

MINUTES

Facilities Committee Meeting



Wednesday March 12, 2008
Sacramento Charter H.S. – Room E27
2315 34th Street
5:30 – 7:00 p.m. Meeting

SCUSD Board Committee Members Present: Rick Jennings, Committee Chair Karen Young

Staff Support:

Terry Brown, Interim Assistant Superintendent	Tom Barentson, Administrative Services
Jim Dobson, Planning & Construction	Luis Freese, Facilities & Maintenance
Dave Taxara, Project Manager	Christopher Frappier, Project Manager

I. TOUR:

1.0 Tour of Sacramento Charter H.S.

The tour was split up with two groups, one with hard hats and other in finished area to manage the large group who attended the tour. PCM3 showed the Committee modernization work ongoing across the campus. New labs, ongoing repairs of the outside wall, new paint, finish work and vinyl floors.

II. CORE ITEMS:

2.0 Welcome & Review of Minutes

Meeting commenced at 5:35 p.m.

Motion to accept January and February Minutes by Rick Jennings; seconded by T Barentson. Minutes approved and will be posted on the District website.

2.1 Facilities & Maintenance Update –

Fire Inspections Update

100% complete with all inspections. Staff expects all inspections to be complete by the end of the month. No issues to speak of.

2.2 Modernization, Construction & Ongoing Projects Update

- a. Modernization & Construction Update – PMG Update Handed out (Attachment #1).
 - Nicholas restroom set to be completed by next week; ERP funded. Phillips restrooms will be completed by the time students return from Spring Break on March 24, 2008. The Emergency Repair Program (ERP) is funded out of original Williams's settlement. Governor funded \$800 million dollars over 10 years for repair of health and safety concerns and Decile 1, 2, and 3 school sites. OPSC funding update (Attachment #2) on ERP school reimbursements/repairs. This will be a monthly report to Committee.
 - Consent Decree H.S.: Three community meetings were held to get feedback from all stakeholders. There will be a tour of the Marian Anderson site and meetings for interested parties with the architect.
- b. Modernization and Construction Summary by PCM3 / March Summary Report (Attachment #3)
 - John F. Kennedy H.S. Modernization: Constructions crews have completed Phase III of the three story classroom building. Work originally slated for completion this summer being finished early.
 - SES/Sojourner Truth library project – Next advisory committee meeting this Friday, March 14, 2008. Preliminary Lease/Lease Back Contract pending date of March 31, 2008.

- John Still Bldg. E: Construction started 2 weeks ago – Project consists of one building with five classrooms. Total area: 500 sq. ft. in area behind site, a playground structure from John Still M.S. will be installed during Spring Break at the new elementary school.
- Sacramento Charter HS – see Attachment #3. Still working on HVAC punch list items.
- Storm damage repair pictures passed around of Clayton B. Wire and West Campus. The punch list walk will take place on Friday, March 14th.
- West Campus – punch list walk today. Monday, March 24th, the students and staff will return to their permanent classrooms. Construction crews will be demolishing the interim housing after move of students and staff back to regular classrooms. District staff is hoping to limit charges to the Schools Insurance Authority and the District by filing a hardship claim with OPSC and the Office of Emergency Services (OES) to reimburse the District for repairs.
- America's Choice - Students and staff have moved into new classrooms and the punch list is complete. Warranty issues are being covered. DSA second exit in library being worked on. Another program from SCOE, a high school severely handicapped special education program, currently located in Rancho Cordova will be moving into two classrooms at the America's Choice site. Eleven of seventeen students in the program are SCUSD students. Site improvements at the site to meet the needs of these students include additional access to campus, 2 classrooms and an ADA compliant restroom for students. The County office will pay for additional ADA improvements and wiring for a washer and dryer at the site. The planned move-in date for the special education program is July 1, 2008. The fire lane already installed at the site makes for easy access for these students.
- California Middle School - Shade Structure work being engineered at this time.
- Social Justice Waldorf H.S. - Renaming of Waldorf H.S. Advisory Committee needs to review the new names which will then be forwarded to the Board for consideration. This high school is currently planned to co-locate at the John Still Middle School site in September, 2008. The next advisory committee meeting will meet on Thursday, March 13, 2008 at John Still M.S.
- Emergency Repair Program funding for SCUSD - Bear Flag was originally designated as an ERP school. Staff requested clarification from OPSC which resulted in ERP dollars following the Bear Flag students to Caroline Wenzel; this is good news for site.

