



January 2, 2018

Silke Bradford
Office of Charter Schools
Oakland Unified School District
1000 Broadway, 6th Floor, Suite 639
Oakland, CA 94607

***Re: Response to District ADA Objections
Aurum Preparatory Academy
Proposition 39 2018-2019***

Ms. Bradford:

Aurum Preparatory Academy (“Aurum”) is in receipt of two responses from the Oakland Unified School District (“District”), one dated November 29, 2017 and the other dated November 30, 2017, in which the District objects to Aurum’s projections of average daily attendance (“ADA”) as stated in its November 1, 2017 request for Proposition 39 facilities for the 2018-2019 school year (“Request”). While these letters reflect similar analyses, the letters are not consistent and it is obviously confusing for Aurum to receive two different responses. Nevertheless, Aurum will disregard the District’s November 29 letter and provide its response in this letter to the District’s November 30 letter.

In its November 30 letter, the District objects to Aurum’s projected in-District classroom ADA of 119.7, making unsupported claims about the eligibility of many of the students represented on the forms, and asserts a counter-projection of 76.0 ADA. Even though this counter-projection is lower than the 80 ADA minimum necessary to qualify for an offer of facilities, the District states that it “is using its discretion to allow the Charter School to remain eligible for an[] offer of facilities”. However, the District’s letter provides no clarity as to the ADA upon which its theoretical offer of space will be based, and makes clear its “offer” could be revoked at any time, stating that the District is “reserving the right to conclude that the Charter School is not eligible for facilities at a later time based upon subsequently learned information from parents/ guardians who could not be reached.” As the District’s letter is an unreasonable counter-projection that impedes the Charter School’s ability to substantively respond to the District’s letter, and does not give the Charter School any clarity as to the District’s plans or positions regarding when it might unilaterally clarify to the Charter School whether it is rejecting the Charter School’s Request, the Charter School will treat the District’s letter as the de facto denial that it is.

Proposition 39 requires the District to make an offer of facilities based upon the reasonable projection of ADA provided by the Charter School, subject only to the District’s limited “review”



of the Charter School’s supporting documentation. Fundamentally, as more fully discussed in this letter, the District has no “discretion” to arbitrarily disregard evidence submitted by the Charter School in order to place the Charter School on the edge of qualification – or to deny an offer of facilities altogether. The entire process of allocating facilities hinges upon a charter school’s reasonable ADA projection, which the District is not at liberty to revise based upon its own standards. Aurum does not believe the District’s objections are reasonable, nor are they consistent with the purpose and intent of Proposition 39, especially given that the District has elected to project a number of students that would deny facilities to Aurum entirely and thus keep it from opening – certainly not the intent of the law. Accordingly, the purpose of this letter is to respond to the District’s objections, as required under Title 5 of the California Code of Regulations (“CCR”) Section 11969.9(e) of the Proposition 39 Implementing Regulations (“Regulations”), and to reiterate that the District must accept Aurum’s original projection of 119.7 in-District classroom ADA as stated in its Request.

As further explained below, Aurum believes that it has provided the District with sufficient explanation and reliable supporting documentation to clearly demonstrate the reasonableness of its in-District classroom ADA projection of 119.7 in-District ADA for the 2018-2019 school year.

Aurum has Provided the Reasonable Projections and Supporting Documentation that is Required by Proposition 39

The 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.” (5 CCR 11969.9(c); emphasis added.) Therefore, as long as Aurum’s projections are **reasonable**, the District must accept and allocate facilities based on those ADA projections.

“Reasonable” is defined in Black’s Law Dictionary as “fair, proper, or moderate under the circumstances.” In other words, Aurum 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, which the Regulations subsequently incorporated in 2007:

By modifying “projection” with the adjective “reasonable” (Ed. Code § 47614, subd. (b)(2)), the statute necessarily implies the charter school must offer some



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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 5 CCR Section 11969.9(c)(1)(C).

In this case, Aurum believes that the District's objections are demanding a level of arithmetical precision that is not consistent with the intent of the regulations. The supporting documentation and methodology presented by Aurum must show that its projections are reasonable – not exact.

