

Board Office Use: Legislative File Info.	
File ID Number	25-0795
Introduction Date	4/23/25
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 April 23, 2025

Subject Adopting Issuance of Proposition 39 Facilities Offer and Directing Staff to issue Written Final Offer in Compliance with Proposition 39 for Learning Without Limits Charter School

Ask of the Board Adopt Issuance of Proposition 39 Facilities Offer and Direct Staff to issue a Written Final Offer in Compliance with Proposition 39 for Learning Without Limits Charter School (“LWL”).

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, five schools applied and two schools were issued Preliminary Offers on February 1, 2025. An additional school, Learning Without Limits Charter School (“LWL”), was issued a Preliminary Offer on April 1, 2025, according to a revised Proposition 39 schedule agreed upon by both parties.

Discussion According to the revised schedule, the District must issue a Final Offer of facilities to LWL no later than May 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). Yu Ming was issued a final offer on April 1, in compliance with Proposition 39. The two remaining schools, LWL and Ascend, signed extensions for their preliminary and final offers. Ascend’s preliminary offer and final offer were extended to May 1 and June 1, respectively. Staff anticipates negotiating an in-lieu of Proposition 39 Lease with Ascend. LWL’s preliminary offer and final offer were extended to April 1 and May 1, respectively. On April 1, according to the revised Proposition 39 schedule agreed upon by both parties, Staff issued LWL a preliminary offer for 16 classrooms at the Jefferson Campus, in compliance with the charter school’s Proposition 39 classroom entitlement based on the school’s in-District ADA. In order to comply with Proposition 39, and in accordance with the

revised and extended schedule, LWL must be issued a final offer of facilities by May 1, 2025. As such, the OUSD Board must now approve a final offer for LWL.

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 from LWL to be calculated as (\$8.57/sq ft) x square footage.

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

Attachment(s)

- Resolution No. 2425-0023

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

Resolution No. 2425-0023

**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, ASCEND Charter School signed an extension with a revised offer schedule and therefore will not receive a Final Offer on May 1, 2025;

WHEREAS, on or before April 1, 2025, District staff made a Final Offer of Facilities under Proposition 39 to Yu Ming;

WHEREAS, for the 2025-26 school year, Learning Without Limits Charter School signed an extension with a revised offer schedule; the preliminary offer and final offer deadlines were extended to April 1 and May 1, respectively;

WHEREAS, on or before April 1, 2025, District staff made a Preliminary Offer of Facilities under Proposition 39, according to the revised scheduled agreed upon by the parties, to Learning Without Limits Charter School;

NOW, THEREFORE, according to the revised scheduled agreed upon by the parties, 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
Learning Without Limits Charter School	Jefferson Campus 2035 40th Avenue, Oakland, CA 94601

NOW, THEREFORE, BE IT RESOLVED, the Board of the District hereby directs District staff to issue a Final Offer 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 _____, 2025.

OAKLAND UNIFIED SCHOOL DISTRICT

Legislative File Info.	
File ID Number:	25-0798
Introduction Date:	4/23/25
Enactment Number:	
Enactment Date:	

Jennifer Brouhard
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education