

Proposition 39 Overview (Updated September 2023)

- Prop 39 is an annual process, required by state law, that entitles charter schools to locate on one or more district sites for one school year.
- Per state law, the charter school must be allocated space that is “reasonably equivalent” to space at comparison district schools.
- All charters that apply MUST be provided with an offer of space; OUSD cannot say there is no space.
- All steps of the Prop 39 process are made publicly available online at the following link:
<https://www.ousdcharters.net/prop-39.html>

What is Prop 39?

Proposition 39 is a state law passed by California voters in 2000, which requires school district facilities to be shared fairly among all public school students who reside in the district, including those in charter schools.

Because of Prop 39, a school district must make available enough facilities for charter schools that operate in the district to serve all of their students who live in Oakland, in conditions reasonably equivalent to those in which students would be served if they were attending other public schools in the district. School districts cannot deny Prop 39 requests from charter schools for facilities space.

What does this mean in Oakland?

Each year, charter schools in Oakland are eligible to apply for space in OUSD facilities. OUSD is legally required to offer facilities to all charter schools who request space through Prop 39.

- 8 charter schools applied for OUSD space for the 2023-24 school year (the deadline to apply for space during the 2024-25 year is November 1, 2023).
- If a charter school accepts a Prop 39 final offer, the school enters into a one-year lease with OUSD.
- 16 charter schools are currently in OUSD facilities in the 2023-24 school year.

How does OUSD determine which district sites have underutilized space that might be offered to a charter school under Prop 39?

The number of underutilized classrooms on a campus is calculated using a standardized facility utilization formula in order to assess the use of classrooms in District-owned buildings. OUSD is a full service community school district; classrooms are used as instructional spaces but also serve as spaces to meet the needs of the entire OUSD community.

Site utilization is calculated as follows: *Site Utilization = Total Classrooms - Total Footprint*

- *Utilization* is calculated at the campus level, not the individual school level.
- *Classrooms* are defined as instructional spaces that are at least 600 sq ft.
- *Footprint* is the record of usage that includes the allocation of general education and special education classrooms for each district school, as well as classrooms used by early childhood, adult education, OUSD central office, and space rented to external organizations.

Schools typically use all classrooms available to them, but the utilization formula determines the baseline number of classrooms required to serve all schools and/or programs at the site. The remainder of the classrooms are considered “underutilized”. The utilization dashboard can be found at: <https://dashboards.ousd.org/views/UtilizationDashboard2021-22/IntroductionNotes>

How does OUSD determine how many rooms are offered to a charter school?

State law requires that the number of classrooms a charter school is entitled to is based only on the average number of classrooms being used by a charter school's comparison district schools.

A charter school's comparison district schools are determined based on the grade level served by the charter school and the geographic location (attendance boundary) of where the majority of the charter school's students live.

How does OUSD decide to offer a specific site to a charter school?

State law requires OUSD to offer "reasonably equivalent" facilities near the charter school's desired location. Therefore, OUSD staff collects all of the requests from charter schools for space and all of the OUSD sites which have underutilized space.

OUSD then uses the following guiding principles when determining Prop 39 offers:

- Consider the charter school's geographic preference.
 - This is required by law.
- Minimize the number of District/charter co-locations.
 - These can be disruptive to both district and charter school students and families.
- Avoid campuses that are already co-located.
 - These schools are already sharing spaces such as cafeterias and gyms; another co-location would be logistically difficult.
- Avoid campuses recently impacted by major changes.
 - These campuses may have recently been through a school closure or merger and are already in the middle of a major transition.
- Minimize the number of sites offered to charter school.
 - This both minimizes the number of district schools that would be co-located with charter schools and helps ensure we are making "reasonably equivalent" offers.

Why doesn't OUSD offer charter schools undesirable space so they won't accept the offer (i.e. an offer spread across 4 campuses)?

State law requires that OUSD offers reasonably equivalent facilities near the charter school's desired location. If OUSD does not follow the law, there is a threat of a lawsuit which would be costly.

This means that, unless OUSD schools are typically spread across 3+ sites, OUSD cannot reasonably make an offer of 3+ sites to a charter school.

Additionally, providing charter schools with single-site offers helps minimize the number of district schools that must be co-located with charter schools.

What is the Prop 39 timeline?

November 1	Prop 39 Facilities Request Form from charter schools due to OUSD
December 1	District submits objections to Charter School's enrollment projections (if applicable)
January 1	Charter School provides response to District's Projection Objection Letter (if applicable)
February 1	District submits Preliminary facilities offer to Charter School
March 1	Charter School responds to Preliminary facilities offer
April 1	District submits Final facilities offer to Charter School
May 1	Charter School accepts or declines Final facilities offer
July 1	OUSD and Charter School finalize Facilities Use Agreement if Charter School has accepted its Final facilities offers

