

**Presentation on Proposition 39 Process
to Provide Reasonably Equitable
School Facilities to
Alameda Public Charter Schools**

February 12, 2013

History and Intent of Prop. 39

- **Enacted into law by California taxpayers back in 2000, Proposition 39 has been legally mandated since 2003 through Education Code Section 47614.**
- **Proposition 39 and EC 47614 both state very clearly how “public school facilities should be shared fairly among all public school pupils, including those in charter schools.”**
- **Proposition 39 and EC 47614 also mandate that “students in public charter schools should be entitled to reasonable access to a safe and secure learning environment.”**

A School District's Obligation

- **If possible, school districts must provide “reasonably equivalent” facilities to accommodate in-district students.**
- **Facilities must be contiguous (either located on one site or immediately adjacent); if the district does not allocate a contiguous facility, the district governing board must then adopt a written statement of reasons explaining why the charter school can't be accommodated at a single site.**
- **Facilities must be “furnished and equipped” adequately.**
- **A district must provide deferred maintenance to facility.**

A School District's Rights

- **School districts cannot be required to use their unrestricted general fund revenues to rent, buy, or lease facilities for charter school needs.**
- **School districts may charge a pro-rata share of facilities costs along with a district's actual costs of oversight (up to 1% of a charter school's revenue or 3% if no pro-rata share is charged).**
- **Charter schools must conduct routine maintenance.**
- **School districts are entitled to fair reimbursement for space provided to charter schools exceeding their fair share according to in-district enrollment (over-allocated space).**

Five Major Activities Under Prop. 39

- **Facilities Request**
- **Preliminary Proposal**
- **Negotiations**
- **Final Offer of Facilities**
- **Negotiations of Facilities Use Agreements**

Preliminary Proposal

- **District makes preliminary proposal of facilities to charter school on or before February 1.**
- **District staff must work to determine reasonably equivalent facilities:**
 - **Staff develop a comparison group of district schools (district-operated schools of similar grade levels in the attendance area where the majority of charter school students would have otherwise attended).**
 - **Staff determine allocation of teaching stations, specialized stations, and non-teaching stations (assessing capacity and using formula to allocate).**
 - **Staff assess conditions of comparison group facilities.**

Preliminary Proposal

- **Proposal must include the following items:**
 - **Projections of in-district ADA (average daily attendance) on which the proposal is based**
 - **Specific location(s) of space**
 - **All conditions pertaining to use of space, including draft Facilities Use Agreement (FUA)**
 - **Pro-rata share amount**
 - **Methodology used to determine pro-rata share**

Preliminary Proposal

- **Proposal must include the following:**
 - **List and description of comparison group schools used in developing proposal**
 - **Description of differences between the proposal and the request**
- **Charter school must respond to the district's preliminary proposal on or before March 1**

Final Notification

- **Final notification is due on or before April 1**
- **Final notification must identify:**
 - **The teaching stations, specialized stations, and non-teaching station spaces for exclusive use and/or shared use**
 - **For shared space, arrangements for sharing**
 - **In-district ADA (average daily attendance) assumption noticed and district projection explained if varying from school's projection**

Final Notification (continued)

- **Final Notification must identify**
 - **Response to charter school's concerns and counter-proposals (if any)**
 - **Pro-rata share amount and payment schedule**
 - **All conditions pertaining to the space**
 - **Specific location of space**
- **Charter school must respond by May 1 (or 30 days after final notification provided them)**

Final Notification (continued)

- **District must provide charter school with furnished and equipped space ten (10) working days prior to instruction (or can be seven (7) working days for “good cause”)**
- **Parties must negotiate agreement for use and payment of space (including insurance, maintenance, et cetera)**

Synopsis and Next Steps

- Charter school annual request due by Nov. 1
- District response to ADA projection by Dec. 1
- Charter school response to concerns by Jan. 2
- District's preliminary offer to school by Feb. 1
- Charter's response to prelim. offer by March 1
- District's final offer to charter school by April 1
- Charter accepts/rejects offer by May 1

Synopsis of February 1 Proposition 39 Preliminary Facilities Proposals

- **Academy of Alameda was offered thirteen (13) classrooms at AUSD's former Chipman Middle School site.**
- **Alameda Community Learning Center was offered nine (9) classrooms at AUSD's Wood Middle School site.**
- **Nea Community Learning Center was offered a split offer, including eight (8) classrooms at AUSD's former Longfellow Elementary School site and nine (9) classrooms at AUSD's former Chipman Middle School site.**
- **Negotiations continue until a final offer is made on April 1. Facilities Use Agreements will be shared with the Board when offered on May 1.**