



AIMS K-12 College Prep Charter District

2018-3-20 Board Meeting

Date and Time

Tuesday March 20, 2018 at 6:30 PM PDT

Location

171 12th street Oakland Ca, 94607

AIMS does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. Marisol Magana has been designated to receive requests for disability-related modifications or accommodations in order to enable individuals with disabilities to participate in open and public meetings at AIMS. Please notify Marisol Magana at (510) 220-9985 at least 24 hours in advance of any disability accommodations being needed in order to participate in the meeting.

Agenda

	Purpose	Presenter	Time
I. Opening Items			6:30 PM
Opening Items			
A. Call the Meeting to Order			1 m
- Board President, Mr. Steven Leung			
B. Record Attendance and Guests	Vote		2 m
- Roll Call for the directors of the board, and opportunity for introduction of any guest presenters			

	Purpose	Presenter	Time
C. Adoption of Agenda	Vote		2 m
- Board President, Mr. Steven Leung			
D. Public Comment on Non-Agenda Items			10 m
Public Comment on Non-Agenda Items is set aside for members of the Public to address the items not on the Board's agenda. The Board of Directors will not respond or take action in response to Public Comment, except that the board may ask clarifying questions or direct staff. <u>Comments are limited to two (2) minutes per person, and a total time allotted for all public comment will not exceed thirty (30) minutes (10 minutes per section).</u>			
E. Public Comment on Agenda Items			10 m
Public Comment on Agenda Items is set aside for members of the Public to address the items on the Board's agenda prior to each agenda item. The Board of Directors will not respond or take action in response to Public Comment, except that the board may ask clarifying questions or direct staff. <u>Comments are limited to two (2) minutes per person, and a total time allotted for all public comment will not exceed thirty (30) minutes (10 minutes per section).</u>			
II. Non-Action Items			6:55 PM
A. Presentation from BoardOnTrack	FYI		5 m
- Kyle McCarthy, from BoardOnTrack			
B. President's Report	FYI		5 m
- Board President, Mr. Steven Leung			
C. Finance Report	FYI		5 m
- CSMC School Business Manager, Ms. Adrienne Barnes			
D. Spring Board Retreat to be Held at 12th street campus	FYI		5 m
Board President, Mr. Steven Leung			
E. Superintendent's Report	FYI		5 m
- Superintendent Woods-Cadiz			

	Purpose	Presenter	Time
F. AIMS K-12 Report	FYI		5 m
<ul style="list-style-type: none"> - Head of School - Mr. Tareyton Russ - Division Heads - Mr. Peter Holmquist, Mr. Maurice Williams, Mr. Christopher Ahmad, & Ms. Erin Oh 			
G. Operations Report	FYI		5 m
<ul style="list-style-type: none"> - Data, Accountability, and Operations Director, Ms. Marisol Magana - Data, Accountability, and Operations Manager, Ms. Tiffany Tung 			
H. Human Resources Report	FYI		5 m
<ul style="list-style-type: none"> - Director of Human Resources 			
I. ELD Coordinator Report	FYI		5 m
<ul style="list-style-type: none"> - ELD Coordinator, Ms. Vannee Chand 			
J. College Bound Kids Report	FYI		5 m
<ul style="list-style-type: none"> - CBK Coordinator, Mr. Matthew Gordan 			
III. Action Items			7:45 PM
A. Consent Calendar	Vote		5 m
<ul style="list-style-type: none"> i. Personnel Report <ul style="list-style-type: none"> - Director of Human Resources, Mr. Rob Mayfield ii. Approval of Job Description for Educational Coordinator, College Bound Kids <ul style="list-style-type: none"> - Director of Human Resources, Mr. Rob Mayfield iii. Approval of Board Meeting Minutes for February 20th, 2018 <ul style="list-style-type: none"> - Secretary to the Board of Directors, Mr. Joe Schickman iv. Approval of Nob Hill Catering LunchMasters Invoices for February 2018 <ul style="list-style-type: none"> - Chief Business Officer, Ms. Susan Schickman v. Approval of CSMC Invoices for March/April 2018 <ul style="list-style-type: none"> - Chief Business Officer, Ms. Susan Schickman vi. Insurance Broker RFP <ul style="list-style-type: none"> - Chief Business Officer, Ms. Susan Schickman vii. Approval to Add Nob Hill Catering to Approved Vendor List <ul style="list-style-type: none"> - Board Treasurer, Director Edington 			

	Purpose	Presenter	Time
viii. Approval of E-rate Contracts - Data, Accountability, and Operations Director, Ms. Marisol Magana			
B. Discussion and Possible Action Regarding Approving Installation of Visiplex PA System at AIMS 12th St. Site from the Same Approved Vendor as AIPHS - Data, Accountability, and Operations Director, Ms. Marisol Magana	Vote		5 m
C. Discussion and Possible Action Regarding Elections to Alter Board Committees to Comply with Brown Act After Adjustment in Board Size - Board President, Mr. Steven Leung	Vote		5 m
IV. Closed Session			8:00 PM
A. Public Comment on Closed Session Items Public Comment on closed session items is set aside for members of the Public to address items on the Board’s agenda for closed session. The Board of Directors will not respond or take action in response to Public Comment, except that the board may ask clarifying questions or direct staff. <u>Comments are limited to two (2) minutes per person, and a total time allotted for all public comment will not exceed thirty (30) minutes (10 minutes per section).</u>	FYI		10 m
B. Recess to Closed Session - Conference with Legal Counsel – Anticipated Litigation (§ 54956.9) Attorney: Doug Freifeld Attorney: Brandon Schantz - Real Property Negotiations (§ 54956.8) 171 12th. St. Oakland Ca 94607	Discuss		45 m
C. Reconvene from Closed Session Roll Call	Vote		2 m
D. Report from Closed Session - Board President, Mr. Steven Leung	FYI		3 m

	Purpose	Presenter	Time
V. Closing Items			9:00 PM
A. Items for Next Agenda	Discuss		5 m
-			
-			
-			
-			
B. Adjourn Meeting	FYI		

Coversheet

Adoption of Agenda

Section: I. Opening Items
Item: C. Adoption of Agenda
Purpose: Vote
Submitted by:
Related Material: 2018-3-20 Board Meeting Agenda.pdf

American Indian Model Schools
BOARD MEETING AGENDA
Tuesday March 20th, 2018 @ 6:30 pm
171 12th Street
Oakland, CA 94607

I. CALL TO ORDER:

II. ROLL CALL:

III. ADOPTION OF AGENDA



IV. PUBLIC COMMENT ON NON-AGENDA ITEMS

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V. NON-ACTION ITEMS

1. Presentation from BoardOnTrack

- Kyle McCarthy

2. Finance Report

- Chief Business Officer, Ms. Susan Schickman & CSMC School Business Manager, Adrienne Barnes

3. President's Report

- Board President, Mr. Steven Leung

4. Spring Board Retreat to be Held at 12th Street Site

- Board President, Mr. Steven Leung

5. Superintendent's Report

- Superintendent Woods-Cadiz

6. AIMS k-12 Report

- Division Heads, Mr. Maurice Williams, Mr. Peter Holmquist, Mr. Christopher Ahmad, & Ms. Erin Oh

7. Operations Report

- Data, Accountability, and Operations Director, Ms. Marisol Magana
- Data, Accountability, and Operations Manager, Ms. Tiffany Tung

8. Human Resources Report

- Director of Human Resources, Mr. Rob Mayfield

9. ELD Coordinator Report

- ELD Coordinator, Ms. Vannee Chand

10. College Bound Kids Report

- CBK Coordinator, Mr. Matthew Gordan

VI. PUBLIC COMMENT ON AGENDA ITEMS

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VII. DISCUSSION/ACTION ITEMS

1. Consent Calendar

- i. Personnel Report
 - Director of Human Resources, Mr. Rob Mayfield
 - ii. Approval of Job Description for Educational Coordinator, College Bound Kids
 - Director of Human Resources, Mr. Rob Mayfield
 - iii. Approval of Board Meeting Minutes for February 20th, 2018
 - Secretary to the Board of Directors, Mr. Joe Schickman
 - iv. Approval of Nob Hill Catering LunchMasters Invoices for February 2018
 - Chief Business Officer, Ms. Susan Schickman
 - v. Approval of CSMC Invoices for March/April 2018
 - Chief Business Officer, Ms. Susan Schickman
 - vi. Insurance Broker RFP
 - Chief Business Officer, Ms. Susan Schickman
 - vii. Approval to Add Nob Hill Catering to Approved Vendor List
 - Board Treasurer, Director Edington
 - viii. Approval of E-rate Contracts
 - Data, Accountability, and Operations Director, Ms. Marisol Magana
2. Discussion and Possible Action Regarding **Approving Installation of Visiplex PA System at AIMS 12th St. Site from the Same Approved Vendor as AIPHS**
 - Data, Accountability, and Operations Director, Ms. Marisol Magana
 3. Discussion and Possible Action Regarding **Elections to Alter Board Committees to Comply with Brown Act After Adjustment in Board Size**
 - Board President, Mr. Steven Leung

VIII. PUBLIC COMMENT ON CLOSED SESSION ITEMS

Public Comment on closed session items is set aside for members of the Public to address items on the Board’s agenda for closed session. The Board of Directors will not respond or take action in response to Public Comment, except that the board may ask clarifying questions or direct staff.

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IX. RECESS TO CLOSED SESSION

- Conference with Legal Counsel – Anticipated Litigation (§ 54956.9)
 Attorney: Doug Freifeld
 Attorney: Brandon Schantz
- Real Property Negotiations (§ 54956.8)
 171 12th. St. Oakland Ca 94607

- X. RECONVENE FROM CLOSED SESSION**
- XI. ROLL CALL**
- XII. REPORT FROM CLOSED SESSION**
- XIII. ITEMS FOR NEXT AGENDA**

XIV. ADJOURNMENT:

NOTICES

The next regular meeting of the Board of Directors is scheduled to be held in April 17th, 2018 @ 6:30 pm. AIMS does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. Marisol Magana has been designated to receive requests for disability-related modifications or accommodations in order to enable individuals with disabilities to participate in open and public meetings at AIMS. Please notify Marisol Magana at (510)220-9985 at least 24 hours in advance of any disability accommodations being needed in order to participate in the meeting.

I, _____ hereby certify that I posted this agenda at the AIMS Campus 171 12th street, Oakland, CA 94607 on, _____, at _____ PM Certification of Posting

Coversheet

Public Comment on Non-Agenda Items

Section: I. Opening Items
Item: D. Public Comment on Non-Agenda Items
Purpose: FYI
Submitted by:
Related Material: Public Comment Speaker Cards.pdf

Public Comment Speaker Cards

Name: _____ Date: _____

I am a: Parent _____ Student _____ Staff _____ Grade _____

Other (please specify) _____

Agenda Item (if applicable) _____

Comment: _____

Public Comment Speaker Cards

Name: _____ Date: _____

I am a: Parent _____ Student _____ Staff _____ Grade _____

Other (please specify) _____

Agenda Item (if applicable) _____

Comment: _____

Coversheet

Public Comment on Agenda Items

Section: I. Opening Items
Item: E. Public Comment on Agenda Items
Purpose: FYI
Submitted by:
Related Material: Public Comment Speaker Cards.pdf

Public Comment Speaker Cards

Name: _____ Date: _____

I am a: Parent _____ Student _____ Staff _____ Grade _____

Other (please specify) _____

Agenda Item (if applicable) _____

Comment: _____

Public Comment Speaker Cards

Name: _____ Date: _____

I am a: Parent _____ Student _____ Staff _____ Grade _____

Other (please specify) _____

Agenda Item (if applicable) _____

Comment: _____

Coversheet

Consent Calendar

Section: III. Action Items
Item: A. Consent Calendar
Purpose: Vote

Submitted by:

Related Material:

1. Personnel Report 2017-18 March.xlsx
2. Ltr. to Board - JD for Ed. Coord. - College Bound Kids.docx
2. Ed. Coordinator - College Bound Kids.pdf
4. Nob Hill Invoice Feb 2018.pdf
5. CSMC Invoice-36724.pdf
3. 2018-2-20 Board Meeting Minutes - DRAFT.pdf
6. RFP Insurance Broker - First Draft.docx
7. Finance Committee Recommendation to Add Nob Hill Catering to Approved Vendor List.docx
8. Aims E-rate project (1).pptx

Notice

The following file is attached to this PDF. You will need to open this packet in an application that supports attachments to pdf files, e.g. [Adobe Reader](#):

1. Personnel Report 2017-18 March.xlsx



American Indian Model Schools

171 12th Street 3rd Floor
Oakland, CA 94607

February 27, 2018

RE: Staff Analysis – Employee Lacking Minimum Qualification

When the job description for “Educational Coordinator – College Bound Kids” was brought for Board approval, the item was tabled due to concerns that the incumbent, Mr. Matthew Gordon, does not meet the minimum requirement of holding a valid California Teaching or Administrative Services Credential. The Board wanted to change this qualification from “required” to “preferred” for fear of union backlash. However, the Administration recommended that, rather than modify the requirements for the job, the Board invoke its authority to waive this requirement for this employee in this case. Here is our rationale:

- ✓ This is a Management position that is not in the TAIMS bargaining unit. This is not a matter that TAIMS has jurisdiction over.
- ✓ The companion position, “Educational Coordinator”, has the same credential requirement as the “Educational Coordinator - College Bound Kids” position. Both positions occupy the same position on the salary schedule. Changing the qualification for a credential on one of the positions would create an unfair pay inequity between the 2 positions.
- ✓ Pursuant to the waiver statement that is placed on every job description, the Board has the authority to waive any minimum qualification if the Board decides there is good cause to do so.
- ✓ Best practice is to build job descriptions around the needs of the employer, not around the qualifications of individual employees or candidates.

The Board again tabled the item and asked for a legal review by way of the Legal Committee.



American Indian Model Schools

DRAFT Educational Coordinator (College Bound Kids)

DESCRIPTION

Under the direction of the Superintendent or designee the Coordinator serves as an educational leader of the school. The Coordinator is accountable to the Superintendent or designee for the quality of teaching, curriculum, instruction, postsecondary preparation, and the achievement of students.

RESPONSIBILITIES

- Helps to ensure compliance with Ed. Code and Charter.
- Provides/supports training of new hires.
- Substitutes for school administrators as needed.
- Assists/plans Professional Development training for teachers.
- Collaborates with staff and offers AIMS aligned guidance to support teachers in decisions regarding curriculum and support for struggling students.
- Provides/arranges for direct coaching to teachers.
- Provides/arranges for College counseling
- Directs/Facilitates testing to students and training to teachers.
- Directs/advises on curriculum and assessment.
- Supports monthly Saturday School
- Pursues grant opportunities.
- Direct/prepare all required reports in accordance with legal requirements.
- Ensures high level of rigor for K-12 college program
- Performs other duties as assigned

EDUCATION AND EXPERIENCE:

- Masters' Degree in educational related field
- Possesses or eligible for Administrative Services Credential (desired)
- Minimum 3 years of successful teaching

QUALIFICATIONS

- 3 letters of recommendation (1 from a direct supervisor)
- Demonstrated observation and coaching ability in classroom
- Demonstrated success in student college acceptance and scholarship attainment.

This is an exempt position. The incumbent is not eligible for overtime compensation. The Board of Directors reserves the right to waive any minimum qualification.

Board Approved: _____



Nob Hill Catering Inc
 San Carlos, CA 94070
 601 Taylor Way

Invoice

Date	Invoice #
2/28/2018	AIMS022818

Bill To
American Indian Model Schools 171 12th St. Oakland, CA 94607

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30		2/28/2018			

Quantity	Item Code	Description	Price Each	Amount
3,330	AIMS-Lunch	2/1/18-2/9/18 Lunch	2.88	9,590.40
1,900	AIMS-Lunch	2/12/18-2/16/18 Lunch	2.88	5,472.00
1,875	AIMS-Lunch	2/19/18-2/23/18 Lunch	2.88	5,400.00
1,420	AIMS-Lunch	2/26/18-2/28/18 Lunch	2.88	4,089.60

Please remit payment directly to: NOB HILL CATERING, INC. 601 Taylor Way San Carlos, CA 94070	Total	\$24,552.00
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INVOICE

Lunchmaster School Lunch Program
Brought to you by Nob Hill Catering, Inc.

601 Taylor Way
 San Carlos, CA 94070
 Phone: 650.596.8008
 Fax: 650.596.8006

Friday, February 09, 2018

American Indian Model Schools
 2/01/18-2/09/18
 AIMS020918

American Indian Model Schools
 171 12th St.
 Oakland, CA 94607

	Quantity
Date range: 2/01/18-2/09/18	
Lunch	
Thursday, February 01, 2018	480
Friday, February 02, 2018	490
Monday, February 05, 2018	470
Tuesday, February 06, 2018	470
Wednesday, February 07, 2018	470
Thursday, February 08, 2018	470
Friday, February 09, 2018	480
Week Total	3,330



INVOICE

Lunchmaster School Lunch Program
Brought to you by Nob Hill Catering, Inc.

601 Taylor Way
 San Carlos, CA 94070
 Phone: 650.596.8008
 Fax: 650.596.8006

Friday, February 16, 2018

American Indian Model Schools
 2/12/18-2/16/18
 AIMS021618

American Indian Model Schools
 171 12th St.
 Oakland, CA 94607

	Quantity
Date range: 2/12/18-2/16/18	
Lunch	
Monday, February 12, 2018	470
Tuesday, February 13, 2018	480
Wednesday, February 14, 2018	470
Thursday, February 15, 2018	480
Friday, February 16, 2018	0
Week Total	1,900



INVOICE

Lunchmaster School Lunch Program
Brought to you by Nob Hill Catering, Inc.

601 Taylor Way
 San Carlos, CA 94070
 Phone: 650.596.8008
 Fax: 650.596.8006

Friday, February 23, 2018

American Indian Model Schools
 2/19/18-2/23/18
 AIMS022318

American Indian Model Schools
 171 12th St.
 Oakland, CA 94607

	Quantity
Date range: 2/19/18-2/23/18	
Lunch	
Monday, February 19, 2018	0
Tuesday, February 20, 2018	435
Wednesday, February 21, 2018	480
Thursday, February 22, 2018	480
Friday, February 23, 2018	480
Week Total	1,875



Lunchmaster School Lunch Program
Brought to you by Nob Hill Catering, Inc.