The California Court of Appeals also provided a more recent analysis in *California School Bds. Assn. v. State Bd. of Education* (2010) 191 Cal.App.4th 530 confirming that a request for an existing charter school that projects a substantial increase in enrollment:

“...must provide ‘*some explanation*’ and ‘a showing’ of the charter school's projected ADA because the facilities request must still explain the charter school's methodology, break down its projections into grade level and district school that would otherwise be attended, and the district can access the charter school's prior year documentation to evaluate the request. If the charter school overestimates its projected ADA, the district will be entitled to reimbursement for over allocated space. (Ed. Code, § 47614, subd. (b)(2).) ... Considered together, the provisions of Regulations, section 11969.9 require a charter school to provide a school district with *some explanation*, based on a documentary showing, of its ADA projections. Although the School District Associations argue more information is necessary, we see no reason to believe, on this facial challenge to the regulation, that the information required by section 11969.9 will be insufficient to allow a school district to carry out its duties to evaluate the facilities request and provide reasonably equivalent facilities.” (*California School Bds. Assn.*, *supra*, 191 Cal.App.4th at 564-65 [emphasis added].)

Furthermore, the Final Statement of Reasons approved by the State Board of Education (“SBE”) and released with the 2009 Proposition 39 regulations state that “documentation of the number of in-district students meaningfully interested in attending the charter school is sufficient to determine the reasonableness of the projection though the documentation need not be verifiable for precise arithmetical accuracy,” and provides additional clarity on the matter of what types of documentation are considered sufficient:



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“Submission to the district of the names and addresses of meaningfully interested students and parents would be limited to new charter schools (that have no historical information on enrollment and attendance) and continuing schools to the extent of anticipated [*substantial*] increases in enrollment. Required information would be limited to **names and addresses**, consistent with the statement of legislative intent in *EC* Section 49073.5 to “minimize” the release of telephone numbers “in the absence of express parental consent.” Names and addresses should be sufficient foundational information for school districts to determine the reasonableness of ADA projections.” (Final Statement of Reasons at p. 6.)

Last year the Contra Costa County Superior Court specifically addressed the standard for the documentary evidence supporting a charter school’s request for facilities under Proposition 39. In *Rocketship v. Mt. Diablo Unified School District* (Super. Ct. Contra Costa, 2017, No. MSN17-0137), the Honorable Judge Judith Craddick ruled that:

“The regulations implementing Proposition 39 provide that a district shall ‘review’ the projection submitted by a charter school to ensure that the projection is reasonable. (Cal. Code Reg. tit. 5, § 11969.9, subd. (d).) The regulations do not authorize a district to blithely discard the school’s methodology and documentation by conducting its own wholly independent counter-survey.”

“The Court finds that the scope of ‘review’ permitted to a school district is very limited. The district may review the charter school’s projection for obvious defects, such as listing a child outside the qualifying age range, listing a child who resides outside the district’s boundaries, etc. The district may also review whether the school’s documentation reasonably supports the school’s projection.”

“Interpreting the implementing regulations to provide a narrow scope of review is bolstered by a consideration of the parties’ respective incentives. Charter schools have a strong incentive *not* to overestimate enrollment, because they must pay for empty classroom space. (Ed. Code, § 47614, subd. (b)(2); Cal. Code Regs., tit. 5, § 11969.8. See, *Sequoia Union High School Dist. v. Aurora Charter High School* (2003) 112 Cal.App.4th 185, 196 [‘the school is subsequently penalized if its projection was incorrect by having to reimburse the district for over-allocated space’].) Hostile school districts, on the other hand, have every incentive to underestimate enrollment because they face no countervailing financial penalty. The regulations cannot be interpreted so as to give school districts *carte blanche* to lowball projected enrollment, thereby starving potentially viable charter schools of the classroom facilities they need to grow and thrive. Proposition 39 was enacted to prevent such conduct, and not to enable it.”



