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8 BULLIS CHARTER SCHOOL

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

17 Respondents.
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ENDORSED
FILED
JUL - 3 2012
DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY _____ DEPUTY
By Fax
L. T. T. T.

CASE NO. 109CV144569

DECLARATION OF ANDREA
EYRING IN SUPPORT OF
BULLIS CHARTER SCHOOL'S
MOTION TO COMPEL
COMPLIANCE WITH
JUDGMENT AND WRIT

Date: August 15, 2012
Time: 9:00 a.m.
Dept: 2

The Honorable Patricia Lucas

Petition Filed: June 10, 2009

1 I, Andrea Eyring, declare as follows:

2 1. I am a member of the Board of Directors of the Bullis Charter School and the
3 parent of one child who is a Bullis student and two who are Bullis graduates. In my capacity as a
4 Bullis Board member, for the past five years I have served on an ad hoc committee focused on
5 Proposition 39, Bullis' facilities, and our relationship with the Los Altos School District as it
6 pertains to the provision of school facilities. I have personal knowledge of the facts set forth
7 herein, and I could and would testify competently to them if called as a witness.

8 **ANNUAL REQUESTS FOR FACILITIES**

9 2. As a member of the Proposition 39 committee, I have helped Bullis formulate its
10 yearly facilities request to the District, including its 2012-2013 request. I am also involved in
11 assessing the District's facilities offers to determine whether the offers satisfy Proposition 39.
12 Throughout the years, and presently, I have been one of Bullis' representatives in discussions
13 with District representatives regarding details of the District's facilities offers. I am familiar with
14 each of the District's campuses, and have spent considerable time reviewing site plans, building
15 measurements, and architectural drawings. I have measured facilities and space on the various
16 campuses.

17 3. On March 31, 2012, the District issued a Final Offer of Facilities for 2012-2013
18 ("FO") to Bullis (the relevant portions of which are attached hereto as Exhibit A). Upon receipt
19 of the FO, I was asked by the Bullis Board to analyze the District's Proposition 39 methodology
20 and allocation to determine whether the District used consistent and accurate measurements, and
21 whether the District allocated facilities reasonably equivalent to those enjoyed by other public
22 school children in the District. In this declaration, I explain why I determined that it did not.

23 **SAME CAMPUS, MORE STUDENTS**

24 4. I immediately noticed that the District's FO includes essentially the same K-6
25 temporary campus ("Egan site") that was the subject of this lawsuit (and Judgment and Writ),
26 notwithstanding that Bullis' enrollment has increased substantially. (Ex. A, p.13.) The facilities
27 that are offered do not come close to the amount of space that we hoped to get, given the Court of
28

1 Appeal opinion, and as I explain below, much of the space is unusable mounds of dirt or strips of
2 grass, and some of the new space is difficult (and in the winter, impractical) for students to get to.

3 5. In the Court of Appeal opinion, the court said that based upon Bullis's projected
4 enrollment for 2009-2010, "the appropriate size of the charter school site would have been 8.37
5 acres." (*Bullis Charter School v. Los Altos School Dist.* (2011) 200 Cal.App.4th 1022, 1051,
6 emphasis added.) So the first thing I looked at was how much space the District offered Bullis at
7 Egan for our K-6 students. I saw that the District is offering Bullis' K-6 students 7.45 acres on
8 the Egan site (Ex. A, p. 20 [listing "BCS at Egan" 324,683 square feet, or 7.45 acres]), which is
9 more than the 6.2 acres we were offered three years ago. However it is almost an acre short of
10 what the Court of Appeals said was "appropriate" and we now have 100 more K-6 students than
11 the number presented to the Court of Appeals.¹

12 6. In the upcoming 2012-2013 school year, Bullis' projected enrollment includes 439
13 K-6 in-District students (Ex. A, p. 13) – a K-6 enrollment more than 34% greater than the 2009-
14 2010 projection that was the original subject of this lawsuit. Therefore, the 7.45 acres is being
15 offered to considerably more K-6 students than were projected for 2009-2010.

