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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent of Schools
Leslie Jimenez, Deputy Director, Office of Charter Schools
Andrea Epps, Staff Attorney

Board Meeting Date March 28, 2018

Subject Amendment to the Resolution 1718-0035A and 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 Amendment to the Board Resolution 1718-0035A 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 2018-2019 school year, the District received Proposition 39 facility requests from 17 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.

As provided in the Amendment to the Staff Report which is attached, the District cannot accommodate a single site offer for American Indian Public Charter School II and Envision Academy; therefore, the District must update the multi-site offer issued as a Preliminary Offer to American Indian Public Charter School II and Envision Academy:

The District can only offer the 21 classrooms to which American Indian Public Charter School II is entitled to across four District sites. Specifically, the District must offer classrooms at:

- American Indian Public Charter School II
 - Roosevelt Middle School
1926 East 19th Street, Oakland, CA 94606
 - Franklin Elementary School
915 Foothill Blvd., Oakland, CA 94606
 - West Oakland Middle School Campus
991 14th Street, Oakland, CA 94607
 - PLACE at Prescott
920 Campbell Street, Oakland, CA 94607

The District can only offer the 16 classrooms to which Envision Academy is entitled to across three District sites. Specifically, the District must offer classrooms at:

- Envision Academy
 - McClymonds High School
2608 Myrtle Street, Oakland, CA 94607
 - Westlake Middle School
2629 Harrison Street, Oakland, CA 94612
 - Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607

The Amendment to the Staff Report outlines the process used by the District to determine the final offers to American Indian Public Charter School II and Envision Academy could not be accommodated at a single site.

Approval of the Amendment to Board Resolution 1718-0035 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
- Amendment to Staff Report

**AMENDMENT TO THE RESOLUTION OF THE BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
RESOLUTION No. 1718-0035A**

**Amendment to 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 2018-2019 school year, 17 charter schools requested facilities under Proposition 39; and

- Achieve Academy-Education for Change
- American Indian Public Charter School I
- American Indian Public Charter School II
- American Indian Public High School
- Aspire ERES Academy
- Aspire College Academy
- ARISE High School
- Aurum Preparatory Academy
- Cox Academy-Education for Change
- East Bay Innovation Academy
- Envision Academy
- East Oakland Leadership Academy
- Francophone Charter School
- Lodestar: A Lighthouse Community Public School
- Leadership Public Schools-Oakland R&D
- Urban Montessori
- Yu Ming Charter School

WHEREAS, for the 2018-2019 school year, the following charters, under current or new multi-year in lieu of Proposition 39 lease agreements, will occupy single District sites;

- Community School for Creative Education
- Bay Area Technology School

- Oakland Military Institute College Preparatory Academy
- Learning Without Limits-Education for Change
- ASCEND Charter School-Education for Change
- Cox Academy-Education for Change
- KIPP Bridge Academy
- Roses in Concrete
- LPS Oakland R&D
- Lazear Academy- Education for Change
- Aspire Berkley Maynard Academy

WHEREAS, On January 17, 2018, the following charters, were approved for the Proposition 51 Charter Schools Facilities Programs for the purposes of preliminary and advance apportionments for rehabilitation and/or new construction of District sites and currently have or will have multi-year lease agreements;

- Aspire Berkley Maynard
 - Golden Gate Campus located at 6200 San Pablo Avenue
- East Bay Innovation Academy
 - Marshall Campus located at 3400 Malcolm Avenue
- Achieve Academy - Education for Change
 - Hawthorne Campus located at 1700 28th Avenue
- Lazear Academy - Education for Change
 - Lazear Site located at 824 29th Avenue
- KIPP Bridge Academy
 - Lafayette Campus located at 1700 Market Street
- Lodestar: A Lighthouse Community Public School
 - King Estates Campus located at 8251 Fontaine Street
- LPS Oakland R&D
 - Castlemont Campus located at 8601 MacArthur Blvd.
- Roses in Concrete Community School
 - Former Swett/Tilden Campus located at 4551 Steele Street
- Yu Ming Charter School
 - Site located at 6232 Herzog Street

WHEREAS, for the 2018-2019 school year, the District will make Proposition 39 single site offers to the following charter schools;

- Achieve Academy-Education for Change
- Aurum Preparatory Academy

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

- American Indian Public Charter School II
- American Indian Public High School
- East Bay Innovation Academy
- Envision Academy
- Francophone Charter School of Oakland
- Urban Montessori
- Yu Ming Charter School