In her decision last year in the *Rocketship* case, Judge Craddick specifically rejected a District practice of intentionally undermining a charter school’s evidentiary basis for its Proposition 39 request under the guise of the District’s review authority. Fundamentally, the intent of Prop. 39 is for the District to share its facilities – which it holds in public trust for the benefit of all public school students, not just those that attend District schools – with charter schools, not deny them access to space to accommodate their student population. Prop. 39 even provides a remedy for any excessive projections of ADA: if Aurum has in fact over-estimated its ADA projections, the District may collect an over-allocation penalty from the school pursuant to 5 CCR section 11969.8.

In sum, even if Aurum here was required to provide documentation to support its projections, this documentation need 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.) By submitting substantial supporting documentation to support its projected ADA, the Charter School has met the standard of arithmetical accuracy.

Finally, the Prop. 39 Implementing Regulations contain a fail-safe mechanism for the District: the over-allocation penalty. If there is a legitimate disagreement between the District and Aurum regarding what is a reasonable projection, the appropriate action is for the District to allocate space based on Aurum’s projections, and collect the penalty if Aurum has over-projected.

Aurum’s Projections of in-District ADA are Reasonable and are Supported by the Documentation Included with Aurum’s Request

Aurum provided the District with the names and addresses of 107 meaningfully interested students as part of its Request, to support an in-District ADA of 119.7. This included students reflected on the meaningfully interested student spreadsheet, as well as Intent to Enroll forms signed by the parents or guardians of 107 students.

Aurum also provided the District with a detailed description of the methodology it used to make its projections, assuming an enrollment of 132 and an attendance rate of 95%, which was based on the language in the school’s charter petition, as well as a review of the number of Intent to Enroll forms collected well before the school has started its comprehensive enrollment and recruitment efforts, which will run from January to July.

Aurum further described its ongoing recruitment efforts, which include contracting with a community organizer who will conduct a series of open houses, home visits, and tabling events for interested families, establishing a Family Advisory Council (FAC), working in partnership with schools and non-profits such as Cox Academy and Live, Learn, Success to table and spread



information about the school, and working with a parent organizer to further its outreach and recruitment efforts.

Aurum’s methodology did not state that its supporting documentation was intended to cover all of its projected ADA, but rather showed that the fact that Aurum, a brand new school with no history of enrollment, was able to get a significant number of in-District families (approximately 81% of its projected in-District ADA) to express their meaningful interest by November 1, even before the school has operated its first year. If Aurum has been able to achieve this level of success many months before the end of its recruitment process, and even before its charter has been approved, it is absolutely reasonable for the school to project that it will enroll 132 students by the start of the 2018-2019 school year.

This methodology is consistent with the applicable case law. In *Sequoia Union High School Dist. v. Aurora Charter High School* (2003) 112 Cal.App.4th 185, the Court noted that Aurora Charter High School (“Aurora”) had provided 93 Intent to Enroll forms from “in-district students who were either currently attending Aurora and planning to continue or had applied for admission for the 2002-2003 school year” with its request for facilities to accommodate 110 students – in other words, forms to support only 84% of its projections – as well as historic attendance rates and proof of its current enrollment of 90, as well as “the expressed interest of current students and their families of continuing education at Aurora, and the expressed interest of prospective students and their families in attending Aurora during the next academic year.” (*Sequoia, supra*, at 196.)

The Court then determined that Aurora had provided sufficient supporting documentation to demonstrate that its projections were reasonable, and ordered the Sequoia Union High School District to allocate facilities to Aurora. It is clear from this ruling that the Court does not believe the Implementing Regulations require a charter school to submit an Intent to Enroll form for more than every student it projects to enroll, and it also suggests that if a parent confirms their meaningful interest at the time the charter school submits the request, this is sufficient to support the charter school’s projections. This is further confirmed by the language cited above from *California School Bds. Assn. v. State Bd. of Education* (2010) 191 Cal.App.4th 530, requiring only that a charter school provide ‘some explanation,’ based on a documentary showing, and ‘a showing’ of the charter school's projected ADA because the facilities request must still explain the charter school's methodology, break down its projections into grade level and district school that would otherwise be attended, and the district can access the charter school's prior year documentation to evaluate the request.

