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BULLIS CHARTER SCHOOL

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

BULLIS CHARTER SCHOOL,

Petitioner,

v.

LOS ALTOS SCHOOL DISTRICT; BOARD OF
TRUSTEES OF THE LOS ALTOS SCHOOL
DISTRICT; and TIM JUSTUS, in his capacity as
District Superintendent,

Respondents.

CASE NO. _____

**DECLARATION OF WANNY
HERSEY IN SUPPORT OF
BULLIS CHARTER SCHOOL'S
VERIFIED PETITION FOR WRIT
OF MANDATE AND
COMPLAINT FOR
DECLARATORY RELIEF**

Trial: None Set

Petition Filed: June 10, 2009

1 1. I am the Superintendent and Principal of Bullis Charter School (“Bullis”), a
2 position I have held since Bullis opened in the Fall of 2004. I have personal knowledge of the
3 facts set forth herein, and I could and would testify competently to them if called as a witness.

4 2. I have been an educator for nearly 25 years, with teaching and administrative
5 experience at the elementary, middle, and high school levels. I have received numerous awards
6 and commendations while at Bullis and other schools, as have the schools that I have served.

7 3. Bullis has excelled since it opened in 2004, establishing itself as one of the top
8 elementary schools in the state and accruing a lengthy wait list of students wishing to attend.
9 Currently, 324 students attend Bullis, 291 of whom reside in the Los Altos School District.

10 4. The campus and facilities provided by Respondents to Bullis, however, are not
11 and have not been sufficient to accommodate our current and prospective students and to run our
12 basic programs. For example, in the 2008-2009 school year, Bullis’s use of the outdoor turf
13 area has been seriously restricted by Egan Junior High School. Until mid-May 2009, Bullis had
14 no agreement from the District as to when it could use a one acre portion of the turf area known
15 as the “soccer field area,” other than to use it whenever Egan Jr. High did not need it. As a result,
16 BCS was unable to plan activities that required use of this area, and BCS students were at times
17 forced by Egan staff to vacate the soccer field before completing their activities. On May 14,
18 2009, Respondents agreed to allow Bullis to use the soccer field on Wednesdays and Thursdays,
19 when Egan students had no need for it. Use of the soccer field only on Wednesdays and
20 Thursdays does not serve our students’ educational or extracurricular needs; thus, throughout the
21 year, Bullis informed Respondents that it preferred a more equitable and practical time allocation
22 of outdoor space (e.g., 50/50 split with each school alternately picking periods of the day, days of
23 the week, or months, rather than the proposed 40/60 split with Egan picking the 60% it wanted
24 and giving Bullis no say in when its 40% allocation would be).

25 5. In a last effort to reach a compromise solution regarding field use for the few
26 remaining weeks of the 2008-2009 school year, Bullis proposed to accept this limited use if Bullis
27 could also use the area each day from 10:40 AM to 11:00 AM (morning recess) and 12:50 AM –
28 1:20 PM (lunch recess). We proposed this because not only is it important to the well being of

1 our children to have sufficient play area during those times, but Egan’s Bell schedule on its
 2 website indicates that their students are having brunch and lunch during that time and therefore no
 3 Egan programs would be disrupted. After initially agreeing, Respondents notified Bullis on
 4 May 21, 2009 that it rejected this compromise because “Egan students have access to those areas
 5 during the times you indicated and, for safety reasons and proper supervision, Egan staff doesn’t
 6 want the possibility of students commingling.” This despite the fact that Egan’s schedule appears
 7 to be the same on Thursdays, when apparently the staff feels safety and supervision concerns at
 8 these times are not a problem.

9 6. Moreover, Bullis’s programs are limited and driven by the tight quarters of our
 10 campus and facilities. Bullis is unable to offer before- and/or after-school care, even though there
 11 is high demand for such programs from our parents. Bullis is provided inadequate small group
 12 space. As a result, Bullis has been forced to cancel a number of co-curricular classes, because
 13 there is simply no place to teach students. Currently, co-curricular teachers teach students in the
 14 conference room, staff room, and library instead of classrooms or small group spaces, and in
 15 some cases, two classes are taught at the same time in the same room. Three days a week, our
 16 special education staff does not have adequate resource specialist space, and special education
 17 students (for example, those requiring occupational or speech therapy) are regularly served in
 18 conference rooms or outside. There are no rooms for students in Bullis’s English Language
 19 Learners program. As a result, the teacher lounge is regularly used for teaching purposes and the
 20 teacher workroom has been converted into additional classroom space. All too often, the limited
 21 amount of space forces us to plan teaching schedules, particularly special education, English
 22 Language, and co-curricular classes, around space availability rather than student needs.

