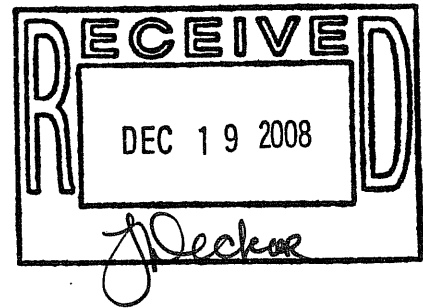




**Bullis Charter School**  
P.O Box 1642  
Los Altos Hills, California 94023-9998  
www.BullisCharterSchool.com



BY HAND DELIVERY TO LASD OFFICES

December 19, 2008

Superintendent Tim L. Justus  
Los Altos School District  
201 Covington Road  
Los Altos, CA 94024

RE: Proposition 39 Facilities for the 2009-2010 School Year

Dear Superintendent Justus:

Please find attached the letter of Paul Minney to Donald Velez dated as of today responding to Los Altos School District's objections to Bullis Charter School's forecast of its enrollment for the 2009-2010 school year in connection with the above-referenced request for facilities.

If you have any questions please feel free to contact me or Wanny Hersey.

Sincerely,

Peter Evans  
Member, Bullis Charter School Board of Directors

cc: Wanny Hersey  
Board Members  
Paul C. Minney, Esq.

Attachments:

Letter of Paul Minney dated December 19, 2008



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

DECEMBER 19, 2008

Via Facsimile and U.S. Mail  
(415) 543-4384

PAUL C. MINNEY  
JAMES E. YOUNG  
MICHAEL S. MIDDLETON  
DANIEL I. SPECTOR  
LISA A. CORR  
AMANDA J. MCKECHNIE  
TIMOTHY M. WEIR

Mr. Donald Velez, Esq.  
Miller Brown & Dannis  
71 Stevenson Street, Nineteenth Floor  
San Francisco, CA 94105

**Re: Bullis Charter School Proposition 39 Request 2009/2010**

JESSICA ADAMS ROBISON  
JERRY W. SIMMONS  
CHASTIN H. PIERMAN  
JULIE D. ROBBINS  
JAMES L. SHEA  
KIMBERLY RODRIGUEZ  
ANDREA C. SEXTON  
SARAH J. KOLLMAN  
JANELLE A. RULEY  
AMY L. ROBERTS  
ANDREW G. MINNEY

Dear Mr. Velez:

We are in receipt of your letter dated December 1, 2008 addressed to the Bullis Charter School ("BCS" or "Charter School") outlining the Los Altos School District's ("District") concerns regarding BCS's ADA projections in its Prop. 39 facilities request for the 2009/2010 school year. This letter is sent pursuant to Title 5 Section 11969.9(e) and outlines BCS's rebuttal to the same. Please direct all future correspondence regarding this matter to my attention.

As further outlined below, the District's untimely objections to the Charter School's ADA projections are to be disregarded as per the Proposition 39 implementing regulations. Without waiving any right the Charter School has to challenge the District's untimely objections, we outline below why the BCS original Proposition 39 request more than satisfies the Charter School's obligations to provide a "reasonable projection" of its ADA. In sum, the District has unilaterally reduced the Charter School's projected ADA without any basis in law or fact and has ignored the historical evidence and recent changes to the charter that fully support the reasonableness of the Charter School's ADA projections. Ultimately, the District has concluded, contrary to the prior historical growth of this Charter School, that one of the state's most academically successful charter schools will be unable to recruit an additional 32 in-district students.

**The District's Objections are Untimely**

The newly revised Proposition 39 implementing regulations<sup>1</sup> provide in pertinent part:

<sup>1</sup> Your letter makes a reference to the current litigation of *California School Boards Association, et al. v. California State Board of Education, et al.*, Sacramento Superior Court case No. 34-2008-00061957-CU-WM-GDS. The trial court has upheld and rejected all attempts to challenge the Proposition 39 implementing regulations pertinent to the dispute between the parties. Consequently, this case has absolutely no bearing on this matter.