Here, Aurum has provided the names and addresses, through Intent to Enroll forms, of 107 meaningfully interested students. Since submitting its Request, Aurum has received Intent to Enroll forms and interest forms from the parents or guardians of an additional seventy-six (76) students. This brings the total amount of documentation to 183 students meaningfully interested in attending Aurum for the 2018-2019 school year. This is sufficient documentation to support



over 138% of Aurum’s projected enrollment for the 2018-2019 school year. This is more than enough documentation to demonstrate that its projections are reasonable and it should be provided reasonably equivalent facilities by the District to accommodate all of its students.

Many of the District’s Objections to Aurum’s Supporting Documentation are Not Reasonable, or are Incorrect

The District claims that “the Charter School did not clearly meet the threshold of 80 ADA,” because the District could not verify “84 Meaningfully Interested Student Signatures (based on their projected attendance rate of 95%)”. Nevertheless, the District “allow[ed] the Charter School to remain eligible” for an offer of facilities while extending a counter-projection of 76.6 ADA, “reserving the right to conclude that the Charter School is not eligible for facilities at a later time based upon subsequently learned information from parents/guardians who could not be reached.”

The District rejected much of the documentation provided by Aurum, based on its own District standards which conflict with the Implementing Regulations. The District contacted the parents of meaningfully interested students to confirm their interest in enrolling their students in Aurum. Of the 107 forms provided by Aurum, the District confirmed that 50 were meaningfully interested, was unable to reach 19, and found that 11 did not provide sufficient contact information. While accepting that these 80 students were meaningfully interested, the District refused to accept 38, as:

- 15 indicated that they were not meaningfully interested
- 9 were invalid (duplicates, in the wrong grade)
- 3 were listed on the spreadsheet, but did not have a corresponding Meaningfully Interested Student Signature Form included in the submission, and
- 11 included insufficient contact information (disconnected or wrong phone number)¹

As explained more fully below, the Implementing Regulations do not allow the District to conduct its own counter-survey in order to withhold an offer of facilities to a Charter School, and the District may not discount a signed form simply because the phone number was incorrect, as specifically noted in the Final Statement of Reasons cited above (“Required information would be limited to **names and addresses**, consistent with the statement of legislative intent in *EC* Section 49073.5 to “minimize” the release of telephone numbers “in the absence of express parental consent.”).

Additionally, Aurum has been informed by the parents of meaningfully interested students that the District’s counter-survey methods were highly flawed and unreliable, and represented a

¹ The District’s letter states that it included these 11 students in the 80 accepted students, but then also lists them below as forms rejected. However, as the math makes it clear that they were included in the list of 80.



shocking abuse of the Prop. 39 process. Parents informed Aurum that District callers used fraudulent tactics in an effort to dissuade parents from seeking to enroll their children in the Charter School. For example, Aurum is informed that District callers told parents that “they don’t have a building” and the “school won’t be opening next year” to attempt to convince parents to state that they were not meaningfully interested, among other arguments. If true, this conduct is far outside the limits of the simple “review” allowed by the Implementing Regulations, and similar to the tactics found illegal by the Court in the *Rocketship* case last year.

As established by the Implementing Regulations and the standards applied by the Courts in *Rocketship*, *Sequoia* and *California School Bds. Assn.*, the District must “review” the documentation offered by Aurum and has no authority to “verify” this evidence through its own counter-survey. Aurum has provided sufficient documentation to support more than the 76.0 ADA recognized by the District. Aurum disputes the District’s rejection of the documentation establishing the meaningful intent of the parents of these prospective students.

As the recent *Rocketship* decision makes clear, the Implementing Regulations do not authorize the District to engage in an independent audit of the documentation submitted to establish parents’ meaningful intent. The Court in *Rocketship* specifically noted that rejecting families because a phone number was determined by the District to be wrong, or out of service, was unacceptable: “The Court is particularly struck by the number of parents who would lose the opportunity to enroll their children in a charter school merely because — through a completely opaque methodology — four District employees determined that the phone numbers listed for them were ‘wrong.’ (See, Petition, ¶ 43 and Exhibit 6.)” In addition, the Court noted that there was no evidence that the counter-survey was “designed and implemented by District employees who knew what they were doing,” and thus rejected its use by the District.