2.3 Asset Development & Joint Use

- Athletic Field Study Update by Tom Barentson

The Athletic Field Study was completed and delivered to the District in February by Beals Alliance. Ron Edwards and Tony Woods from Beals Alliance attended the meeting and shared information on the study with the Committee. This process was started two years ago to create safety standards for all of our high and middle school site athletic fields; keeping in mind what is appropriate for each site. Focus on safety a key impetus to upgrading our District athletic fields.

The Athletic Field Study was forwarded to the Executive Committee, who after review, would like to know what some of the current maintenance costs and risks to injury are on our current fields. We have surveyed all our athletic directors and will be sharing results of the survey at a later Facilities Committee Meeting. In addition, the Schools Insurance Authority (SIA) is giving us a study on what we need to do to improve the safety of District athletic fields. ADA accessibility requirements can be met as long as you have a plan and are working on a plan; for example, ADA accessibility to the C.K. McClatchy football games. City is interested in using our improved athletic fields once upgraded to new standards. Soccer, Rugby, Lacrosse and track events are currently being held at our sites. Staff will be bringing back information from SIA and the school sites and working to be in full

compliance with CIF regulations. District staff is also looking at historical data on maintenance costs and injuries and partnerships with other municipalities.

Direction from Executive Committee:

1. Put all insurance data, maintenance, injury and phased approach on how Athletic Field Study would be implemented. Funding can come from other than general fund and our communities and students will have better and safer athletic fields.
2. Bring back to Facilities Committee on April 9th; proceed to discuss how to take before the Board in order to implement a phased-in approach. Staff will take advantage of all outside funding possible and provide plans for a 1-, 2-, 3- and 5-year phased-in approach.
3. Share information with the Board at 2nd Board meeting in April (April 17, 2008).

Next steps will be covered on April 9th Facilities Committee. All information needs to go to Executive Committee for review first before going to the Board as an information item.

III. NEW & ONGOING DISCUSSIONS:

a. John F. Kennedy Fields Update

Concerns from the last Facilities Committee meeting in February were addressed. The athletic field irrigation has been repaired; a cage for the discus is being provided; drains around the track are fixed to drain properly; and lighting improvements are being looked at by Christopher Frappier. Operations staff is working hand-in-hand with the site staff to improve the athletic fields.

b. Theodore Judah Update

Prices for lighting by Dave Taxara will be installed by the time students return to school after Spring Break. Staff is looking at cabinets for classrooms and will go out to bid and be done while students are out of school. Water fountains in classrooms and design for handicapped access is ongoing. Currently, staff has a full schedule of paving jobs for this Summer, so the Theodore Judah asphalt project will have to wait until next year. Theodore Judah has applied for several grants to make improvements at the school site. There was a question whether approval of these grant applications would put restrictions on District property. Staff will investigate and get back to Theodore Judah parents on this issue.

3.1

Floor Discussion

a. Prop 39 Report by Tom Barentson

Handout from CASH (California Association of School Housing) entitled *“Responding to Charter School Facility Requests Under Proposition 39” (Attachment #4)*.

SCUSD has 12 charter schools including the oldest charter school in nation: Bowling Green Charter. Tom Barentson spoke regarding Prop 39 funding and District requirements under Prop 39 when working with Charter school requests for facilities. If you have space, you have to be able to offer it, equip it and meet all the same requirements as for District public schools. Page 4 of Handout included a timeline for newly enacted Prop 39 regulations, effective in 2008-09. The District does not need to provide exact site requested by the charter school and all of agreements this year are for one (1) year. Once Charter established, District cannot move the Charter School due to chance of “reasonable disruption” of that facility.

The District has Six Independent Charter Schools:

1. Sol Aureas Preparatory	2. Capital Heights Academy (Aspire School) – mere formality and do not require facility
3. California Montessori Project	4. St. Hope PS7
5. Language Academy	6. Sacramento Charter High School

The Sacramento Charter High School is a five year agreement that is ending on June 30, 2008. Last year because of the growth of PS7, the District moved the seventh and eighth grades of PS7 to the Sacramento Charter H.S. campus for one year and will repeat this arrangement for next year. The Sacramento Charter high school is currently being modernized and will be mostly complete by January, 2009.