16 **AREAS ADDED TO INCREASE ACREAGE ARE DISJOINTED AND UNREACHABLE**

17 7. To reach 7.45 acres at Egan, the FO gives Bullis additional outdoor space by
18 adding disjointed, isolated, and small perimeter areas to Bullis. (Ex. A, p. 213; *see also* the
19 marked up overhead photograph of the Egan campus, attached hereto as **Exhibit B**.) However,
20 the only way that Bullis students are allowed to access a major part of the new space is through an
21 unpaved, uneven, and extremely narrow foliage, made up of dirt, ground cover, and leaves. The
22 path has various obstacles on it, such as a sewage drain, tree stump, and mounds of terrain. At
23 some points, the path narrows to less than four feet. It is not an area that was ever intended to be
24 used as a "path" for students. I have taken pictures of this area for the Court that (as with all
25 photos that I took) accurately represent what the site looks like today. They are attached hereto as
26 **Exhibit C**. Please note that Bullis students are **not** allowed on the flat surface in the photos. (*Id.*,

27 ¹ Bullis' K-6 projection for 2009-2010 was 327 students.
28

1 pp. 1-4.) That is the athletic track at Egan that Bullis students are prohibited from walking on by
2 the terms of the FO. (For the Court's convenience, I have added the boundary of the track to the
3 photographs of the "path." (*Id.*, pp. 1-3).)

4 8. It would be difficult – if not impossible – for any student with physical limitations
5 (on crutches, in a wheelchair, or with unsteady balance) to walk on this uneven foliage, especially
6 in inclement weather. (Ex. C, pp. 1-3.) Because the path is uncovered and unpaved, it will turn
7 to mud, with puddles, in the rain, and will create slippery conditions that are dangerous for
8 students and teachers. The same is true of the mound that students and teachers need to traverse
9 to access the tennis court area via this path. (Ex. C, p. 4.)

10 9. I have tried without success to get the District to respond to our concerns about
11 this lack of access to the new area. Attached as **Exhibit D** is an email I sent to the District's
12 Assistant Superintendent (Randy Kenyon) about whether the District would be resurfacing these
13 access "paths," and whether they would be wheelchair accessible. He did not respond to my
14 questions.

15 10. The FO also provides Bullis additional unattractive space next to the tennis courts.
16 This area is obstructed by a large tree and vegetation that severely diminishes the potential use of
17 the space. It also contains the District's large storage structures. I have also taken pictures of this
18 area for the Court. They are attached hereto as **Exhibit E**. Mr. Kenyon did not respond when I
19 asked him if the District would be removing the storage units. (Ex. D.)

20 **ALLOCATED SPACE PER-K-6-STUDENT**

21 11. The amount of space per-in-District K-6 student at Bullis — 740 square feet per
22 student — is significantly less than the per-student space at K-6 comparison group schools, where
23 District students enjoy on average 943 square feet per student.²

24 ² I calculated the average square feet per comparison school student using the site size and
25 enrollment projections included in the FO. (Ex. A, pp. 17, 20.) As discussed in paragraph 33
26 below, the District did not provide accurate site measurements for Covington and Springer. In the
27 Preliminary Offer, which was filed with the Court on February 2, 2012, the District lists
28 Covington as 14.25 acres (Declaration of Janet Medlin, filed concurrently herewith, Ex. L, p. 14)
but inexplicably drops this number to 10.82 acres in the FO. (*See* ¶ 33.) Because the District
provides no explanation for the sudden shrinkage of its reported measurement, and because I am
not aware of any changes to the size of Covington, this is the number I used for Covington.

(Footnote continues on next page.)

1 12. Had the District calculated the square footage per K-6 District student at the
2 comparison group schools, it would have determined that, even before considering how much
3 space to allocate to Bullis' 7th and 8th graders, a 9.5 acre campus is appropriate for Bullis' in-
4 District K-6 students (943 square feet times 439 K-6 in-District students).

5 **OVERSTATED MEASUREMENTS OF THE SPACE PROVIDED TO BULLIS**

6 13. In fact, the District overstates the amount of space offered to Bullis by, for
7 example, exaggerating the size of the multi-purpose room offered to Bullis by more than 1,000
8 square feet. Although the FO purports to offer Bullis a 4,971 square foot multi-purpose room
9 (Ex. A, p. 29), Mr. Kenyon has told me that the 4,971 square feet space is only being offered on a
10 temporary basis, until a standard size portable multi-purpose room is installed.³ This was
11 confirmed in an email exchange that I had with him, which is attached hereto as **Exhibit G**. In
12 that email exchange, Mr. Kenyon confirmed that the multi-purpose room that will be installed is
13 actually 3,840 square feet, which is a standard portable size. (Ex. G, pp. 1-2.)