601 Taylor Way
 San Carlos, CA 94070
 Phone: 650.596.8008
 Fax: 650.596.8006

INVOICE

Wednesday, February 28, 2018

American Indian Model Schools
 2/26/18-2/28/18
 AIMS022818

American Indian Model Schools
 171 12th St.
 Oakland, CA 94607

	Quantity
Date range: 2/26/18-2/28/18	
Lunch	
Monday, February 26, 2018	470
Tuesday, February 27, 2018	470
Wednesday, February 28, 2018	480
Week Total	1,420

CSMC
 43460 Ridge Park Drive Suite 100
 Suite 100
 Temecula CA 92590
 Phone: 888 994 CSMC

INVOICE



American Indian Model Schools
 171 12th Street
 Oakland CA 94607

Invoice #:	36724
Date:	March 15, 2018
Balance Due (USD):	\$12,000.00

To View Your Invoice Online »

1. Go to: <https://csmc.freshbooks.com/code>
2. Enter this code: 36aNba9Ag6BBZUjk

Item	Description	Unit Cost (\$)	Quantity	Price (\$)
BBO, PS & CALPADS	Business Back-Office, PowerSchool & CALPADS Support	12,000.00	1	12,000.00
NOTES: April 2018 Invoice				
Subtotal:				12,000.00
Total:				12,000.00
Amount Paid:				0.00
Balance Due (USD):				\$12,000.00
<p>Due Date: April 1st, 2018 CSMC will be enforcing late penalties of 1.5% beginning March 1st, 2018</p>				

**American Indian Model Schools
BOARD MEETING AGENDA
Tuesday February 20th, 2018 @ 6:30 pm
171 12th Street
Oakland, CA 94607**

I. CALL TO ORDER: 6:30 pm

II. ROLL CALL:



President Leung	P
Director Thompson	P
Director Cook	P
Director Wan	P
Director Edington	P

Quorum Established

III. ADOPTION OF AGENDA

Motion: Director Cook moves to adopt the agenda

2nd: Director Thompson

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Y
Director Edington	Y

Motion Passes

IV. PUBLIC COMMENT ON NON-AGENDA ITEMS

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V. NON-ACTION ITEMS

1. President’s Report

– Board President, Mr. Steven Leung

2. Superintendent’s Report

– Superintendent Woods-Cadiz

3. Active Shooter Protocol

- Superintendent Woods-Cadiz

- 4. Title Nine Policy**
 - Superintendent Woods-Cadiz
- 5. Suicide Prevention Protocol**
 - Superintendent Woods-Cadiz
- 6. Winter Makeup Days**
 - Superintendent Woods-Cadiz
- 7. Discussion Regarding the AIMS Model for Board Member Input**
 - Superintendent Woods-Cadiz
- 8. AIMS k-12 Report**
 - Division Heads
- 9. Presentation on standards-based grading**
 - Division Head, Ms. Erin Oh
- 10. Lunch Program Update**
 - Data, Accountability, and Operations Manager, Ms. Tiffany Tung
- 11. Prop 39 Update**
 - Data, Accountability, and Operations Director, Ms. Marisol Magana
- 12. E-Rate Presentation**
 - Data, Accountability, and Operations Director, Ms. Marisol Magana
- 13. AIMS Sports Program Report**
 - Division Head, Mr. Maurice Williams
- 14. FAC Report**
 - Divisions Heads
- 15. Finance Report**
 - Chief Business Officer, Ms. Susan Schickman & CSMC School Business Manager, Adrienne Barnes
- 16. ELD Coordinator Report**
 - ELD Coordinator, Ms. Vannee Chand
- 17. College Bound Kids Report**
 - CBK Coordinator, Mr. Matthew Gordan

Motion: Director Cook moves to recess to closed session in order to interview the potential board secretary candidate

2nd: Director Edington

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Y
Director Edington	Y

Motion Passes

8:40 pm – recess to closed session

9:39 pm – reconvene from closed session

Nothing to Report from Closed Session

Director Wan was excused from the meeting in order to attend to business

VI. PUBLIC COMMENT ON AGENDA ITEMS

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VII. DISCUSSION/ACTION ITEMS

1. Consent Calendar

- i. Personnel Report
 - Director of Human Resources, Mr. Rob Mayfield
- ii. Approval of Board Meeting Minutes for January 16th, 2018
 - Secretary to the Board of Directors, Mr. Joe Schickman
- iii. Approval of Nob Hill Catering LunchMasters Invoices for January 2018
 - Chief Financial Officer, Ms. Susan Schickman
- iv. Approval of CSMC Invoices for February 2018
 - Chief Financial Officer, Ms. Susan Schickman
- v. Approval of Young, Minney, and Corr LLP February Invoice
 - Chief Financial Officer, Ms. Susan Schickman
- vi. Approval of Fagen, Friedman, and Fulfroost Invoice for December
 - Chief Financial Officer, Ms. Susan Schickman
- vii. Approval of OUSD Facilities Use Fee for February
 - Chief Financial Officer, Ms. Susan Schickman

Motion: Director Cook moves to approve the consent calendar

2nd: Director Thompson

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes

2. Discussion and Possible Action Regarding Approval of Job Description for Educational Coordinator, College Bound Kids

- Director of Human Resources, Mr. Rob Mayfield

Motion: Director Cook moves to table this item until the March Board Meeting and review the contract in the legal committee with legal counsel, Doug Freifeld

2nd: Director Edington

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes – Item Tabled

Motion: Cook moves to bundle and approve action items 3 & 5

2nd: Director Thompson

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passed

3. Discussion and Possible Action Regarding **Approval of Independent Auditor Selection Form**
 - Chief Financial Officer, Ms. Susan Schickman
Susan suggests that we keep our current auditors

Motion: Director Cook moves to Approve the Presented Independent Auditor Selection Form

2nd: Director Thompson

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes

4. Discussion and Possible Action Regarding **Update of Approved Vendor List**
 - Chief Financial Officer, Ms. Susan Schickman

Motion: Director Cook moves to table this item, and place it on the agenda for the March Board Meeting after going to the finance committee for review

2nd: Director Edington

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes – item tabled

5. Discussion and Possible Action Regarding **Approval of Second Interims**
 - CSMC School Business Manager, Adrienne Barnes & Chief Financial Officer, Ms. Susan Schickman

Motion: Director Cook moves to approve the Second Interims pending the approval by the finance committee

2nd: Director Thompson

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes

- 6. Discussion and Possible Action Regarding **Request to Amend the AIMS Student Dress Code to Include Navy Blue Shirts as Acceptable Uniform Options for Grades K through 12**
 - Division Head, Ms. Erin Oh

Motion: Director Edington moves to approve the proposed amendment to the AIMS dress code

2nd: Director Cook

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes

- 7. Discussion and Possible Action Regarding **Approval for Three AIMS Administrators to Travel to Washington DC to Lobby on Behalf of AIMS – Fiscal Cost is Zero**
 - Superintendent Woods-Cadiz

Motion: Director Edington moves to approve AIMS admin to travel to DC to lobby on behalf of AIMS

2nd: Director Thompson

President Leung	Y
Director Thompson	Y
Director Cook	Y
Director Wan	Excused
Director Edington	Y

Motion Passes

VIII. PUBLIC COMMENT ON CLOSED SESSION ITEMS

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IX. RECESS TO CLOSED SESSION 8:40 pm

- Conference with Legal Counsel (§ 54956.9)
- Conference with Real Property Negotiations (§ 54956.8)
171 12th. St. Oakland Ca 94607

X. RECONVENE FROM CLOSED SESSION 9:39 pm

XI. ROLL CALL

President Leung	P
Director Thompson	P
Director Cook	P
Director Wan	Excused
Director Edington	P

XII. REPORT FROM CLOSED SESSION Nothing to report

XIII. ITEMS FOR NEXT AGENDA

- Elections for committees – changing sizes of the committees to be compliant with the brown act
- Director Cook requests to have speaker from BoardOnTrack to come present to the board
- CBK Job Description
- Updated Vendor List
- Approval of insurance broker RFP
- Tabled closed session items

XIV. ADJOURNMENT: 9:59 pm

NOTICES

The next regular meeting of the Board of Directors is scheduled to be held in March 20th, 2018 @ 6:30 pm. AIMS does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. Marisol Magana has been designated to receive requests for disability-related modifications or accommodations in order to enable individuals with disabilities to participate in open and public meetings at AIMS. Please notify Marisol Magana at (510)220-9985 at least 24 hours in advance of any disability accommodations being needed in order to participate in the meeting.

I, _____ hereby certify that I posted this agenda at the AIMS Campus 171 12th street, Oakland, CA 94607 on, _____, at _____ PM Certification of Posting



American Indian Model Schools

171 12th Street
 Oakland, CA 94607-4900
 510.893.8701
 www.aimschools.org

REQUEST FOR PROPOSAL

Building on Success

FOR AN INSURANCE BROKER

MARCH 15, 2018

American Indian Model School (AIMS) is a public charter school within the Oakland Unified School District serving student from grade K-12. The school operates two (2) elementary schools and one (1) high school. The school operates under a Board of Directors who have authority over the governance of the schools.

American Indian Model School (AIMS) is requesting proposals from qualified proposers to serve as an Insurance Broker for their three (3) charter schools consisting of American Indian Public Charter School, American Indian Public Charter School II, and American Indian Public High School.

Proposals are due no later than 4:00 P.M. Pacific Time, Tuesday, May 11, 2018 to the Superintendent’s Office, American Indian Model School, 171 12th Street, Oakland, CA 94607. Proposals will be accepted by electronic media to _____.

Proposer also certifies the it does not discriminate against any employee or applicant for employment on the grounds of race, age, color, national origin, religion, sex, gender, disability, genetic information, or any other classification protected by federal, California state constitutional, or statutory law; and does not and will not maintain or provide its employees any segregated facilities at any of its establishments.

American Indian Model School offers educational and employment opportunities without regard to race, age, color, national origin, religion, sex, gender, disability or genetic information.

 COMPANY NAME

 ADDRESS

 PHONE FAX

 CITY STATE ZIP

 E-MAIL ADDRESS

Names and signatures below certify that you understand and agree to all information in this Request for Proposal.

 AUTHORIZED REPRESENTATIVE (Print)

 Signature Date

GENERAL CONDITIONS:

American Indian Model Schools
 171 12th St. Oakland, CA 94607
 510.893.8701 www.aimschools.org

1. Proposals are due to the Superintendent's Office, American Indian Model School, 171 12th Street, Oakland, CA 94607 no later than 4:00 P.M., Pacific Time, Tuesday, May 1, 2018.
2. Initial contract period will run July 1, 2018 to June 31, 2019 with the option to extend annually for up to four (4) additional consecutive one (1) year periods if agreeable to all parties.
3. Proposals should provide a straightforward and concise presentation, adequate to satisfy the requirements of the Request for Proposal (RFP). Emphasis should be on completeness, clarity of contents and responsiveness to the RFP. Proposals should be structured to respond to the RFP specifications. Format of Request for Proposal response should be as follows:
 - a. Executive summary, company organization, primary contact for this proposal.
 - b. Provide a brief description of the history and organization of the firm and of any proposed subcontractor.
 - c. Describe your firm's internal organization and the way Services will be furnished. Provide an example of the structure of servicing a current account like American Indian Model School.
 - d. Must be licensed in the State of California. Copies of business licenses, professional certifications or other credentials, together with evidence that the firm and its principals are in good standing and qualified to conduct business in California. Proof of Errors and Omissions coverage is required.
 - e. Minimum of five (5) years in business as a firm.
 - f. Company background and qualifications referenced: Five (5) clients from whom you have currently provided comparable services for K-12 or higher education within the last two (2) to three (3) years. Please include contact name, address, telephone number, and email address.
 - g. A qualified principal with five (5) years' experience in commercial lines insurance brokerage in California.
 - h. Experience providing insurance brokerage services to Government entities in California.
 - i. Safety and Loss Control experience
 - j. Identify the account team structure your firm would use with American Indian Model school. List the names of the proposed account service team and describe each member's service role. Include at least two qualified individuals from your firm having a minimum of five years' experience. Provide the Number of full time employees.
 - k. Describe the steps you would take in reviewing the School's current insurance program and designing changes to the program. Include specific techniques and procedures your firm may use to assist in identifying current and anticipated new exposures to loss.
 - l. A detailed cost proposal, including any travel costs and other expenses. As the School may award a contract based on the initial offer, the initial offer should be made on the most favorable terms available. Include broker service compensation on the basis of, one (1) fee for service or two (2) commission. If compensation is commission based, provide detailed commission structure in the proposal.
 - m. Emergency contact. 24-Hour Emergency Name and Telephone Number.
 - n. Must have an A.M. Best Rating of A- or better. If not A.M. Best, then a copy of most recent financial statement filed with the California Department of Insurance. It should

include the most recent year’s annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant data.

- o. Proposal plan.
 - p. Support services and training. Provide the company name, address, telephone number, fax number and E-mail address of the branch that will directly serve the school.
 - q. Fee schedule
 - r. Completed and Signed Certificate of Non-Discrimination Form
 - s. Completed and Signed Request for Proposal Agreement
 - t. Exceptions
4. Insurance coverage for this request includes:
- a. Commercial Property and Liability
 - b. Umbrella/Excess Liability
 - c. General Liability
 - d. Commercial Crime
 - e. Automobile
 - f. Director’s and Officers Legal Liability
 - g. Student Accident Liability
 - h. Volunteers Liability
 - i. Worker’s Compensation
 - j. Employment Practices Liability
5. The Proposal should reflect a Comprehensive package for all the insurance coverage required and requested.
6. Proposer to submit five (5) complete hardcopy sets (original and four (4) copies) and _____ . Time, date and name of RFP must be clearly marked on face of sealed envelope. All price quotations and related materials must be in a sealed envelope.
7. Estimated proposal timing:
- | | |
|---------------------------|----------------|
| a. RFP Issued | March 15, 2018 |
| b. Deadline for Questions | _____ |
| c. RFP Due | May 1, 2018 |
| d. RFP Evaluation Begins | _____ |
| e. Presentations | _____ |
| f. Board Approval | _____ |
| g. Implementation | July 1, 2018 |
8. The proposals will be evaluated, and a vendor selected using the following criteria:
- a. Project Plan
 - b. Firm Experience, Qualifications, and Personnel
 - c. Cost
 - d. References related to K-12 Schools

2018-2-27 Finance Committee Work Session Notes Related to Adding Nob Hill Catering to AIMS Approved Vendor List



CBO: Susan Schickman	We presented to you (the board and finance committee) a vender list specifically for regular venders charging interest for being late, asking that they be adding to the approved vendor list so we don't get delayed in our payment if it is due before the board meeting. We could still present the invoices at board meetings – but we would pay the invoices when they are due so that we don't incur a 1-3% late charge – (The vendors being requested for consideration are: CSMC, SPED/OUSD, and Nob Hill Catering)
Director Edington	Yes, for the lunch program (Nob Hill Catering). CSMC we can approve in advance since it doesn't change, and SPED/OUSD we can also approve in advance – so the only thing we need to add is Nob Hill – the others we can still approve with the board just a month in advance.
Director Thompson	(Agreed)

The Finance Committee recommends that the AIMS Board of Directors moves to approve adding Nob Hill Catering to the AIMS List of Approved Vendors.

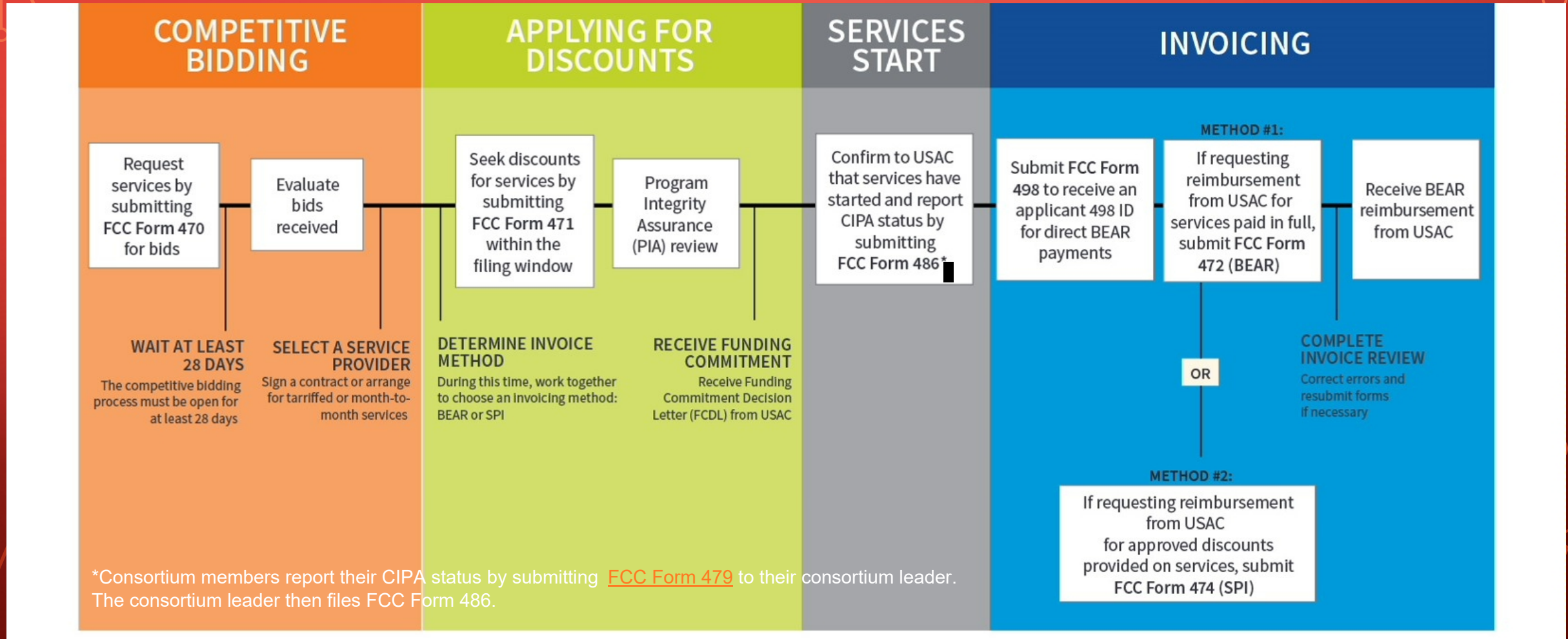
AIMS E-RATE PROJECT

WHAT IS THE E-RATE PROGRAM?

- Program that provides discounts to keep students and libraries patrons connected to broadband and voice services.
- Administered by the Universal Service Administrative Company (USAC), a non-profit designated by the FCC to make universal service possible.
- USAC handles about \$10 billion annually to assist schools/libraries, rural health care, Lifeline service, and funding to companies working to expand connectivity infrastructure in unserved or underserved area.
- Schools/Libraries receives significant discounts for both broadband and voice services.

E-RATE Program Steps

APPLICATION PROCESS FLOWCHART: APPLICANT STEPS



*Consortium members report their CIPA status by submitting [FCC Form 479](#) to their consortium leader. The consortium leader then files FCC Form 486.

E-RATE PROGRAM TIMELINE

- FCC Form 470 - must be submitted by 02/22/2018
 - Project requirements – internet, hardware, software, cabling...
- FCC Form 471 – must be submitted by 03/22/2018
 - Evaluation Matrix for chosen vendors
 - Submit signed contracts to USAC for consideration
- AIMS E-Rate application reviewed and wait for funding decision
- Service Fulfillment after funding decision.

Coversheet

Discussion and Possible Action Regarding

Section: III. Action Items
Item: B. Discussion and Possible Action Regarding
Purpose: Vote
Submitted by:
Related Material: 12th Street Estimate Quote for Paging Bell and Intercom System (2).xlsx
12th Street Estimate Quote for Paging Bell and Intercom System (1).xlsx
Est_14208_from_Telcom__Data_Inc._9764 (3).pdf
Est_14208_from_Telcom__Data_Inc._9764 (4).pdf
Estimate Quote for PA System.xlsx
Estimate Quote for PA System (2).xlsx

Notice

The following file is attached to this PDF. You will need to open this packet in an application that supports attachments to pdf files, e.g. [Adobe Reader](#):

12th Street Estimate Quote for Paging Bell and Intercom System (2).xlsx

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12th Street Estimate Quote for Paging Bell and Intercom System (1).xlsx

Quote



Improving **Your Business** Through Telcom

DATE	Quote #
3/19/2018	14208

Telcom & Data, Inc.
 2625 S Greeley
 Milwaukee WI 53207
 800-335-0229

NAME / ADDRESS
American Indian Public Charter School Marisol Magana

TERMS	REP
	RT

DESCRIPTION	QTY	COST	TOTAL
Install a wireless School Paging With Emergency Notification Included for 28 Calls Rooms and 4 Wireless FOB Keys for Remote Emergency Message Activation			
Wireless Desktop Controller for Voice Paging, Tone, Clock Control and Emergency Notification Messaging	1	870.75	870.75T
Handset Microphone for Live Voice Messaging and Intercom Communication Option	1	53.20	53.20T
10 Watt Paging Transmitter, UHF / VHF	1	845.10	845.10T
Visiplex Wireless Intercom / Repeater Interface Option for External Transmitter	1	124.20	124.20T
FCC License for One Main Site (10 Years, Secondary Sites Licensing is Available For Additional Cost)	1	595.00	595.00T
Visiplex Magnetic Mount Antenna for Medium Coverage, UHF / VHF	1	100.00	100.00T
Wireless Two-Way Intercom Station	30	341.55	10,246.50T
Wall Mounted Speaker. Includes Mounting Bracket	30	89.10	2,673.00T
Visiplex Wireless Wall Speaker For Common Areas Including Each Floor Out Side Bathrooms	6	361.00	2,166.00T
Wireless Single Button Compact Transmitter. (OPTIONAL)	4	81.00	324.00T
		TOTAL	

Phone #	Fax #	E-mail	Web Site
800-335-0229	414-744-5804	sales@telcom-data.com	www.telcom-data.com

Quote



Improving **Your Business** Through Telcom

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Telcom & Data, Inc.