WHEREAS, on or before February 1, 2018, charter schools received a Preliminary Offer of Facilities under Proposition 39;

WHEREAS, on or before February 1, 2018, as provided in a Staff Report, the District adopted Findings that Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Findings;

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 2018-2019 school year;

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

WHEREAS, the Staff Report recommended the District offer the following charter school a preliminary offer of facilities on or before February 1, 2018 involving co-location at the following sites;

- American Indian Public Charter School II
 - Allendale Elementary School
3670 Penniman Avenue, Oakland, CA 94619
 - West Oakland Middle School Campus
991 14th Street, Oakland, CA 94607
 - Martin Luther King Jr. Elementary School

- 960 10th Street, Oakland, CA 94607
 - PLACE at Prescott
 - 920 Campbell Street, Oakland, CA 94607
 - Ralph J. Bunche High School
 - 1240 18th Street, Oakland, CA 94607
- American Indian Public High School
 - Former Lakeview Elementary School Site (exclusive use)
 - 746 Grand Avenue, Oakland, CA 94610
 - Westlake Middle School
 - 2629 Harrison Street, Oakland, CA 94612
- Aspire College Academy
 - Howard Elementary School
 - 8755 Fontaine Street, Oakland, CA 94605
 - Highland Elementary School Campus
 - 8521 A Street, Oakland, CA 94621
 - Grass Valley Elementary School
 - 4720 Dunkirk Avenue, Oakland, CA 94605
- ARISE High School
 - Franklin Elementary School
 - 915 Foothill Blvd., Oakland, CA 94606
 - Roosevelt Middle School
 - 1926 East 19th Street, Oakland, CA 94606
- East Bay Innovation Academy
 - Former Marshall Elementary School Site (exclusive use)
 - 3400 Malcolm Avenue, Oakland, CA 94605
 - Frick Impact Academy
 - 2845 64th Avenue, Oakland, CA 94605
 - East Oakland Pride Elementary School
 - 8000 Birch Street, Oakland, CA 94621
- Envision Academy
 - McClymonds High School
 - 2608 Myrtle Street, Oakland, CA 94607
 - Westlake Middle School
 - 2629 Harrison Street, Oakland, CA 94612
- Francophone Charter School
 - Former Toler Heights Elementary School Site (exclusive use)
 - 9736 Lawlor Street, Oakland, CA 94605

- Howard Elementary School
8755 Fontaine Street, Oakland, CA 94605
- Urban Montessori
 - Former Sherman Elementary School Site (exclusive use)
5328 Brann Street, Oakland, CA 94619
 - Markham Elementary School
7220 Krause Avenue, Oakland, CA 94605
- Yu Ming
 - Former Golden Gate Child Development Center (exclusive use)
6232 Herzog Street, Oakland, CA 94608
 - Sankofa Academy
581 61st Street, Oakland, CA 94609

WHEREAS, the Board incorporates into this Resolution the 2018-19 Staff Report "Finding that Charter Schools Could Not Be Accommodated at a Single Site adopted on January 24, 2018 and Written Statement of Reasons Explaining the Finding";

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. Similarly, for the 2017-2018 school year, the District initially received 16 requests for facilities, resulting in a number of multi-site preliminary offers. Consistent with the historical pattern, a number of charter schools withdrew their requests or entered into agreements in lieu of Proposition 39, therefore the District only issued 2 Final Offers for 2017-2018, and only one final offer included a multi-site offer because the decreased number of requests resulted in an increase in the number of potential sites that were available for the remaining requesting charter schools;

WHEREAS, since the adoption of Board Resolution 1718-0035 and issuance on Preliminary Prop 39 Offers, the District must amend the Resolution and the 2018-19 Staff Report "Finding that Charter Schools Could Not Be Accommodated at a Single Site and Written Statement of Reasons Explaining the Finding" to include different sites for the Final Prop 39 Offers to American Indian Public Charter School II and Envision Academy:

WHEREAS, the Amendment to the Resolution and the Staff Report recommend the District offer American Indian Public Charter School II and Envision Academy a final offer of facilities on or before April 1, 2018 involving co-location at the following sites;

