

December 14, 2022

Kelly Krag-Arnold
Office of Charter Schools
Oakland Unified School District

**Re: *Envision Academy of Arts and Technology
Response to District's Projection Objection
Proposition 39 2023-24***

Dear Ms. Krag-Arnold:

Envision Academy of Arts and Technology ("Envision") is in receipt of the Oakland Unified School District's ("District") December 1 letter ("Response to Charter School's Enrollment Projections") regarding Envision's request for facilities under Proposition 39 ("Prop. 39") for the 2023-24 school year.

The District's objections are not reasonable and are inconsistent with the intent of Proposition 39. Accordingly, the purpose of this letter is to respond to the District's objections as required pursuant to California Code of Regulations, title 5, section 11969.9, subdivisions (d) and (e) (collectively, along with sections 11969.1-10, the "Prop 39 Regulations.") For the reasons set forth below, the Charter School reaffirms its projection of in-District classroom ADA of **189.9** for the 2023-24 school year.

Applicable Law

The Prop 39 Regulations state that a charter school must provide: (i) "reasonable projections of in-district and total ADA and in-district and total classroom ADA;" (ii) "a description of the methodology used for the projections;" and (iii) "if relevant (i.e., when a charter school is not yet open or to the extent an operating charter school projects a substantial increase in in-district ADA), *documentation of the number of in-district students meaningfully interested in attending the charter school that is sufficient for the district to determine the reasonableness of the projection, but that need not be verifiable for precise*

arithmetical accuracy.” (Cal. Code Regs., tit. 5, § 11969.9, subd. (c); emphasis added.) Therefore, as long as the Charter School’s projections are *reasonable*, the District must accept and allocate facilities based on those ADA projections.

Indeed, “reasonable” is defined in Black’s Law Dictionary as “fair, proper, or moderate under the circumstances.” In other words, the Charter School is not required to provide a one-to-one correlation of names and addresses for each unit of ADA it projects; it need only provide documentation to show its projections are “reasonable” or fair, proper, or moderate under the circumstances.

The Court in *Sequoia Union High School Dist. v. Aurora Charter High School* provided further clarification on this issue:

By modifying “projection” with the adjective “reasonable” (Ed. Code § 47614, subd. (b)(2)), the statute necessarily implies the charter school must offer some explanation in its facilities request for the basis for its projection. *However, the statute does not require the school to demonstrate arithmetical precision in its projection or provide the kind of documentary or testimonial evidence that would be admissible at a trial. Rather, the school is subsequently penalized if its projection was incorrect by having to reimburse the district for over-allocated space. (Sequoia v. Aurora, (2003) 112 Cal.App.4th 185, 195-96; Ed. Code § 47614, subd. (b)(2); emphasis added.)*

This reasoning was subsequently memorialized in Section 11969.9(c)(1)(C) of the Prop 39 Regulations.

In this case, the Charter School believes that the District’s objections are demanding a level of one-to-one correlation and arithmetical precision that is not consistent with the intent of the Prop 39 Regulations. The supporting documentation and methodology presented by the Charter School must show that its projections are reasonable – not exact. Moreover, the District may not disregard all years of the Charter School’s enrollment history in favor of one year’s data that intentionally results in a lower in-District ADA projection.

In sum, while the Charter School is required to provide *some explanation* for its projections, as well as documentation to support its projections where required, this documentation need not be a one-to-one match for each unit of projected ADA and must only be “sufficient for the district to determine the reasonableness of the projection, but ... *need not be verifiable for precise arithmetical accuracy.*” (Cal. Code Regs., tit. 5 § 11969.9, subd. (c)(1)(C); emphasis added.) Here, the Charter School has provided a detailed explanation of the projections it made, as well as historical data that demonstrates its projection of in-District growth at 10th and 11th grade is reasonable.