Comments and Questions from community members included:

1. Does the renewal contract with St Hope this next year entitle St. Hope to have exclusive use of Sacramento Charter site?

Answer: None of our contracts allow exclusive use by the Charter school. The site athletic fields and facilities can be used using a Civic Center Permit.

2. Does the Civic Center permit process allow use by any organization to use District sites, specifically the Sacramento Charter site?

Answer: Yes, including during the school year. Under California Ed. Code, the Civic Center Act and the St. Hope contract, the Civic Center Permit process allows for other uses of the site for educational purposes. Sacramento Charter is under the same laws as District sites regarding the Civic Center Permit process.

3. How is this fair to allow a charter school (St. Hope) to use a District facility over the needs of the Consent Decree High School when the community and the District need a new high school and Sacramento Charter has space? Parents believe that the Consent Decree is set up to fail by placing it at the Marian Anderson site.

Answer: The St. Hope contract has not been signed at this time. The renewal contract for the St. Hope contract is scheduled to be reviewed by the Board in May, 2008. District staff are working hard to plan for a full small high school format at Marian Anderson similar to other District small high schools and is fully committed to the new high school.

4. Why aren't District schools given the same protection as Charter Schools under Prop 39 to prevent the District from unreasonable disruption. e.g. the Success Academy, the Special Education Therapeutic Center, after school programs at Hiram Johnson and Bear Flag schools? My kids used to walk to school at Sacramento High School and Marian Anderson is not close to my home.

Answer: The setting at Marian Anderson will be consistent with other small high schools throughout the District.

5. During modernization, there is no funding to cover cost of landscaping – can the District provide funding for landscaping?

Answer: Landscaping is not included in the cost of modernization at Sacramento Charter High School and the site should look at other ways to fund.

6. A teacher from the Language Academy thanked District staff for working cooperatively to find a solution for the Language Academy need for an office and additional classroom. Whenever a problem was identified, District staff addressed it in a timely manner that was not disruptive to the school, the community or the education of Language Academy students.

Next Facilities Committee Meeting: April 9, 2008

Next Board Meeting: March 27, 2008

Meeting adjourned at 7:05 p.m.

*Respectfully Submitted,
Chris Marshall*

Next Meeting: West Campus High School

5022 58th Street – Room 38

Wednesday, April 9, 2008

Site Tour: 5:00 – 5:30 p.m.

Meeting: 5:30 - 7:00 p.m.

ITEMS TO BE BROUGHT BACK TO NEXT MEETING

1	Athletic Field Study Update
2	Consent Decree Update
3	
4	



Premier Management Group

Wednesday, March 12, 2008

Nicholas ES - ERP Restroom Project

Completion scheduled for next week, 3/17 - 3/21/08

Project has been funded by OPSC.

Phillips ES - ERP Restroom Project

Completion scheduled for next week, 3/17 - 3/21/08

ERP application will be filed as reimbursement with OPSC.

Consent Decree High School

Three community meetings have been held to get feedback from residents and community members

Open Houses are currently scheduled for future students, family members and community members

Emergency Repair Program (ERP) Sites

<u>SITE</u>	<u>Architect</u>	<u>Date Walked</u>
Tahoe	HMR	1/17/2008
Fruitridge	HMR	1/24/2008
Language Academy	HMR	1/24/2008
Jakridge	W+P	1/25, 2/8/08
Hiram Johnson	HMR	1/29, 1/30/08
Ethel Baker	W+P	1/31/2008
Bonnheim	W+P	1/31/2008
Susan B. Anthony	HMR	2/1/2008
Ethel Phillips	W+P	2/4/2008
Pacific	W+P	2/4/2008
Parkway	W+P	2/7/2008
Freeport	W+P	2/7/2008
Peter Burnett	W+P	2/8/2008
Woodbine	W+P	2/12/2008
Bowling Green	ATI	2/12/2008
Capitol City	(HMR) W+P	2/14/2008
Genesis	HMR	2/14/2008
Father KB Kenny	W+P	2/15/2008
Kit Carson	ATI	2/19/2008