2625 S Greeley
Milwaukee WI 53207
800-335-0229

NAME / ADDRESS
American Indian Public Charter School Marisol Magana

TERMS	REP
	RT

DESCRIPTION	QTY	COST	TOTAL
Wireless 900 MHz and UHF Call Buttons and Call Stations Interface Option (Requires 900 MHz or UHF Receiver, *integrated).	1	86.40	86.40T
Wireless Receiver for System Monitored Transmitters and Wall Stations	1	280.00	280.00T
Low Power Wireless Data Repeater For Small Area Coverage.	1	651.00	651.00T
Visiplex Weekly or Calendar Bell and Tone Schedule Option (*integrated)	1	195.75	195.75T
1 year Warranty on parts and labor.		0.00	0.00T
Sales Tax		7.50%	1,440.82
TOTAL			\$20,651.72

Phone #	Fax #	E-mail	Web Site
800-335-0229	414-744-5804	sales@telcom-data.com	www.telcom-data.com

Quote



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Sales Tax		7.50%	1,440.82
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Estimate Quote for PA System.xlsx

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Estimate Quote for PA System (2).xlsx

Coversheet

Discussion and Possible Action Regarding

Section:	III. Action Items
Item:	C. Discussion and Possible Action Regarding
Purpose:	Vote
Submitted by:	
Related Material:	Committee Structures.docx Committees-Who-Serves-Where.pdf

Committee Structure

Due to an adjustment in size to the AIMS Board of Directors, Board Committees will need to be reduced in size to two members in order to avoid creating a quorum at committee meetings.

Current Committees

Finance Committee	<ul style="list-style-type: none"> - Christopher Edington (Treasurer/Committee Chair) - Clifford Thompson
Legal Committee	<ul style="list-style-type: none"> - Toni Cook (Committee Chair) - Christopher Edington - Steven Leung
Facilities Committee	<ul style="list-style-type: none"> - Steven Leung - Benson Wan
Personnel Committee	<ul style="list-style-type: none"> - Steven Leung - Clifford Thompson - Benson Wan

Board Committee Membership WHO SHOULD SERVE ON WHICH COMMITTEE?

While determining the membership of your board committees is often more art than science, it pays to take a strategic approach.

- Each of your board members has specific skills, experiences, and interests that may match well with a specific committee. Keep this front of mind during the selection process.
- Ensure that your committee membership reflects the diversity of your board. This allows for varying perspectives and helps to ensure that all aspects of an issue or task receive adequate consideration.
- To develop individual board members' knowledge of the organization and board, occasionally rotate board members in and out of different committees.

It is also important to note there is no optimal committee size. It strongly depends on the purpose of the committee, scope of its work, and the size of the full board. A committee should always be small enough to keep all members thoroughly involved. Group dynamics can determine effective working relationships and consequently the size of the group.

The simple tool that follows is designed to help you with the committee selection process. It focuses on the five most common board committees. This does not mean that your board should have these five committees. Only ongoing board activities warrant a standing committee. Other activities are best addressed by time-limited task forces.



BOARD COMMITTEE MEMBERSHIP: WHO SHOULD SERVE ON WHICH COMMITTEE?

GOVERNANCE COMMITTEE

The governance committee’s main role is to institutionalize best practices in three areas: strategic board recruitment, effective board engagement, and intentional revitalization. This includes handling board self-assessment, board development, and ensuring the board is diverse.

Because the governance committee will, to an extent, perpetuate the board, its members should be both visionary and strategic as well as a microcosm of the board. The governance committee should include people who

- have a diverse range of backgrounds and a variety of experiences
- are active in the community and in a wide range of circles
- understand human dynamics and relationship building
- have experience with organizational development
- are respected by the board
- know the organization well
- are knowledgeable of good governance practices
- are willing to question present practices
- can leave personal agendas behind
- have experience in group performance evaluation

GOVERNANCE COMMITTEE

Governance Committee Charter: (Insert your committee charter here.)

Governance Committee Chair: _____

Areas of Expertise/ Leadership Qualities	Current Committee Members A B C D E	Potential Committee Members A B C D E	Notes
Human resource expertise			
Governance expertise			
Organizational development expertise			
Has community connections			
Well respected by board colleagues			
Knowledgeable of organization			
Other			

BOARD COMMITTEE MEMBERSHIP: WHO SHOULD SERVE ON WHICH COMMITTEE?

DEVELOPMENT COMMITTEE

Because fundraising is such an important role for many governing boards, many boards choose to create a development committee. The development committee typically works with the board chair, the chief executive, and development staff to provide valuable input for developing the fundraising plan and engaging the entire board in fundraising. It goes without saying that every board member, including the development committee members, should make a meaningful personal contribution according to his or her means to the organization. By doing so, each member demonstrates his or her commitment and trust in the organization, which also enables him or her to function as a more credible fundraiser and inspire other donors.

The development committee should look for members who

- can communicate effectively and enthusiastically about the organization’s mission
- are knowledgeable about the organization and its community and constituencies
- have community connections and networks
- have good people skills and engaging personalities
- are comfortable talking about money and finances with others
- have access to individual, corporate, or foundation resources
- radiate confidence and trust
- have fundraising and/or marketing experience

DEVELOPMENT COMMITTEE			
Development Committee Charter: <i>(Insert your committee charter here.)</i>			
Development Committee Chair: _____			
Areas of Expertise/ Leadership Qualities	Current Committee Members A B C D E	Potential Committee Members A B C D E	Notes
Fundraising experience			
Marketing experience			
Strong communications skills – writing and public speaking			
Financial management skills and experience			
Leadership skills			
Key community and constituency connections			
Other			

BOARD COMMITTEE MEMBERSHIP: WHO SHOULD SERVE ON WHICH COMMITTEE?

FINANCE COMMITTEE

Some nonprofits have one finance committee that carries out all of the duties associated with financial oversight. Others have separate finance, audit, and investment committees. BoardSource recommends organizations that conduct an independent audit have a separate audit committee or task force for added accountability. Separate investment committees are needed when an organization accumulates sizable reserves, manages an important planned giving program, or has an endowment that requires special attention.

The core functions of the finance committee are to

- oversee organizational financial planning
- monitor that adequate funds are available for the organization
- safeguard organizational assets
- draft organizational fiscal policies
- anticipate financial problems
- ensure the board receives accurate and complete financial information for review
- help the rest of the board understand financial statements and the general financial situation of the organization
- make sure federal, state, and local reporting takes place
- sustain the committee itself

In general, staff prepare the budget and monitor income and expenditures on a daily basis. The finance committee provides oversight by reviewing financial statements and the budget and ensuring that the board’s policies and strategic priorities are reflected in the budget. When reviewing financial reports, the finance committee asks the questions, “Are we on track? If not, why not?” Even though some board members may be “afraid” to serve on the finance committee, you should consider asking all board members to serve at least one term on the finance committee. This allows them to optimize their knowledge about the organization’s finances and participate fully in financial oversight.

The finance committee should look for members who have experience in the following:

- Budgeting
- Real estate
- Investments
- Operating a business
- Banking
- Accounting, specifically knowledge of nonprofit accounting and GAAP (generally accepted accounting practices)

FINANCE COMMITTEE

Finance Committee Charter: (Insert your committee charter here.)

Finance Committee Chair: _____

Areas of Expertise/ Leadership Qualities	Current Committee Members A B C D E	Potential Committee Members A B C D E	Notes
Financial planning experience			
Budgeting experience			
Real estate experience			
Investments experience			
Accounting experience			
Experience running a business			
Banking experience			
Attention to detail			
Willing to ask questions, raise flags			
Other			

BOARD COMMITTEE MEMBERSHIP: WHO SHOULD SERVE ON WHICH COMMITTEE?

AUDIT COMMITTEE

The principal responsibilities of an audit committee are to manage the audit process, select the independent auditor, review the audit report with the auditor, present the report to the full board, use the independent auditor as an advisor, and ensure compliance with all reporting requirements.

In some smaller organizations, the finance committee takes on the duties of an audit committee. However, as a form of internal control, BoardSource recommends separating the audit from general financial oversight and suggests using another work group to oversee the audit. This helps ensure that those overseeing the process are objective and “independent” and free to make unbiased judgments about internal financial procedure.

It is also important to note that some states have laws that require some nonprofits to create and maintain an audit committee and that, if the organization also has a finance committee, it must be separate from the audit committee.

While the finance committee and audit committee should not have overlapping membership if at all possible, the experience and skills required for each committee are very similar. If, due to a limited number of board members, the committees must share members, it is strongly recommended that the same person not serve as the chair of both committees.

The audit committee should look for members who have experience in the following:

- Accounting
- Banking
- Investments
- Financial management

If you have a limited number of board members with this experience, it is acceptable for non-board members with this expertise to serve on the audit committee, as long as they do not participate in any formal deliberations and vote.

AUDIT COMMITTEE

Audit Committee Charter: *(Insert your committee charter here.)*

Audit Committee Chair: _____

Areas of Expertise/ Leadership Qualities	Current Committee Members	Potential Committee Members	Notes
	A B C D E	A B C D E	
Accounting experience			
Banking experience			
Investments experience			
Financial management experience			
Attention to detail			
Willing to ask questions, raise flags			
Other			

BOARD COMMITTEE MEMBERSHIP: WHO SHOULD SERVE ON WHICH COMMITTEE?

EXECUTIVE COMMITTEE

The executive committee is a small group of board members — usually including the board chair, other officers, and the chief executive as an ex officio member — that often has the authority to make decisions on behalf of the full board. Committee chairs may also sit on the executive committee. Its overarching role, like the role of all committees, is to help the board do its work in the most efficient way. Its specific duties vary considerably from board to board and are largely dependent on the context of the board.

More and more boards are asking if they need an executive committee. Executive committees have been known to assume so much autonomy that they take over board decision making, leaving the rest of the board complacent, disengaged, or even alienated. Because of this, many boards responsibly choose to not have an executive committee.

Unlike other board committees, the executive committee’s membership should be addressed in the organization’s bylaws. As stated above, the list of members who may serve on the executive committee typically includes the board chair, other officers, committee chairs, and the chief executive in an ex officio role.

In general, executive committee members should be

- respected by the board
- know the organization well
- have no personal agendas
- have a diverse range of backgrounds and a variety of experiences

EXECUTIVE COMMITTEE

Executive Committee Charter: (Insert your committee charter here.)

Executive Committee Chair: _____

Executive Committee Membership as Stipulated in Bylaws: _____

Board Position	Current Committee Members A B C D E	Notes

Coversheet

Recess to Closed Session

Section: IV. Closed Session
Item: B. Recess to Closed Session
Purpose: Discuss
Submitted by:
Related Material: ousd pro rata share 17-18.pdf
AIPCS II Follow Up.pdf
AIPCS II - Response.pdf
AIPHS Follow Up.pdf
AIPCS Response.pdf
AIPHS Response.pdf

2018/19 FY

WORKSHEET – OUSD's Prop 39 Facility Use Rate Per Sq Ft Calculation

Calculation is based on 2017/18 budget as of 11/28/17

	Prop 39 Base	
Custodial Services Department Expenses*		
Supplies and Materials		
Services and Operation Cost		
Buildings & Grounds Department Expenses		
Compensation, Maintenance & Operations	14,127,631	
RRMA transfer from UR to resource 8150	13,048,405	
Facility Acquisition and Construction (Funct. 8500)	70,324	
		27,246,360
Utilities Expenses*		
Gas, Water & Electric		
Sewer Charges		
Basic Phone Service		
Debt Servicing - principal & interest payments (E.C. 47614)		
Emerg. Apportionment (State) Loan - \$65 million	3,890,534	
Emergency Apportionment (State) Loan - \$35 million	2,094,803	
		5,985,437
Police Services (CCR 11969.2 (h) Safe & Comfortable)		2,454,456
Insurance (Function 6000)		908,582
TOTAL COST BASIS	36,594,834	
TOTAL DISTRICT SQUARE FOOTAGE	5,836,128	
COST PER SQUARE FOOT		\$ 6.27

* Item may be added to Use Agreement if applicable.
11/28/17

RRMA Transfer from UR to resource 8150

Object Codes	As of 11/28/17 BUDGET
2. Classified Salaries	7,874,206
2205 - CLASSSUPPT SALARIES	5,774,629
2220 - CLASSSUPPT SALARIES STIPENDS	-
2225 - CLASSSUPPT SALARIES OVERTIME	211,519
2305 - SUPV&ADM SALARIES	832,907
2405 - CLERICAL SALARIES	95,152
2450 - CLERICAL SUBSTITUTES	-
3. Employee Benefits	3,381,634
3102 - STRS CLASSIFIED	30,522
3202 - PERS CLASSIFIED	1,031,388
3302 - SOCSEC,MEDIALTSS CLASSIFIED	417,171
3322 - MEDICARE CLASSIFIED	100,631
3342 - PARS CLASSIFIED	5,827
3402 - HEALTH & WELFARE CLASSIFIED	1,175,297
3502 - ST UNEMPLOY INS CLASSIFIED	7,426
3602 - WORKERS COMP CLASSIFIED	433,755
3802 - PERS REDUCTION CLASSIFIED	-
3902 - OTHER BENEFITS CLASSIFIED	59,817
4. Books and Supplies	1,184,244
4310 - SUPPLIES	1,005,994
4330 - GASOLINE	140,000
4399 - SURPLUS	-
4410 - Equipment \$500-4,999	14,306
4420 - Computer \$500-4,999	3,944
4432 - Furniture \$500-4,999	-
5. Services and Operating	1,573,321
5515 - DISPOSAL SERVICES	94,784
5210 - MILEAGE/PERSONAL EXP REIMB	-
5610 - EQUIP MAINTENANCE AGREEMT	1,800
5622 - RENTALS - EQUIPMENT	12,000
5670 - REPAIRS CONT	1,122,351
5679 - REPAIRS CONT - VEHICLE	90,000
5716 - INTERPGM - DUPLICATION SERVICE	1,175
5720 - INTERPGM - MAINT WORK ORDERS	(9,000)
5724 - INTERPGM - POSTAGE	-
5760 - INTERFUND - MAINT WORK ORDERS	(15,000)
5810 - ADVERTISING - LEGAL	10,211
5826 - EXTERNAL WORK ORDER SERVICES	250,000
5910 - POSTAGE	1,000
5930 - TELEPHONE	15,000
5934 - PAGERS	-
6. Capital Outlay	35,000
6410 - EQUIPMENT	35,000
6460 - VEHICLE PURCHASE	-
7. Other Outgo	-
7615 - IFT GEN,SRF,BLDG TO DEF MAINT	-
7890 - UNAPPROPRIATED FUND BALANCE	-
Grand Total	13,048,405

Source: Rpt 12 - Fd 01, Res. 8150, Obj. 1000-7990

Facility Acquisition and Construction (Function 8500)

Object Codes	As of 11/28/17 BUDGET
4. Books and Supplies	27,724
4310 - SUPPLIES	35,000
4420 - Computer \$500-4,999	2,724
5. Services and Operating	23,500
5210 - MILEAGE/PERSONAL EXP REIMB	23,500
5220 - CONFERENCE EXPENSE	5,000
5300 - DUES & MEMBERSHIPS	1,000
5716 - INTERPGM - DUPLICATION SERVICE	600
5910 - Postage	2,500
Grand Total	78,324

Source: Rpt 12 - Fd 01, Function 8500

Building & Grounds Department Expenses

Object Codes	BUDGET
2. Classified Salaries	7,711,931
2205 - CLASSSUPPT SALARIES	6,378,467
2225 - CLASSSUPPT SALARIES OVERTIME	307,206
2305 - SUPV&ADM SALARIES	932,907
2405 - CLERICAL SALARIES	95,152
3. Employee Benefits	3,421,843
3102 - STRS CLASSIFIED	44,304
3202 - PERS CLASSIFIED	1,124,983
3302 - SOCSEC,MEDIALTSS CLASSIFIED	454,609
3322 - MEDICARE CLASSIFIED	110,772
3342 - PARS CLASSIFIED	6,627
3402 - HEALTH & WELFARE CLASSIFIED	1,330,954
3502 - ST UNEMPLOY INS CLASSIFIED	8,174
3602 - WORKERS COMP CLASSIFIED	477,464
3902 - OTHER BENEFITS CLASSIFIED	66,962
4. Supplies	1,164,831
4310 - SUPPLIES	1,006,381
4330 - GASOLINE	140,000
4410 - Equipment < \$5000	14,206
4420 - COMPUTER < \$5000	3,944
5. Services and Operating	1,590,600
5210 - MILEAGE/PERSONAL EXP REIMB	500
5515 - DISPOSAL SERVICES	94,784
5610 - EQUIP MAINTENANCE AGREEMT	1,800
5622 - RENTALS - EQUIPMENT	12,000
5670 - REPAIRS CONT	1,122,351
5679 - REPAIRS CONT - VEHICLE	90,000
5716 - INTERPGM - DUPLICATION SERVICE	1,175
5720 - INTERPGM - MAINT WORK ORDERS	(9,000)
5760 - INTERFUND - MAINT WORK ORDERS	(15,000)
5810 - ADVERTISING - LEGAL	10,211
5826 - EXTERNAL WORK ORDER SERVICES	266,779
5910 - POSTAGE	1,000
5930 - TELEPHONE	15,000
6. Capital Outlay	35,000
6410 - EQUIPMENT	35,000
Grand Total	54,127,831

Source: Rpt 12 - Fd 01, Site 988



American Indian
Model Schools
A School at Work!

AIPCS I & II

Downtown Oakland Campus

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March 14, 2018

Leslie Jimenez
Oakland Unified School District
Office of Charter Schools
1000 Broadway, Suite 639
Oakland, CA 94607

***Re: American Indian Public Charter School II
District's Estimated Pro Rata Share
Proposition 39 2018-2019***

Dear Ms. Jimenez:

This letter serves as a follow-up to *American Indian Public Charter School II's* ("Charter School") response to the Oakland Unified School District's ("District") February 1, 2018 preliminary offer of facilities for the 2018-2019 school year under Proposition 39 ("Preliminary Proposal"). The Charter School included comprehensive objections to the District's pro rata share calculation, including a concern about the costs related to the District's claimed transfer from the General Fund to the 8150 account. Upon further review of the Preliminary Proposal, the Charter School has determined that the Pro Rata Share Worksheet attached to the Preliminary Proposal as Exhibit F contains several inexplicably duplicative costs. As a result, the Charter School believes the District is attempting to significantly overcharge the Charter School for facilities in 2018-2019 in violation of Proposition 39 and the Implementing Regulations.

Attached hereto is a copy of the District's Pro Rata Share Worksheet with each of the duplicative charges highlighted in orange. As you can see, at least sixteen of the line item costs and two of the deductions, totaling \$2,550,257, that are included in "RRMA Transfer from UR to resource 8150" are also included in the "Buildings & Grounds Department Expenses"/"Compensation, Maintenance & Operations" amounts. As both of these accounts include costs for maintenance and operations, as the amounts of these costs/deductions and the object codes for these costs/deductions are identical, and as the District has provided no explanation or legal support for these duplicative costs, the Charter School believes the District has unlawfully counted the same costs twice in determining the pro rata share to be charged to the Charter School in 2018-2019. In addition, there are many other costs that, while not exactly the same from column to column, are extremely close in amount. Therefore, the Charter School requests that the District correct this error and remove any duplicative costs/deductions from the pro rata share calculation included with the District's Final Offer to the Charter School on or before April 1, 2018, as well as any facilities costs that are duplicative charges against the RRMA Transfer account and the Building and Grounds account. The Charter School also reserves all rights related to the issue of

Please do not hesitate to contact me if you have any questions.

Respectfully,

PP 

Superintendent Maya Woods-Cadiz
American Indian Model School

Cc: Sarah Kollman, Young, Minney & Corr, LLP
AIMS' Board Members



American Indian
Model Schools
A School at Work!