- American Indian Public Charter School II
 - Roosevelt Middle School
1926 East 19th Street, Oakland, CA 94606
 - Franklin Elementary School
915 Foothill Blvd., Oakland, CA 94606
 - West Oakland Middle School Campus
991 14th Street, Oakland, CA 94607
 - PLACE at Prescott
920 Campbell Street, Oakland, CA 94607

- Envision Academy
 - McClymonds High School
2608 Myrtle Street, Oakland, CA 94607
 - Westlake Middle School
2629 Harrison Street, Oakland, CA 94612
 - Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607

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 Amendment to the Staff Report, the Board of Education finds that the District cannot accommodate the in-district average daily classroom attendance of American Indian Public Charter School II at a single school site for the 2018-19 school year and similarly, cannot accommodate the in-district average daily classroom attendance of Envision Academy at a single school site for the 2018-19 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 28th day of March, 2018, by the following vote, to wit:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: Student Director Gema Quetzal

PREFERENTIAL RECUSE: None

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

NOES: None

ABSTAINED: None

RECUSE: None

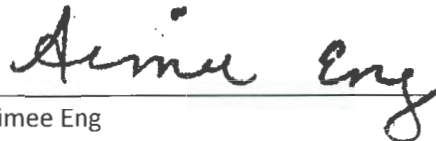
ABSENT: Student Director Enasia Mc-Elvaine

CERTIFICATION

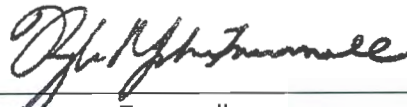
We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District, held on March 28, 2018.

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OAKLAND UNIFIED SCHOOL DISTRICT



Aimee Eng
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

Amendment to Staff Report

Process for Determining that Charter Schools
Cannot Be Accommodated at a Single School
Site for 2018-2019 School Year

Staff Report

Process for Determining Charter Schools That Cannot Be Accommodated at a Single Site for the 2018-2019 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.

Proposition 39 allows school districts to balance the needs and rights of school district students and charter school students and to allocate facilities in a manner that ensures that public school facilities are shared fairly among all students. The court in *Ridgecrest v. Sierra Sands Unified School District* (2005) 130 Cal.App.4th 986, 1001 (n. 16) established that “[c]harter school students are not entitled to better facilities choices than other district resident pupils.” Proposition 39 does not prohibit the District from considering the potential impact upon District programs and students in meeting its obligations under Proposition 39.

Factors Considered by OUSD:

The District received 17 Proposition 39 requests from charter schools for the 2018-2019 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 grade configuration of the charter school being sited;
- The grades served by other programs, if co-located;
- The school program and any identified special features; and
- The location requested.

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 is eligible for twenty-one (21) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Envision Academy is eligible for sixteen (16) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Student Safety Considerations:

The District made the following safety considerations specific to the placement of each charter school across multiple sites and hereby amends the Findings as it pertains to East Bay Innovation Academy:

- **American Indian Public Charter School II**

American Indian Public Charter School II (K-8) is eligible for twenty-one (21) classrooms. The charter school requested space at Lincoln Elementary School, La Escuelita Elementary School, Bella Vista Elementary School, West Oakland Middle School, Hoover Elementary, Piedmont Elementary, or Westlake Middle School. The charter school identified downtown Oakland as its preferred geographical location. Unfortunately, some of 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:

- Roosevelt Middle School
1926 East 19th Street, Oakland, CA 94606
- Franklin Elementary School
915 Foothill Blvd., Oakland, CA 94606
- West Oakland Middle School Campus
991 14th Street, Oakland, CA 94607
- PLACE at Prescott
920 Campbell Street, Oakland, CA 94607

The District 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 sites that are not at capacity within District 3 and District 2. Downtown Oakland is situated in District 2. Additionally, District 2 houses some of the preferred sites identified by American Indian Public Charter School II. District 3 is adjacent to District 2 which houses Downtown Oakland. The District offered one identified site, West Oakland Middle School, which is in District 3. Additionally, the District offered space at another school within close proximity to West Oakland Middle School to minimize the commute between campuses. The District also offered two sites that are located in District 2 (Franklin Elementary School and Roosevelt Middle School). District 2 houses some of the preferred sites identified by American Indian Public Charter School II (e.g., Lincoln Elementary School, La Escuelita Elementary School, and Bella Vista Elementary School). District 3 is within very close proximity to the District schools preferred by the charter school. In fact, the District offered multiple school sites with grade-alike space that were located within the same zip code. 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.