14 14. The District "counts" space as being offered to Bullis that is not measured or
15 "counted" at comparison group schools. For example, the District appears to count an entire
16 portable building as a teacher lounge. This building includes an electrical and data room (which
17 is counted as teacher lounge space, even though it cannot be used as such). But at most of the
18 comparison schools, the District appears not to count electrical and data rooms, even though each

19
20 (Footnote continued from previous page.)

21 Likewise, for Springer, the District has reported that it is 465,600 square feet, or 10.69 acres.
22 (Medlin Dec. Ex. L, p. 14.) It has changed that measurement a number of times, most recently in
23 the FO where it reports that Springer is only 10 acres. However, the 10 acre measurement is not
24 substantiated, does not comport with any measurement that I've seen or estimated, and it is lower
than what the District reported to the State Facilities Planning Division, which was 10.36 acres.
(The District's State Facilities Planning Division submission is attached as **Exhibit F**.)
Therefore, I used 10.69 acres that the District reported in its Preliminary Offer.

25 ³ The District offered Bullis use of half of the City gym (located on the Egan campus)
26 until the new, smaller multi-purpose room is installed. (Ex. A, p. 30; Ex. G, pp. 1-2.) Half the
27 City gym is 4,971 square feet. (Ex. A, p. 29; Ex. G, p. 1.) Bullis accepted this offer, and has
28 repeatedly stated its preference that the District provide half the City gym on a permanent basis
rather than installing a new multipurpose room. On June 26, 2012, without explanation or prior
notice, the District's lawyers sent Bullis a letter reneging on its offer of half the City gym.

1 comparison site is allocated space for them. (The District does not allocate Bullis space for an
2 electrical and data room separate from the space it counts as teacher lounge space.) (*Compare*
3 *Ex. A*, p. 69, 93-94, 129, 162, 188 [reporting square footage of such rooms at comparison
4 schools] *and Ex. A*, pp. 29, 32-33 [for purposes of allocation to Bullis, electrical/data rooms are
5 not listed])

6 15. The District does not pro-rate the amount of space offered by the sharing/use
7 restrictions it imposes on the space. For example, the District counts 100 percent of the baseball
8 field, even though it will be shared with Egan students for a portion of the year. The District's
9 Offer purports to give Bullis exclusive use of this space (*Ex. A*, p. 30), but Mr. Kenyon later told
10 me that sharing of this space will be required. (*Ex. G*, pp. 2-3.) Although the District says that
11 such sharing will occur "after school," Bullis is still in session after Egan's school day ends. In
12 the past, Egan has insisted on using the field as early as 2:00 p.m. (and has chalked the field as
13 early as lunch time).⁴

14 **K-6 CAMPUS SIGNIFICANTLY SMALLER THAN COMPARISON SCHOOLS**

15 16. Even with the added space on the Egan site, the space offered to Bullis' K-6
16 students at Egan remains considerably smaller and far more disjointed than the 10-acre minimum,
17 contiguous campuses of comparison group schools. (*Ex. A*, pp. 20, 39, 213; *Ex. B*.) In fact, the
18 District provides all of the comparison schools, whether they have more or fewer students than
19 Bullis, with a single contiguous site with a logical rectangular or similar configuration.⁵

20 **UNDER-ALLOCATION OF SPACE TO BULLIS' K-6**

21 17. Rather than looking at the overall amount of classroom, specialized teaching, and
22 non-teaching station space at comparison schools and simply allocating a reasonably equivalent
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24 ⁴ In addition, the District purports to offer several areas for Bullis' exclusive use, but then
insists that District students be granted access to them.