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March 1, 2018

Leslie Jimenez
Office of Charter Schools
Oakland Unified School District
1000 Broadway, Suite 639
Oakland, CA 94607

***Re: American Indian Public Charter School II
Response to District's Preliminary Proposal
Proposition 39 2018-2019***

Dear Ms. Jimenez:

American Indian Public Charter School II ("AIPCS II" or "Charter School") is in receipt of the Oakland Unified School District's ("District") February 1, 2018 letter ("Preliminary Proposal") regarding AIPCS II's request for facilities under Proposition 39 ("Prop. 39") for the 2018-2019 school year.

The District's Preliminary Proposal is for a total of twenty-one (21) classrooms as teaching stations and specialized classrooms, with five (5) classrooms allocated at Allendale Elementary School, five (5) classrooms allocated at the Lowell campus, four (4) classrooms allocated at Martin Luther King/Lafayette Elementary School, four (4) classrooms allocated at PLACE at Prescott Elementary School, and three (3) classrooms allocated at Ralph Bunche High School. In addition, the Preliminary Proposal allocates 25.2% of the non-teaching station space at Allendale, 25.1% of the non-teaching station space at Lowell, 28.7% of the non-teaching station space at Martin Luther King, 38.4% of the non-teaching station space at Prescott as well as 45.3% shared use of the non-teaching station space at Bunche. The Preliminary Proposal is based on a projected in-District ADA of 478.08.

Section 11969.9(g) of the Proposition 39 Implementing Regulations (the "Implementing Regulations") requires AIPCS II to respond to the District's Preliminary Proposal, to express any concerns, address differences between the preliminary proposal and AIPCS II's facilities request as submitted pursuant to subdivision (b), and/or make counter proposals.

The Preliminary Proposal fails to meet the legal requirements of Prop. 39, in part, because the Preliminary Proposal fails to provide sufficient information regarding the allocation of teaching station, non-teaching space and specialized classroom space to AIPCS II and fails to provide AIPCS II with a reasonably equivalent allocation of space as required by law. AIPCS II requests that the District's final offer of space be modified in accordance with Prop. 39 and its Implementing Regulations. We remind you that the District must give the same degree of

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consideration to the needs of charter school students as it does to the students in District-run schools and some disruption and dislocation of the students and programs in a district may be necessary to fairly accommodate a charter school's request for facilities.

1. Alternative Proposal

AIPCS II wishes to minimize its impact on District programs, as well as minimize the challenges inherent in co-locations. As such, AIPCS II just wishes to accept the classrooms offered at Allendale, Lowell and Martin Luther King. It does not wish to accept the classrooms at Prescott or Bunche.

2. Condition Analysis

A district must also determine whether a facility is reasonably equivalent by determining whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Pursuant to 5 CCR Section 11969.3(c), the District must assess "such factors as age (from latest modernization), quality of materials, and state of maintenance." The District must also assess the following factors:

1. School site size
2. The condition of interior and exterior surfaces
3. The condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes
4. The availability and condition of technology infrastructure
5. The condition of the facility as a safe learning environment including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use
6. The condition of the facility's furnishings and equipment
7. The condition of athletic fields and/or play area space

The District did not perform this complete analysis in the Preliminary Proposal or the exhibits attached thereto. The District claims that it has evaluated data on the condition of the facilities at the comparison schools based on the information available from the District's Asset Management and Facilities Master Plan, and that the sites offered to AIPCS II is reasonably equivalent in every category. However, the District's Asset Management and Facilities Master Plan only addresses a small subset of the categories required to be analyzed by the District under 5 CCR Section 11969.3(c). In addition, these documents were prepared a number of years ago,

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and thus likely do not reflect an accurate assessment of the condition of the facilities.

The Preliminary Proposal does not assess the condition of the athletic fields, play areas, furnishings and equipment, technology infrastructure, mechanical, plumbing, electrical, and fire alarm systems, the suitability of lighting, or the size for intended use. Therefore, the District's Preliminary Proposal fails to perform the complete condition analysis required by the Implementing Regulations.

3. Teaching Station to ADA Analysis

All California public school students are entitled to learn in a classroom that is safe, that is not crowded with too many students, and that is conducive to a supportive learning environment. In accordance with the implementing regulations, the District must provide a facility to the Charter School with the same ratio of teaching stations to average daily attendance ("ADA") as those provided to students in the comparison group of schools, as well as a proportionate share of specialized classroom space and non-teaching space, and are to be allocated at each grade level consistent with the ratios provided by the District to its students. (5 CCR Section 11969.3(b)(1).) There is no such thing as a fractional classroom for a single grade level of students and the allocation cannot be based upon the District's "loading standard," nor can it be based on an arbitrary and fabricated formula.

In responding to a charter school's request for classroom space, a school district must follow a three-step process, as explained by the California Supreme Court in *California Charter Schools Association v. Los Angeles Unified School District* (2015) 60 Cal. 4th 1221):

"First, the district must identify comparison group schools as section 11969.3(a) prescribes. Second, the district must count the number of classrooms in the comparison group schools using the section 1859.31 inventory and then adjust those classrooms 'provided to' students in the comparison group schools. Third, the district must use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA." (*Id.*, p. 1241.)

In calculating the number of classrooms that the District will make available to the Charter School, the District must count the number of classrooms in the comparison group schools and cannot use districtwide norming ratios. (*Id.*, p. 1236.)

Under 5 CCR Section 11969.3(b)(1), "[t]he number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing." Classroom shall be provided "in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools." (*Id.*)

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In the *CCSA v. LAUSD* case, the Court explained further that classrooms used for preschool or adult education, or by other charter schools are not counted as classrooms provided to the District's non-charter K-12 public school students. (*CCSA v. LAUSD, supra*, p. 1240.) However, the Court held that "counting classrooms 'provided to' district students for the purposes of section 11969.3(b)(1) is not the same as counting only those rooms a district elects to staff with a teacher." (*Id.*, p. 1241.) The Court reasoned that "[c]ounting only those classrooms staffed by an assigned teacher would effectively impute to charter schools the same staffing decisions made by the District. But there is no reason to think a charter school would necessarily use classrooms in the same way that the District does." (*Id.*)

On a practical level, even if certain rooms are not used for classroom instruction, students nonetheless benefit from these additional rooms, either in the form of having additional space to use for break out instruction or storage, or in having less crowded classrooms. Thus, **the District is required by the Supreme Court's ruling count all of the classrooms provided to students in the District for K-12 classroom instruction regardless of whether the classrooms are staffed by teachers or not, and use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA.** Despite the clear language of *CCSA v. LAUSD*, however, the District's Preliminary excludes "unassigned" or "out of service" classrooms. These classrooms are not accounted for anywhere else in the District's Preliminary Offer; the District's Preliminary Offer, therefore, is in violation of the ruling in *CCSA v. LAUSD*.

Very simply, Prop. 39 requires the District to count the number of regular teaching stations at the comparison schools, and divide the ADA at the comparison school by the number of regular teaching stations. The spreadsheet forming Exhibit C to the Preliminary Offer, which the District cites as the source of its calculation, is a list of each of the classes at each comparison school and, we assume, the number of students enrolled in each class. The District then averages the number of students enrolled in every class at these two schools to arrive at its "teaching station to ADA ratio" calculation.

Not only does the District's calculation fail to count the number of regular teaching stations at the comparison schools, or divide the ADA of the school by that number (the required formula), but it also uses enrollment, rather than ADA, to determine its class size average – and enrollment, because it is a larger number than actual ADA, will result in an artificially higher "ratio." This manner of calculation is illegal and in direct contravention to the formula set forth in the regulations and applicable case law.

The District also has previously claimed that its list of classrooms at the comparison schools that are staffed with District teachers is "far superior" to the District's own Facilities Master Plan that specifically identifies the number of classrooms on a site. However, the number of classrooms that may be staffed with a teacher is not necessarily equivalent to the number of

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classrooms provided to District students for instruction. As noted above, in the *CCSA v. LAUSD* case, the Court held that “counting classrooms ‘provided to’ district students for the purposes of section 11969.3(b)(1) is not the same as counting only those rooms a district elects to staff with a teacher.” (*Id.*, p. 1241.) Unless the District accounts for all of the specific uses of each classroom at the comparison schools, AIPCS II has no way to verify that the information provided by the District is accurate.

A review of the publicly available information for the District comparison school’s teaching stations, enrollment, and attendance rates, specifically CDE data regarding enrollment in 2016-17, the 2015-16 OUSD “Fast Facts” regarding the average District attendance rate, the 18-19 projected ADA provided by the District, and the 2012 OUSD Facilities Master Plan, the Blueprint documents, and the Facilities Utilization Baseline Estimator suggests that AIPCS II is entitled to an allocation of at least **ten (10) teaching stations**.

School Name	ADA at school site	District Claimed TS/ADA Ratio	Corrected Teaching Stations ¹	Teaching Station to ADA Ratio
Bella Vista	445.42	25.06	17	26.20
Cleveland	392.14	25.75	16	24.51
Crocker Highlands	454.78	24.89	17	26.75
Edna Brewer	1778.85	29.35	27	28.85
Franklin	648.67	25.33	33	19.66
Glenview	648.67	25.33	33	19.66
Manzanita	323	24.89	13	24.85
Garfield	647.05	25.75	29	22.31
La Escualita K-8	406.78	26.41	17	23.93
Roosevelt	532.4	29.78	20	26.62
Average				24.82

Therefore, based on its reasonable in-District ADA projection of 478.08, AIPCS II is entitled to at least **nineteen (19) teaching stations**.

4. The Preliminary Proposal Does Not Allocate Sufficient Specialized Classroom and

¹ These numbers are developed from reviewing the OUSD Master Plan site profile and Blueprint document for the comparison schools to determine the number of classrooms, as well as a review of the District’s Exhibit C and the comparison school websites to determine the actual number of regular classrooms used by the District for regular teaching stations (which includes Newcomer and A-G classrooms as these rooms are used for general education), excluding rooms used for specialized classroom and non-teaching space (such as a parent center, band/music, special education, science labs, computer lab space, home economics, or an art room).

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Non-Teaching Station Space to AIPCS II

AIPCS II is entitled to reasonable allocations of specialized and non-teaching station space. Section 11969.3(b)(2) requires that, if a school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the Proposition 39 offer of facilities provided to a charter school must include a share of the specialized classroom space. The Preliminary Offer must include “a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space.” (5 CCR § 11969.3(b)(2).) The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

- (A) the grade levels of the charter school’s in-district students;
- (B) the charter school’s total in-district classroom ADA; and
- (C) the per-student amount of specialized classroom space in the comparison group schools.²

As such, the District must allocate specialized classroom space, such as science laboratories, art rooms, computer labs, music rooms, weight rooms, etc., commensurate with the in-District classroom ADA of AIPCS II. The allocated sites must include all of the specialized classroom space included across all of the different grade levels.

In addition, the District must provide non-teaching station space commensurate with the in-District classroom ADA of AIPCS II and the per-student amount of non-teaching station space in the comparison group schools. (5 CCR § 11969.3(b)(3).) Non-teaching space is all of the space at the comparison school that is not identified as teaching station space or specialized space and includes, but is not limited to, administrative space, a kitchen/cafeteria, a multi-purpose room, a library, a staff lounge, a copy room, storage space, bathrooms, a parent meeting room, special education space, nurse’s office, RSP space, and play area/athletic space, including gymnasiums, athletic fields, locker rooms, and pools or tennis courts. (*Ibid.*)

The allocation of specialized teaching space and non-teaching space is based on an analysis of the square footage of each category of space available to students at the comparison schools (i.e., “the per-student amount of specialized classroom space in the comparison group schools”). (5 CCR § 11969.3(b)(2)(C).) Moreover, just because one kind of specialized classroom or non-teaching station space is not available at all the comparison schools, the District may not fail to provide an allocation of that kind of space (especially here, where the District averaged the specialized classroom and non-teaching station space over all the comparison schools). Instead:

² *Id.*; see also *Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 296 and *California School Bds. Assn. v. State Bd. of Education* (2010) 191 Cal.App.4th 530 (CSBA).

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[W]hile a Proposition 39 analysis does not necessarily compel a school district to allocate and provide to a charter school each and every particular room or other facility available to the comparison group schools, it must at least account for the comparison schools' facilities in its proposal. A determination of reasonable equivalence can be made only if facilities made available to the students attending the comparison schools are listed and considered. And while mathematical exactitude is not required (cf. *Sequoia, supra*, 112 Cal.App.4th at p. 196 [charter school need not provide enrollment projections with "arithmetical precision"]), a Proposition 39 facilities offer must present a good faith attempt to identify and quantify the facilities available to the schools in the comparison group--and in particular the three categories of facilities specified in *regulation 11969.3, subdivision (b)* (i.e., teaching stations, specialized classroom space, and non-teaching station space)--in order to determine the "reasonably equivalent" facilities that must be offered and provided to a charter school. (*Bullis, supra*, 200 Cal.App.4th 296, 336.)

Here, the District has failed to count wide swaths of specialized classroom and non-teaching station space at the comparison schools, or has entirely failed to account for those spaces in its offer.

a. Allocation of Specialized Classroom Space to AIPCS II

The Preliminary Proposal allocates a total of three (3) exclusive use "specialized" classrooms to AIPCS II. However, the Preliminary Proposal does not indicate whether the classrooms allocated contain any specialized furnishings or equipment or are appropriate for specialized instruction.

In addition, in an approach that ignores the literal language of Section 11969.3(b)(2), the District asserted that "At the elementary level, specialized rooms are estimated as 1 for every 8 of general education classrooms. At the middle school level, specialized rooms are estimated as 1 for every 6 of general education classrooms. At the high school level, specialized rooms are estimated as 1 for every 10 of general education classrooms." The District then allocated specialized classroom space "based on the number of general education teaching stations" at the comparison schools. The District's allocation of specialized classroom space does not comply with the Implementing Regulations in several respects.

The District is not permitted to base its determination of the amount of specialized classroom space at the comparison schools on the number of general education teaching stations at those schools. Nothing in the law authorizes the District to average all the various types and amounts of specialized classroom spaces across all the comparison schools in this manner. According to the Implementing Regulations, the allocation of specialized teaching space and non-teaching space is based on an analysis of the square footage of these types of space available to

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students at the comparison schools (specifically, “the per-student amount of specialized classroom space in the comparison group schools.” (5 CCR Section 11969.3(b)(2) and (3).) Further, the 2017-18 Facility Utilization Baseline Estimator on which the District relies to support its calculation of specialized classroom space makes it clear that the estimations of specialized classroom contained therein are not based on “actual use” and “[i]t is assumed that the actual use is likely much higher than the estimate.”

The District’s calculation completely fails to account for the “the per-student amount of specialized classroom space in the comparison group schools.” The Preliminary Proposal is completely void of any discussion of the different amounts (square footage) and types of specialized classroom space that exist at the comparison schools including: computer lab, band/choir/music room, math lab, science lab, art room, home economics, wood shop, and weight room space.

AIPCS II is entitled to a reasonably equivalent allocation of or access to all of these types of specialized classroom spaces since they exist at the comparison schools, and *Bullis* requires the District to make “a good faith attempt to identify and quantify” the specialized classrooms spaces that exist at the comparison schools. Therefore, the District’s methodology for determining the specialized classroom allocation to AIPCS II and its failure to identify and quantify all the various types of specialized classroom space at the comparison schools violates Prop. 39 and its Implementing Regulations.

In addition, the District may not combine different types and sizes of specialized classroom space and then allocate non-specialized classrooms to AIPCS II. If there are science labs, computer labs, music rooms, weight rooms, art rooms, and the like available at the comparison schools, then the District must allocate reasonably equivalent, fully furnished and equipped kinds of these spaces space and/or access to AIPCS II. A standard classroom does not have, for example, the risers in a choral classroom, the gas and water stations in a science classroom, or the computers in a computer classroom, nor can all these different kinds of uses (and the attendant furnishings and equipment) happen in just three classrooms (along with administrative, office and library space). AIPCS II also notes that by allocating one classroom for all these uses, the District is relegating AIPCS II students to second-class status, given that District students enjoy access to these separate, furnished and equipped spaces. The District cannot force AIPCS II to create its own fully furnished and equipped specialized classroom space in a standard teaching station space. “[A] school district does not have the discretion to employ practices that are contrary to the very intent of Proposition 39 that school district facilities be “shared fairly among all public school pupils, including those in charter schools.” (*Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 296, 336.)

AIPCS II is entitled to reasonably equivalent allocations of specialized spaces, and of furnishings and equipment that accompany those spaces in the comparison schools, and it anticipates receiving its full complement of the specialized space at the school sites.

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b. Allocation of Non-Teaching Station Space to AIPCS II

The Preliminary Proposal does not properly allocate non-teaching space to AIPCS II. The Preliminary Proposal allocates lumped-together categories of non-teaching station space (admin/office/conference, MPR/auditorium/cafeteria/Gym, and library) as well as a catch-all "other interior" without any further specification. The offer provides for a total allocation of 2,291 square feet of interior non-teaching station space and 15,107 total outdoor space to AIPCS II spread.

The District's allocation of non-teaching space to AIPCS II in the Preliminary Proposal does not comply with Prop. 39 or its Implementing Regulations in several respects, including its failure to identify the specific non-teaching station space to be allocated to AIPCS II and its allocation of non-teaching station space based on the percentage of AIPCS II's enrollment on the site, as determined by the District. Moreover, the District's calculations of the space to be allocated to AIPCS II are opaque, unverifiable, and based on mysterious formulas that have not been provided to AIPCS II. This makes it almost impossible for the school to understand both how the District arrived at its allocation of space, and make a determination whether that allocation is legally compliant.

First, there is a considerable amount of non-teaching station space at the comparison schools that is not referenced in the District's calculation or allocation to AIPCS II. The Preliminary Proposal does not appear to include any of the following types of spaces in its calculation of non-teaching space at the comparison schools or its allocation to AIPCS II even though such spaces are available at the comparison schools: kitchen/servery, nurse/health clinic space, psychiatric/OT/RSP/special education/ESL/Title I/speech rooms, parent centers/community use rooms, locker rooms, conference rooms, restorative justice rooms, professional development rooms, work/lounge rooms, and storage space.

Similarly, the Preliminary Proposal does not address the various types of outdoor areas that exist at the comparison schools such as gardens, basketball courts, play fields, and play structure space but rather lumps all the different types of exterior spaces together when calculating exterior non-teaching station space. The District is required to provide AIPCS II with a reasonably equivalent allocation of all these types of spaces based on the "per-student amount of non-teaching station space in the comparison group schools," and AIPCS II requires an allocation of all these types of spaces in order to operate its educational program. Each of these types of spaces has a specific use and furnishings and equipment and/or design that are appropriate for such use, and the District's allocation method does not ensure AIPCS II will receive a reasonably equivalent allocation of each type of non-teaching station space that exists at the comparison schools. As stated in *Bullis, supra*, "a school district, in determining the amount of nonteaching station space it must allocate to the charter school, must take an objective look at all of such space available at the schools in the comparison group." (*Bullis, supra*, at p. 1047, emphasis added.) The District is

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not permitted to average all of the unique types of non-teaching station spaces that exist at the comparison schools and then allocate AIPCS II a percentage of unspecified non-teaching station spaces that exists at the allocated sites, which are not comparison schools.

Second, the Preliminary Proposal contains no listing or description of the types of shared non-teaching spaces to which AIPCS II will be provided access at the offered sites beyond large categories of space, or any proposed schedule for AIPCS II's use. The District's failure to provide this basic information to AIPCS II precludes AIPCS II from engaging in timely and efficient negotiations with the site principals regarding a shared use schedule and prevents AIPCS II from assessing whether the Preliminary Proposal provides AIPCS II with access to all of the different types of non-teaching station space to which AIPCS II is entitled. 5 CCR section 11969.9(h) requires that the school district, in its final facilities proposal, specifically identify the nonteaching station space offered to the charter school. (*Bullis, supra*, at p. 1046.) As such, AIPCS II expects that the District's final offer will specifically identify all the non-teaching station space to be allocated to AIPCS II.

Third, the District may not base its non-teaching station space allocation to AIPCS II on the "minimum" amount of non-teaching space that exists at any one of the comparison group schools, which results in a significantly and artificially reduced allocation to AIPCS II. The District claims a "charter school's allocation is considered to fall within reasonable equivalence standards if it falls within the minimum/maximum Sqft/ADA ratios at the comparison group schools." However, the District has not and cannot provide any legal authority to support this claim, and such a position directly conflicts with the basic premise of Prop. 39 – that public school facilities must be shared fairly between all public school students, including those in charter schools.

