

Legislative File Id. No. 19-0531  
Introduction Date: 3/20/19  
Enactment No.: 19-0452  
Enactment Date: 3/20/19  
By: os

# Memo

<b>To</b>	Board of Education
<b>From</b>	Sonali Murarka, Director of Office of Charter Schools Andrea Epps, Office of the General Counsel
<b>Date</b>	March 20, 2019
<b>Subject</b>	<b>Adopting Issuance of Proposition 39 Final Facilities Offers and Directing Staff to Issue Written Final Offers in Compliance with Proposition 39</b>
<b>Action Requested</b>	<b>Approval by the Board of Education - Resolution No. 1819-0180 Adopting Issuance of Proposition 39 Final Facilities Offers and Directing Staff to Issue Written Final Offers in Compliance with Proposition 39.</b>
<b>Background and Discussion</b>	California Education Code section 47614 requires school districts' facilities be shared fairly among all public school pupils, including charter school students. California regulations require findings and a 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.
<b>Recommendation</b>	<b>Approval by the Board of Education - Resolution No. 1819-0180 Adopting Issuance of Proposition 39 Final Facilities Offers and Directing Staff to Issue Written Final Offers in Compliance with Proposition 39.</b> The District must issue final offers of facilities to all eligible charter schools no later than April 1, 2019.
<b>Fiscal Impact</b>	Positive fiscal impact due to Prop 39 fees collected; amount depends on number of charter that accept their final offers.
<b>Attachment</b>	<ul style="list-style-type: none"><li>• <b>Resolution No. 1819-0180</b></li></ul>

**RESOLUTION OF THE BOARD OF EDUCATION OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT  
RESOLUTION No. 1819-0180**

**Adopting Issuance of Proposition 39 Final Facilities Offers and Directing Staff to Issue Written  
Final Offers in Compliance with Proposition 39  
(Cal. Code Regs., tit. 5, § 11969.1 *et seq.* )**

**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 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;

**WHEREAS**, Education Code section 47614 requires that the facility offered to the Charter School be contiguous, furnished and equipped;

**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**, for the 2019-20 school year, 11 eligible charter schools requested facilities under Proposition 39;

**WHEREAS**, the Board incorporates into this Resolution the Resolution 1819-0012 (“Finding that Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding”) and the Staff Report "Process for Determining

Charter Schools Which Cannot Be Accommodated at a Single Site For 2019-20 School Year,” approved by the Board on January 23, 2019;

**WHEREAS**, having analyzed the available space in the specific area where each charter wishes to locate, the District is unable to extend a single site offer to all requesting charter schools in their desired geographic location for the reasons stated in the Final Offer and Resolution 1819-0012;

**WHEREAS**, a number of charter schools with private or non-District sites have historically made facilities requests to the District under Proposition 39, and either do not complete the process, withdraw their request, or decline the facilities offered to them;

**NOW, THEREFORE, BE IT RESOLVED**, the Board of Education hereby allocates and approves the following school sites as final offers to the charter schools named below for the 2019-20 school year under Proposition 39:

<b>Name of Charter School</b>	<b>Site to be Offered</b>
Achieve Academy	Former Hawthorne Campus 1700 28 <sup>th</sup> Avenue, Oakland, CA 94607
American Indian Public Charter School I	Bret Harte Middle School Campus 3700 Coolidge Avenue, Oakland, CA 94602
American Indian Public Charter School II	Webster (East Oakland Pride) Campus 8000 Birch St, Oakland, CA 94621  Hoover Elementary School Campus 890 Brockhurst St, Oakland, CA 94608  Brookfield Elementary School Campus 401 Jones Avenue, Oakland, CA 94603
American Indian Public High School	Former Lakeview Campus 746 Grand Avenue, Oakland, CA 94610
Aspire ERES Academy	Markham Elementary School Campus 7220 Krause Avenue, Oakland, CA 94605
Cox Academy	E. Morris Cox Campus 9860 Sunnyside Street, Oakland, CA 94603
East Bay Innovation Academy	Former Marshall Campus 3400 Malcolm Avenue, Oakland, CA 94605  Additional site(s) if necessary, per mutually-agreed extension, to be determined by May 13, 2019
Envision Academy of Arts and Technology	Lowell (West Oakland Middle School) Campus 991 14 <sup>th</sup> Street, Oakland, CA 94607
Francophone	Former Toler Heights Campus

Charter School	9736 Lawlor Street, Oakland, CA 94605  Howard Elementary School 8755 Fontaine Street, Oakland, CA 94605
Leadership Public Schools R&D	Castlemont High School Campus 8601 MacArthur Blvd, Oakland, CA 94605
Urban Montessori	Former Sherman Campus 5328 Brann Street, Oakland, CA 94619  Frick Impact Academy Campus 2845 64 <sup>th</sup> Avenue, Oakland, CA 94605  Parker Elementary Campus 7929 Ney Avenue, Oakland, CA 94605

**BE IT FURTHER RESOLVED**, the Board hereby directs District staff to issue the Final Offers of Facilities to the above-named charter schools under Proposition 39 and its implementing regulations by the required deadline.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District at a Special Meeting this 20<sup>th</sup> day of March, 2019, by the following vote, to wit:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Jumoke Hinton Hodge, James Harris, Gary Yee, Shanthi Gonzales, Vice President Jody London, President Aimee Eng

NOES: Roseann Torres

ABSTAINED: None

RECUSE: None

ABSENT: Student Director Chavez and Student Director Omosowho

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Special Meeting of the Board of Education of the Oakland Unified School District, held on March 20, 2019.

<b>Legislative File Info.</b>	
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*Aimee Eng*

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Aimee Eng, President, Board of Education

*Kyla Johnson Trammell*

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Kyla Johnson Trammell, Secretary, Board of Education