

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).

Some recent 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* (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*, the California Supreme Court clarifies 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. 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 2017/2018 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) regarding Prop. 39 and how to get the most out of Prop. 39 for your school.

Proposition 39 Deadlines for 2017/2018 School Year

In order to qualify for an allocation of Prop. 39 school facilities in the 2017/2018 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 under the Legal Templates tab). Please note that, as with every year, the Template Request Form has been updated for use during the 2017/2018 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, 2016**. 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 2016/2017 school year) must submit their charter petitions by **November 1, 2016** (please make sure your school district does not have a policy which requires a charter petition to be received by the school board at a school board meeting) and receive approval of their charter before **March 15, 2017**, in order to qualify for facilities during the 2017/2018 school year.

Review the Instructions and the Law 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. 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 under the Resource Documents 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.

CCSA will also be offering pro bono reviews of Prop. 39 request letters – please visit CCSA's website to learn more!

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

Young, Minney & Corr, LLP's Legal Alerts provide general information about events of current legal importance; they do not constitute legal advice. As the information contained here is necessarily general, its application to a particular set of facts and circumstances may vary. We do not recommend that you act on this information without consulting legal counsel.

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