Fourth, Tables 7a and 7b add even more opacity to the District's analysis. The District is using these tables, we assume, to calculate how much total non-teaching station space exists at the comparison schools (including indoor and outdoor space) per unit of ADA. Furthermore, the District has ensured that its calculation misstates the actual per ADA amount of non-teaching station space by deducting the total "classroom space"³ from the "total site area".⁴ By using this formula, the District has assumed that all classrooms larger than 600 square feet are accounted for in its teaching station to ADA ratio – but by its own admission, the District's teaching station to ADA ratio calculation only includes rooms staffed by a teacher – not empty rooms, not classrooms used for storage or counseling or restorative justice or any other purposes. This space is also not necessarily captured by the specialized teaching station allocation, as this is also based only on the number of classrooms larger than 600 square feet on the site, but does not actually determine the use of each space, or whether the proportion actually captures usage at each comparison school site.

³ Defined as the square footage of all classrooms that are equal to or larger than 600 square feet "and any attached classroom storage space included in the Prop. 39 preliminary offers."

⁴ The total square feet of outdoor and building square feet on the campus, including non-ground level building square footage.

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For all these reasons, the District's allocation of specialized and non-teaching station space included in the Preliminary Proposal fails to comply with Prop. 39 and its Implementing Regulations. AIPCS II is entitled to reasonably equivalent allocations of specialized and non-teaching spaces, and of furnishings and equipment that accompany those spaces in the comparison schools, and it anticipates receiving its full complement of the specialized and non-teaching space at the offered school sites.

5. Pro Rata Charge Worksheet

As a preliminary matter, AIPCS II notes that the District has indicated that AIPCS II's "share of the custodial costs may be subject to reconciliation in the event that the District is required to increase staffing as a result of the Charter School's use and occupation of the District's site." To the extent that the District is indicating its intent to charge AIPCS II an additional amount for custodial services above what is included in the pro-rata share, this is not permitted by the Implementing Regulations.

- a. Utilities:** The District indicates that utilities may be included in the pro rata share if applicable under the Use Agreement. These amounts should be separately metered and billed to AIPCS II, as it is not appropriate nor provided for in the law to include these costs in the pro rata share calculation, especially since some schools in the District (for example, comprehensive highs schools that have pools and large gymnasiums) have substantially higher utilities costs, thereby requiring AIPCS II to shoulder higher burdens of utilities costs than the amounts AIPCS II actually uses. If the District receives billing from the utilities companies for each of its individual school sites, AIPCS II is willing to pay the actual utilities costs for the sites based on the same calculation used to determine the pro rata share costs for the shared use space, with the exception that any costs assumed by AIPCS II cannot be included in the pro rata share calculation.
- b. Police Services:** The District may not include police costs in its pro rata share calculation because AIPCS II provides its own security and alarm services, and also has been told by the District's Police Services that Police Services does not provide services to charter schools in the District. Pro rata share amounts are intended to reflect a charter school's portion of the District's facilities costs that AIPCS II uses. Because AIPCS II does not use the District's police service, the inclusion of these costs in the pro rata share calculation is not appropriate.
- c. Insurance:** AIPCS II will provide and pay for the full spectrum of its insurance benefits, as required by its charter and the Facilities Use Agreement; the District has included the cost of its own property insurance on the facility. Including the District's insurance costs in the calculations not only double bills AIPCS II for a cost it is already

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paying for, it is requiring AIPCS II to pay for a cost that is actually the District's responsibility. Moreover, insurance is not contemplated under the Prop. 39 regulations as an acceptable "facilities cost," and Education Code Section 47614 specifically states that a charter school may not be charged for use of district facilities beyond the pro rata share.

- d. **Custodial Services:** The District indicates that custodial services may be included in the pro rata share if applicable under the Use Agreement. The Implementing Regulations provide that ongoing operations and maintenance of facilities, which includes custodial costs, are the responsibility of AIPCS II (5 CCR Section 11969.4(b)) and that any costs assumed by AIPCS II cannot be included in the pro rata share calculation. AIPCS II wishes to perform its own custodial services in large part because it is not financially able to absorb the cost of District services; therefore, the Final Offer will need to be revised to provide for this revision.
- e. The District has included \$13,048,405 in facilities costs identified as "RRMA transfer from UR to resource 8150." However, the Implementing Regulations provide that ongoing operations and maintenance of facilities, which includes custodial costs, are the responsibility of AIPCS II (5 CCR Section 11969.4(b)) Therefore, please provide AIPCS II with the necessary documentation to show that the District has removed all facilities costs related to ongoing operations and maintenance from its RRMA transfer account that are AIPCS II's responsibility, including custodial services.
- f. Third, the District has included its emergency debt service costs in the pro rata share calculation. 5 CCR Section 11969.7 states that only unrestricted General Fund facilities costs that are not costs otherwise assumed by AIPCS II are included in the methodology. Under the Implementing Regulations, items that are not specifically included in the pro rata share calculations because they are either obligations of AIPCS II or facilities-related general fund expenses may not be included in the calculation of facilities costs. "Debt servicing" is typically not a cost charged to the unrestricted general fund (e.g., bond repayment obligations are excluded). Further, even if repayment of the District's emergency loan constitutes debt service that is charged to the unrestricted general fund, the pro rata share is intended to reimburse the District for a charter school's proportion of the District's facilities costs in exchange for AIPCS II's use of District facilities. The Emergency Apportionment state loans are clearly not facility-related debt service costs, and thus may not be included in the calculation. Again, only those facilities costs charged to the unrestricted general fund can be included in the pro rata share calculation. (5 CCR Section 11969.7.) If it is the District's position that the repayments of the emergency state loan are debt service for "facilities costs" then we request that the District provide some documentation demonstrating that the emergency loan monies were spent on "facilities costs."

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- 6. Draft Facilities Use Agreement:** We are reviewing the draft Facilities Use Agreement and look forward to negotiating the terms of that or an in-lieu agreement over the next several weeks, as required by the Implementing Regulations. (5 CCR Section 11969.9(k).)
- a. **Section 1:** This section states “District agrees to allow use of the Premises at the School(s) by Charter School for the sole purpose of operating Charter School’s educational program in accordance with all applicable federal, state and local regulations relating to the Premises and to the operation of Charter School’s educational program.” This section will need to be revised to include AIPCS II’s summer school, if any, and programs procured by AIPCS II through third party entities, e.g. after-school program providers.
 - b. **Section 1.4:** Prop. 39 only requires AIPCS II to comply with the District’s policies and procedures related to operations and maintenance, and not where actual school district practice substantially differs from official policies. (5 CCR Section 11969.4(b).
 - c. **Section 1.6:** Fees charged under the Civic Center Act are intended to reimburse school districts for the costs they incur to process permits and to clean up after community use of their facilities. The portion of the Civic Center Act fees related to custodial and maintenance costs must be paid to AIPCS II if AIPCS II is responsible for cleaning up its sites after each community use.
 - d. **Section 2:** The Sites must be furnished, equipped and available for occupancy by AIPCS II for a period of at least ten (10) working days prior to the first day of instruction. However, we are willing to consider taking possession earlier if mutually agreed upon between the parties.
 - e. **Section 3:** This section also needs to reflect that if AIPCS II constructs or installs recreational improvements or other school facilities, AIPCS II and the District will agree to negotiate a reduction in the facilities use fees. AIPCS II’s other concerns regarding the Pro Rata Share Charge outlined above are incorporated herein. Again, any costs assumed by AIPCS II cannot be included in the pro rata share calculation, including custodial and maintenance costs. AIPCS II objects to the late charge listed in Section 3.5. The Implementing Regulations do not contemplate late fees to be charged to AIPCS II.
 - f. **Section 6:** This number will need to be adjusted to reflect the number of AIPCS II students on the sites.
 - g. **Section 9:** This section states that the District “shall not be liable for any personal injury suffered by Charter School or Charter School’s visitors, invitees, and

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guests, or for any damage to or destruction or loss of any of Charter School or Charter School's visitors, invitees or guests' personal property located or stored in the parking lots, street parking or the School Sites, except where such damage is caused by the District's negligence or misconduct." This section will need to be changed to reflect that the District may not avoid liability for injuries or damage caused by its failure to maintain the parking spaces on the sites. The District is required to provide AIPCS II with a facility that complies with the California Building Code, and to maintain the facility in compliance with the California Building Code. (5 CCR Section 11969.9(k).) It may not provide the parking lot in an "as-is" condition.

- h. Section 10:** For the same reason, the District may not require AIPCS II to take the facility in "as is" condition. Furthermore, it is not acceptable for the District to terminate the FUA if the cost to make repairs exceeds \$150,000. The District is required to make the facility available to AIPCS II for its entire school year (5 CCR Section 11969.5) and to maintain the facility in compliance with the California Building Code. (5 CCR Section 11969.9(k).) As a result, if the facility is damaged, the District must repair it, or, if it is destroyed, the District must provide alternative facilities.
- i. Section 12.3 and 12.4:** The District must make reasonable efforts to keep their materials, tools, supplies and equipment on the Premises in such a way as to minimize disruption to AIPCS II's program. The District must provide relevant scheduling information and reasonable notice to AIPCS II if it will be coming onto the facility to perform maintenance. In addition, AIPCS II wishes to perform its own custodial services, and as a result, does not agree to allow the District to enter the Premises to perform custodial services.
- j. Section 14:** While AIPCS II is willing to pay any taxes or assessments on its personal property, or modifications or improvements it performs on the facility, it may not otherwise be obligated to pay any costs to occupy the facility beyond the pro rata share. (Education Code Section 47614(b)(1).)
- k. Section 15:** AIPCS II wishes to perform its own cleaning and custodial services. Therefore, the Final Offer will need to be revised to provide for this revision.
- l. Section 17:** If the comparison schools have a security system, then in order to provide a reasonably equivalent facility, the District must also provide the Premises with a security system. AIPCS II does not agree to provide written verification of compliance with the fingerprinting and criminal background investigation requirements to District prior to AIPCS II taking possession of the Premises and prior to conducting its educational program on the Premises.

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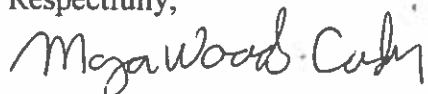
- m. Section 18.1.7:** AIPCS II does not agree that should it default under the FUA, it must pay the District its unpaid pro rata share. The District is obligated to attempt to first find an alternative occupant for the site.
- n. Section 18.2:** This section must provide for AIPCS II to perform any District obligation if the District is in default, and to recover its reasonable costs in so doing from the District.
- o. Section 20:** If AIPCS II chooses to seek its insurance through a joint powers authority such as CharterSAFE, JPAs do not receive an A.M. Best insurance rating. This section will need to be revised to provide that insurance through a JPA will satisfy the terms of the FUA.
- p. Section 28:** This section must be revised to provide that the District is responsible for maintaining the Premises in compliance with applicable law, except to the extent that compliance arises as a result of modifications or improvements performed by AIPCS II.

We have attempted in this letter to enumerate all of our concerns with the District's Preliminary Proposal; however, we note that our failure to mention a concern in this letter should not be interpreted as acceptance of that term.

We look forward to working with the District to make the necessary changes to the District's Preliminary Proposal in order to ensure compliance with Proposition 39 and its Implementing Regulations in time for the issuance of the final notification of facilities, or to enter into an in-lieu agreement as set forth above.

AIPCS II looks forward to the opportunity to discuss and negotiate these matters with the District moving forward.

Respectfully,



Superintendent Maya Woods-Cadiz
American Indian Model School

Cc: Sarah Kollman, Young, Minney & Corr, LLP
AIPCS II's Board Members



American Indian
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A School at Work!

AIPCS I & II

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March 14, 2018

Leslie Jimenez
Oakland Unified School District
Office of Charter Schools
1000 Broadway, Suite 639
Oakland, CA 94607

**Re: *American Indian Public High School
District's Estimated Pro Rata Share
Proposition 39 2018-2019***

Dear Ms. Jimenez:

This letter serves as a follow-up to *American Indian Public High School's* ("Charter School") response to the Oakland Unified School District's ("District") February 1, 2018 preliminary offer of facilities for the 2018-2019 school year under Proposition 39 ("Preliminary Proposal"). The Charter School included comprehensive objections to the District's pro rata share calculation, including a concern about the costs related to the District's claimed transfer from the General Fund to the 8150 account. Upon further review of the Preliminary Proposal, the Charter School has determined that the Pro Rata Share Worksheet attached to the Preliminary Proposal as Exhibit F contains several inexplicably duplicative costs. As a result, the Charter School believes the District is attempting to significantly overcharge the Charter School for facilities in 2018-2019 in violation of Proposition 39 and the Implementing Regulations.

Attached hereto is a copy of the District's Pro Rata Share Worksheet with each of the duplicative charges highlighted in orange. As you can see, at least sixteen of the line item costs and two of the deductions, totaling \$2,550,257, that are included in "RRMA Transfer from UR to resource 8150" are also included in the "Buildings & Grounds Department Expenses"/"Compensation, Maintenance & Operations" amounts. As both of these accounts include costs for maintenance and operations, as the amounts of these costs/deductions and the object codes for these costs/deductions are identical, and as the District has provided no explanation or legal support for these duplicative costs, the Charter School believes the District has unlawfully counted the same costs twice in determining the pro rata share to be charged to the Charter School in 2018-2019. In addition, there are many other costs that, while not exactly the same from column to column, are extremely close in amount. Therefore, the Charter School requests that the District correct this error and remove any duplicative costs/deductions from the pro rata share calculation included with the District's Final Offer to the Charter School on or before April 1, 2018, as well as any facilities costs that are duplicative charges against the RRMA Transfer account and the Building and Grounds account. The Charter School also reserves all rights related to the issue of

Please do not hesitate to contact me if you have any questions.

Respectfully,

PP 

Superintendent Maya Woods-Cadiz
American Indian Model School

Cc: Sarah Kollman, Young, Minney & Corr, LLP
AIMS' Board Members



American Indian
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A School at Work!

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March 1, 2018

Leslie Jimenez
Office of Charter Schools
Oakland Unified School District
1000 Broadway, Suite 639
Oakland, CA 94607

***Re: American Indian Public Charter School
Response to District's Preliminary Proposal
Proposition 39 2018-2019***

Dear Ms. Jimenez:

American Indian Public Charter School ("AIPCS" or "Charter School") is in receipt of the Oakland Unified School District's ("District") February 1, 2018 letter ("Preliminary Proposal") regarding AIPCS's request for facilities under Proposition 39 ("Prop. 39") for the 2018-2019 school year.

The District's Preliminary Proposal is for a total of five (5) teaching stations and one (1) "specialized" classroom at Brookfield, as well as 33.27% shared use of the non-teaching station space at Brookfield. The Preliminary Proposal is based on a projected in-District ADA of 127.4.

Section 11969.9(g) of the Proposition 39 Implementing Regulations (the "Implementing Regulations") requires AIPCS to respond to the District's Preliminary Proposal, to express any concerns, address differences between the preliminary proposal and AIPCS's facilities request as submitted pursuant to subdivision (b), and/or make counter proposals.

The Preliminary Proposal fails to meet the legal requirements of Prop. 39, in part, because the Preliminary Proposal fails to provide sufficient information regarding the allocation of teaching station, non-teaching space and specialized classroom space to AIPCS and fails to provide AIPCS with a reasonably equivalent allocation of space as required by law. In addition, the District allocated AIPCS space at a site that is 7 miles away from the area where the school requested to be located. As a result of these deficiencies, the space allocated to AIPCS at Brookfield is unworkable for AIPCS and AIPCS does not intend to occupy the allocated space at Brookfield.

We remind you that the District must give the same degree of consideration to the needs of charter school students as it does to the students in District-run schools and some disruption and dislocation of the students and programs in a district may be necessary to fairly accommodate a charter school's request for facilities.

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1. Condition Analysis

A district must also determine whether a facility is reasonably equivalent by determining whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Pursuant to 5 CCR Section 11969.3(c), the District must assess “such factors as age (from latest modernization), quality of materials, and state of maintenance.” The District must also assess the following factors:

1. School site size
2. The condition of interior and exterior surfaces
3. The condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes
4. The availability and condition of technology infrastructure
5. The condition of the facility as a safe learning environment including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use
6. The condition of the facility's furnishings and equipment
7. The condition of athletic fields and/or play area space

The District did not perform this complete analysis in the Preliminary Proposal or the exhibits attached thereto. The District claims that it has evaluated data on the condition of the facilities at the comparison schools based on the information available from the District's Asset Management and Facilities Master Plan, and that the site offered to AIPCS is reasonably equivalent in every category. However, the District's Asset Management and Facilities Master Plan only addresses a small subset of the categories required to be analyzed by the District under 5 CCR Section 11969.3(c). In addition, these documents were prepared a number of years ago, and thus likely do not reflect an accurate assessment of the condition of the facilities.

The Preliminary Proposal does not assess the condition of the athletic fields, play areas, furnishings and equipment, technology infrastructure, mechanical, plumbing, electrical, and fire alarm systems, the suitability of lighting, or the size for intended use. Therefore, the District's Preliminary Proposal fails to perform the complete condition analysis required by the Implementing Regulations.

2. Teaching Station to ADA Analysis

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All California public school students are entitled to learn in a classroom that is safe, that is not crowded with too many students, and that is conducive to a supportive learning environment. In accordance with the implementing regulations, the District must provide a facility to the Charter School with the same ratio of teaching stations to average daily attendance (“ADA”) as those provided to students in the comparison group of schools, as well as a proportionate share of specialized classroom space and non-teaching space and are to be allocated at each grade level consistent with the ratios provided by the District to its students. (5 CCR Section 11969.3(b)(1).) There is no such thing as a fractional classroom for a single grade level of students and the allocation cannot be based upon the District’s “loading standard,” nor can it be based on an arbitrary and fabricated formula.

In responding to a charter school’s request for classroom space, a school district must follow a three-step process, as explained by the California Supreme Court in *California Charter Schools Association v. Los Angeles Unified School District* (2015) 60 Cal. 4th 1221):

First, the district must identify comparison group schools as section 11969.3(a) prescribes. Second, the district must count the number of classrooms in the comparison group schools using the section 1859.31 inventory and then adjust those classrooms ‘provided to’ students in the comparison group schools. Third, the district must use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA. (*Id.*, p. 1241.)

In calculating the number of classrooms that the District will make available to the Charter School, the District must count the number of classrooms in the comparison group schools and cannot use districtwide norming ratios. (*Id.*, p. 1236.)

Under 5 CCR Section 11969.3(b)(1), “[t]he number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing.”

In the *CCSA v. LAUSD* case, the Court explained further that classrooms used for preschool or adult education, or by other charter schools are not counted as classrooms provided to the District’s non-charter K-12 public school students. (*CCSA v. LAUSD, supra*, p. 1240.) However, the Court held that “counting classrooms ‘provided to’ district students for the purposes of section 11969.3(b)(1) is not the same as counting only those rooms a district elects to staff with a teacher.” (*Id.*, p. 1241.) The Court reasoned that “[c]ounting only those classrooms staffed by an assigned teacher would effectively impute to charter schools the same staffing decisions made by the District. But there is no reason to think a charter school would necessarily use classrooms in the same way that the District does.” (*Id.*)

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On a practical level, even if certain rooms are not used for classroom instruction, students nonetheless benefit from these additional rooms, either in the form of having additional space to use for break-out instruction or storage, or in having less crowded classrooms. Thus, **the District is required by the Supreme Court's ruling count all of the classrooms provided to students in the District for K-12 classroom instruction regardless of whether the classrooms are staffed by teachers or not, and use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA.** Despite the clear language of *CCSA v. LAUSD*, however, the District's Preliminary excludes "unassigned" or "out of service" classrooms. These classrooms are not specifically accounted for anywhere else in the District's Preliminary Offer; the District's Preliminary Offer, therefore, is in violation of the ruling in *CCSA v. LAUSD*.