Aurum used the Intent to Enroll form provided by the District, which clearly states the form’s purpose. By signing these forms, which are available in both English and Spanish, Aurum parents have confirmed their meaningful interest in enrolling their child at Aurum, and the District needs no further proof of this. Nothing in the Implementing Regulations contemplates that District staff will independently call parents who sign documentation in order to “verify” the same information that is provided on the form, nor do the Regulations countenance efforts to independently audit, verify or confirm the documentation provided on the forms. The Regulations only require “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.” (Emphasis added.) Here, Aurum met this requirement by including projections that were aligned with the documentation submitted with the Request, which provided documentary support of the number of in-district students meaningfully interested in attending the school sufficient for the District to determine the reasonableness of the projection.



Had the State Board of Education (“SBE”) intended for school districts to engage in the kind of independent verification process undertaken by the District here, the Implementing Regulations would have stated that a school district “shall verify” or “shall confirm” a charter school’s projections. Instead, the Implementing Regulations use the word “review” – defined by the Merriam Webster Dictionary as “an act of carefully looking at or examining the quality or condition of something or someone: examination or inspection.” As interpreted by Judge Craddick in the *Rocketship* case, a “review” is not a counter-survey, and nothing in the Regulations gives the District any right to contact parents to “verify” their intent, much less to question it. Here the District went a step further and actively attempted to dissuade parents from enrolling in the Charter School by misrepresenting the status of the school.

Rather than conceding that the District has an obligation to provide the Charter School with facilities, District callers apparently argued that the Charter School did not have a facility or told parents the school would not be opening next year. This is a blatant violation of the Proposition 39 process, the objective of which is to *provide* district facilities for charter school students. Using scare tactics to discourage parents from choosing a charter school violates the letter and spirit of the Proposition 39 process.

Similarly, nothing in the Implementing Regulations allows the District to tell parents that a “school won’t be opening next year” when purportedly calling to “verify” the parents’ intent to enroll their child in Aurum. This is nothing more than an effort to illegally undermine support for the Charter School in order to allow the District to claim that the Charter School has not adequately supported its Request, exactly the sort of bad behavior engaged in by the “hostile” school district referenced in *Rocketship*, which was criticized by the judge. Accordingly, Aurum rejects the District’s argument that fifteen (15) parents indicated that they were no longer meaningfully interested. Such responses were apparently gained through the use of fraudulent tactics, including misrepresenting the status of the Charter School and the Proposition 39 process, and are therefore invalid.

More importantly, Aurum contacted all fifteen (15) of the parents who the District claimed were not meaningfully interested in Aurum, and determined that in fact seven (7) of them are meaningfully interested – and that that the District’s “counter-survey” not only used fraudulent techniques, but also provided inaccurate and misleading results. Aurum was not able to reach the other eight parents (8) but does have signed Intent to Enroll forms for them, a much more powerful confirmation of meaningful interest than an alleged conversation that the District had with the parents.

In addition, for the three parents that the District stated were on Aurum’s list of meaningfully interested students but did not have an Intent to Enroll forms, those forms were inadvertently not provided to the District, and are attached here (please note that they are dated prior to November 1). Aurum also confirmed that other forms that were invalidated for reasons



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such as being a non-Oakland resident or not being in the proper grade were invalidated incorrectly and that these parents are in fact interested in attending Aurum. Of the three families the District invalidated for not being in the correct grade, one family has confirmed that they are in fact in the correct grade and meaningfully interested. Of the eight families who were claimed to be out of the district, we have confirmed that two (2) of the families do reside in Oakland. Altogether, we have confirmed that nineteen (19) of the students who were disqualified by the District are in fact meaningfully interested in attending Aurum for 2018-2019; this information has been corrected in the following table:

