ability.

The District evaluated other campuses that are grade-alike space and determined that placement across multi-site would balance safety concerns regarding over population at fewer sites that would result in campuses exceeding capacity. Additionally, many of the sites offered are serviced by special bus lines which will support better traffic conditions and safer commutes for students.

- **East Bay Innovation Academy**

East Bay Innovation Academy requested twenty-one classrooms be made available at Lakeview Elementary School, King Estates, Frick Middle School, Howard Elementary School, or Westlake Middle School. The charter school indicated that it would prefer to have the middle school program remain at Marshall Elementary School. For the high school program, the charter school requested a location that was in the Oakland hills area or another easily accessible area that is “a safe, gang-neutral location,” near public transportation with good highway access and students can consistently travel safely to the school site without supervision.

- Marshall Elementary School
3400 Malcolm Avenue, Oakland, CA 94605
- Roosevelt Middle School
1926 19th Avenue, Oakland, CA 94606
- Westlake Middle School
2629 Harrison Street, Oakland, CA 94612

Where the District allocates a charter school’s population over more than one school site, it made the following safety considerations specific to the placement of East Bay Innovation Academy:

The District gave East Bay Innovation Academy the preferred placement and will offer that the middle school continue to be housed at Marshall Elementary School.

The District was mindful in offering sufficient classrooms at Marshall Elementary School to house the entire middle school population and offer sufficient classrooms to house the high school population at Roosevelt Middle School. This placement was designed to address safety concerns regarding teachers having to travel to multiple sites during the school day. Under this proposed offer, neither teachers nor students should be required to commute between the two sites.

East Bay Innovation Academy's ninth grade was housed at Roosevelt Middle School for the 2016-2017 school year. The District considered the safety implications associated with a relocation of the ninth grade program for a one year agreement at another site. Such a relocation would require that charter school staff, students, and families commute to a new part of the City and manage the likely disruption that would result from two temporary relocations two years in a row.

Retaining students, families, and staff within the community to which they are accustomed and already a part of is a safety consideration that is taken into account. Maintaining the ninth grade at Roosevelt will enable students to continue to be a part of the community with which they are familiar.

The District was mindful of keeping campus occupancy and traffic at a level that would not subject students or personnel to increased physical safety risks. The safety concern of managing student safety would be disproportionately exacerbated if total in-District classroom ADA was located at any one site.

- **Lodestar: A Lighthouse Community Charter Public School**

Lodestar requested space at the King Estates site or a site in the eastern region of the City.

- Fruitvale Elementary School
3200 Boston Avenue, Oakland, CA 94602
- Rise Elementary School
8521 A Street, Oakland, CA 94621
- Brookfield Elementary School
401 Jones Avenue, Oakland, CA 94603
- Franklin Elementary School
915 Foothill Boulevard, Oakland, CA 94606

Where the District allocates a charter school's population over more than one school site, it made the following safety considerations specific to the placement of Lodestar:¹

¹ The District is currently in dialog with Lodestar regarding long term planning for relocating to the King Estates sites. The King Estate site requires construction and a capital improvement investment if it is to house additional educational programs.

The District offered all the space available at Fruitvale Elementary School as the site is less than a mile away from the charter school's current facility. Thus, attempting to keep the charter school close to the community in which it is currently located. Additionally, the District was mindful in offering sites that did not require students, families, or staff to traverse the City. Rise Elementary School and Brookfield Elementary School are both in District 7 and separated by just 1.8 miles.

The District considered how the grades could be separated among the offered sites to minimize teacher and student commutes between sites. The charter school is comprised of two schools, one serving K-8 and the other serving 9-12. The District has proposed sites that can be utilized in such a way that Kindergarten, elementary, middle school and high school programs can housed separately and thereby minimize travel between school sites.

The District was mindful of keeping campus occupancy and traffic at a level that would not subject students or personnel to increased physical safety risks. The safety concern of managing student safety would be disproportionately exacerbated if total in-District classroom ADA was located at any one site.

- **Envision Academy**

Envision Academy did not identify any preferred school sites or geographical location.

- Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607
- Alliance Academy
1800 98th Avenue, Oakland, CA 94603
- Westlake Middle School
2629 Harrison Street, Oakland, CA 94612

Where the District allocates a charter school's population over more than one school site, it made the following safety considerations specific to the placement of Envision:

Retaining students, families, and staff within the community to which they are accustomed and already a part of is a safety consideration that is taken into account. The District's offer of two sites within District 3 (Bunche and Westlake) takes into consideration the historical placement of Envision within District 3 and enables students to continue to be a part of a community with which they are familiar.

The District was mindful of keeping campus occupancy and traffic at a level that would not subject students or personnel to increased physical safety risks. The safety concern of managing student safety would be disproportionately exacerbated if total in-District classroom ADA was located at any one site.

- **Aspire ERES Academy**

Aspire ERES Academy requested to remain close to 1936 Courtland Avenue, Oakland, California.

- Markham Elementary School
7220 Krause Ave, Oakland, CA 94605
- East Oakland Pride Elementary School
8000 Birch Street, Oakland, CA 94621

Where the District allocates a charter school's population over more than one school site, it made the following safety considerations specific to the placement of Aspire ERES:

The District offered two sites that are a mere 1.0 mile away from one another. This placement was designed to address safety concerns regarding students, families, or teachers having to travel to multiple sites during the school day. Here, the two sites are in very close proximity to each other and therefore, minimize issues regarding commutes and travel between school sites.

Retaining students, families, and staff within the community to which they are accustomed and already a part of is a safety consideration that is taken into account. The District's offer of two sites that are less than three miles away from the charter school's preferred location. Accordingly, students will continue to be a part of the community with which they are familiar.

The District was mindful of keeping campus occupancy and traffic at a level that would not subject students or personnel to increased physical safety risks. The safety concern of managing student safety would be disproportionately exacerbated if total in-District classroom ADA was located at any one site.

- **COVA (Conservatory of Vocal/Instrumental Arts)**

COVA requested available space at Lakeview Elementary School, Claremont Elementary School, King Estates, Howard Elementary School, or Tilden. The charter school identified North or Central Oakland as its preferred geographical location.

- Bret Harte Middle School
3700 Coolidge Avenue, Oakland, CA 94602
- Montera Middle School
5555 Ascot Drive, Oakland, CA 94611

Where the District allocates a charter school's population over more than one school site, it made the following safety considerations specific to the placement of COVA:

The District evaluated other sites that are grade-alike space and determined that Bret Harte Middle School had the type of specialized space necessary for COVA's educational program. Specifically, Bret Harte has specialized space for choir and instrumental music courses. Since Bret Harte had the specialized space required to meet the needs of the COVA educational program, the District identified a secondary site in close proximity to Bret Harte. Montera Middle School and Bret Harte Middle School are both located in District 4. The two school sites are separated by a mere 2.1 miles. The District was mindful in offering two sites that were appropriate for COVA's specialized program but not so far away from one another that students, families, or staff would be required to traverse the City.

The District was mindful of keeping campus occupancy and traffic at a level that would not subject students or personnel to increased physical safety risks. The safety concern of managing student safety would be disproportionately exacerbated if total in-District classroom ADA was located at any one site.

Based on historical precedent, the District anticipates that the number of multi-site offers will decrease between the issuance of the preliminary and final offers. For the 2016-2017 school year, the District initially received 14 requests for facilities, resulting in a number of multi-site preliminary offers. Because a number of charter schools withdrew their requests, or entered into agreements in lieu of Proposition 39, the District ultimately issued 4 Final Offers for 2016-2017, and only 2 of the 4 Final Offers included multi-site offers because the decreased number of requests resulted in the number of potential sites for the requesting charter schools to increase.

Impact on OUSD Students, Schools and Programs:

The District's Strategic Plan

Community-centered schools and school districts such as OUSD provide a wealth of benefits for student learning, health and safety, and for the community at large. A Community School is a strategy for organizing the resources of the community around student success. It is both a place and a set of partnerships between the school and other community resources. Its integrated focus on academics, services, supports and opportunities leads to improved student learning, stronger families and healthier communities. Schools become centers of the community and are open to everyone. These Community Schools are based on a "developmental triangle," which calls for a strong instructional program, expanded learning opportunities through enrichment, and services designed to remove barriers to students' learning and healthy development, so that they can thrive academically and socially. (Community School, Thriving Students, A five year strategic plan, Summary Report, Oakland Unified School District, p. 4. ("Strategic Plan").)²

² www.thrivingstudents.org/sites/default/files/Community-Schools-Thriving-Students-Strategic-Plan.pdf.