Very simply, Prop. 39 requires the District to count the number of regular teaching stations at the comparison schools and divide the ADA at the comparison schools by the number of regular teaching stations. The spreadsheet forming Exhibit C to the Preliminary Offer, which the District cites as the source of its calculation, is a list of each of the classes at each comparison school and, we assume, the number of students enrolled in each class. The District then averages the number of students enrolled in every class at the schools to arrive at its "teaching station to ADA ratio" calculation.

Not only does the District's calculation fail to count the number of regular teaching stations at the comparison schools or divide the ADA of the school by that number (the required formula), but it also uses enrollment, rather than ADA, to determine its class size average – and enrollment, because it is a larger number than actual ADA, will result in an artificially higher "ratio." This manner of calculation is illegal and in direct contravention to the formula set forth in the regulations and applicable case law.

The District also has previously claimed that its list of classrooms at the comparison schools that are staffed with District teachers is "far superior" to the District's own Facilities Master Plan that specifically identifies the number of classrooms on a site. However, the number of classrooms that may be staffed with a teacher is not necessarily equivalent to the number of classrooms provided to District students for instruction. As noted above, in the *CCSA v. LAUSD* case, the Court held that "counting classrooms 'provided to' district students for the purposes of section 11969.3(b)(1) is not the same as counting only those rooms a district elects to staff with a teacher." (*Id.*, p. 1241.) Unless the District accounts for all of the specific uses of each classroom at the comparison schools, AIPCS has no way to verify that the information provided by the District is accurate.

A review of the publicly available information for the District comparison schools' teaching stations, enrollment, and attendance rates, specifically CDE data regarding enrollment in 2016-17, the 18-19 projected ADA provided by the District, and the 2012 OUSD Facilities

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Master Plan, the Blueprint documents, and the Facilities Utilization Baseline Estimator suggests that AIPCS is entitled to an allocation of at least **six (6) teaching stations**.

School Name	ADA at school site	District Claimed TS/ADA Ratio	Corrected Teaching Stations ¹	Corrected Teaching Station to ADA Ratio
Hillcrest	378.76	26.94	15	25.25
Claremont	464.40	29.60	17	27.32
Westlake	303.16	25.76	25	12.13
Average				21.56

Therefore, based on its reasonable in-District ADA projection of 127.4, AIPCS is entitled to at least **six (6) teaching stations, which is one more teaching station than the District allocated to AIPCS.**

3. The Preliminary Proposal Does Not Allocate Sufficient Specialized Classroom and Non-Teaching Station Space to AIPCS

AIPCS is entitled to reasonable allocations of specialized and non-teaching station space. Section 11969.3(b)(2) requires that, if a school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the Proposition 39 offer of facilities provided to a charter school must include a share of the specialized classroom space. The Preliminary Offer must include “a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space.” (5 CCR § 11969.3(b)(2).) The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

- (A) the grade levels of the charter school’s in-district students;
- (B) the charter school’s total in-district classroom ADA; and
- (C) the per-student amount of specialized classroom space in the comparison group schools.²

¹ These numbers are developed from reviewing the OUSD Master Plan site profile and Blueprint document for the comparison schools to determine the number of classrooms, as well as a review of the District’s Exhibit C and the comparison school websites to determine the actual number of regular classrooms used by the District for regular teaching stations (which includes Newcomer and A-G classrooms as these rooms are used for general education), excluding rooms used for specialized classroom and non-teaching space (such as a parent center, band/music, special education, science labs, computer lab space, home economics, or an art room).

² Id.; see also *Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 296 and *California School Bds. Assn. v. State Bd. of Education* (2010) 191 Cal.App.4th 530 (CSBA).

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As such, the District must allocate specialized classroom space, such as science laboratories, art rooms, computer labs, music rooms, weight rooms, etc., commensurate with the in-District classroom ADA of AIPCS. The allocated site must include all of the specialized classroom space included across all of the different grade levels.

In addition, the District must provide non-teaching station space commensurate with the in-District classroom ADA of AIPCS and the per-student amount of non-teaching station space in the comparison group schools. (5 CCR § 11969.3(b)(3).) Non-teaching space is all of the space at the comparison schools that is not identified as teaching station space or specialized space and includes, but is not limited to, administrative space, a kitchen/cafeteria, a multi-purpose room, a library, a staff lounge, a copy room, storage space, bathrooms, a parent meeting room, special education space, nurse's office, RSP space, and play area/athletic space, including gymnasiums, athletic fields, locker rooms, pools or tennis courts. (*Ibid.*)

The allocation of specialized teaching space and non-teaching space is based on an analysis of the square footage of each category of space available to students at the comparison schools (i.e., "the per-student amount of specialized classroom space in the comparison group schools"). (5 CCR § 11969.3(b)(2)(C).) Moreover, just because one kind of specialized classroom or non-teaching station space is not available at all the comparison schools, the District may not fail to provide an allocation of that kind of space (especially here, where the District averaged the specialized classroom and non-teaching station space over all the comparison schools). Instead:

[W]hile a Proposition 39 analysis does not necessarily compel a school district to allocate and provide to a charter school each and every particular room or other facility available to the comparison group schools, it must at least account for the comparison schools' facilities in its proposal. A determination of reasonable equivalence can be made only if facilities made available to the students attending the comparison schools are listed and considered. And while mathematical exactitude is not required (cf. *Sequoia, supra*, 112 Cal.App.4th at p. 196 [charter school need not provide enrollment projections with "arithmetical precision"]), a Proposition 39 facilities offer must present a good faith attempt to identify and quantify the facilities available to the schools in the comparison group--and in particular the three categories of facilities specified in *regulation 11969.3, subdivision (b)* (i.e., teaching stations, specialized classroom space, and non-teaching station space)--in order to determine the "reasonably equivalent" facilities that must be offered and provided to a charter school. (*Bullis, supra*, 200 Cal.App.4th 296, 336.)

Here, the District has failed to count wide swaths of specialized classroom and non-teaching station space at the comparison schools, or has entirely failed to account for those spaces in its offer.

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a. Allocation of Specialized Classroom Space to AIPCS

The Preliminary Proposal allocates a total of one (1) exclusive use “specialized” classroom to AIPCS. However, the Preliminary Proposal does not indicate whether the classroom allocated contains any specialized furnishings or equipment or are appropriate for specialized instruction.

In addition, in an approach that ignores the literal language of Section 11969.3(b)(2), the District asserted that “At the elementary level, specialized rooms are estimated as 1 for every 8 of general education classrooms. At the middle school level, specialized rooms are estimated as 1 for every 6 of general education classrooms. At the high school level, specialized rooms are estimated as 1 for every 10 of general education classrooms.” The District then allocated specialized classroom space “based on the number of general education teaching stations” at the comparison schools. The District’s allocation of specialized classroom space does not comply with the Implementing Regulations in several respects.

The District is not permitted to base its determination of the amount of specialized classroom space at the comparison schools on the number of general education teaching stations at those schools. Nothing in the law authorizes the District to average all the various types and amounts of specialized classroom spaces across all the comparison schools in this manner. According to the Implementing Regulations, the allocation of specialized teaching space and non-teaching space is based on an analysis of the square footage of these types of space available to students at the comparison schools (specifically, “the per-student amount of specialized classroom space in the comparison group schools.” (5 CCR Section 11969.3(b)(2) and (3).) Further, the 2017-18 Facility Utilization Baseline Estimator on which the District relies to support its calculation of specialized classroom space makes it clear that the estimations of specialized classroom contained therein are not based on “actual use” and “[i]t is assumed that the actual use is likely much higher than the estimate.”

The District’s calculation completely fails to account for the “the per-student amount of specialized classroom space in the comparison group schools.” The Preliminary Proposal is completely void of any discussion of the different amounts (square footage) and types of specialized classroom space that exist at the comparison schools including: computer lab, band/music room, science lab, science demonstration lab, art room, and multi-purpose demonstration lab.

AIPCS is entitled to a reasonably equivalent allocation of or access to all of these types of specialized classroom spaces since they exist at the comparison schools, and *Bullis* requires the District to make “a good faith attempt to identify and quantify” the specialized classrooms spaces that exist at the comparison schools. Therefore, the District’s methodology for determining the specialized classroom allocation to AIPCS and its failure to identify and quantify all the various types of specialized classroom space at the comparison schools violates Prop. 39 and its Implementing Regulations.

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In addition, the District may not combine different types and sizes of specialized classroom space and then allocate non-specialized classrooms to AIPCS. If there are science labs, computer labs, music rooms, art rooms, and the like available at the comparison schools, then the District must allocate reasonably equivalent, fully furnished and equipped kinds of these spaces space and/or access to AIPCS. A standard classroom does not have, for example, the risers in a choral classroom, the gas and water stations in a science classroom, or the computers in a computer classroom, nor can all these different kinds of uses (and the attendant furnishings and equipment) happen in just one classroom (along with administrative, office and library space). AIPCS also notes that by allocating one classroom for all these uses, the District is relegating AIPCS students to second-class status, given that District students enjoy access to these separate, furnished and equipped spaces. The District cannot force AIPCS to create its own fully furnished and equipped specialized classroom space in a standard teaching station space. “[A] school district does not have the discretion to employ practices that are contrary to the very intent of Proposition 39 that school district facilities be “shared fairly among all public school pupils, including those in charter schools.” (*Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 296, 336.)

AIPCS is entitled to reasonably equivalent allocations of specialized spaces, and of furnishings and equipment that accompany those spaces in the comparison schools, and it anticipates receiving its full complement of the specialized space.

b. Allocation of Non-Teaching Station Space to AIPCS

The Preliminary Proposal does not properly allocate non-teaching space to AIPCS. The Preliminary Proposal allocates lumped-together categories of non-teaching station space (admin/office/conference, MPR/auditorium/cafeteria/Gym, and library) as well as a catch-all “other interior” without any further specification. The offer provides for a total allocation of 12,216 square feet of interior non-teaching station space and 116,276 sq. ft. total outdoor space to AIPCS spread across two sites.

The District’s allocation of non-teaching space to AIPCS in the Preliminary Proposal does not comply with Prop. 39 or its Implementing Regulations in several respects, including its failure to identify the specific non-teaching station space to be allocated to AIPCS and its allocation of non-teaching station space based on the percentage of AIPCS’s enrollment on the site, as determined by the District. Moreover, the District’s calculations of the space to be allocated to AIPCS are opaque, unverifiable, and based on mysterious formulas that have not been provided to AIPCS. This makes it almost impossible for the school to understand both how the District arrived at its allocation of space and make a determination whether that allocation is legally compliant.

First, there is a considerable amount of non-teaching station space at the comparison schools that is not referenced in the District’s calculation or allocation to AIPCS. The Preliminary Proposal does not appear to include any of the following types of spaces in its calculation of non-

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teaching space at the comparison school or its allocation to AIPCS even though such spaces are available at the comparison school: kitchen/servery, nurse/health clinic space, psychiatric/OT/RSP/special education/ESL/Title I/speech rooms, parent centers/community use rooms, restorative justice rooms, and professional development rooms.

Similarly, the Preliminary Proposal does not address the various types of outdoor areas that exist at the comparison school such as gardens and fields, but rather lumps all the different types of exterior spaces together when calculating exterior non-teaching station space. The District is required to provide AIPCS with a reasonably equivalent allocation of all these types of spaces based on the “per-student amount of non-teaching station space in the comparison group schools,” and AIPCS requires an allocation of all these types of spaces in order to operate its educational program. Each of these types of spaces has a specific use and furnishings and equipment and/or design that are appropriate for such use, and the District’s allocation method does not ensure AIPCS will receive a reasonably equivalent allocation of each type of non-teaching station space that exists at the comparison schools. As stated in *Bullis, supra*, “a school district, in determining the amount of nonteaching station space it must allocate to the charter school, must take an objective look at all of such space available at the schools in the comparison group.” (*Bullis, supra*, at p. 1047, emphasis added.) The District is not permitted to average all of the unique types of non-teaching station spaces that exist at the comparison schools and then allocate AIPCS a percentage of unspecified non-teaching station spaces that exists at the allocated site, which is not a comparison school.

Second, the Preliminary Proposal contains no listing or description of all the types of shared non-teaching spaces to which AIPCS will be provided access at the offered site beyond large categories of space, or any proposed schedule for AIPCS’s use. The District’s failure to provide this basic information to AIPCS precludes AIPCS from engaging in timely and efficient negotiations with the site principal regarding a shared use schedule and prevents AIPCS from assessing whether the Preliminary Proposal provides AIPCS with access to all of the different types of non-teaching station space to which AIPCS is entitled. 5 CCR section 11969.9(h) requires that the school district, in its final facilities proposal, specifically identify the nonteaching station space offered to the charter school. (*Bullis, supra*, at p. 1046.) As such, AIPCS expects that the District’s final offer will specifically identify all the non-teaching station space to be allocated to AIPCS.

Third, the District may not base its non-teaching station space allocation to AIPCS on the “minimum” amount of non-teaching space that exists at any one of the comparison group schools, which results in a significantly and artificially reduced allocation to AIPCS. The District claims a “charter school’s allocation is considered to fall within reasonable equivalence standards if it falls within the minimum/maximum Sqft/ADA ratios at the comparison group schools.” However, the District has not and cannot provide any legal authority to support this claim, and such a position directly conflicts with the basic premise of Prop. 39 – that public school facilities must be shared fairly between all public school students, including those in charter schools.

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Fourth, Tables 7a and 7b add even more opacity to the District's analysis. The District is using these tables, we assume, to calculate how much total non-teaching station space exists at the comparison schools (including indoor and outdoor space) per unit of ADA. Furthermore, the District has ensured that its calculation misstates the actual per ADA amount of non-teaching station space by deducting the total "classroom space"³ from the "total site area".⁴ By using this formula, the District has assumed that all classrooms larger than 600 square feet are accounted for in its teaching station to ADA ratio – but by its own admission, the District's teaching station to ADA ratio calculation only includes rooms staffed by a teacher – not empty rooms, not classrooms used for storage or counseling or restorative justice or any other purposes. This space is also not necessarily captured by the specialized teaching station allocation, as this is also based only on the number of classrooms larger than 600 square feet on the site but does not actually determine the use of each space, or whether the proportion actually captures usage at each comparison school site.

For all these reasons, the District's allocation of specialized and non-teaching station space included in the Preliminary Proposal fails to comply with Prop. 39 and its Implementing Regulations. AIPCS is entitled to reasonably equivalent allocations of specialized and non-teaching spaces, and of furnishings and equipment that accompany those spaces in the comparison schools, and it anticipates receiving its full complement of the specialized and non-teaching space.

4. Pro Rata Charge Worksheet

As a preliminary matter, AIPCS notes that the District has indicated that AIPCS's "share of the custodial costs may be subject to reconciliation in the event that the District is required to increase staffing as a result of the Charter School's use and occupation of the District's site." To the extent that the District is indicating its intent to charge AIPCS an additional amount for custodial services above what is included in the pro-rata share, this is not permitted by the Implementing Regulations.

- a. Utilities:** The District indicates that utilities may be included in the pro rata share if applicable under the Use Agreement. These amounts should be separately metered and billed to AIPCS, as it is not appropriate nor provided for in the law to include these costs in the pro rata share calculation, especially since some schools in the District (for example, comprehensive highs schools that have pools and large gymnasiums) have substantially higher utilities costs, thereby requiring AIPCS to shoulder higher burdens of utilities costs than the amounts AIPCS actually uses. If the District receives billing from the utilities companies for each of its individual school sites, AIPCS is willing to

³ Defined as the square footage of all classrooms that are equal to or larger than 600 square feet "and any attached classroom storage space included in the Prop. 39 preliminary offers."

⁴ The total square feet of outdoor and building square feet on the campus, including non-ground level building square footage.

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pay the actual utilities costs for the site based on the same calculation used to determine the pro rata share costs for the shared use space, with the exception that any costs assumed by AIPCS cannot be included in the pro rata share calculation.

- b. Police Services:** The District may not include police costs in its pro rata share calculation because AIPCS provides its own security and alarm services, and also has been told by the District's Police Services that Police Services does not provide services to charter schools in the District. Pro rata share amounts are intended to reflect a charter school's portion of the District's facilities costs that AIPCS uses. Because AIPCS does not use the District's police service, the inclusion of these costs in the pro rata share calculation is not appropriate.
- c. Insurance:** AIPCS will provide and pay for the full spectrum of its insurance benefits, as required by its charter and the Facilities Use Agreement; the District has included the cost of its own property insurance on the facility. Including the District's insurance costs in the calculations not only double bills AIPCS for a cost it is already paying for, it is requiring AIPCS to pay for a cost that is actually the District's responsibility. Moreover, insurance is not contemplated under the Prop. 39 regulations as an acceptable "facilities cost," and Education Code Section 47614 specifically states that a charter school may not be charged for use of district facilities beyond the pro rata share.
- d. Custodial Services:** The District indicates that custodial services may be included in the pro rata share if applicable under the Use Agreement. The Implementing Regulations provide that ongoing operations and maintenance of facilities, which includes custodial costs, are the responsibility of AIPCS (5 CCR Section 11969.4(b)) and that any costs assumed by AIPCS cannot be included in the pro rata share calculation. AIPCS wishes to perform its own custodial services in large part because it is not financially able to absorb the cost of District services; therefore, the Final Offer will need to be revised to provide for this revision.
- e.** The District has included \$13,048,405 in facilities costs identified as "RRMA transfer from UR to resource 8150." However, the Implementing Regulations provide that ongoing operations and maintenance of facilities, which includes custodial costs, are the responsibility of AIPCS (5 CCR Section 11969.4(b)) Therefore, please provide AIPCS with the necessary documentation to show that the District has removed all facilities costs related to ongoing operations and maintenance from its RRMA transfer account that are AIPCS's responsibility, including custodial services.
- f.** Third, the District has included its emergency debt service costs in the pro rata share calculation. 5 CCR Section 11969.7 states that only unrestricted General Fund facilities costs that are not costs otherwise assumed by AIPCS are included in the

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methodology. Under the Implementing Regulations, items that are not specifically included in the pro rata share calculations because they are either obligations of AIPCS or facilities-related general fund expenses may not be included in the calculation of facilities costs. "Debt servicing" is typically not a cost charged to the unrestricted general fund (e.g., bond repayment obligations are excluded). Further, even if repayment of the District's emergency loan constitutes debt service that is charged to the unrestricted general fund, the pro rata share is intended to reimburse the District for a charter school's proportion of the District's facilities costs in exchange for AIPCS's use of District facilities. The Emergency Apportionment state loans are clearly not facility-related debt service costs, and thus may not be included in the calculation. Again, only those facilities costs charged to the unrestricted general fund can be included in the pro rata share calculation. (5 CCR Section 11969.7.) If it is the District's position that the repayments of the emergency state loan are debt service for "facilities costs" then we request that the District provide some documentation demonstrating that the emergency loan monies were spent on "facilities costs."

5. **Draft Facilities Use Agreement:** We are reviewing the draft Facilities Use Agreement and look forward to negotiating the terms of that or an in-lieu agreement over the next several weeks, as required by the Implementing Regulations. (5 CCR Section 11969.9(k).)
 - a. **Section 1:** This section states "District agrees to allow use of the Premises at the School(s) by Charter School for the sole purpose of operating Charter School's educational program in accordance with all applicable federal, state and local regulations relating to the Premises and to the operation of Charter School's educational program." This section will need to be revised to include AIPCS's summer school, and programs procured by AIPCS through third party entities, e.g. after-school program providers.
 - b. **Section 1.4:** Prop. 39 only requires AIPCS to comply with the District's policies and procedures related to operations and maintenance, and not where actual school district practice substantially differs from official policies. (5 CCR Section 11969.4(b).)
 - c. **Section 1.6:** Fees charged under the Civic Center Act are intended to reimburse school districts for the costs they incur to process permits and to clean up after community use of their facilities. The portion of the Civic Center Act fees related to custodial and maintenance costs must be paid to AIPCS if AIPCS is responsible for cleaning up its site after each community use.
 - d. **Section 2:** The Site must be furnished, equipped and available for occupancy by AIPCS for a period of at least ten (10) working days prior to the first day of instruction. However, we are willing to consider taking possession earlier if

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mutually agreed upon between the parties. In fact, should it accept the Markham allocation, AIPCS would request that the District work with it to ensure access to the site during the summer for the school's office use.