First Name	Last Name	Address	City/Zip	Phone	Notes
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Spoke with the parents and they verified that they are in fact interested and this is the correct contact information
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94621	[REDACTED]	Spoke with the parents and they verified that they are in fact interested
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94607	[REDACTED]	Spoke with the parents and they verified that they are in fact interested



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[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94606	[REDACTED]	Spoke with the parents and they verified that they are in fact interested and this is the correct contact information
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Spoke with the parents and they verified that they are in fact interested
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94605	[REDACTED]	Spoke with the parents and they verified that they are in fact interested and this is the correct contact information.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Spoke with the parents and they verified that they are in fact interested
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94619	[REDACTED]	Spoke with the parents and they verified that this is the correct



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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	contact information.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94606	[REDACTED]	Spoke with the parents and they verified that this is the correct contact information.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Family indicated that they are interested and live in Oakland at the address listed to the left.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94619	[REDACTED]	Spoke with the parents and they verified that they are in fact interested
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601	[REDACTED]	Spoke with the parents and they verified that they are in fact interested
[REDACTED]	[REDACTED]	[REDACTED]	Hayward, 959011	[REDACTED]	Spoke with the parents and they verified that they are in fact interested and this is the correct



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					contact information.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland	[REDACTED]	Spoke with the parent and they confirmed that they are interested in enrolling their child next year for 6 th grade.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94605	[REDACTED]	Spoke with the parents and they verified that they are in fact interested
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94610	[REDACTED]	Spoke with the parents and they verified that they are in fact interested and this is the correct contact information.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601		Form Attached
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601		Form Attached
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601		Form Attached



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Moreover, in conducting a review there were six (6) intent to enroll forms from meaningfully interested families that were included in the original application but were not reflected in the projections. These families' intent to enroll forms can be found in appendix II of the original application and are now included in our projections in the table below:

First Name	Last Name	Address	City/Zip	Phone	Notes
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601	[REDACTED]	The intent to enroll form for this family was included in our original application but was not reflected in the projections.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland	[REDACTED]	The intent to enroll form for this family was included in our original application but was not reflected in the projections.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	The intent to enroll form for this family was included in our original application but was not reflected in the projections.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	The intent to enroll form for this family was included in our original application but was not reflected in the projections.



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[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601	[REDACTED]	The intent to enroll form for this family was included in our original application but was not reflected in the projections.
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94605	[REDACTED]	Spoke with the parents and they verified that they are in fact interested and this is the sibling of [REDACTED] [REDACTED] included on the form.

The parents who submitted forms acknowledged their meaningful interest in enrolling their child(ren) in Aurum in 2018-2019 in a signed written document that clearly states its purpose, and the District produces no evidence that these parents have unequivocally withdrawn their meaningful interest in a separate signed written document. Much of the District’s basis for eliminating these students appears to rest with the District’s determination that the form indicates a “wrong phone number”, and the District’s form includes an admonition against providing incomplete contact information. On this basis, the District asserts that “forms which included insufficient contact information could not be verified and were determined to be invalid.” However, the Implementing Regulations require only “names and addresses” on a charter school’s supporting documentation. As the Charter School’s documentation contains names and addresses, it is sufficient to establish meaningful intent without additional contact information. Moreover, the District has provided no proof that in fact these were the wrong phone numbers; District staff could have dialed incorrectly, or the number was correct at the time the form was submitted. As the judge in the *Rocketship* case expressed, it is unacceptable and inconsistent with Prop. 39 that a parent who wishes to send their child to a charter school would have their wishes ignored simply because the District unilaterally decided that a phone number was no good. Furthermore, the District’s Prop. 39 application may not include requirements inconsistent with the language of Prop. 39.

In any case, the lack of contact information provides no lawful basis for the District to reject documentation, and Aurum therefore disputes the eleven (11) forms that the District rejected because parents could not be reached. Since receiving the District’s response, staff at Aurum successfully contacted a parent or guardian of six (6) students that the District was unable to reach,



using the same number on the form, who confirmed that their students were meaningfully interested in attending Aurum in 2018-19.

