

Board Office Use: Legislative File Info.	
File ID Number	25-0781
Introduction Date	3/26/25
Enactment Number	
Enactment Date	



Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Jenine Lindsey, General Counsel
Kelly Krag-Arnold, Director, Office of Charter Schools

Meeting Date March 26, 2025

Subject Adopting Issuance of Proposition 39 Facilities Offers and Directing Staff to issue Written Final Offers in Compliance with Proposition 39 for Yu Ming Charter School

Ask of the Board Adopt Issuance of Proposition 39 Facilities Offers and Direct Staff to issue a Written Final Offer in Compliance with Proposition 39 for Yu Ming Charter School.

Background California Education Code § 47614 requires school districts’ facilities be shared fairly among all public school pupils, including charter school students. In accordance, Proposition 39 is an annual process the district must engage in, by which charter schools apply for facilities space that is “reasonably equivalent” to the space that district school students receive. In the 2025-26 school year, 5 schools applied and 2 schools were issued Preliminary Offers on February 1, 2025.

Discussion The District must issue Final Offers of facilities to all eligible charter schools no later than April 1, 2025. For the 2025-26 school year, the District received Proposition 39 facility requests from five charter schools. Two schools withdrew (BayTech and EBIA). Two schools, Learning Without Limits and Ascend, signed extensions for their preliminary and final offers (April 1 and May 1, respectively). The remaining school, Yu Ming, must be issued a final offer of facilities by April 1 in order to comply with Proposition 39. On February 1, Staff issued Yu Ming a Preliminary Offer for 19 classrooms at Brookfield Elementary, in compliance with the charter school’s Prop 39 classroom entitlement based on the school’s in-District ADA. After Yu Ming indicated to Staff that they were looking for only 6 classrooms in the Final Offer rather than the 19 included in the Preliminary Offer, on March 6 Yu Ming signed an agreement to waive their eligibility for a Final Offer of more than 6 classrooms. As such, the OUSD Board must now approve a final offer for Yu Ming of 6 classrooms, rather than 19 classrooms.

Fiscal Impact Positive fiscal impact due to Prop 39 fees collected; amount depends on whether or not the charter school accepts their final offer.

Anticipated revenue estimated to be approximately \$410,879 from Yu Ming, calculated as (\$13.05/sq ft) x (31,485 sq ft).

The costs of utilities and custodial are included in the above anticipated revenue. District remains responsible for general and deferred maintenance.

Attachment(s)

- Resolution No. 2425-0021
- Signed room count waiver

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

Resolution No. 2425-0021

**Adopting Issuance of Proposition 39 Facilities Offer and Directing Staff to Issue Written Final
Offers in Compliance with Proposition 39**

WHEREAS, on November 7, 2000, California voters passed Proposition 39, which mandates that school districts make facility space available to in-district charter school students, if certain eligibility requirements are met, in a manner that ensures that public school facilities 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, section 11969.2(d) states that “facilities are ‘contiguous’ if they are contained on the school site or immediately adjacent to the school site”;

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

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

WHEREAS, Cal. Code Regs., 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”;

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 (see, e.g., *Los Angeles Intern. Charter High School v. Los*

Angeles (2012) 209 Cal.App.4th 1348; *Westchester Secondary Charter School v. Los Angeles* (2015) 237 Cal.App.4th 1226);

WHEREAS, Oakland Unified School District (“OUSD” or “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 make preliminary offers to charter schools that meets Proposition 39 standards for “reasonable equivalence” in terms of “capacity” and “condition”;

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

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

WHEREAS, for the 2025-26 school year, 5 charter schools requested facilities under Proposition 39:

- Bay Area Technology School;
- East Bay Innovation Academy;
- Learning Without Limits;
- ASCEND Charter School; and
- Yu Ming Charter School;

WHEREAS, for the 2025-26 school year, the following charter schools have notified OUSD that they have fully withdrawn from consideration for Proposition 39:

- Bay Area Technology School
- East Bay Innovation Academy

WHEREAS, for the 2025-26 school year, the following schools have signed extensions and therefore will not receive a Final Offer on April 1, 2025:

- Learning Without Limits
- ASCEND Charter School

WHEREAS, on or before February 1, 2025, District staff made Preliminary Offers of Facilities under Proposition 39 to all charter schools who requested facilities and who had not fully withdrawn or extended such a request;

NOW, THEREFORE, the Board of the District hereby allocates the following District school site to be offered to the charter school named below for the 2025-26 school year under Proposition 39:

Name of Charter School	Site to be Offered
------------------------	--------------------

Yu Ming Charter School	Brookfield Elementary School 401 Jones Ave, Oakland, CA 94603
------------------------	--

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

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this ____ day of _____, 2025, by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSE:

ABSENT:

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 26, 2025.

Legislative File Info.	
File ID Number:	25-0782
Introduction Date:	3/26/25
Enactment Number:	
Enactment Date:	

OAKLAND UNIFIED SCHOOL DISTRICT

Jennifer Brouhard
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education



OFFICE OF CHARTER SCHOOLS

March 6, 2025

RE: Proposition 39 Final Offer

The District would like to confirm that Yu Ming and the Oakland Unified School District (“OUSD” or “District”) agree to the following:

- For a Final Offer of facilities, Yu Ming agrees to waive its eligibility for any additional classroom space to which it may be entitled under Proposition 39, beyond 6 classrooms. Yu Ming consents to the District excluding comparison school analyses from its Final Offer of facilities.

Please confirm Yu Ming’s agreement by signing and returning this letter to Tim Morris, Policy Specialist, OUSD Office of Charter Schools at: tim.morris@ousd.org.

Signature (Charter School)

Stacey Wang

Printed Name

3/6/2025

Date