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. This placement was also 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.

- **Envision Academy**

Envision Academy is eligible for sixteen (16) classrooms. They requested space at Oakland High School, Lakeview Elementary School, Westlake Middle School, or McClymonds High School. The charter school indicated that it would prefer to remain within 3 miles of its current location (1515 Webster Street, Oakland, CA 94612).

Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- McClymonds High School
2608 Myrtle Street, Oakland, CA 94607
- Westlake Middle School
2629 Harrison Street, Oakland, CA 94612
- Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607

Envision Academy is eligible for sixteen (16) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site. The District made the following safety considerations specific to the placement of Envision Academy:

The District gave Envision Academy space at its preferred school sites and placements that will enable Envision Academy to remain within 3 miles of its current location. 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 offered three sites and two sites (McClymonds High School and Westlake Middle School) were actually identified by Envision Charter School as requested sites. The third site is less than a mile away from the requested site of McClymonds High School. Thus, having three sites within a 3 mile radius of the current location will enable students to continue to be a part of a community with which they are familiar.

The District identified multiple school sites near their preferred geographical location. Additionally, the District was deliberate in offering sites that did not require students, families, or staff 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.

Summary and Conclusion

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. Similarly, for the 2017-2018 school year, the District initially received 16 requests for facilities, resulting in a number of multi-site preliminary offers. Consistent with the historical pattern, a number of charter schools withdrew their requests or entered into agreements in lieu of Proposition 39, therefore the District only issued 2 Final Offers for 2017-2018, and only one final offer included a multi-site offer because the decreased number of requests resulted in an increase in the number of potential sites that were available for the remaining requesting charter schools. For the 2018-2019 school year, there were seventeen (17) Proposition 39 applications and the District will offer nine (9) Final Offers which will include multiple multi-site offers.

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 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.

The focus 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. 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. Displacing children attending neighborhood schools would thwart

they 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. 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 5,700 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.

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.

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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Marion McWilliams, General Counsel
Andrea Epps, Staff Attorney
Silke Bradford, Ed.D, Director of Quality Diverse Providers
Leslie Jimenez, Deputy Director, Office of Charter Schools

Board Meeting Date January 24, 2018

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 1718-0035 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 2018-2019 school year, the District received Proposition 39 facility requests from 17 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 2018-2019 school year, the following charters, under current or new 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 Public Schools-Oakland R & D
- Lazear Academy-Education for Change
- Learning without Limits-Education for Change
- ASCEND Charter School-Education for Change
- Cox Academy-Education for Change
- KIPP Bridge Academy
- 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 2018-2019 school year, the District cannot accommodate single site offers for the following charter schools:

- American Indian Public Charter School II
- American Indian Public High School
- Aspire College Academy
- Aspire ERES Academy
- ARISE High School
- East Bay Innovation Academy
- Envision Academy
- Francophone Charter School
- Urban Montessori
- Yu Ming Charter School

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 1718-0035 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. 1718-0035**

**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 2018-2019 school year, 17 charter schools requested facilities under Proposition 39; and

- Achieve Academy-Education for Change
- American Indian Public Charter School I
- American Indian Public Charter School II
- American Indian Public High School
- Aspire ERES Academy
- Aspire College Academy
- ARISE High School
- Aurum Preparatory Academy
- Cox Academy-Education for Change
- East Bay Innovation Academy
- Envision Academy
- East Oakland Leadership Academy
- Francophone Charter School
- Lodestar: A Lighthouse Community Public School
- Leadership Public Schools-Oakland R&D
- Urban Montessori
- Yu Ming Charter School

WHEREAS, for the 2018-2019 school year, the following charters, under current or new multi-year in lieu of Proposition 39 lease agreements, will occupy single District sites;

- Community School for Creative Education
- Bay Area Technology School
- Oakland Military Institute College Preparatory Academy
- Learning Without Limits-Education for Change
- ASCEND Charter School-Education for Change
- Cox Academy-Education for Change

WHEREAS, On January 17, 2018, the following charters, were approved for the Proposition 51 Charter Schools Facilities Programs for the purposes of preliminary and advance apportionments for rehabilitation and/or new construction of District sites and currently have or

will have multi-year lease agreements;

