

CHARTER SCHOOL FACILITIES AND PROPOSITION 39 COMPLIANCE



“The intent of the people . . . is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.” (Ed. Code § 47614.)

What is Proposition 39?

- > School districts must share their facilities with charter schools, and the offered facilities must be reasonably equivalent to the district’s other facilities.
- > Proposition 39 and its implementing regulations set forth a process for a school district to evaluate the quantity and quality of teaching space, specialized teaching space, and non-teaching space at comparison schools. The school district must make a good faith effort to consider and accurately measure all of the facilities of the comparison group schools and accurately describe the facilities offered to the charter school.

What are reasonably equivalent facilities?

- > Comparable in quality and quantity to district operated schools
- > Contiguous (located together at one site, not spread across campus or multiple sites)
- > Similarly furnished and equipped as district’s comparison schools

Deadlines

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| November 1 | Charter school’s written request for facilities |
| December 1 | School district may object in writing to charter school’s projected average daily attendance (ADA) |
| January 2 | Charter school may respond to any objections raised by school district regarding ADA projections |
| February 1 | School district to provide a preliminary offer of facilities, along with detailed information about the offer and a draft facilities use agreement |
| March 1 | Charter school to respond to preliminary offer |
| April 1 | School district to provide a final facilities offer |
| May 1 | Charter school may accept school district’s final facilities offer |

Evaluation of Facilities Requests and Preparation of Responses

- > Prop. 39 facilities request should be reviewed shortly after receipt to determine the reasonableness of the charter school’s ADA projections and what facilities will be offered.
- > School district’s preliminary offer must include detailed information, including a description of comparison school groups, and all conditions of use, along with the proposed facilities use agreement.

Lozano Smith attorneys are available to assist with the evaluation of facilities requests and ADA projections, evaluation of reasonably equivalent facilities, and preparation of legally compliant responses and proposed facilities use agreement.

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