25 ⁵ Bullis' projected K-6 in-District enrollment (439) is more than 66 percent greater than
26 the 2011-2012 in-District enrollment at the smallest K-6 comparison school (Gardner Bullis, with
27 at most 267 in-District students), but the site the District offers to Bullis' K-6 students is less than
75 percent the size of that comparison school. (*Ex. A*, p. 20; *see also* Declaration of David
Spector, filed concurrently herewith, ¶¶ 5-6; *Ex. V*, p. 68; *Ex. W*, p. 1.)

amount of each to Bullis, the District continues to underallocate specialized teaching and non-teaching space to Bullis. It does so by claiming that comparison schools' subjective decisions regarding how to use space lessens the allocation to which Bullis is entitled. (Ex. A, pp. 28-30, 32-33, 44-205.) That is, instead of saying that the comparison schools have, on average, a certain amount of non-teaching station space, and allocating a comparable amount to Bullis, the District breaks its measurement of comparison school space into incomplete subsets of space by the way (and whether) the comparison school chooses to use its space. It then allocates space to Bullis only against selective subsets of the total space at District schools. As a result, it does not offer Bullis comparable amounts of overall specialized classroom space or non-teaching station space at the comparison schools.

18. For example, the FO acknowledges that each K-6 comparison school has a separate childcare facility, but the District does not provide Bullis with a similar amount of space. (Ex. A, pp. 50, 68, 92, 108, 128, 144.) It does not allocate comparable space for rooms the District's comparison schools use for special day class, electrical and data rooms, kiln room, and flex rooms, among other space. (Ex. A, pp. 28-30, 65, 68, 92, 93, 109, 129, 145.)

19. Even with respect to three limited types of outdoor space the District identifies – K play area, non-K blacktop, and turf – the District reports that it offers Bullis substantially less per-in-District student space than comparison group schools:

Table 1: Amount of Per-in-District Student Outdoor Space at Comparison Schools v. Bullis

| | Comparison School Average (SF) | Comparison School Average SF/student | Bullis Allocation (SF) | Bullis SF/student | Percentage Allocated (SF) |
|-----------------------|--------------------------------|--------------------------------------|------------------------|-------------------|---------------------------|
| K Play Area | 9915 | 166.94 SF/student | 7787 | 129.78 SF/student | 78.54% |
| Non-K Blacktop | 68998 | 135.47 SF/student | 47951 | 126.52 SF/student | 69.50% |
| Turfed Area | 129605 | 254.46 SF/student | 77941 | 182.59 SF/student | 60.14% |

(Ex. A, pp. 29-30.)

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OVERALL SITE IS NON-CONTIGUOUS

20. The District offers Bullis' 7th and 8th grades space at a separate campus, four miles across town (at the Blach Junior High campus, which is located on the opposite side of the District), even though Bullis runs an integrated K-8 program. Thus, the entire K-8 site is separated by miles, and consists of illogical disjointed spaces. (Ex. A, pp. 213, 215.)

21. The District claims to offer 11.04 acres to Bullis' entire K-8 student body (using an overstated measurement for the space offered to Bullis' K-6 students). (Ex. A, pp. 2, 5, 15, 21, 27.) In reality, the District places 439 in-District K-6 students (94 percent of Bullis' in-District enrollment) on the same temporary campus the Judgment and Writ declare is not reasonably equivalent to the comparison schools, and isolates the remaining 6 percent of Bullis' students (7th and 8th graders) miles away from the rest of the school. (Ex. A, pp. 2, 5, 13, 17, 20-21, 27.)

22. Bullis' K-8 program is designed to run as a single integrated educational program. No comparison school program is forced to run on multiple sites separated by miles.

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SPLIT AND INACCESSIBLE 7TH AND 8TH GRADE FACILITIES

23. At Blach, the District offers virtually no indoor non-teaching station – such as administrative space (e.g. health office, conference room, principal room), a counseling room, teacher work space (and/or lounge), staff restrooms, a custodial room, food server, a PTA room, computer server room, home economics space, or PE locker room – to Bullis' 7th and 8th graders, even though all of this space is available to middle school students at comparison group schools. (Ex. A, pp. 32-33, 159-162, 185-188.)

24. When I looked into the District's failure to provide virtually any non-teaching space to Bullis students at Blach, I saw that the FO suggests that Bullis can use the specialized teaching station space offered (i.e., two 960 square foot portables already offered to serve as Bullis' science, art, music, and woodworking space, to name just a few functions) to also serve these non-teaching station space functions. (Ex. A, p. 32.) I have explained to Mr. Kenyon that this will not work, because these non-teaching station space functions are incompatible with the specialized teaching space functions, and often have to be done at the same time. For example,

1 Bullis' nurse cannot administer an insulin shot to a student in space being used for science; nor
2 can Bullis' principal have a private conversation with a student.