Envision Academy’s Current and Project Enrollment: In-District & Total Enrollment

The District’s objection letter states that the Charter School is projecting a decrease in enrollment in its 10th and 11th grade cohorts, but an increase in in-District enrollment at these two grade levels, and thus its only objection is that “[t]he projected increases in in-District enrollment for these grade levels are therefore incompatible with the projected decreases in total enrollment for these grade levels.”

However, the fact that the Charter School is projecting a decrease in total enrollment does not automatically make a projection to increase in-District enrollment unreasonable or incompatible. We are projecting an increase in in-district enrollment in our cohorts for grades 10 and 11 in SY23/24 despite a decrease in total student enrollment in those cohorts because this projection is supported by the in-district transfer-in rates for grades 10 and 11 cohorts in SY21/22 and SY22/23. 100% of transfer-in students in grade 10 have been in-district students in SY21/22 and SY22/23 and 100% of transfer-in students in grade 11 have been in-district students in SY22/23, as demonstrated by the table below.

In-District Transfer Percentage by Grade Cohort		
	SY21/22	SY22/23
Grade 10	100%	100%
Grade 11	33%	100%

This, along with the trend of an overall increase in in-district enrollment in SY22/23, support the projected increase of in-district enrollment in grades 10 and 11 in SY23/24. Based on this, we are projecting in-district enrollment at 97% for grades 9-10 and 91% for grades 11-12 of total enrollment in SY23/24.

Moreover, based on student transfer out reasons during the SY21/22, we believe the attrition/retention rates experienced at that time were largely due to the COVID-19 pandemic. 64% of SY21/22 transfers were a result of moving out of the area, which point to larger social and economic reasons rather than individual school satisfaction of families. Summer retention rates from SY21/22 to SY22/23 were an average of 94%. As a result, we expect to see increased retention rates in SY 23/24, as the disruptions to enrollment from COVID-19 have receded. Thus, high retention rates along with high in-district transfer-in rates supports our projected in-district enrollment rates for grades 10 - 12.

Retention Rates

Retention Rates from SY21/22 to SY22/23	
9th - 10th grade summer retention	97.12%
10th - 11th grade summer retention	90%
11th - 12th grade summer retention	94.74%
Total summer retention	93.95%

Revised Total and In-District Enrollment by Grade Cohort for SY23/24

	SY23/24 In-District Enrollment	SY23/24 Total Enrollment
9	51	53
10	46	51
11	54	59

12	43	47
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The District also claims that the Charter School has not provided documentation to support the projections of increased in-District enrollment in 10th and 11th grade. However, the District’s Prop. 39 application form specifically states that the Charter School was not to submit supporting documentation, given that its projected growth was minimal. The Charter School is projecting to grow 2 students in its rising 10th grade, and 5 students in its rising 11th grade, and in fact this growth is reasonable given the data noted above.

Revised SY23/24 Enrollment Projections

Envision Academy is accepting OUSD’s counter projection for 9th grade in-district ADA projections of 41.1. We have provided methodology to support an increased in-district enrollment percentage for grades 11-12.

Projected SY23/24 ADA		
	In-district ADA	Total ADA
9	41.1	47.7
10	41.1	45.9
11	48.6	53.1
12	38.7	42.3
Total	170.1	189

Conclusion

Based on the foregoing, the Charter School has responded in detail to the District’s objections. Furthermore, the Charter School has provided reliable documentation and clarifying information that more than reasonably supports the Charter School’s in-District ADA projections and has demonstrated how the District’s projections are unreasonable.

Accordingly, the Charter School anticipates that the District's Preliminary Proposal will allocate reasonably equivalent facility space sufficient to accommodate the school's total projected in-District classroom ADA of **189.9**.

We look forward to resolving any remaining concerns and receiving the District's written Preliminary Proposal on or before February 1, 2023, to accommodate the Charter School's entire projected in-District ADA of **189.9** pursuant to Section 11969.9(f). In the meantime, the Charter School would appreciate the opportunity to meet with the District to discuss any remaining concerns and responses outlined herein.