ERP APPLICATIONS
As of 03/012/08

School	Package ID	Architect	Package Description	Amount	Submitted to HGP	Submitted to SCUSD	Submitted to OPSC
<i>Packages in Progress</i>							
Tahoe	TAH-01	HMR	AC Paving	\$ 267,141.31	3/10/2008		
Tahoe	TAH-02	HMR	Water Supply Lines	\$ 128,403.07	3/10/2008		
H. Johnson	HJ-01	HMR	AC Paving Replacement	\$ 3,101,373.73	3/10/2008		
H. Johnson	HJ-02	HMR	Concrete Replacement	\$ 840,310.15	3/10/2008		
Fruitridge	FR-02	N/A	HVAC Unit Repair (R.)	\$ 27,764.00	Pending		
S.B. Anthony	SBA-01	N/A	Carpet Replacement (R.)	\$ 15,980.00	Pending		
Phillips	PHP-01	N/A	Restroom Demo and Repair (R.)	\$ 63,690.00	Pending		
Kit Carson	CAR-01	ATI	Boiler Replacement	Pending	Pending		
Kit Carson	CAR-02	ATI	MP/Kitchen Flooring Replacement	Pending	Pending		
S.B. Anthony	SBA-02	N/A	Preschool Playground Replacement	Pending	Pending		
Baker	EB-01	N/A	Door Hardware Replacement (R.)	Pending	Pending		
<i>Packages in OPSC Review</i>							
Bret Harte		N/A	Various Items	\$ 55,008.50	N/A	10/1/2007	10/1/2007
Earl Warren		N/A	Various Items	\$ 50,882.00	N/A	10/1/2007	10/1/2007
Maple		N/A	Various Items	\$ 55,232.00	N/A	10/1/2007	10/1/2007
<i>Packages funded by OPSC</i>							
Nicholas		N/A	Restroom Demo and Repair - Small RR	\$ 14,217.00	N/A	9/11/2007	9/11/2007
Nicholas		N/A	Restroom Demo and Repair - Large RR	\$ 83,788.83	N/A	9/11/2007	9/11/2007

Project Manager: Christopher Frappier SCUSD - Planning & Construction		
School Site	Estimated \$ to be Submitted to OPSC	Approved Funding
Alice Birney ES #004-001r	\$ 13,591.54	
Bear Flag ES #017-001r	\$ 11,323.26	
Bret Harte ES*	\$ 62,235.00	
CP Huntington #043-001r	\$ 11,901.24	\$ 11,901.24
Earl Warren ES 095	\$ 46,495.00	
Ed Kemble ES 100	\$ 767,235.97	\$ 10,543.97
Ethel I Baker ES #108-001r	\$ 2,759.10	
Ethel Phillips ES #110-001r	\$ 79,165.54	
Freeport ES 114	\$ 10,943.97	\$ 10,943.97
Fruitridge ES 122	\$ 11,343.97	\$ 11,343.97
Hiram Johnson HS 520	\$ 6,984.92	\$ 6,984.92
H.W. Harkness #139-001r	\$ 14,892.04	
Jed Smith ES #148-001r	\$ 13,489.54	
John Morse K-8 #173-001	\$ 218,980.00	\$ 218,980.00
John Sloat #168-001	\$ 20,337.00	\$ 20,337.00
Joseph Bonnheim #183-001r	\$ 15,402.04	
Luther Burbank HS #530-002r	\$ 628,232.49	
Maple ES 223	\$ 62,445.00	
Nicolas ES 262	\$ 98,005.18	\$ 92,002.00
Oakridge ES 265	\$ 29,109.54	\$ 14,600.00

E.R.P. Tracking Report

Project Manager: Christopher Frappier
 SCUSD - Planning & Construction

School Site	Estimated \$ to be Submitted to OPSC	Approved Funding
Pacific ES 269	\$ 17,650.00	\$ 17,650.00
Parkway ES #272-001r	\$ 12,139.26	
R.Parks/Goethe MS 420	\$ 127,577.96	
Sacramento Charter HS #550-001	\$ 2,675,895.25	
Will C Wood #495-001	\$ 141,326.47	

\$ 5,099,461.28

05/31/07- to present Funded \$ 415,287.07

01/15/06-05/30/07 Funded \$ 80,777.01

Not a current E.R.P. site

Total to date \$ 496,064.08

G = Grant Application

R = Reimbursement Application



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

Project Updates 3/10/08

Emergency Repair Program-Brief Update

ERP: PCM3 is continuing to gather, organize, and assemble documentation, such as reports, letters, and photos, pertinent to PCM3's seventeen ERP-eligible sites for ERP applications.

