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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF SANTA CLARA  
11

12 BULLIS CHARTER SCHOOL,

13 Petitioner,

14 v.

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

17 Respondents.  
18

CASE NO. 109CV144569

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

The Honorable James P. Kleinberg  
Department 1

Hearing: September 29, 2009

Petition Filed: June 10, 2009

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1           1.       I am a 28-year veteran of the semiconductor industry, and a parent of two children  
2 who are students attending Bullis Charter School (“Bullis”). I recently became a member of the  
3 Bullis Board of Directors (with my term beginning July 31, 2009). I am submitting this  
4 declaration to give the Court some information regarding some of the work that was done,  
5 beginning last year, to prepare for the opening of a 7<sup>th</sup> grade in the Fall of 2009. I have personal  
6 knowledge of the facts set forth herein, and I could and would testify competently to them if  
7 called as a witness.

8           2.       I became involved with Bullis’s middle school initiative after attending an  
9 introductory meeting led by Stacy Ahrens on or about February 2, 2008. The meeting was held to  
10 organize a new strategic initiative team to work on Bullis’s strategic initiative to “implement an  
11 integrated and sequential 7<sup>th</sup> and 8<sup>th</sup> grade program that aligns with BCS’ current K-6 program”  
12 opening in the fall of 2009.

13           3.       Following the February 2, 2008 meeting, I agreed to lead a sub-team chartered to  
14 “research and discover best practice middle school models, while honoring and reflecting the  
15 beliefs of the BCS Mission and Strategic Plan.” The team included approximately 20 members,  
16 including Bullis staff members, Board members, parents, a founder of a local middle school, and  
17 a Stanford University School of Education PhD candidate. I led this team from February 2008 to  
18 September 2008.

19           4.       In September 2008, I replaced Ms. Ahrens as the head of the broader middle  
20 school strategic initiative team.

21           5.       From February 2008 to December 2008, the middle school strategic initiative team  
22 worked tirelessly, meeting nearly every week, to put together a middle school program that could  
23 be opened in the 2009-2010 school year. To this end, we accomplished the following key  
24 milestones, among others, by September 2008:

- 25                   • We partnered with a Stanford University School of Education PhD candidate,  
26                    who is a former teacher and who specializes in teen development, adult  
27                    interaction with teens, and student persistence and degree completion. He  
28                    served as a consultant regarding middle school best practices, school

1 expansion, and pedagogical issues specific to educating early-adolescent  
2 children;

- 3 • We conducted interviews of Bullis stakeholders and pioneers, including all  
4 Bullis Board members, Bullis founders, selected strategic planning team  
5 members, key faculty, and members of the middle school team;
- 6 • We completed a systematic review of pertinent literature and research  
7 available on middle school education, including more than 50 studies, articles,  
8 and reports, each of which was read by one or two team members,  
9 summarized, and, if relevant, applied to our task;
- 10 • We conducted a parent survey to gauge interest level;
- 11 • Based on a distillation of “best practices” discovered in our literature review,  
12 stakeholder interviews, and parent survey, we developed a list of “critical  
13 elements” for a middle school program;
- 14 • We researched site requirements and ideal grade configuration issues (K-8  
15 versus alternatives), concluding that the best practice for grade configuration in  
16 the Bullis context would be a K-8 program on one campus;
- 17 • Working with the Finance Committee and EdTec, we developed a multi-year  
18 budget proposal that outlined funding requirements;
- 19 • To assess and document best practices in action, we conducted in-person visits  
20 and interviews at 14 Northern California public and private middle schools  
21 (including Egan Junior High School in Los Altos), meeting with senior  
22 administrators, teachers, and staff at each school;
- 23 • We made five formal progress reports to Bullis Board, during which the Board  
24 provided feedback, recommendations, and questions; and
- 25 • We established a curriculum sub-team, which held multiple sessions with  
26 selected Bullis faculty and administration to develop a detailed curriculum  
27 plan, structure the implementation of the program, and “hand-over” our  
28 program recommendations.

1           6.       Having, by September 2008, thoroughly researched and developed a  
2 comprehensive plan for the implementation of a Bullis middle school program in 2009-2010, the  
3 middle school strategic initiative team turned its attention to assisting the Bullis Board in  
4 obtaining approval for an amendment of Bullis's charter to include middle school. To this end,  
5 we made various presentations to the Santa Clara County Board of Education ("SCCBE")  
6 outlining the 7<sup>th</sup>/8<sup>th</sup> grade program.

7           7.       We also assisted the Bullis Board in formulating its 2009-2010 Proposition 39  
8 request, which included a request for 7<sup>th</sup> grade facilities based on our work in developing a  
9 middle school plan.

10          8.       In November 2009, the SCCBE approved Bullis's middle school plan, and in  
11 December 2008, the Bullis Board approved the initiation of a middle school program in the Fall  
12 of 2009 or 2010 (no later than 2010).

13          9.       Based on nearly a year of planning, research, and development, our intention was  
14 to hold middle school open enrollment in late 2008 or early 2009, and to fill a 7<sup>th</sup> grade of  
15 approximately 25 students in August 2009 for the 2009-2010 school year. However, starting with  
16 Bullis's application to the SCCBE in September 2008 to amend its charter to include a middle  
17 school program, the Los Altos School District ("LASD") began a campaign of opposition to  
18 Bullis's expansion, including frequent assertions before the SCCBE and elsewhere that it would  
19 be unable or unwilling to provide feasible facilities for such a program in Fall 2009. This  
20 culminated with LASD's Proposition 39 offer, made in January 2009 (and reaffirmed in April  
21 2009), offering facilities for grades K through 6 "exclusively." In other words, despite our desire  
22 to open a middle school in August 2009, LASD did not provide the facilities Bullis requested, or  
23 any facilities, for our 7<sup>th</sup> grade program in the 2009-2010 school year. In my view, the LASD's  
24 refusal to provide 7<sup>th</sup> grade facilities made it impossible to begin the 7<sup>th</sup> grade program this Fall.  
25 Had adequate 7<sup>th</sup> grade facilities been provided, it is my belief that we would currently have a 7<sup>th</sup>  
26 grade program at Bullis.

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10. Although our attorney wrote to LASD to advise them that we intended to open a seventh grade and that their preliminary offer did not include facilities for a seventh grade program, LASD ignored those requests and did not include seventh grade facilities in its final offer. We were surprised and disappointed that seventh grade facilities were not provided.

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

Executed this 15<sup>th</sup> day of September, 2009, at Los Altos, California.

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John R. Phelps