The District also claims that “9 were invalid (duplicates, in the wrong grade, or didn’t live in Oakland).” The District apparently believes that because there is no date on the Intent to Enroll form that states when the form was signed, that form can be discounted entirely. However, as noted above, the only information that Aurum is required to provide to the District to demonstrate that a student is meaningfully interested is that student’s name and address. Moreover, the parent is filling out and signing the form affirming specifically that they are meaningfully interested in enrolling their child in Aurum for the 2018-2019 school year, and Aurum will only offer 6th grade in its first year of operation. Therefore, these forms may not be rejected by the District. It is much more reasonable to assume that the form represents a valid meaningfully interested family, especially as Aurum spoke individually to each family who filled out a form to ensure they were meaningfully interested and would be in the correct grade, prior to having them fill out a form.

To further assure the District that it has submitted sufficient documentation to support its request for facilities, Aurum includes with this letter the intent to enroll forms for three (3) students who were listed in the request but whose documentation was not included. Aurum has also confirmed the meaningful interest of the parents or guardians of nineteen (19) students among those that the District rejected for various reasons; this includes six (6) listed as “wrong phone number” or phone number disconnected, seven (7) that the District concluded were not meaningfully interested, three (3) for which forms were inadvertently not included, two (2) which the District determined were not Oakland residents and one (1) student who the District incorrectly determined to not be eligible for sixth grade because the parent indicated that the student would repeat fifth grade. In addition to the 80 students accepted by the District, the information that Aurum has re-confirmed or included with this letter adds nineteen (19) students, as listed in the table above. This is in addition to the six (6) students that had intent to enroll forms in our original application but were not accounted for. This totals twenty-five (25) intent to enroll forms that have been verified.

Moreover, since November 1st, Aurum Prep has been able to collect seventy-six (76) of additional intent to enroll forms, interest letters, and online applications. These strong numbers already suggest that Aurum has more interested families than it has seats available in its first year of operation. This demonstrates that Aurum will be able to meet its threshold for enrollment and that its prop 39 projections are most certainly reasonable. These forms are attached and included in the table below:

First Name	Last Name	Address	City/Zip	Phone	Notes
██████	██████	████████████████████	Oakland, 94621	████████████████	Meaningfully interested



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					parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████████	Oakland, 94609	██████████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	+	94603	██████████	Expressed interest in attending Aurum
██	██████	+	94603	██████████	Expressed interest in attending Aurum
██████	██████	██████████	94603	██████████	Meaningfully interested parent who has applied online
██	██	██████	94603	██████████	Expressed interest in attending Aurum
██████	██████	██████████	Oakland,	██████████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form



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[REDACTED]	[REDACTED]	[REDACTED]	94578	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Meaningfully interested parent who has applied online



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[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94621	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	94612	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94621	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94702	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94621	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	94605	[REDACTED]	Meaningfully interested parent who has applied online



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[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94601	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94621	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	94601	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94621	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	Oakland,	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has



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					signed an intent to enroll form
██████	██████	██████	94621	██████	Expressed interest in attending Aurum
██	██████	██████	Oakland, 94608	██████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████	Oakland, 94621	██████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████	94605	██████	Meaningfully interested parent who has applied online
██████	██████	██████	Oakland, 94603	██████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████	94605	██████	Expressed interest in



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					attending Aurum
████	████	███ ███	94603	████	Expressed interest in attending Aurum
████	████	████	94603	████	Expressed interest in attending Aurum
████	████	████	94621	████	Meaningfully interested parent who has applied online
████	████	████	Oakland, 94603	████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
████	████	████	94621	████	Meaningfully interested parent who has applied online
███	████	███ ███	94605	████	Meaningfully interested parent who has applied online
███	████	███ ███	94606	████	Meaningfully interested parent who has applied online
████	████	████	Oakland, 94621	████	Meaningfully interested parent for the



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					2018 – 2019 school year, who has signed an intent to enroll form
████	████	████	94619	████	Expressed interest in attending Aurum
████	████	████	Oakland, 94621	████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
████	████	████	94607	████	Meaningfully interested parent who has applied online
████	████	████	Oakland, 94621	████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
████	████	████	94603	████	Expressed interest in attending Aurum
████	████	████	94607	████	Meaningfully interested parent who has applied online