- e. **Section 3:** This section also needs to reflect that if AIPCS constructs or installs recreational improvements or other school facilities, AIPCS and the District will agree to negotiate a reduction in the facilities use fees. AIPCS's other concerns regarding the Pro Rata Share Charge outlined above are incorporated herein. Again, any costs assumed by AIPCS cannot be included in the pro rata share calculation, including custodial and maintenance costs. AIPCS objects to the late charge listed in Section 3.5. The Implementing Regulations do not contemplate late fees to be charged to AIPCS.
- f. **Section 6:** This number will need to be adjusted to reflect the number of AIPCS students on the site.
- g. **Section 10:** For the same reason, the District may not require AIPCS to take the facility in "as is" condition. Furthermore, it is not acceptable for the District to terminate the FUA if the cost to make repairs exceeds \$150,000. The District is required to make the facility available to AIPCS for its entire school year (5 CCR Section 11969.5) and to maintain the facility in compliance with the California Building Code. (5 CCR Section 11969.9(k).) As a result, if the facility is damaged, the District must repair it, or, if it is destroyed, the District must provide alternative facilities.
- h. **Section 12.3 and 12.4:** The District must make reasonable efforts to keep their materials, tools, supplies and equipment on the Premises in such a way as to minimize disruption to AIPCS's program. The District must provide relevant scheduling information and reasonable notice to AIPCS if it will be coming onto the facility to perform maintenance. In addition, AIPCS wishes to perform its own custodial services, and as a result, does not agree to allow the District to enter the Premises to perform custodial services.
- i. **Section 14:** While AIPCS is willing to pay any taxes or assessments on its personal property, or modifications or improvements it performs on the facility, it may not otherwise be obligated to pay any costs to occupy the facility beyond the pro rata share. (Education Code Section 47614(b)(1).)
- j. **Section 15:** AIPCS wishes to perform its own cleaning and custodial services. Therefore, the Final Offer will need to be revised to provide for this revision.


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- k. Section 17:** If the comparison schools have a security system, then in order to provide a reasonably equivalent facility, the District must also provide the Premises with a security system. AIPCS does not agree to provide written verification of compliance with the fingerprinting and criminal background investigation requirements to District prior to AIPCS taking possession of the Premises and prior to conducting its educational program on the Premises.
- l. Section 18.1.7:** AIPCS does not agree that should it default under the FUA, it must pay the District its unpaid pro rata share. The District is obligated to attempt to first find an alternative occupant for the site.
- m. Section 18.2:** This section must provide for AIPCS to perform any District obligation if the District is in default, and to recover its reasonable costs in so doing from the District.
- n. Section 20:** If AIPCS chooses to seek its insurance through a joint powers authority such as CharterSAFE, JPAs do not receive an A.M. Best insurance rating. This section will need to be revised to provide that insurance through a JPA will satisfy the terms of the FUA.
- o. Section 28:** This section must be revised to provide that the District is responsible for maintaining the Premises in compliance with applicable law, except to the extent that compliance arises as a result of modifications or improvements performed by AIPCS.

We have attempted in this letter to enumerate all of our concerns with the District's Preliminary Proposal; however, we note that our failure to mention a concern in this letter should not be interpreted as acceptance of that term.

AIPCS looks forward to the opportunity to discuss and negotiate these matters with the District moving forward.

Respectfully,


Superintendent Maya Woods-Cadiz
American Indian Model School

Cc: Sarah Kollman, Young, Minney & Corr, LLP
AIPCS's Board Members



**American Indian
Model Schools**
A School at Work!

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AIPHS

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March 1, 2018

Leslie Jimenez
Office of Charter Schools
Oakland Unified School District
1000 Broadway, Suite 639
Oakland, CA 94607

***Re: American Indian Public High School
Response to District's Preliminary Proposal
Proposition 39 2018-2019***

Dear Ms. Jimenez:

American Indian Public High School ("AIPHS" or "Charter School") is in receipt of the Oakland Unified School District's ("District") February 1, 2018 letter ("Preliminary Proposal") regarding AIPHS's request for facilities under Proposition 39 ("Prop. 39") for the 2018-2019 school year.

The District's Preliminary Proposal is for a total of sixteen (16) teaching stations and two (2) "specialized" classrooms, with fifteen (15) provided at Lakeview and three (3) at Westlake, as well as 14.27% shared use of the non-teaching station space at Westlake, 8,039 sq. ft. of exclusive use interior non-teaching station space at Lakeview, 3,065 sq. ft. of shared use interior non-teaching station space at Lakeview and 73,810 sq. ft. of exterior non-teaching station space at Lakeview. The Preliminary Proposal is based on a projected in-District ADA of 368.50.

Section 11969.9(g) of the Proposition 39 Implementing Regulations (the "Implementing Regulations") requires AIPHS to respond to the District's Preliminary Proposal, to express any concerns, address differences between the preliminary proposal and AIPHS's facilities request as submitted pursuant to subdivision (b), and/or make counter proposals.

The Preliminary Proposal fails to meet the legal requirements of Prop. 39, in part, because the Preliminary Proposal fails to provide sufficient information regarding the allocation of teaching station, non-teaching space and specialized classroom space to AIPHS and fails to provide AIPHS with a reasonably equivalent allocation of space as required by law. AIPHS requests that the District's final offer of space be modified in accordance with Prop. 39 and its Implementing Regulations. We remind you that the District must give the same degree of consideration to the needs of charter school students as it does to the students in District-run schools and some

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disruption and dislocation of the students and programs in a district may be necessary to fairly accommodate a charter school's request for facilities.

1. Alternative Agreement

AIPHS appreciates the District's efforts to identify a workable solution to AIPH's facilities needs. However, the District's allocation of only three classrooms on the separate Westlake site is unworkable for AIPHS. As stated in its Request, AIPHS requires a single, contiguous site in which to operate. Therefore, AIPHS requests that the District allocate AIPHS three additional classrooms at Lakeview (for a total of 18 teaching stations/specialized classrooms), along with other reasonably equivalent non-teaching station space, instead of the three classrooms and non-teaching station space allocated at Westlake. AIPHS believes there is at least three additional available classrooms at Lakeview.

2. Condition Analysis

A district must also determine whether a facility is reasonably equivalent by determining whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Pursuant to 5 CCR Section 11969.3(c), the District must assess "such factors as age (from latest modernization), quality of materials, and state of maintenance." The District must also assess the following factors:

1. School site size
2. The condition of interior and exterior surfaces
3. The condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes
4. The availability and condition of technology infrastructure
5. The condition of the facility as a safe learning environment including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use
6. The condition of the facility's furnishings and equipment
7. The condition of athletic fields and/or play area space

The District did not perform this complete analysis in the Preliminary Proposal or the exhibits attached thereto. The District claims that it has evaluated data on the condition of the facilities at the comparison school based on the information available from the District's Asset Management and Facilities Master Plan, and that the site offered to AIPHS is reasonably

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equivalent in every category. However, the District's Asset Management and Facilities Master Plan only addresses a small subset of the categories required to be analyzed by the District under 5 CCR Section 11969.3(c). In addition, these documents were prepared a number of years ago, and thus likely do not reflect an accurate assessment of the condition of the facilities.

The Preliminary Proposal does not assess the condition of the athletic fields, play areas, furnishings and equipment, technology infrastructure, mechanical, plumbing, electrical, and fire alarm systems, the suitability of lighting, or the size for intended use. Therefore, the District's Preliminary Proposal fails to perform the complete condition analysis required by the Implementing Regulations.

3. Allocation of Non-Contiguous Site

The express provisions of Proposition 39 require that the District allocate facilities to the Charter School that are "contiguous, furnished, and equipped." (Education Code Section 47614(b).) This requirement exists irrespective of the grade level configuration of a charter school. (5 CCR Section 11969.3(a).) In its Request, AIPHS specifically requested that the District place AIPHS's entire in-District enrollment on a single, contiguous site.

Section 11969.2(d) goes on to state that "[i]f the indistrict 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." In addition, "the 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." "If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility within the meaning of subdivision (d) of section 11969.2 shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school." (Emphasis added.) This analysis is purely numerical; the Court in *Ridgecrest* noted that "all else being equal, a charter school should be housed at a single site if one exists with the capacity to handle all the school's students." (*Ridgecrest Charter School v. Sierra Sands Unified School Dist.*, (2005) 130 Cal. App. 4th 986, 1000, emphasis added.)

In both its Notice of Proposed Rulemaking File, and its Final Statement of Reasons, the State Board of Education specifically reiterates that 5 CCR 11969.3(d) was amended to make it clear that "when no school of the district serves grade levels similar to the charter school's, a contiguous facility is an existing facility that is most consistent with the charter school's grade levels" in order to bring the Regulations in line with the *Ridgecrest* decision. (Final Statement of Reasons, Page 20.) The Initial Statement of Reasons further clarified that in looking at the issue of a school district making facilities available to a charter school at multiple locations as discussed in the *Ridgecrest* decision, it was clear an addition to the regulations was necessary to formalize two requirements: 1) a school district is not permitted to treat a charter school's in-district students

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with less consideration than students in the district-run schools, and 2) in allocating and providing access to facilities to a charter school, a school district must begin from the premise that the facilities are to be on a single school site. (Initial Statement of Reasons, Page 3.)

The Court of Appeal has also ruled that Proposition 39 requires that a school district “begin with the assumption that all charter school students will be assigned to a single site, and attempt from there to adjust the other factors to accommodate this goal.” (*California School Bds. Assn. v. State Bd. of Education*, 191 Cal. App. 4th 530, 548-549 (Cal. App. 3d Dist. 2010).) *Ridgecrest* also specifically acknowledged that “we have little doubt that accommodating [Ridgecrest Charter School’s] facilities request will cause some, if not considerable, disruption and dislocation among the District’s students, staff, and programs. But section 47614 requires that the facilities “should be shared fairly among all public school pupils, including those in charter schools.” (*Ridgecrest*, 130 Cal. App. 4th at 1006.) In other words, the District may not reject a potential contiguous site for AIPHS just because it would potentially disrupt and dislocate District students.

In addition, while the District does not have to expend general fund monies to rent, buy, or lease facilities to meet this obligation, the law implicitly recognizes that a district must use all resources including any restricted monies (parcel taxes, bond monies etc.) to meet this obligation.

The District’s Findings of Fact in support of its non-contiguous allocation of space to AIPHS provides the following explanation of how the District determined that AIPHS 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.” Based on the foregoing explanation and the District’s list of “Potential District School Sites with Projected Capacity” that precedes the foregoing explanation in the District’s Findings, it is clear that the District only considered whether AIPHS’s entire in-District enrollment could be accommodated in the *extra space* that exists at any one District site. This practice of only considering whether a charter school may be accommodated in the extra space that exists at District sites rather than determining whether any District site is large enough to accommodate a charter school’s in-District enrollment is most consistent with Assembly Bill 544, which added a provision to the Act giving charter schools the right to use district facilities that are “not currently being used ... for instructional or administrative purposes.” (Former § 47614.) Under that provision, a charter school was entitled to use district facilities only if that would not interfere with the district’s use of them. However, “[t]his restriction was effectively eliminated by Proposition 39.” (*Ridgecrest, supra*, at p. 999.) As stated above, the District may not reject a potential contiguous site for AIPHS just because it would potentially disrupt and dislocate District students. As stated in *Ridgecrest*, the District “must at least *begin* with the assumption that all charter school students will be assigned to a single site, and attempt from there to adjust the other factors to accommodate this goal.” (*Ridgecrest, supra*, at p. 1002.) There is absolutely no evidence that the District has done so here. Rather, after looking at the extra space available at its District sites, the District decided to locate AIPHS across two separate sites. Since none of the District schools are spread across two sites, the District’s placement of AIPHS at two separate sites fails to provide AIPHS with

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reasonably equivalent facilities and relegates AIPHS's students to second class status.

In addition, the District's Findings do not indicate the District considered redrawing District attendance boundaries, increasing class sizes or the negative impact on the safety of AIPHS's students that would occur if they are required to travel between three separate school sites. Instead, the District's Findings focus primarily on the impact to District students – with no analysis of the safety issues facing AIPHS's students.

For all the foregoing reasons, the District's failure to offer AIPHS a contiguous site violates Prop. 39 and its Implementing Regulations.

4. Teaching Station to ADA Analysis

All California public school students are entitled to learn in a classroom that is safe, that is not crowded with too many students, and that is conducive to a supportive learning environment. In accordance with the implementing regulations, the District must provide a facility to the Charter School with the same ratio of teaching stations to average daily attendance ("ADA") as those provided to students in the comparison group of schools, as well as a proportionate share of specialized classroom space and non-teaching space and are to be allocated at each grade level consistent with the ratios provided by the District to its students. (5 CCR Section 11969.3(b)(1).) There is no such thing as a fractional classroom for a single grade level of students and the allocation cannot be based upon the District's "loading standard," nor can it be based on an arbitrary and fabricated formula.

In responding to a charter school's request for classroom space, a school district must follow a three-step process, as explained by the California Supreme Court in *California Charter Schools Association v. Los Angeles Unified School District* (2015) 60 Cal. 4th 1221):

First, the district must identify comparison group schools as section 11969.3(a) prescribes. Second, the district must count the number of classrooms in the comparison group schools using the section 1859.31 inventory and then adjust those classrooms 'provided to' students in the comparison group schools. Third, the district must use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA. (*Id.*, p. 1241.)

In calculating the number of classrooms that the District will make available to the Charter School, the District must count the number of classrooms in the comparison group schools and cannot use districtwide norming ratios. (*Id.*, p. 1236.)

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Under 5 CCR Section 11969.3(b)(1), “[t]he number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing.”

In the *CCSA v. LAUSD* case, the Court explained further that classrooms used for preschool or adult education, or by other charter schools are not counted as classrooms provided to the District’s non-charter K-12 public school students. (*CCSA v. LAUSD, supra*, p. 1240.) However, the Court held that “counting classrooms ‘provided to’ district students for the purposes of section 11969.3(b)(1) is not the same as counting only those rooms a district elects to staff with a teacher.” (*Id.*, p. 1241.) The Court reasoned that “[c]ounting only those classrooms staffed by an assigned teacher would effectively impute to charter schools the same staffing decisions made by the District. But there is no reason to think a charter school would necessarily use classrooms in the same way that the District does.” (*Id.*)

On a practical level, even if certain rooms are not used for classroom instruction, students nonetheless benefit from these additional rooms, either in the form of having additional space to use for break-out instruction or storage, or in having less crowded classrooms. Thus, **the District is required by the Supreme Court’s ruling count all of the classrooms provided to students in the District for K-12 classroom instruction regardless of whether the classrooms are staffed by teachers or not, and use the resulting number as the denominator in the ADA/classroom ratio for allocating classrooms to charter schools based on their projected ADA.** Despite the clear language of *CCSA v. LAUSD*, however, the District’s Preliminary excludes “unassigned” or “out of service” classrooms. These classrooms are not specifically accounted for anywhere else in the District’s Preliminary Offer; the District’s Preliminary Offer, therefore, is in violation of the ruling in *CCSA v. LAUSD*.

Very simply, Prop. 39 requires the District to count the number of regular teaching stations at the comparison school and divide the ADA at the comparison school by the number of regular teaching stations. The spreadsheet forming Exhibit C to the Preliminary Offer, which the District cites as the source of its calculation, is a list of each of the classes at each comparison school and, we assume, the number of students enrolled in each class. The District then averages the number of students enrolled in every class at the schools to arrive at its “teaching station to ADA ratio” calculation.

Not only does the District’s calculation fail to count the number of regular teaching stations at the comparison school or divide the ADA of the school by that number (the required formula), but it also uses enrollment, rather than ADA, to determine its class size average – and enrollment, because it is a larger number than actual ADA, will result in an artificially higher “ratio.” This manner of calculation is illegal and in direct contravention to the formula set forth in the regulations and applicable case law.

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The District also has previously claimed that its list of classrooms at the comparison school that are staffed with District teachers is “far superior” to the District’s own Facilities Master Plan that specifically identifies the number of classrooms on a site. However, the number of classrooms that may be staffed with a teacher is not necessarily equivalent to the number of classrooms provided to District students for instruction. As noted above, in the *CCSA v. LAUSD* case, the Court held that “counting classrooms ‘provided to’ district students for the purposes of section 11969.3(b)(1) is not the same as counting only those rooms a district elects to staff with a teacher.” (*Id.*, p. 1241.) Unless the District accounts for all of the specific uses of each classroom at the comparison school, AIPHS has no way to verify that the information provided by the District is accurate.

A review of the publicly available information for the District comparison school’s teaching stations, enrollment, and attendance rates, specifically CDE data regarding enrollment in 2016-17, the 18-19 projected ADA provided by the District, and the 2012 OUSD Facilities Master Plan, the Blueprint documents, and the Facilities Utilization Baseline Estimator suggests that AIPHS is entitled to an allocation of at least **eighteen (18) teaching stations**.

School Name	ADA at school site	District Claimed TS/ADA Ratio	Corrected Teaching Stations ¹	Corrected Teaching Station to ADA Ratio
Oakland HS	1458.79	24.32	68	21.45

Therefore, based on its reasonable in-District ADA projection of 368.5, AIPHS is entitled to at least **eighteen (18) teaching stations (17.18 rounded up to 18), which is two more teaching stations than the District allocated to AIPHS.**

5. The Preliminary Proposal Does Not Allocate Sufficient Specialized Classroom and Non-Teaching Station Space to AIPHS

AIPHS is entitled to reasonable allocations of specialized and non-teaching station space. Section 11969.3(b)(2) requires that, if a school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the Proposition 39 offer of facilities provided to a charter school must include a share of the specialized classroom space. The Preliminary Offer must include “a share of the specialized classroom space and/or a provision for access to

¹ These numbers are developed from reviewing the OUSD Master Plan site profile and Blueprint document for the comparison school to determine the number of classrooms, as well as a review of the District’s Exhibit C and the comparison school websites to determine the actual number of regular classrooms used by the District for regular teaching stations (which includes Newcomer and A-G classrooms as these rooms are used for general education), excluding rooms used for specialized classroom and non-teaching space (such as a parent center, band/music, special education, science labs, computer lab space, home economics, or an art room).

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reasonably equivalent specialized classroom space.” (5 CCR § 11969.3(b)(2).) The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

- (A) the grade levels of the charter school’s in-district students;
- (B) the charter school’s total in-district classroom ADA; and
- (C) the per-student amount of specialized classroom space in the comparison group schools.²

As such, the District must allocate specialized classroom space, such as science laboratories, art rooms, computer labs, music rooms, weight rooms, etc., commensurate with the in-District classroom ADA of AIPHS. The allocated site must include all of the specialized classroom space included across all of the different grade levels.

In addition, the District must provide non-teaching station space commensurate with the in-District classroom ADA of AIPHS and the per-student amount of non-teaching station space in the comparison group schools. (5 CCR § 11969.3(b)(3).) Non-teaching space is all of the space at the comparison school that is not identified as teaching station space or specialized space and includes, but is not limited to, administrative space, a kitchen/cafeteria, a multi-purpose room, a library, a staff lounge, a copy room, storage space, bathrooms, a parent meeting room, special education space, nurse’s office, RSP space, and play area/athletic space, including gymnasiums, athletic fields, locker rooms, pools or tennis courts. (*Ibid.*)

The allocation of specialized teaching space and non-teaching space is based on an analysis of the square footage of each category of space available to students at the comparison school (i.e., “the per-student amount of specialized classroom space in the comparison group schools”). (5 CCR § 11969.3(b)(2)(C).) Moreover, just because one kind of specialized classroom or non-teaching station space is not available at all the comparison school, the District may not fail to provide an allocation of that kind of space (especially here, where the District averaged the specialized classroom and non-teaching station space over all the comparison school). Instead:

[W]hile a Proposition 39 analysis does not necessarily compel a school district to allocate and provide to a charter school each and every particular room or other facility available to the comparison group schools, it must at least account for the comparison schools’ facilities in its proposal. A determination of reasonable equivalence can be made only if facilities made available to the students attending the comparison schools are listed and considered. And while mathematical exactitude is not required (cf. *Sequoia, supra, 112 Cal.App.4th at p. 196* [charter school need not provide enrollment projections with “arithmetical precision”]), a

² Id.; see also *Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 296 and *California School Bds. Assn. v. State Bd. of Education* (2010) 191 Cal.App.4th 530 (CSBA).