- Aspire Berkley Maynard
 - Golden Gate Campus located at 6200 San Pablo Avenue
- East Bay Innovation Academy
 - Marshall Campus located at 3400 Malcolm Avenue
- Education for Change- Achieve Academy
 - Hawthorne Campus located at 1700 28th Avenue
- Education for Change- Lazear Academy
 - Lazear Site located at 824 29th Avenue
- KIPP Bridge Academy
 - Lafayette Campus located at 1700 Market Street
- Lighthouse Community Charter- Lodestar
 - King Estates Campus located at 8251 Fontaine Street
- LPS Oakland R&D
 - Castlemont Campus located at 8601 MacArthur Blvd.
- Roses in Concrete Community School
 - Former Swett/Tilden Campus located at 4551 Steele Street
- Yu Ming Charter School
 - Site located at 6232 Herzog Street

WHEREAS, for the 2018-2019 school year, the District will make Proposition 39 single site offers to the following charter schools;

- Achieve Academy
- American Indian Public Charter School I
- Aurum Preparatory Academy

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

- American Indian Public Charter School II
- American Indian Public High School
- Aspire College Academy
- Aspire ERES Academy
- ARISE High School
- East Bay Innovation Academy
- Envision Academy
- Francophone Charter School
- Urban Montessori
- Yu Ming Charter School

WHEREAS, on or before February 1, 2018, 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 2018-2019 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, 2018 involving co-location at the following sites;

- American Indian Public Charter School II
 - Allendale Elementary School
3670 Penniman Avenue, Oakland, CA 94619
 - West Oakland Middle School Campus
991 14th Street, Oakland, CA 94607
 - Martin Luther King Jr. Elementary School
960 10th Street, Oakland, CA 94607
 - PLACE at Prescott
920 Campbell Street, Oakland, CA 94607
 - Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607
- American Indian Public High School
 - Former Lakeview Elementary School Site (exclusive use)
746 Grand Avenue, Oakland, CA 94610
 - Westlake Middle School
2629 Harrison Street, Oakland, CA 94612
- Aspire College Academy
 - Howard Elementary School
8755 Fontaine Street, Oakland, CA 94605
 - Highland Elementary School Campus
8521 A Street, Oakland, CA 94621
 - Grass Valley Elementary School
4720 Dunkirk Avenue, Oakland, CA 94605

- Aspire ERES Academy
 - Fruitvale Elementary School
3200 Boston Avenue, Oakland, CA 94602
 - Garfield Elementary School
1640 22nd Avenue, Oakland, CA 94606
 - Horance Mann Elementary School
5222 Ygnacio Avenue, Oakland, CA 94601
 - Roots International Academy (Havenscourt Campus)
1390 66th Avenue, Oakland, CA 94621

- ARISE High School
 - Franklin Elementary School
915 Foothill Blvd., Oakland, CA 94606
 - Roosevelt Middle School
1926 East 19th Street, Oakland, CA 94606

- East Bay Innovation Academy
 - Former Marshall Elementary School Site (exclusive use)
3400 Malcolm Avenue, Oakland, CA 94605
 - Frick Impact Academy
2845 64th Avenue, Oakland, CA 94605
 - East Oakland Pride Elementary School
8000 Birch Street, Oakland, CA 94621

- Envision Academy
 - McClymonds High School
2608 Myrtle Street, Oakland, CA 94607
 - Westlake Middle School
2629 Harrison Street, Oakland, CA 94612

- Francophone Charter School
 - Former Toler Heights Elementary School Site (exclusive use)
9736 Lawlor Street, Oakland, CA 94605
 - Howard Elementary School
8755 Fontaine Street, Oakland, CA 94605

- Urban Montessori
 - Former Sherman Elementary School Site (exclusive use)
5328 Brann Street, Oakland, CA 94619
 - Markham Elementary School
7220 Krause Avenue, Oakland, CA 94605

- Yu Ming
 - Former Golden Gate Child Development Center (exclusive use)
6232 Herzog Street, Oakland, CA 94608
 - Sankofa Academy
581 61st Street, Oakland, CA 94609

WHEREAS, the Board incorporates into this Resolution the 2018-19 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. Similarly, for the 2017-2018 school year, the District initially received 16 requests for facilities, resulting in a number of multi-site preliminary offers. Consistent with the historical pattern, a number of charter schools withdrew their requests or entered into agreements in lieu of Proposition 39, therefore the District only issued 2 Final Offers for 2017-2018, and only one final offer included a multi-site offer because the decreased number of requests resulted in an increase in the number of potential sites that were available for the remaining requesting charter schools.