23 7. The size constraints have had other repercussions. Because we do not have
 24 sufficient student services, resource specialists, and small group space, we must use space in the
 25 school office for these purposes (in addition to its administrative and disciplinary functions).
 26 Thus, teachers who must discipline students can only send them to tables situated in the visitor
 27 area of the office, a public location that is easily seen by and accessible to other students and
 28 members of the public. Our library is cramped, so we have been unable to offer the same services

1 available at other local public schools. And, during recess, the blacktop space our students
2 occupy is extremely crowded. This is due, in large part, to the multi-purpose room we had to
3 build on the blacktop space to make up for the inadequate space provided by Respondents.

4 8. Despite the challenges we face with respect to the size and conditions of our
5 campus and facilities, we have had enormous success in recruiting and retaining students. Bullis
6 has experienced a 95% return rate for grades K-5. This year Bullis had 155 in-District applicants
7 for 57 kindergarten openings for the upcoming 2009-2010 school year. Since 27 applicants were
8 siblings of in-District students and therefore had first priority, there were 128 applicants for the
9 remaining 30 openings in the general lottery, more than a 4 to 1 ratio. An additional 128 in-
10 District applicants applied for admission into grades 1-6, but to date Bullis has had space to
11 accommodate only 22 of these applicants.

12 9. Because many Bullis families wish to continue their children at Bullis beyond the
13 sixth grade, in Fall of 2008, we successfully applied to our chartering authority, the Santa Clara
14 County Office of Education, for a revision to our chart to allow Bullis to begin a middle school
15 program in the Fall of 2009. Because we intended to begin a middle school in two stages, we
16 included a request for seventh grade facilities in our Proposition 39 facilities request to
17 Respondents dated September 30, 2008.

18 10. On December 1, 2008, the Bullis Board of Directors voted to open a middle school
19 no later than Fall 2010. This vote gave Bullis the right to begin its middle school program either
20 in the Fall of 2009 or the Fall of 2010, allowing the Board to see whether sufficient facilities were
21 offered to avoid a negative educational impact on existing Bullis students.

22 11. Neither Respondents' Preliminary nor Final Offer of Facilities included seventh
23 grade accommodations. Respondents attributed their failure to offer seventh grade facilities to
24 statements I made about Bullis's intention not to offer a seventh grade in the 2009-2010 school
25 year. To support its assertion, Respondents cited to a newspaper article from the Los Altos Town
26 Crier. The article does not quote me, nor did its author consult me prior to publication.
27 Moreover, the article mischaracterizes the decision made by the Bullis Board of Directors on
28 December 1, 2008.

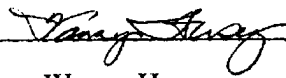
1 12. Respondents' assertion that I informed them that Bullis did not intend to offer a
 2 seventh grade in the 2009-2010 is inaccurate. At no point during the Proposition 39 process, nor
 3 in off-the-record conversations, did I state that Bullis did not intend to begin a seventh grade next
 4 year. Such a decision would be made by the Board of Directors, of which I am not a part. At no
 5 point during the Proposition 39 process did the Board make this decision. It is my understanding
 6 that the Board waited to ensure that Bullis would have necessary seventh grade facilities before it
 7 made final plans to commence seventh grade in 2009-2010. Unfortunately, we never received the
 8 facilities we requested.

9 13. Respondents have maintained, from Bullis's original charter application through
 10 now, a vocal and consistent opposition to Bullis and its operation. Respondents' failure to offer
 11 seventh grade facilities has made it impossible to offer a seventh grade to Bullis families who live
 12 in Los Altos. Likewise, Respondents' provision of inadequate facilities and a cramped campus
 13 continues to impose an undue hardship on the operation of our K-6 elementary school program,
 14 and understandably raised concerns among many of our parents about adding additional children
 15 for 7th grade on our current undersized site. Respondents' refusal to provide a larger campus as
 16 Bullis has grown also severely restricts our ability to serve additional children who remain on our
 17 long waiting list.

18 I declare under penalty of perjury under the laws of the State of California that the
 19 foregoing is true and correct.

20 Executed this 8th day of June, 2009, at Los Altos, California.

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 Wanny Hersey