3 25. Even if dual functionality were possible, the space could not be furnished and
4 equipped that space for all of these functions, much less in a manner that maintains "reasonable
5 equivalence" with the separate space that comparison school students enjoy for each of those
6 functions. (In fact, last summer, before the 2011-2012 school year, the District itself concluded
7 that the same room could not be used to for both science and woodworking, let alone a multitude
8 of other functions. (See **Exhibit H**, a true and correct copy of an email from the Assistant
9 Superintendent to me explaining that science and woodworking cannot coexist in the same
10 portable).)

11 26. The District has also suggested that 7th and 8th grade student can use the K-6 site at
12 Egan for facilities that are not offered on the Blach site (and vice versa – that Egan students can
13 use facilities at Blach). (Ex. A, pp. 5, 27.) However, all of the students at comparison schools –
14 K-6 and 7th/8th grade – enjoy a single site that is rationally configured. Moreover, this would
15 require transporting students across town in the middle of the school day; there are significant
16 safety concerns, as well as considerations regarding lost time during the school day, with the
17 District's suggestion that Bullis students can be shuttled back and forth on busy streets between
18 campuses that are miles apart.

19 27. All of the middle school facilities that the District proposes to make available to
20 Bullis' 7th and 8th grade students at Blach are available on the Egan Junior High School site that is
21 immediately adjacent to and contiguous with the temporary camp site offered to Bullis' K-6
22 students.

23 **BLACH SPACE IS DISJOINTED AND DIFFICULT TO ACCESS**

24 28. Like the Egan campus, the outdoor space allocated at Blach is disjointed and
25 comprised of difficult-to-access areas. (Ex. A, p. 215; *see also* marked up overhead photograph
26 of the Blach campus, attached hereto as **Exhibit I**.) Attached as **Exhibit J** are photographs of the
27 outdoor space being offered for the BCS middle school students at Blach. These photos show the
28 narrow "field" offered to Bullis, as well as the obstructions on that space (trees and soccer goals

1 that are stored there). Given how narrow the field is, and the obstacles created by the trees and
2 soccer goals, the field cannot be used effectively for any type of real sports. (Ex. J, pp. 1-2.)
3 Moreover, to get to the narrow field, students would have to traverse an unpaved, uneven, dirt
4 walkway. (Ex. J, p. 5) Like the path at the Egan site (*see* ¶¶ 7-9, above), this path would be
5 exceedingly difficult for any student or teacher with impaired mobility; it is also susceptible to
6 puddles and mud when it rains.

7 29. The largest grassy area provided by the District also has limited functionality. It is
8 very sloped, going from the track (which Bullis does not have access to) down to the street. (Ex.
9 J, pp. 3-4.) It would be very difficult to play any type of organized sport due to the significant
10 slope, unevenness of the ground, and trees on the border of the grass. In addition, as noted in the
11 photo that I took at Ex. J, pp. 3-4, much of this field leads directly to a fairly busy city street with
12 no fence or other safety barrier. Thus, it would not be practical to play most sports, such as
13 soccer or baseball, because the balls would likely roll into the busy street.

14 30. Finally, the outdoor space the District allocated to Bullis' 7th and 8th graders has
15 other unworkable restrictions. For example, the District offers Bullis use of certain outdoor
16 facilities – like the track and tennis courts – for disjointed time periods, including 14 minute
17 increments during which running any sort of class or program (or even free play) would be
18 difficult if not impossible. (Ex. A, p. 35.)

19 THE DISTRICT'S METHODOLOGY

20 31. I found that the District understated the measurements of comparison schools (in
21 addition to overstating measurements of space offered to Bullis (*see* ¶¶ 13-15 above)). Below, I
22 describe some of my observations.

23 OUTDOOR SPACE AT COMPARISON SCHOOLS NOT COUNTED

24 32. In the aggregate, the District does not count approximately 10.54 acres, or 458,979
25 square feet, of outdoor space at comparison group schools:⁶

26 ⁶ I calculated the amount of space excluded by reviewing the amount of space that the
27 District reported in Exhibit H to its 2012-2013 Offer and compared it to the space shown on the
28 comparison schools' site maps included in the District's Offer. (Ex. A, pp. 44-211.)