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 2018-19 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 24th day of January, 2018, by the following vote, to wit:

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

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 24th day of January, 2018, with a copy of such Resolution being on file in the Office of the Board of Education of said district.



Kyle Johnson-Trammell, Superintendent and Board Secretary

Staff Report

Process for Determining that Charter Schools
Cannot Be Accommodated at a Single School
Site for 2018-2019 School Year

Staff Report

Process for Determining Charter Schools That Cannot Be Accommodated at a Single Site for the 2018-2019 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.

Proposition 39 allows school districts to balance the needs and rights of school district students and charter school students and to allocate facilities in a manner that ensures that public school facilities are shared fairly among all students. The court in *Ridgecrest v. Sierra Sands Unified School District* (2005) 130 Cal.App.4th 986, 1001 (n. 16) established that “[c]harter school students are not entitled to better facilities choices than other district resident pupils.” Proposition 39 does not prohibit the District from considering the potential impact upon District programs and students in meeting its obligations under Proposition 39.

Factors Considered by OUSD:

The District received 17 Proposition 39 requests from charter schools for the 2018-2019 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 grade configuration of the charter school being sited;
- The grades served by other programs, if co-located;
- The school program and any identified special features; and
- The location requested.

Identification of Potential District School Sites with Projected Capacity:

School	Capacity/Number of Classrooms
Allendale	5
Brookfield	8
New Highland Academy/RISE	7
MLK/Lafayette (4-5) & West Oakland Middle School at West Oakland Middle School campus	4
MLK/Lafayette Elementary School (K-3) at MLK campus	4
PLACE at Prescott Elementary School	4
Ralph J. Bunche	3
Lakeview Elementary School campus	15
Westlake Middle School	10
Hawthorne Elementary School campus	36
Elmhurst Community Prep School/Alliance	2
Hoover Elementary School	2
Fruitvale Elementary School	4
Garfield Elementary School	3
Fred T. Korematsu Discovery Academy	2
Grass Valley Elementary School	5
Horace Mann Elementary School	2
Howard Elementary School	5
Roots International Academy	2
Franklin Elementary School	5
Roosevelt Middle School	8

Frick Impact Academy	6
East Oakland Pride Elementary School	6
Thurgood Marshall Elementary School campus	12
McClymonds High School	13
Toler Heights Elementary School/Barack Obama campus	6
Markham Elementary School	8
Sherman Elementary School campus	12
Golden Gate CDC	6
Sankofa Academy	2
Skyline	3
Bridges Academy	1
Carl Munck	1
United for Success	1

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 is eligible for twenty-one (21) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

American Indian Public High School is eligible for eighteen (18) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

ARISE High School is eligible for fourteen (14) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

Aspire College Academy is eligible for thirteen (13) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

Aspire ERES Academy is eligible for eleven (11) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

East Bay Innovation Academy is eligible for twenty-four (24) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

Envision Academy is eligible for sixteen (16) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site.

Francophone Charter School of Oakland is eligible for eight (8) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Urban Montessori is eligible for twenty (20) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Yu Ming Charter School is eligible for eight (8) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site.

Student Safety Considerations:

The District 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) is eligible for twenty-one classrooms. The charter school requested space at Lincoln Elementary School, La Escuelita Elementary School, Bella Vista Elementary School, West Oakland Middle School, Hoover Elementary, Piedmont Elementary, or Westlake Middle School. The charter school identified downtown Oakland as its preferred geographical location. Unfortunately, some of 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
- West Oakland Middle School Campus
991 14th Street, Oakland, CA 94607
- Martin Luther King Elementary School
960 10th Street, Oakland, CA 94607
- PLACE at Prescott
920 Campbell Street, Oakland, CA 94607
- Ralph J. Bunche High School
1240 18th Street, Oakland, CA 94607

The District 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 sites that are not at capacity within District 3, which is adjacent to District 2, which houses Lincoln Elementary School, La Escuelita Elementary School, and Bella Vista Elementary School. District 3 is within very close proximity to the District schools preferred by the charter school. In fact, the District offered multiple school sites located within the same zip code. 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.