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[REDACTED]	[REDACTED]	[REDACTED]	94621	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94621	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94602	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94603	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	Oakland, 94621	[REDACTED]	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
[REDACTED]	[REDACTED]	[REDACTED]	94602	[REDACTED]	Meaningfully interested



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					parent who has applied online
████	████	████████	Oakland, 94603	████████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
████	████	██████	94621	████████	Meaningfully interested parent who has applied online
████	████	██████	94603	████████	Expressed interest in attending Aurum
████	████	██████	94603	████████	Meaningfully interested parent who has applied online
████	████	██████	94109	████████	Meaningfully interested parent who has applied online
████	████	██████	94603	████████	Expressed interest in attending Aurum
████	████	██████	94608	████████	Meaningfully interested parent who has applied online
████	████	██████	Oakland, 94605	████████	Meaningfully interested



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					parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████	94601	██████	Expressed interest in attending Aurum
██████	██████	██████	94601	██████	Expressed interest in attending Aurum
██████	██████	██████	Oakland, 94621	██████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████	94605	██████	Meaningfully interested parent who has applied online
██████	██████	██████	Oakland, 94621	██████	Meaningfully interested parent for the 2018 – 2019 school year, who has signed an intent to enroll form
██████	██████	██████	94509	██████	Expressed interest in attending Aurum



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[REDACTED]	[REDACTED]	[REDACTED]	94602	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94621	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94609	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94621	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Expressed interest in attending Aurum
[REDACTED]	[REDACTED]	[REDACTED]	94601	[REDACTED]	Meaningfully interested parent who has applied online
[REDACTED]	[REDACTED]	[REDACTED]	94603	[REDACTED]	Expressed interest in attending Aurum

In asserting its counter-projection of 76.0 in-District ADA, the District is effectively



ignoring the wishes and intentions of the 189 in-District students and their families who have indicated their meaningful interest in attending the Charter School for the 2018-2019 school year. Moreover, the District is requiring Aurum to demonstrate its ADA projections with a greater than one-to-one correlation of students' names and address for each unit of ADA projected, and is rejecting the wishes of many parents for the most minor of reasons – a thinly veiled effort by the District to keep Aurum from opening its doors to serve District students.

As noted in detail above, this is not the intent of the Implementing Regulations, which only require a showing that demonstrates projections are reasonable. Furthermore, if Aurum has in fact overestimated its ADA, the District's remedy in this circumstance is not to unilaterally reduce Aurum's projections to unreasonable levels. Rather, the District's remedy is to reclaim over-allocated space or levy an over-allocation penalty on Aurum. (Cal. Code Regs., tit. 5, § 11969.8.)

Conclusion

Based on the foregoing, Aurum has responded in detail to the District's objections and addressed the District's concerns. Further, Aurum has provided reliable documentation and clarifying information that reasonably supports the school's ADA projections beyond the substantial information provided with its original Request, and has demonstrated how the District's projections are unreasonable and resulted from the District's efforts to arbitrarily reject the documentation offered by Aurum and to actively dissuade parents from enrolling their children in Aurum in clear violation of the Proposition 39 process. Fundamentally, we believe the District's efforts to reduce and discount Aurum's ADA projections have far more to do with its desire to block the opening of a new charter school and its desire to arbitrarily limit Aurum's growth in any way possible, rather than actual, substantive objections to Aurum's ADA projections. Accordingly, Aurum anticipates that the District's Preliminary Offer will allocate reasonably equivalent facility space sufficient to accommodate the school's total projected in-District classroom ADA of **119.7**.

We look forward to resolving any remaining concerns and anticipate that we will receive a written Preliminary Proposal from the District on or before February 1, 2018, to accommodate Aurum's entire projected ADA of 119.7 pursuant to 5 CCR Section 119632.9(f). In the meantime, Aurum would appreciate the opportunity to meet with the District to discuss any remaining concerns related to the responses outlined herein.

David Hardin
Executive Director
Aurum Preparatory Academy