

YOUNG, MINNEY & CORR, LLP

# LEGAL ALERT



## The Time to Apply for Facilities Under Prop. 39 is Here!

Finding adequate facilities is one of the most challenging aspects of operating a charter school in California. Proposition 39 has been a successful tool for charter schools in securing public school facilities and/or beginning a dialogue with the school district in which they negotiate in-lieu of arrangements (including financial assistance).

Court cases have clarified charter schools' rights under Prop. 39, making it easier to secure to reasonably equivalent school facilities. In *Bullis v. Los Altos School District* (2011) 200 Cal.App.4th 1022, the Court of Appeal mandated that a school district must analyze the exact number of square feet of specialized and non-teaching station space per unit of ADA at the comparison schools and allocate space to a charter school based on the same square feet per ADA as the comparison schools. In *California Charter School Association v. LAUSD* (2015) 60 Cal. 4th 1221, the California Supreme Court clarified that a school district cannot use its loading standards to allocate teaching stations to a charter school, but rather must make the allocation based on the actual teaching station to ADA ratio in the comparison schools. There have also been a number of trial court decisions that affect the process, though they are not binding state-wide. We will continue to keep you up to date on any other important developments.

This Legal Alert provides an overview of the upcoming **deadlines** and **requirements** which charter schools must comply with in order to qualify for public school facilities under Prop. 39. It also links charter schools to the **revised template Proposition 39 request form** and instructions for the 2019-2020 school year application process. And lastly, this Legal Alert provides information about a webinar we are offering in partnership between YM&C and the California Charter Schools Association ("CCSA"), as well as workshops and help with offsetting the costs of legal help, regarding Prop. 39 and how to get the most out of Prop. 39 for your school.

### **Proposition 39 Deadlines for 2019-2020 School Year**

In order to qualify for an allocation of Prop. 39 school facilities in the 2019-2020 school year, a charter school must make an annual request conforming to the statutory and regulatory provisions of Prop. 39. YM&C, in partnership with CCSA, has prepared a revised **template request form** and **detailed instructions** in order to assist charter schools in this annual process. To download a copy of the Template Request Form please click on the following link: **Sample Proposition 39 Form and Instructions** (or visit [www.mycharterlaw.com](http://www.mycharterlaw.com) under the Resource Docs tab). Please note that, as with every year, the Template Request Form has been updated for use during the 2019-2020 Proposition 39 process. Please ensure that you are using the current and updated Template Request Form when completing your request as use of the old form may result in your request being denied.

Important **deadlines** in the Prop. 39 regulations:

- ☞ Both new and ongoing charter school must submit a complete Prop. 39 facilities request to the district on or before **November 1, 2018**. In addition, school districts may have their own Prop. 39 board policies, administrative regulations, and request forms that charter schools must comply with; you should request these documents from your district in writing. Lastly, a charter school should review its charter, memorandum of understanding, and any facilities use agreement for any other possible restrictions, requirements or timelines.
- ☞ New or proposed charter schools (i.e., not operating during the 2018-2019 school year) must submit their charter petitions by **October 30, 2018** (rather than the regulatory deadline of November 1, 2018 for reasons identified above) and receive approval of their charter **before March 15, 2019**, in order to qualify for facilities during the 2019-2020 school year.

**Review the Instructions Carefully: *Noncompliance can be fatal to your Application!***

Please review the Instructions in the Template Request Form very carefully; skipping or eliminating any part of the form or process could jeopardize the charter school's right to a facility. The current form has been updated to add important information; do not reuse a prior year's request forms without first reviewing the current form for changes! YM&C has also prepared a compilation of the Prop. 39 statutes and regulations that can be downloaded for reference and to assist in the negotiations of a charter school's Prop. 39 facility allocation. To download a copy of the Prop. 39 statutes and regulations please click on the following link: [Proposition 39 and Implementing Regulations](#) or visit [www.mycharterlaw.com](http://www.mycharterlaw.com) under the Publications tab.

**Begin Preparing Now!**

Collecting Intent to Enroll forms, calculating your projected Average Daily Attendance, and other documents necessary for submission of a complete request is a time-consuming and complicated process. We strongly encourage you to begin the process now, especially the collection of Intent to Enroll forms. In addition, a number of districts are now asking for information regarding how Intent to Enroll forms were collected, so we encourage you to keep track of this information in case it is necessary.

**Proposition 39 Webinar and Pro Bono Services!!**

Want to better understand your school's entitlements under Prop. 39 or need help in completing your Prop. 39 request? Want to learn how to get the most out of Prop. 39 for your school? In partnership with CCSA, YM&C encourages you to view our free online Training Session: Acquiring Facilities Under Proposition 39, which can be found on CCSA's website. In addition, CCSA and YMC offer several workshops on Prop. 39 across the state, and CCSA and YMC will also be offering a program to help offset the costs of accessing legal help with the Prop. 39 process – check CCSA's website to learn more!

Legal Alert  
Prop. 39 Facilities Reminder  
September 10, 2018

Should you have any questions about this Legal Alert or the Prop. 39 process, please contact Sarah Kollman ([skollman@mycharterlaw.com](mailto:skollman@mycharterlaw.com)) or Paul Minney ([pminney@mycharterlaw.com](mailto:pminney@mycharterlaw.com)).

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