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Proposition 39 facilities offer must present a good faith attempt to identify and quantify the facilities available to the schools in the comparison group--and in particular the three categories of facilities specified in *regulation 11969.3, subdivision (b)* (i.e., teaching stations, specialized classroom space, and non-teaching station space)--in order to determine the "reasonably equivalent" facilities that must be offered and provided to a charter school. (*Bullis, supra*, 200 Cal.App.4th 296, 336.)

Here, the District has failed to count wide swaths of specialized classroom and non-teaching station space at the comparison school, or has entirely failed to account for those spaces in its offer.

a. Allocation of Specialized Classroom Space to AIPHS

The Preliminary Proposal allocates a total of two (2) exclusive use "specialized" classroom to AIPHS. However, the Preliminary Proposal does not indicate whether the classroom allocated contains any specialized furnishings or equipment or are appropriate for specialized instruction.

In addition, in an approach that ignores the literal language of Section 11969.3(b)(2), the District asserted that "At the elementary level, specialized rooms are estimated as 1 for every 8 of general education classrooms. At the middle school level, specialized rooms are estimated as 1 for every 6 of general education classrooms. At the high school level, specialized rooms are estimated as 1 for every 10 of general education classrooms." The District then allocated specialized classroom space "based on the number of general education teaching stations" at the comparison school. The District's allocation of specialized classroom space does not comply with the Implementing Regulations in several respects.

The District is not permitted to base its determination of the amount of specialized classroom space at the comparison school on the number of general education teaching stations at those schools. Nothing in the law authorizes the District to average all the various types and amounts of specialized classroom spaces across all the comparison school in this manner. According to the Implementing Regulations, the allocation of specialized teaching space and non-teaching space is based on an analysis of the square footage of these types of space available to students at the comparison school (specifically, "the per-student amount of specialized classroom space in the comparison group schools." (5 CCR Section 11969.3(b)(2) and (3).) Further, the 2017-18 Facility Utilization Baseline Estimator on which the District relies to support its calculation of specialized classroom space makes it clear that the estimations of specialized classroom contained therein are not based on "actual use" and "[i]t is assumed that the actual use is likely much higher than the estimate."

The District's calculation completely fails to account for the "the per-student amount of specialized classroom space in the comparison group schools." The Preliminary Proposal is

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completely void of any discussion of the different amounts (square footage) and types of specialized classroom space that exist at the comparison school including: computer lab, band/choir/music room, science lab, photo lab with dark room, life skills room, weight room, and dance/wrestling room.

AIPHS is entitled to a reasonably equivalent allocation of or access to all of these types of specialized classroom spaces since they exist at the comparison school, and *Bullis* requires the District to make “a good faith attempt to identify and quantify” the specialized classrooms spaces that exist at the comparison school. Therefore, the District’s methodology for determining the specialized classroom allocation to AIPHS and its failure to identify and quantify all the various types of specialized classroom space at the comparison school violates Prop. 39 and its Implementing Regulations.

In addition, the District may not combine different types and sizes of specialized classroom space and then allocate non-specialized classrooms to AIPHS. If there are science labs, computer labs, music rooms, weight rooms, art rooms, and the like available at the comparison school, then the District must allocate reasonably equivalent, fully furnished and equipped kinds of these spaces space and/or access to AIPHS. A standard classroom does not have, for example, the risers in a choral classroom, the gas and water stations in a science classroom, or the computers in a computer classroom, nor can all these different kinds of uses (and the attendant furnishings and equipment) happen in just three classrooms (along with administrative, office and library space). AIPHS also notes that by allocating one classroom for all these uses, the District is relegating AIPHS students to second-class status, given that District students enjoy access to these separate, furnished and equipped spaces. The District cannot force AIPHS to create its own fully furnished and equipped specialized classroom space in a standard teaching station space. “[A] school district does not have the discretion to employ practices that are contrary to the very intent of Proposition 39 that school district facilities be “shared fairly among all public school pupils, including those in charter schools.” (*Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 296, 336.)

AIPHS is entitled to reasonably equivalent allocations of specialized spaces, and of furnishings and equipment that accompany those spaces in the comparison school, and it anticipates receiving its full complement of the specialized space at the school sites.

b. Allocation of Non-Teaching Station Space to AIPHS

The Preliminary Proposal does not properly allocate non-teaching space to AIPHS. The Preliminary Proposal allocates lumped-together categories of non-teaching station space (admin/office/conference, MPR/auditorium/cafeteria/Gym, and library) as well as a catch-all “other interior” without any further specification. The offer provides for a total allocation of 17,634 square feet of interior non-teaching station space and 100,798 sq. ft. total outdoor space to AIPHS spread across two sites.

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The District's allocation of non-teaching space to AIPHS in the Preliminary Proposal does not comply with Prop. 39 or its Implementing Regulations in several respects, including its failure to identify the specific non-teaching station space to be allocated to AIPHS and its allocation of non-teaching station space at Westlake based on the percentage of AIPHS's enrollment on the site, as determined by the District. Moreover, the District's calculations of the space to be allocated to AIPHS are opaque, unverifiable, and based on mysterious formulas that have not been provided to AIPHS. This makes it almost impossible for the school to understand both how the District arrived at its allocation of space and make a determination whether that allocation is legally compliant.

First, there is a considerable amount of non-teaching station space at the comparison school that is not referenced in the District's calculation or allocation to AIPHS. The Preliminary Proposal does not appear to include any of the following types of spaces in its calculation of non-teaching space at the comparison school or its allocation to AIPHS even though such spaces are available at the comparison school: kitchen/servery, nurse/health clinic space, psychiatric/OT/RSP/special education/ESL/Title I/speech rooms, parent centers/community use rooms, restorative justice rooms, and professional development rooms.

Similarly, the Preliminary Proposal does not address the various types of outdoor areas that exist at the comparison school such as gardens, soccer/football fields, and a pool but rather lumps all the different types of exterior spaces together when calculating exterior non-teaching station space. The District is required to provide AIPHS with a reasonably equivalent allocation of all these types of spaces based on the "per-student amount of non-teaching station space in the comparison group schools," and AIPHS requires an allocation of all these types of spaces in order to operate its educational program. Each of these types of spaces has a specific use and furnishings and equipment and/or design that are appropriate for such use, and the District's allocation method does not ensure AIPHS will receive a reasonably equivalent allocation of each type of non-teaching station space that exists at the comparison school. As stated in *Bullis, supra*, "a school district, in determining the amount of nonteaching station space it must allocate to the charter school, must take an objective look at all of such space available at the schools in the comparison group." (*Bullis, supra*, at p. 1047, emphasis added.) The District is not permitted to average all of the unique types of non-teaching station spaces that exist at the comparison school and then allocate AIPHS a percentage of unspecified non-teaching station spaces that exists at the allocated sites, which are not comparison schools.

Second, the Preliminary Proposal contains no listing or description of all the types of shared non-teaching spaces to which AIPHS will be provided access at the offered sites beyond large categories of space and the interior non-teaching station space at Lakeview, or any proposed schedule for AIPHS's use. The District's failure to provide this basic information to AIPHS precludes AIPHS from engaging in timely and efficient negotiations with the site principals regarding a shared use schedule and prevents AIPHS from assessing whether the Preliminary Proposal provides AIPHS with access to all of the different types of non-teaching station space to

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which AIPHS is entitled. 5 CCR section 11969.9(h) requires that the school district, in its final facilities proposal, specifically identify the nonteaching station space offered to the charter school. (*Bullis, supra*, at p. 1046.) As such, AIPHS expects that the District's final offer will specifically identify all the non-teaching station space to be allocated to AIPHS.

Third, the District may not base its non-teaching station space allocation to AIPHS on the "minimum" amount of non-teaching space that exists at any one of the comparison group schools, which results in a significantly and artificially reduced allocation to AIPHS. The District claims a "charter school's allocation is considered to fall within reasonable equivalence standards if it falls within the minimum/maximum Sqft/ADA ratios at the comparison group schools." However, the District has not and cannot provide any legal authority to support this claim, and such a position directly conflicts with the basic premise of Prop. 39 – that public school facilities must be shared fairly between all public school students, including those in charter schools.

Fourth, Tables 7a and 7b add even more opacity to the District's analysis. The District is using these tables, we assume, to calculate how much total non-teaching station space exists at the comparison school (including indoor and outdoor space) per unit of ADA. Furthermore, the District has ensured that its calculation misstates the actual per ADA amount of non-teaching station space by deducting the total "classroom space"³ from the "total site area".⁴ By using this formula, the District has assumed that all classrooms larger than 600 square feet are accounted for in its teaching station to ADA ratio – but by its own admission, the District's teaching station to ADA ratio calculation only includes rooms staffed by a teacher – not empty rooms, not classrooms used for storage or counseling or restorative justice or any other purposes. This space is also not necessarily captured by the specialized teaching station allocation, as this is also based only on the number of classrooms larger than 600 square feet on the site, but does not actually determine the use of each space, or whether the proportion actually captures usage at each comparison school site.

Most important, based on the District's Facilities Master Plan and square footage figures for Oakland HS, AIPHS is entitled to an allocation of at least 31,117.09 sq. ft. of interior non-teaching station space (i.e., 13,483.09 more sq. ft. of interior space than the District allocated to AIPHS) as set forth below:

³ Defined as the square footage of all classrooms that are equal to or larger than 600 square feet "and any attached classroom storage space included in the Prop. 39 preliminary offers."

⁴ The total square feet of outdoor and building square feet on the campus, including non-ground level building square footage.

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School Name	ADA	Interior Space ⁵	Classroom Space	Non-Charter Use	Interior NTS Space ⁶	Resulting Interior NTS/ADA
Oakland HS	1,458.79	171,172	47,988	100.00%	123,184	84.44

Non-teaching station space	SF/ADA ratio	Applied to in-District ADA of 368.5
Interior NTS	84.4	31,117.09

Even an analysis of the total (not just interior) non-teaching station space at the comparison school demonstrates how woefully the District has underallocated non-teaching station space.

School Name	ADA	NTS Provided to Students	NTS/ADA
Oakland HS	1,458.79	484,673	332.24

The District's Preliminary Proposal allocates 118,432 square feet of non-teaching station space, both interior and exterior. Applying the average per-square foot amount of non-teaching station space to the school's projected in-District ADA of 368.5 requires an allocation of 122,431 square feet of non-teaching station space.

For all these reasons, the District's allocation of specialized and non-teaching station space included in the Preliminary Proposal fails to comply with Prop. 39 and its Implementing Regulations. AIPHS is entitled to reasonably equivalent allocations of specialized and non-teaching spaces, and of furnishings and equipment that accompany those spaces in the comparison school, and it anticipates receiving its full complement of the specialized and non-teaching space.

6. Pro Rata Charge Worksheet

As a preliminary matter, AIPHS notes that the District has indicated that AIPHS's "share of the custodial costs may be subject to reconciliation in the event that the District is required to increase staffing as a result of the Charter School's use and occupation of the District's site." To the extent that the District is indicating its intent to charge AIPHS an additional amount for custodial services above what is included in the pro-rata share, this is not permitted by the Implementing Regulations.

⁵ Based on the Building Area listed in the Facilities Master Plan.

⁶ Interior Space less Classroom Space.

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- a. **Utilities:** The District indicates that utilities may be included in the pro rata share if applicable under the Use Agreement. These amounts should be separately metered and billed to AIPHS, as it is not appropriate nor provided for in the law to include these costs in the pro rata share calculation, especially since some schools in the District (for example, comprehensive high schools that have pools and large gymnasiums) have substantially higher utilities costs, thereby requiring AIPHS to shoulder higher burdens of utilities costs than the amounts AIPHS actually uses. If the District receives billing from the utilities companies for each of its individual school sites, AIPHS is willing to pay the actual utilities costs for the sites based on the same calculation used to determine the pro rata share costs for the shared use space, with the exception that any costs assumed by AIPHS cannot be included in the pro rata share calculation.
- b. **Police Services:** The District may not include police costs in its pro rata share calculation because AIPHS provides its own security and alarm services, and also has been told by the District's Police Services that Police Services does not provide services to charter schools in the District. Pro rata share amounts are intended to reflect a charter school's portion of the District's facilities costs that AIPHS uses. Because AIPHS does not use the District's police service, the inclusion of these costs in the pro rata share calculation is not appropriate.
- c. **Insurance:** AIPHS will provide and pay for the full spectrum of its insurance benefits, as required by its charter and the Facilities Use Agreement; the District has included the cost of its own property insurance on the facility. Including the District's insurance costs in the calculations not only double bills AIPHS for a cost it is already paying for, it is requiring AIPHS to pay for a cost that is actually the District's responsibility. Moreover, insurance is not contemplated under the Prop. 39 regulations as an acceptable "facilities cost," and Education Code Section 47614 specifically states that a charter school may not be charged for use of district facilities beyond the pro rata share.
- d. **Custodial Services:** The District indicates that custodial services may be included in the pro rata share if applicable under the Use Agreement. The Implementing Regulations provide that ongoing operations and maintenance of facilities, which includes custodial costs, are the responsibility of AIPHS (5 CCR Section 11969.4(b)) and that any costs assumed by AIPHS cannot be included in the pro rata share calculation. AIPHS wishes to perform its own custodial services in large part because it is not financially able to absorb the cost of District services; therefore, the Final Offer will need to be revised to provide for this revision.
- e. The District has included \$13,048,405 in facilities costs identified as "RRMA transfer from UR to resource 8150." However, the Implementing Regulations provide that

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ongoing operations and maintenance of facilities, which includes custodial costs, are the responsibility of AIPHS (5 CCR Section 11969.4(b)) Therefore, please provide AIPHS with the necessary documentation to show that the District has removed all facilities costs related to ongoing operations and maintenance from its RRMA transfer account that are AIPHS's responsibility, including custodial services.

- f. Third, the District has included its emergency debt service costs in the pro rata share calculation. 5 CCR Section 11969.7 states that only unrestricted General Fund **facilities costs** that are not costs otherwise assumed by AIPHS are included in the methodology. Under the Implementing Regulations, items that are not specifically included in the pro rata share calculations because they are either obligations of AIPHS or facilities-related general fund expenses may not be included in the calculation of facilities costs. "Debt servicing" is typically not a cost charged to the unrestricted general fund (e.g., bond repayment obligations are excluded). Further, even if repayment of the District's emergency loan constitutes debt service that is charged to the unrestricted general fund, the pro rata share is intended to reimburse the District for a charter school's proportion of the District's **facilities costs** in exchange for AIPHS's use of District facilities. The Emergency Apportionment state loans are clearly not facility-related debt service costs, and thus may not be included in the calculation. Again, only those facilities costs charged to the unrestricted general fund can be included in the pro rata share calculation. (5 CCR Section 11969.7.) If it is the District's position that the repayments of the emergency state loan are debt service for "facilities costs" then we request that the District provide some documentation demonstrating that the emergency loan monies were spent on "facilities costs."

7. Draft Facilities Use Agreement: We are reviewing the draft Facilities Use Agreement and look forward to negotiating the terms of that or an in-lieu agreement over the next several weeks, as required by the Implementing Regulations. (5 CCR Section 11969.9(k).)

- a. **Section 1:** This section states "District agrees to allow use of the Premises at the School(s) by Charter School for the sole purpose of operating Charter School's educational program in accordance with all applicable federal, state and local regulations relating to the Premises and to the operation of Charter School's educational program." This section will need to be revised to include AIPHS's summer school, and programs procured by AIPHS through third party entities, e.g. after-school program providers.
- b. **Section 1.4:** Prop. 39 only requires AIPHS to comply with the District's policies and procedures related to operations and maintenance, and not where actual school district practice substantially differs from official policies. (5 CCR Section 11969.4(b).)

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- c. **Section 1.6:** Fees charged under the Civic Center Act are intended to reimburse school districts for the costs they incur to process permits and to clean up after community use of their facilities. The portion of the Civic Center Act fees related to custodial and maintenance costs must be paid to AIPHS if AIPHS is responsible for cleaning up its sites after each community use.
- d. **Section 2:** The Site must be furnished, equipped and available for occupancy by AIPHS for a period of at least ten (10) working days prior to the first day of instruction. However, we are willing to consider taking possession earlier if mutually agreed upon between the parties. In fact, should it accept the Markham allocation, AIPHS would request that the District work with it to ensure access to the sites during the summer for the school's office use.
- e. **Section 3:** This section also needs to reflect that if AIPHS constructs or installs recreational improvements or other school facilities, AIPHS and the District will agree to negotiate a reduction in the facilities use fees. AIPHS's other concerns regarding the Pro Rata Share Charge outlined above are incorporated herein. Again, any costs assumed by AIPHS cannot be included in the pro rata share calculation, including custodial and maintenance costs. AIPHS objects to the late charge listed in Section 3.5. The Implementing Regulations do not contemplate late fees to be charged to AIPHS.
- f. **Section 6:** This number will need to be adjusted to reflect the number of AIPHS students on the sites.
- g. **Section 10:** For the same reason, the District may not require AIPHS to take the facility in "as is" condition. Furthermore, it is not acceptable for the District to terminate the FUA if the cost to make repairs exceeds \$150,000. The District is required to make the facility available to AIPHS for its entire school year (5 CCR Section 11969.5) and to maintain the facility in compliance with the California Building Code. (5 CCR Section 11969.9(k).) As a result, if the facility is damaged, the District must repair it, or, if it is destroyed, the District must provide alternative facilities.
- h. **Section 12.3 and 12.4:** The District must make reasonable efforts to keep their materials, tools, supplies and equipment on the Premises in such a way as to minimize disruption to AIPHS's program. The District must provide relevant scheduling information and reasonable notice to AIPHS if it will be coming onto the facility to perform maintenance. In addition, AIPHS wishes to perform its own custodial services, and as a result, does not agree to allow the District to enter the Premises to perform custodial services.

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- i. Section 14:** While AIPHS is willing to pay any taxes or assessments on its personal property, or modifications or improvements it performs on the facility, it may not otherwise be obligated to pay any costs to occupy the facility beyond the pro rata share. (Education Code Section 47614(b)(1).)
- j. Section 15:** AIPHS wishes to perform its own cleaning and custodial services. Therefore, the Final Offer will need to be revised to provide for this revision.
- k. Section 17:** If the comparison school have a security system, then in order to provide a reasonably equivalent facility, the District must also provide the Premises with a security system. AIPHS does not agree to provide written verification of compliance with the fingerprinting and criminal background investigation requirements to District prior to AIPHS taking possession of the Premises and prior to conducting its educational program on the Premises.
- l. Section 18.1.7:** AIPHS does not agree that should it default under the FUA, it must pay the District its unpaid pro rata share. The District is obligated to attempt to first find an alternative occupant for the sites.
- m. Section 18.2:** This section must provide for AIPHS to perform any District obligation if the District is in default, and to recover its reasonable costs in so doing from the District.
- n. Section 20:** If AIPHS chooses to seek its insurance through a joint powers authority such as CharterSAFE, JPAs do not receive an A.M. Best insurance rating. This section will need to be revised to provide that insurance through a JPA will satisfy the terms of the FUA.
- o. Section 28:** This section must be revised to provide that the District is responsible for maintaining the Premises in compliance with applicable law, except to the extent that compliance arises as a result of modifications or improvements performed by AIPHS.

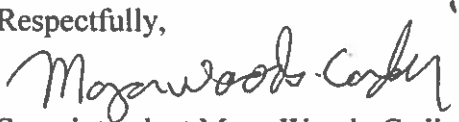
We have attempted in this letter to enumerate all of our concerns with the District's Preliminary Proposal; however, we note that our failure to mention a concern in this letter should not be interpreted as acceptance of that term.

We look forward to working with the District to make the necessary changes to the District's Preliminary Proposal in order to ensure compliance with Proposition 39 and its Implementing Regulations in time for the issuance of the final notification of facilities.

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AIPHS looks forward to the opportunity to discuss and negotiate these matters with the District moving forward.

Respectfully,


Superintendent Maya Woods-Cadiz
American Indian Model School

Cc: Sarah Kollman, Young, Minney & Corr, LLP
AIPHS's Board Members