The District is in the fourth year of its five-year Community Schools, Thriving Students Strategic Plan. The focus of the Strategic Plan is to serve all of Oakland's children in every neighborhood by providing high quality Community Schools where children, adults, and the community thrive. The District is in the process of building Community Schools to ensure all children have access to high quality public schools in the neighborhoods where they live. (Strategic Plan, p. 3.) Comprehensive data compiled over the last 20 years demonstrates that students in full service Community Schools show significantly improved academic performance; improved attendance, stay in-school rates, and graduation rates; and improved student behavior, family health, parental involvement, and youth community involvement. (Strategic Plan, p. 6.) Displacing children attending neighborhood schools would thwart their very purpose of a Community School and prevent these displaced students from receiving the benefits a Community School is intended to provide. Therefore, the District prioritized its strategic policy of Community Schools and avoided displacement of existing District or charter students and programs.

A full-service Community School provides comprehensive health and social services, which address barriers to learning. (Strategic Plan, p. 6.) To that end, as of August 7, 2013, the District had opened 15 school-based health clinics. These school-based health centers offer mental health counseling, physical examinations, STD screening and treatment and myriad other health services. Moreover these health clinics serve charter school students as well as students attending District schools. For instance, the West Oakland Middle School Clinic serves not only West Oakland Middle School, but also KIPP Bridge Middle School, a charter school. School site space is critical to the continued operation and viability of these health clinics. Displacing these programs to provide a single site offer of space to a charter school would be detrimental to the health and well-being of both District students and charter students.

Correlation Between Displacement and Dropout Rates:

Displacing children out of their neighborhood schools has far-reaching safety, instructional, and social implications. Studies establish that disrupting a child's school placement increases dropout rates. (See, Rumberger & Lim, *Why Students Drop Out: A Review of 25 Years of Research*, California Dropout Research Project (October 2008).) In 1998, the seminal study conducted on the educational consequences of student mobility found a high causal connection between student mobility and an increased risk of high school drop-out. The results of this study indicate that controlling for other predictors, students who made even one non-promotional school change between the eighth and twelfth grades were *twice* as likely to not complete high school as students who did not change schools. (Rumberger & Larson, *Student Mobility and the Increased Risk of High School Dropout* American Journal of Education 107 (November 1998).)

Newcomer Program:

Oakland is a "sanctuary" city. As such, Oakland Unified School District serves an ever increasing number of students who have been in the United States for less than 3 years and who speak a language other than English at home. Serving an ever increasing number of students that are

new to the United States is an urgent and compelling issue that requires a system-level response.

Most of our newest arrivals fall into the status of refugee, asylee, and/or unaccompanied minor, many of whom are fleeing violence, human trafficking or persecution in their home country. The District is working across multiple departments and in many schools (including Fremont High School and Bret Harte Middle School) to build systems to support these students as they transition into our schools and communities. The Newcomer Program emphasizes 4 Goals:

- Support the growth and development of programs that proactively meet the demands of increasing newcomer enrollment
- Provide research-based newcomer-specific resources and professional development to newcomer teachers and leaders
- Establish and recognize newcomer programs as specialized programs with aligned central policies and resources
- Ensure access to culturally sensitive mental health, health, legal services and other social services for newcomer students and their families

On December 14, 2016, the Board of Education adopted a Resolution reaffirming that District facilities and programs are a sanctuary for all children and adults. (Oakland Board of Education Resolution Number 1617-0089.) This Resolution was adopted in response to growing fears that governmental actions towards immigrants will have a chilling effect on the educational rights of immigrant students and families within the District. The Resolution restates the Board of Education's position that all students have the right to attend school regardless of the immigration status of the child or of the child's family members. It also provides that students will not be discriminated against because of their actual or perceived immigrant status, will not seek information about immigration status, and will take steps to protect personally identifiable information for being used for immigration enforcement to the extent possible. Given the number of newcomers that the District serves, the increasing concern regarding impermissible discrimination, and the importance of meaningful integration of this student population into the Oakland community, it is imperative that the District ensure equal access to District facilities and programs.