The joint preparation of ERP applications by PCM3 and the Architects is continuing as two applications were submitted this week to the District's school advisory consultant, Hancock, Gonos & Park (HGP). These packages are for the Will C. Wood Middle School asphalt walkways package and the Fern Bacon Middle School asphalt repair package. Meanwhile, nine reimbursement packages were also assembled and submitted to HGP. These packages are for kitchen repairs already completed at nine different schools. Thus, twenty-one applications have now been submitted to HGP. Additionally, SCUSD signature was obtained on five applications. HGP will submit those five applications to OPSC next week, which will increase the total quantity of applications submitted to OPSC to eight.

Looking ahead, applications are being prepared for several schools, including Will C. Wood, John Sloat, Alice Birney, John Morse, and H.W. Harkness. Meanwhile, dishwashers will be removed and replaced with three-compartment sinks at both Fern Bacon and Rosa Parks next week. PCM3 will be managing those two projects, and reimbursement applications will be generated for these two projects once they are completed.

Schools: School of Engineering and Sciences & Pocket-Greenhaven Library

- The school plans were submitted to DSA on 12/17/07. The project has been assigned a DSA application number.
- The contractors are submitting pre-bid RFI's for the Architect's review.
- The next Advisory Committee meeting is scheduled for Friday, 3/14/08 at 8:30 a.m.
- Design Meetings for the joint use Library with the City and Library personnel are ongoing. The next meeting is scheduled for Wednesday, 3/12/08 at 10:00 a.m.

John Still Elementary School Building E

- The Contractor for this project is Sundt Construction.



- The Contractor mobilized the site and temporary fencing was put up around the site on Friday, 2/29/2008.
- The Building E pad was cleared and Wallace-Kuhl tested compaction on Tuesday, 3/4/2008.
- The pad was surveyed and the building grid lines and corners were laid out.
- The Building F pad was filled with aggregate base and will be used for material lay down.
- The Contractor is scheduled to start excavating footings next week.

2006/2008 Modernizations

Sacramento Charter High School

- The Contractor for this project is Arntz Builders.
- Phase 2: Underground plumbing is approximately 35% complete.
- Mechanical rough-in is approximately 30% complete.
- Interior framing is approximately 18% complete.
- Exterior wall demo is complete on Building A.
- Shrink wrap is 100% complete.
- Excavation of the building footings continued and is about 90% complete. Should pour concrete sometime the week of 3/10/08.
- Arntz is updating their project schedules.
- Pencil drafts for February Modernization and Lease/Leaseback were returned to Arntz on 3/6/08.

John F. Kennedy High School

- The Contractor for this project is Landmark Construction.
- Phase 3 work is now complete. Work completed this week includes hanging whiteboards, install flooring base, punch list work, white glove cleanup, and carpet cleaning done by the District M & O staff. Phase 3 has finished 3 weeks ahead of the original schedule.
- Exterior painting is ongoing on the 3 – story building. Work completed this week includes removal of the bird netting, pressure washing, priming and painting of the columns, painting of the stucco soffits.
- Phase 3 restrooms are ongoing. Work completed this week includes wall patch back, painting, and doorframe rework. Phase 3 restrooms are on schedule and on track with the original schedule.

West Campus High School

- The Contractor for this project is Landmark Construction.
- The painting operation is now completed.
- The tackboard operation is now completed.
- Ceiling tile in all classrooms is now completed.



- The janitor's room and the storage room drywall work is done and first coat of paint is done.
- The drywall work and patch back in the restroom is now complete and first coat of paint is on.
- Floor coverings began this week and 3 of the 6 classrooms are complete.
- Finish electrical is ongoing including rehangng the existing light fixtures, plugs and switches, and fire alarm devices.

CB Wire Elementary School

- The Contractor for this project is Landmark Construction.
- All carpet and VCT is now completed.
- All casework installation is complete.
- All finish electrical is now completed including the rehangng of existing light fixtures.
- All flagpoles, fire extinguishers, projection screens, TV mounts, telephones, and curtains were put back in place.
- Punch list walk was held on 3/7/08.