"The school district shall review the charter schools projections of in-district and total ADA and in-district and total classroom ADA and, **on or before December 1**, express any objections in writing and state the projections the district considers reasonable. If the district does not express objections in writing and state its own projections **by the deadline**, the charter school's projections are no longer subject to challenge, and the school district shall base its offer of facilities on those projections."

While your letter is dated December 1, 2008 it was sent via regular mail and was not received by the Charter School until December 3, 2008. Consequently, the District's objections were not received "by the deadline" and the Charter School's projections are therefore no longer subject to challenge. Without waiving this objection, the Charter School points out below why its Proposition 39 facilities request provides a reasonable projection and outlines a legally sufficient methodology and supporting documentation to substantiate a 15% increase in enrollment of approximately 45 in-district ADA for the following school year.

### **The District has No Basis to Reduce the Charter School's Reasonable Projections**

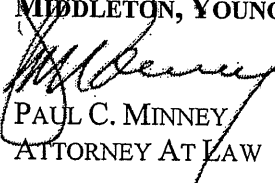
In its request for Proposition 39 Facilities dated September 30, 2008, the Charter School clearly describes its methodology for its enrollment projection as "based on a set of considerations including our present enrollment, our experience in recruiting and enrolling students, and the continuing level of interest in Bullis Charter School." The facilities request includes documentation to show that the Charter School's enrollment forecast is reasonable based on logic, reason and experience.

Without any legal basis the District completely ignores the Charter School's reasonable projections for next year and simply assumes that the Charter School will have no more in-District students than it currently has projected for second grade, third grade, fourth grade and sixth grade. This position completely ignores the historical evidence, documented in the facilities request, of the Charter School's success in recruiting and enrolling students, and the historical fact of the Charter School's pattern of enrollment growth. Further, the District is ignoring the fact that the Charter School each year does not retain 100% of its current students and that any vacancies will generally be filled by more in-District students due to the school's enrollment preferences. The Charter School has grown by more than 20% in prior years and has in each year of its operation slowly expanded its enrollment at each grade level. In addition, each year the Charter School has not had any difficulty filling vacancies left by non-returning students based upon its extensive waitlist and continuing interest in its program. And the Charter School's projection of students attending its 7<sup>th</sup> grade class actually represents a decrease from the number of presently-enrolled sixth graders, notwithstanding the Charter School's high rate of student retention. Moreover, since the 2005/2006 school year the Charter School has always met its reasonable projections each year under the Proposition 39 program; indeed, in some school years in-District students exceeded its projections. And lastly, the Charter School has never been required to pay an overallocation fee pursuant to Title 5 section 11969.8 for failing to properly project in-District ADA. Hence, the District has failed to point to any evidence that the Charter School's projections for next year are unreasonable.

As you are aware, BCS remains one of the highest performing charter schools in the State of California. As noted in the declaration of the School's Principal Wanny Hersey attached to the Proposition 39 application during the 2008/2009 school year enrollment application process the Charter School received over 400 applications resulting in 88 new students. The Charter School continues to be oversubscribed and a lottery is implemented each year to fill vacancies. While we have outlined above the fact that history supports the Charter School's projected in-District growth of approximately 45 ADA next year the reasonableness of this projection is bolstered now by the fact that the Charter School will be applying a new preference for in-District students from the former attendance area around the Bullis-Purissima School. This fact, along with the prior history of meeting the ADA projections without this preference, more than satisfies the Charter School's obligations to provide a reasonable projection of next year's ADA.

The Charter School has conservatively projected a marginal increase in its overall enrollment of in-District students next year by approximately 15%. The District has unilaterally, without any legal authority and contrary to historical evidence, reduced the Charter School's projections to effectively no more than its current enrollment. Based upon the District's unreasonable position and its untimely objection, should the District choose to ignore the Charter School's reasonable projection of 345 in-District ADA in making the preliminary offer now due to the Charter School no later than February 1, 2009 the Charter School will be forced to seek judicial relief.

Should you have any questions or comments regarding this correspondence please do not hesitate to contact my office.

Sincerely,  
**LAW OFFICES OF SPECTOR,  
MIDDLETON, YOUNG & MINNEY, LLP**  
  
PAUL C. MINNEY  
ATTORNEY AT LAW

cc: Arturo Gonzalez, Morrison Foerster