**Table 2:
Excluded Outdoor Space at Comparison Group Schools**

| Comparison School | Excluded Outdoor Space (SF) |
|---|------------------------------------|
| Almond | 23672 |
| Covington | 191220 |
| Gardner | 21197 |
| Loyola | 53455 |
| Santa Rita | 35425 |
| Springer | 68625 |
| Blach (excluding space offered to Bullis and preschool space) | 27994 |
| Egan (excluding space offered to Bullis) | 37391 |
| Unaccounted for Space at Comparison Schools (SF) | 458,979 |
| Unaccounted for Space at Comparison Schools Acres | 10.54 |

33. In addition to not accounting for all space at comparison schools, the District underreports the site sizes of the Covington and Springer campuses. The Covington campus size was reduced by 3.43 acres — from 14.25 acres to 10.82 acres — between the Preliminary Offer and the FO. (*See* Medlin Dec., Ex. L, p. 14; *see also* Ex. A, p. 20 [listing Covington’s “site size” and “acreage measurements” as 471,174 square feet, or 10.82 acres].) The District provides no explanation for this shrinkage. The same is true of Springer, which was also reduced — by .69 acres — in the FO, and does not comport with the measurement the District reported to the State Facilities Division. (*See* Medlin Dec., Ex. L, p. 14 [listing Springer’s “acreage measurement” as 465,600 or 10.69 acres]; *see also* Ex. A, p. 20 [listing Springer’s “site size” and “acreage measurement” as 435,600 or 10 acres]; Ex. F, p. 4.)

INDOOR SPACE AT COMPARISON SCHOOLS NOT COUNTED

34. The District’s 2012-2013 Offer does not count substantial amounts of indoor space at comparison schools, including considerable amounts of non-teaching station and specialized classroom space discussed above (*see* ¶¶ 17-19, 23).

35. The District underreports the size of facilities at comparison schools, including the multipurpose room at Covington, childcare facilities, art/music flex rooms, and science flex rooms.⁷ For example:

- In one part of the FO, the District notes that childcare facilities at comparison group K-6 schools total 34,968 square feet of space (Ex. A, pp. 50, 68, 92, 108, 128, 144 [listing each school's childcare space, which total 34,968 square feet]), or 11.44 square feet per comparison group student (there are 3,056 K-6 students at the comparison group schools (Ex. A, p. 17, 20)). But when the District allocates space to Bullis, it inaccurately reports that comparison group students only have 0.48 square feet of childcare space per student.⁸ (Ex. A, p. 29.) This significantly reduces the amount of childcare space the District claims to "owe" Bullis, from 5,005 square feet to just of 210.72 square feet.

**Table 3:
Actual Amount of Childcare Space at Comparison Schools v.
Amount of Childcare Space at Comparison Schools Considered for
Determining Allocation to Bullis**

| Childcare at Comparison Schools | Space Identified in Final Offer (SF) |
|--|--------------------------------------|
| Almond | 3200 |
| Covington | 4700 |
| Gardner | 6644 |
| Loyola | 10500 |
| Santa Rita | 3652 |
| Springer | 6272 |
| Actual Total SF – childcare at comparison schools | 34968 |
| Actual SF per District student | 11.44 |

⁷ I derived this information by tallying the amount of space listed for each comparison group school (Ex. A, pp. 47, 50, 65, 68, 90, 92, 106, 108, 126, 128, 142, 144), and comparing it to the amount of space the District listed in the portion of the FO dedicated to allocation of space to Bullis. (Ex. A, pp. 28-29.)

⁸ If this were correct, the total amount of childcare space at *all* of the comparison group schools would be 1,467 square feet. In fact, *each* comparison school has a childcare facility far larger than 1,467 square feet.

SF per District student reported for purposes of
allocation to Bullis

0.48

- The same is true with respect to flex rooms for art and music at comparison group K-6 schools. In one part of the FO, the District concedes that the total amount of such space at comparison group schools is 6,433 square feet (Ex. A, pp. 47, 65, 90, 106, 126, 142 [listing each school's art/music space, which total 6,433 square feet]) – i.e., 2.11 square feet per comparison group student. Yet when the District makes its allocation to Bullis, the District only reports a total of 1925 square feet of art/music space at all of the comparison group schools – i.e., .63 square feet of art/music space per comparison group student. (Ex. A, p. 28.)