C.A.S.H. 29TH ANNUAL CONFERENCE ON SCHOOL FACILITIES

NEW PROGRAMS, NEW PROMISE CALIFORNIA SCHOOL FACILITIES 2008

Wednesday, February 27, 2008
10:45 a.m. - 12:15 p.m.
Sacramento Convention Center
Room # 308

Workshop #28

Responding to Charter School Facility Requests Under Proposition 39

Moderator:

Edward Sklar

Lozano Smith

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**RESPONDING TO CHARTER SCHOOL FACILITY REQUESTS
UNDER PROPOSITION 39**

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I. INTRODUCTION

A. Background

Proposition 39, also known as the “Smaller Classes, Safer Schools, and Financial Accountability Act,” was passed by California voters in November of 2000. Proposition 39 amended the California Constitution to allow school districts to pass bonds for school construction and facilities improvements by a 55% vote rather than the 66-2/3% vote previously required. Additionally, Proposition 39 includes provisions which require school districts to provide facilities to charter schools which are “reasonably equivalent” to the school facilities that charter school students would be attending if they attended district programs.

Proposition 39 declares: “The intent of the people . . . is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.” (Codified at Ed. Code § 47614.)

B. Providing “Reasonably Equivalent” and “Contiguous” Facilities

1. Reasonably Equivalent Facilities.

Education Code section 47614, subdivision (b), requires that a school district make “reasonably equivalent” facilities available to a charter school operating in the district. California Code of Regulations, title 5, section 11969.3 defines the process for ensuring that facilities offered by a school district to a charter school are “sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities.” The standard relies on a comparison group of district-operated schools serving similar grade levels within the same area as the charter school’s facilities. The district must offer facilities to the charter school that are comparable to the comparison group in all of the following characteristics:

#	Facility Characteristic	Regulatory Authority
1	Ratio of teaching stations to ADA.	Cal. Code Regs., tit. 5, § 11969.3, subd. (b)(1)
2	Specialized classroom space if such facilities are available to the district comparison group (e.g., science laboratories)	Cal. Code Regs., tit. 5, § 11969.3, subd. (b)(2)
3	Non-Teaching space, which the district can share with the charter school (e.g., administrative, kitchen, multi-purpose, and/or play area space).	Cal. Code Regs., tit. 5, § 11969.3, subd. (b)(3)
4	School site size.	Cal. Code Regs., tit. 5, § 11969.3, subd. (c)(1)(A)
5	Condition of interior and exterior surfaces.	Cal. Code Regs., tit. 5, § 11969.3, subd. (c)(1)(B)
6	Mechanical, plumbing, electrical, and fire alarm systems condition and conformity to applicable law.	Cal. Code Regs., tit. 5, § 11969.3, subds. (c)(1)(C)-(D)
7	Availability and condition of technology resources.	Cal. Code Regs., tit. 5, § 11969.3, subd. (c)(1)(F)
8	Overall learning environment qualities (e.g., lighting, noise mitigation, and/or size for intended use).	Cal. Code Regs., tit. 5, § 11969.3, subd. (c)(1)(F)
9	Furnishing and equipment.	Cal. Code Regs., tit. 5, § 11969.3, subd. (c)(1)(G)

2. Contiguous Facilities.

Education Code section 47614, subdivision (b), also requires a chartering school district to ensure that the facilities offered to a charter school are “contiguous.” California Code of Regulations, title 5, section 11969.2, subdivision (d), defines contiguous as facilities that are “contained on the school site or immediately adjacent to the school site.” Further, if the school district cannot accommodate a charter school’s in-district ADA at any one school site, “contiguous facilities” are also “facilities located at more than one site, provided that the school district” minimizes the number of sites assigned and take into consideration student safety. (Cal. Code Regs., tit. 5, § 11969.2. subd. (d).)

The appellate court case Ridgecrest Charter School v. Sierra Sands Unified School District (2005) 130 Cal.App.4th 986 (“Ridgecrest”), decided in June 2005, dramatically increased the importance of careful attention to these requirements of Proposition 39. In Ridgecrest, a charter school of 223 students was offered classrooms on five different sites, separated by a total of 65 miles. The Court held that the school district abused its discretion by disregarding the statutory requirement that facilities offered to charter schools be contiguous.

Under Ridgecrest, a school 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.” (Ridgecrest at 999.) Furthermore, “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.” (Id. at 1000.) Finally, the court concluded that a 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.” (Id. at 1002.) The court noted that charter schools are not entitled to better school facilities than district programs; nor is there a “single school site mandate” for charter schools. (Id. at 1001.) Rather, district must, “to the maximum extent practicable,” give charter schools the same consideration as district-run schools in allocating facility space. (Id.)