- **American Indian Public High School**

American Indian Public High School is eligible for eighteen (18) classrooms. The charter school requested space at Lakeview, Life Academy, Bella Vista, or Skyline. The charter school identified Lake Merritt and downtown Oakland as its preferred geographical location. Unfortunately, most of 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:

- Former Lakeview Elementary School Site
746 Grand Avenue, Oakland, CA 94610
- Westlake Middle School
2629 Harrison Street, Oakland, CA 94612

The District made the following safety considerations specific to the placement of American Indian Public High School:

The District gave American Indian Public High School the preferred placement at Lakeview and will offer additional classrooms at Westlake Middle School which is located in the requested Lake Merritt neighborhood. Westlake is both within the requested neighborhood and the next closest secondary site.

American Indian Public High School has been housed at Lakeview Elementary School for multiple school years. The District considered the safety implications associated with a relocation of the 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 relocation.

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 placement at Lakeview, to the extent permitted by its current capacity, 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.

- **ARISE High School**

ARISE High School is eligible for fourteen (14) classrooms. They requested space at a school site in the Fruitvale or San Antonio neighborhoods in East Oakland. Specifically, ARISE High School requested a dedicated facility or co-location at Life Academy, Roosevelt Middle School, Garfield Elementary, Franklin Elementary, or Think College Now. Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- Franklin Elementary School
915 Foothill Blvd., Oakland, CA 94606
- Roosevelt Middle School
1926 East 19th Street, Oakland, CA 94606

District made the following safety considerations specific to the placement of ARISE High School:

The District gave ARISE High School their preferred placements at Roosevelt and Franklin.

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 College Academy**

Aspire College Academy is eligible for thirteen (13) classrooms. They requested space at a school site near their current location (8030 Atherton Street, Oakland, CA 94605). Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- Howard Elementary School
8755 Fontaine Street, Oakland, CA 94605
- Highland Elementary School
8521 A Street, Oakland, CA 94621
- Grass Valley Elementary School
4720 Dunkirk Avenue, Oakland, CA 94605

The District made the following safety considerations specific to the placement of Aspire College Academy:

The District identified multiple school sites near their preferred geographical location near 95605. Additionally, the District was mindful in offering sites that did not require students, families, or staff 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.

- **Aspire ERES Academy**

Aspire ERES Academy is eligible for eleven (11) classrooms. They requested a location near its current school site (1936 Courtland Avenue, Oakland, CA 94601). Unfortunately, a single dedicated site or single site co-location was not an option because the sites near the requested geographical location 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:

- Fruitvale Elementary School
3200 Boston Avenue, Oakland, CA 94602
- Garfield Elementary School
1640 22nd Avenue, Oakland, CA 94606
- Horance Mann Elementary School
5222 Ygnacio Avenue, Oakland, CA 94601
- Roots International Academy (Havenscourt Campus)
1390 66th Avenue, Oakland, CA 94621

The District made the following safety considerations specific to the placement of Aspire ERES Academy:

The District identified multiple school sites near their preferred geographical location. Specifically, the District offered sites that are between 0.7 miles and 1.9 miles away from the current site located at 1936 Courtland Avenue, Oakland, CA 94601. Thus, the offered sites enable Aspire ERES Academy to maintain a footprint in the current and requested community. Additionally, the District was mindful in offering sites that did not require students, families, or staff 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.

- **East Bay Innovation Academy**

East Bay Innovation Academy is eligible for twenty-four (24) classrooms. They requested space at Lakeview Elementary School, King Estates, Frick Middle School, or Howard Elementary School. The charter school indicated that it would prefer to have the middle school program remain at former Marshall Elementary School campus. 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.

Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- Former Marshall Elementary School Site
3400 Malcolm Avenue, Oakland, CA 94605
- Frick Impact Academy
2845 64th Avenue, Oakland, CA 94605
- East Oakland Pride Elementary School
8000 Birch Street, Oakland, CA 94621

East Bay Innovation Academy is eligible for twenty-four (24) classrooms; therefore, the charter school’s entire in-District ADA could not be accommodated at a single site. The District 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.

East Bay Innovation Academy’s high school program is being offered placement at Frick Impact Academy and East Oakland Pride. Thus, the District is offering placement at a requested site,

Frick Impact Academy a second site that is less than two miles away from the requested site.

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. This placement was also 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.

- **Envision Academy**

Envision Academy is eligible for sixteen (16) classrooms. They requested space at Oakland High School, Lakeview Elementary School, Westlake Middle School, or McClymonds High School. The charter school indicated that it would prefer to remain within 3 miles of its current location (1515 Webster Street, Oakland, CA 94612).

Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- McClymonds High School
2608 Myrtle Street, Oakland, CA 94607
- Westlake Middle School
2629 Harrison Street, Oakland, CA 94612

Envision Academy is eligible for sixteen (16) classrooms; therefore, the charter school's entire in-District ADA could not be accommodated at a single site. The District made the following safety considerations specific to the placement of Envision Academy:

The District gave Envision Academy space at its preferred school sites and placements that will enable Envision Academy to remain within 3 miles of its current location. 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 the 3-mile radius will enable 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.

- **Francophone Charter School**

Francophone Charter School is eligible for eight (8) classrooms. They requested space at their current placement at the former Toler Heights Elementary School campus and nearby Howard Elementary School.

Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- Former Toler Heights Elementary School Site
9736 Lawlor Street, Oakland, CA 94605
- Howard Elementary School
8755 Fontaine Street, Oakland, CA 94605

Francophone Charter School's entire in-District ADA could not be accommodated at a single site. The District made the following safety considerations specific to the placement of Francophone Charter School:

The District gave Francophone Charter School space at its preferred 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 at the requested sites will enable students to continue to be a part of a community with which they are familiar.

Additionally, the District was mindful in offering sites that did not require students, families, or staff to traverse the City. The two school sites are less than two miles away from each other.

The District considered how the grades could be separated among the offered sites to minimize teacher and student commutes between sites. The District has proposed sites that can be utilized in such a way grade levels can be strategically placed separately and minimize travel between school sites among teachers and school staff.

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.

- **Urban Montessori**

Urban Montessori is eligible for twenty (20) classrooms. They requested space at the Former Sherman Elementary School campus and another OUSD school site.

Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- Former Sherman Elementary School Site
5328 Brann Street, Oakland, CA 94619
- Markham Elementary School
7220 Krause Avenue, Oakland, CA 94605

Urban Montessori Charter School's entire in-District ADA could not be accommodated at a single site. The District made the following safety considerations specific to the placement of Urban Montessori:

The District gave Urban Montessori space at one of their preferred 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 offered one site that was requested by Urban Montessori, allowing them to maintain their footprint in the community of which they are already a part.

Additionally, the District was mindful in offering sites that did not require students, families, or staff to traverse the City. The two school sites are separated by a mere four-minute drive and are less than a mile and half away from one another.

The District considered how the grades could be separated among the offered sites to minimize teacher and student commutes between sites. The District has proposed sites that can be utilized in such a way grade levels can be strategically placed separately and minimize travel between school sites among teachers and school staff.

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.

- **Yu Ming**

Yu Ming is eligible for eight (8) classrooms. They requested space south of the Berkeley/Emeryville border. Unfortunately, a single dedicated site or single site co-location was not an option because 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:

- Former Golden Gate Child Development Center
6232 Herzog Street, Oakland, CA 94608
- Sankofa Academy
581 61st Street, Oakland, CA 94609

Yu Ming Charter School's entire in-District ADA could not be accommodated at a single site. The District made the following safety considerations specific to the placement of Yu Ming:

Yu Ming was historically housed at the Former Golden Gate Child Development Center. 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 offered one site that previously housed Yu Ming; thus, this site would allow Yu Ming an opportunity to maintain their footprint within this community.

Additionally, the District was mindful in offering sites that did not require students, families, or staff to traverse the City. The two school sites are separated by mere a four minute drive and are less than a mile and half away of one another. Thus, minimizing safety concerns surrounding lengthy commutes by and between multiple sites.

The District considered how the grades could be separated among the offered sites to minimize teacher and student commutes between sites. The District proposes that the sites be utilized in such a way grade levels and programs can be strategically separated across the two sites 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.

Summary and Conclusion

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. Similarly, for the 2017-2018 school year, the District initially received 16 requests for facilities, resulting in a number of multi-site preliminary offers. Consistent with the historical pattern, a number of charter schools withdrew their requests or entered into agreements in lieu of Proposition 39, therefore the District only issued 2 Final Offers for 2017-2018, and only one final offer included a multi-site offer because the decreased number of requests resulted in an increase in the number of potential sites that were available for the remaining requesting

charter schools.

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").)¹

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 they 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

¹ www.thrivingstudents.org/sites/default/files/Community-Schools-Thriving-Students-Strategic-Plan.pdf.

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 5,700 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.