Displacing children out of their neighborhood schools which provide this vital program and provide on-site support would disproportionately impact the neediest of students.

Continuum of Services/Special Education Programs:

Oakland Unified School District serves more than 5,650 students identified as eligible for special education and related services under the Individuals with Disabilities Education Act ("IDEA"). Under the IDEA, the District is required to provide a continuum of services designed to ensure that "to the maximum extent appropriate" students with disabilities are educated with their typically developing peers. (20 U.S.C. §1412(a)(5)(A).) Consistent with this mandate and given

the high number of students with disabilities that are served within the District, the District must utilize site space to provide specialized academic instruction and related services to students with disabilities. Failing to allot school site space for the provision of small group specialized academic instruction, resource support, and related services to students with disabilities at their neighborhood schools would disproportionately impact students with disabilities and result in impermissible segregation, and exclusion from the least restrictive environment.

At-Risk Youth:

The detrimental impacts of non-promotion school site changes would be even more pronounced in the Oakland community which serves a large proportion of at-risk youth. African American and Latino students graduate from District high schools at a rate of 54% and 56%, respectively, compared with 79% for Asian Americans and 75% for white students. According to CST data, only 30% of Oakland's African American 3rd graders score proficient in English Language Arts. By the 3rd grade, that rate is only 15%. These inequities prevail outside the school experience as well. An African American child born in West Oakland is one and a half times more likely to be born premature, seven times more likely to be born into poverty, two and half times more likely to be behind in vaccinations, and more than five and a half times more likely to drop out (or be pushed out) of school. (Strategic Plan, p. 4.)

Forced classroom redistribution, displacement of students, and forcing teachers to vacate classrooms at neighborhood schools serving our at-risk youth would only serve to compound these disadvantages and thus disproportionately impact the neediest of students.

Gang Membership:

Additionally, the District spans the territory of more than 20 competing gangs. Gang violence is unfortunately prevalent on some campuses and within the neighborhoods of several District schools. (See, OUSD Gang Prevention and Intervention Handbook.) Displacing students who themselves or whose parents are tied to a particular gang and placing them in a school located in the territory of another gang would potentially breed gang warfare and violence affecting all children, teachers, staff and parents at a particular school.

Additionally, requiring students and their families to commute through and to the communities of rival gangs creates a huge concern for student and family safety before students even arrive at school grounds. Further, if students are placed in the position of risking their own safety just to travel to school, the likelihood of non-attendance, truancy, and drop-out increase exponentially.

The safety and welfare of all students is one of the District's paramount concerns and a material consideration when weighing whether to displace children from their existing school to accommodate a charter school.

Parental Involvement:

An additional consideration is the difficulty of sustaining the same level of parental involvement in schools located miles away from their neighborhoods that is currently enjoyed by maintaining neighborhood schools. California State Board of Education Policy #89-01 acknowledges that a critical dimension of effective schooling is parental involvement. This policy initiative states that research studies demonstrate parental involvement at school propels a child's educational career. Displacing students attending their local neighborhood school would make it more challenging for those children to reap the benefits of parental involvement in their new non-neighborhood schools. Moreover, parental involvement is of paramount importance to the success of the District's Community Schools model. Impediments to parental involvement, such as dislocating students to school sites miles from their neighborhoods, would prevent the District from successfully implementing a full service Community Schools District.

An alternative to displacing students that District Staff considered was adding all the charter school students to one site, even if the result was overcrowding. However, upon further review, this option was not feasible or practicable. Overcrowding would cause severe safety and operational impacts. Overcrowding on a shared campus would raise both schools' loading ratios, thereby disadvantaging both of these schools' children. Likewise, having hundreds of children over a school's capacity, sharing space would pose a great risk to student safety and well-being.