Thus, districts are deemed to be held to a higher standard following Ridgecrest, including the possibility that “accommodating a charter school might involve moving district-operated programs or changing attendance areas.” (Ridgecrest at 1000.) While most school districts will not need to change their policies as a result of the decision, school districts responding to charter school facilities requests should be sure to:

- Start with an assumption that charter schools will be assigned to one single site unless doing so is impossible or highly impractical; and
- Document the rationale behind the offer of facilities, including all the factors considered. If multiple sites are offered, document:
 - Why the district cannot accommodate a charter school on a single site;
 - How the district minimized the number of sites offered; and
 - That the district considered student safety.

C. Proposition 39 Facilities Request Timelines

1. Operating Charter Schools

Action	Deadline	Legal Authority
Charter school submits facilities request to school district:	October 1	Cal. Code Regs., tit. 5, § 11969.9, subd. (b)
School district prepares preliminary proposal:	No specific deadline; early March is the norm.	<i>See generally</i> Cal. Code Regs., tit. 5, § 11969.9, subd. (d)
School district allows charter school reasonable opportunity to respond to preliminary proposal:	No specific deadline; early March is the norm.	<i>See generally</i> Cal. Code Regs., tit. 5, § 11969.9, subd. (d)
School district offers facilities to charter school:	April 1	Cal. Code Regs., tit. 5, § 11969.9, subd. (e)
Charter school responds to school district's facilities offer:	May 1 or 30 days after the school district's notification, whichever is later.	Cal. Code Regs., tit. 5, § 11969.9, subd. (f)

Note: These deadlines will change with the adoption of the proposed amendments to the Prop. 39 Regulations.

2. Proposed Charter Schools

Action	Deadline	Legal Authority
Proposed charter school submits petition to gain charter to local education agency:	November 15	Cal. Code Regs., tit. 5, § 11969.9, subd. (a)
Charter school submits facilities request to school district:	December 31 (Before January 1)	Cal. Code Regs., tit. 5, § 11969.9, subd. (b)
School district must have approved proposed charter school's petition:	March 1	Cal. Code Regs., tit. 5, § 11969.9, subd. (a)
School district prepares preliminary proposal:	No specific deadline; early March is the norm.	See generally Cal. Code Regs., tit. 5, § 11969.9, subd. (d)
School district allows charter school reasonable opportunity to respond to preliminary proposal:	No specific deadline; early March is the norm.	See generally Cal. Code Regs., tit. 5, § 11969.9, subd. (d)
School district offers facilities to charter school:	April 1	Cal. Code Regs., tit. 5, § 11969.9, subd. (e)
Charter school responds to school district's facilities offer:	May 1 or 30 days after the school district's notification, whichever is later.	Cal. Code Regs., tit. 5, § 11969.9, subd. (f)

Note: These deadlines will change with the adoption of the proposed amendments to the Prop. 39 Regulations.

D. Frequently Asked Questions

1) Do school districts have to provide facilities to ALL charter schools operating within the district's boundaries?

No. First, the charter school must make a timely request for facilities. Second, school districts are only required to provide facilities to charter schools with a projected in-district ADA of 80 or more. (Ed. Code § 47614(b)(4).) Assuming an attendance rate of 96%, 84 students residing within the district would be needed to generate 80 ADA. School districts are not required to provide facilities for charter school students who are not district residents, nor for students enrolled in non-classroom based instruction, regardless of where they reside.

2) Is there a deadline for charter schools to request facilities?

Yes. Existing charter schools must request facilities by October 1 of the year preceding the school year for which they are requesting facilities. A new charter school must request facilities by December 31 of the year preceding the school year for which they are requesting facilities. New charter schools must also submit charter applications by November 15 and receive approval of the charter application by March 1 to be eligible to make a facilities request.

3) How should school districts respond to charter school requests for facilities?

Prior to April 1, the district must prepare a preliminary proposal identifying the space to be allocated to the charter school and the statutory amount to be charged for the facilities and provide the charter school a reasonable opportunity to review and comment on the preliminary proposal.

A school district must make a facilities offer by April 1. The April 1 facilities offer must specifically identify: (1) the space offered for the exclusive use of the charter school; (2) the space to be shared with district-operated programs, including the arrangements for sharing; (3) the in-district classroom ADA assumptions on which the allocation of space is based; and (4) the statutorily determined charge and the payment schedule.

Charter schools have until May 1 to respond to a timely district offer. If a charter school accepts the district's offer of facilities, the parties then enter into a memorandum of understanding detailing the specifics of the arrangement, such as insurance, indemnification, and minor points such as who fixes the air conditioning if it fails. (5 C.C.R. § 11969.9(h).)

4) What kind of facilities do school districts have to provide?

Under Proposition 39, school districts must provide facilities that are:

- Reasonably equivalent to facilities used for district-run programs. "Reasonably equivalent" is determined by comparison with facilities for district's non-charter students using methods described in 5 C.C.R. § 11969.3.
- Contiguous. (See Ridgecrest Charter School v. Sierra Sands Unified School Dist. (2005) 130 Cal.App.4th 986.)

- Furnished and equipped. At a minimum, furnishing must include desks, chairs, and blackboards. (Ed. Code § 47614(b); 5 C.C.R. § 11969.2(e).)

School districts must make reasonable efforts to provide facilities near to where a charter school wishes to locate, but need not provide the exact facilities or location requested by the charter school. (Ed. Code § 47614(b).)

Facility offers must include non-classroom space, such as a share of kitchen, play area, administrative space, library, and specialized classrooms such as science and computer labs, to the extent provided to non-charter students of district. (5 C.C.R. § 11969.3.)

Facilities remain the property of the school district. (Ed. Code § 47614(b).)

5) What if a charter school requests rent in lieu of facilities?

School districts are not required to provide rent money to charter schools in lieu of facilities. (Ed. Code § 47614(b)(1).) If a charter school refuses a school district's offer of facilities, the charter school must find and fund facilities on its own. (See 5 C.C.R. § 11969.9(f).)

6) Can a school district charge rent for facility space for non-district students?

Yes. A school district is only obligated to provide facilities for district students. School districts may charge the charter school the market rate for the space that will be utilized by any non-district students.

7) Who pays for facilities operations and maintenance?

Charter schools are responsible for operations and maintenance at district-provided facilities. (5 C.C.R. § 11969.4(b).)

8) Who is responsible for deferred maintenance projects?

School districts are responsible for deferred maintenance projects on facilities provided by the school district to the charter school. (5 C.C.R. § 11969.4(b).)

9) What is a pro rata charge for facilities costs?

School districts may charge charter schools a pro rata share of those facilities costs which the school districts pay for with unrestricted general fund revenues. (Ed. Code § 47614(b)(1).) Facilities costs include the costs associated with facilities acquisition and construction, and facilities rents and leases. (5 C.C.R. § 11969.7.)

To calculate the pro rata charge to a charter school, a school district should divide the "school district facilities costs that the school district pays for with unrestricted general fund revenues" by the "total space of the school district," and multiply this number by the "amount of space allocated by the school district to the charter school." (5 C.C.R. § 11969.7.)

“School district facilities costs” used in calculating the pro rata share should include monies that came to the district as unrestricted general funding, that were expended in the prior fiscal year on:

- Facilities acquisition and construction costs;
- Facilities rents and leases (for property the district is renting or leasing from another party);
- “Ongoing and Major Maintenance Account”;
- “Routine Restricted Maintenance Account” (Ed. Code § 17014), and/or deferred maintenance fund;
- Replacement of facilities-related furnishings and equipment according to school district schedules and practices;
- Debt service costs;
- If the charter is not paying for their own maintenance, the district should also include janitorial/custodial costs paid for with unrestricted general fund revenues;
- Any other facilities related costs.

10) Can school districts claim mandated cost reimbursement for charter school facilities expenses?

No. Unlike statutory mandates, mandates imposed by the initiative process are not reimbursable.

11) Must charter school facilities be Field Act compliant?

This area of law is unclear. We generally advise a more conservative approach (i.e. to provide Proposition 39 facilities in Field Act compliant buildings) due to insurance issues and potential Board member liability. We encourage school districts to consult with legal counsel when there is an issue about Field Act compliance and charter facilities.

12) What is the status of the proposed amendments to the Proposition 39 regulations?

The State Board of Education approved the amended regulations at its January 2008 meeting. The Office of Administrative Law (OAL) will complete its review in the coming days. Litigation may follow. Either way, new regulations would not impact the Prop. 39 requests for the 2008-2009 school year.