Table 4:
Actual Amount of Art/Music Flex Space at Comparison Schools v.
Amount of Art/Music Flex Space at Comparison Schools Considered for
Determining Allocation to Bullis

| Art/Music Flex at Comparison Schools | Space Identified in Final Offer |
|---|---------------------------------|
| Almond | 960 |
| Covington | 1436 |
| Gardner | 677 |
| Loyola | 960 |
| Santa Rita | 960 |
| Springer | 1440 |
| Actual Total SF – art/music at comparison schools | 6433 |
| Actual SF per District student | 2.11 |
| SF per District student reported for purposes of allocation to Bullis | 0.63 |

- The District's measurement of science flex rooms at comparison schools suffers the same flaw. The District concedes that the science flex rooms at comparison K-6 schools total 5,828 square feet (Ex. A, pp. 47, 65, 90, 106, 126, 142 [listing each school's science space, which total 5,828 square feet]) – i.e., 1.91 square feet per comparison school student – but reports only 4523 square feet of that space – i.e.,

1.48 per comparison group student – when allocating to Bullis. (Ex. A, p. 28.)

Like the childcare and art/music categories, this has the effect of lowering the amount of space the District claims is reasonably equivalent for Bullis.

**Table 5:
Actual Amount of Science Flex Space at Comparison Schools v.
Amount of Science Flex Space at Comparison Schools Considered for
Determining Allocation to Bullis**

| Science Flex at Comparison Schools | Space Identified in Final Offer |
|---|---------------------------------|
| Almond | 960 |
| Covington | 1312 |
| Gardner | 676 |
| Loyola | 960 |
| Santa Rita | 960 |
| Springer | 960 |
| Actual Total SF – science at comparison schools | 5828 |
| Actual SF per District student | 1.91 |
| SF per District student reported for purposes of allocation to Bullis | 1.48 |

36. In the aggregate, the District does not count approximately 56,905 square feet — or 20.9 percent — of building space at K-6 comparison schools, and 8,711 square feet — or 6.2 percent — of building space at 7th and 8th grade comparison schools when determining Bullis' allocation of space.

Table 6: Actual Amount of Building Space at Comparison Schools v. Amount of Building Space at Comparison Schools Considered for Determining Allocation to Bullis

| | Comparison Schools Actual Space (SF) | Portion Considered For Purposes of Allocation to Bullis (SF) | Amount of Space Not Counted | Percentage of Space Not Counted |
|----------------------------------|--------------------------------------|--|-----------------------------|---------------------------------|
| K-6 Building Space | 272,913 | 216,008 | 56,905 | 20.9% |
| 7-8 th Building Space | 140,278 | 131,567 | 8,711 | 6.2% |

1
2 **DISTRICT INACCURATELY CLAIMS “SURPLUS” IN ALLOCATION**

3 37. Based on the District’s mismeasurements, it claims to have offered Bullis a
4 “surplus” of space – that is, the District claims that it “over-allocated” 5,165 square feet (5.4
5 portables) to Bullis. (Ex. A, pp. 21, 28, 29.) But the purported “surplus” to Bullis is based on
6 understated amounts of space at the comparison group schools. Just taking three of the examples
7 listed above (childcare facilities, art/music flex space, and science flex space at comparison
8 schools), the amount “owed” to Bullis is understated by 5,650 square feet – i.e., almost 6 portable
9 buildings. In other words, had the District properly and correctly measured the space offered to
10 Bullis and at the comparison schools, it would not be able to claim any “surplus” whatsoever but
11 would instead have a shortfall.

12 38. The District’s FO states that the purported “surplus” of buildings offered to Bullis
13 justifies the provision of a K-6 campus to Bullis that is significantly smaller than the comparison
14 K-6 campuses and significantly smaller than the 8.37 acres the Court of Appeal said would be
15 required for far fewer students. (Ex. A., p. 21 [because the District “allocate[d] . . . space to BCS
16 in excess of the amounts provided to students at the District’s comparison group schools,” the
17 overall campus provided to Bullis is “qualitatively superior” and the significant size discrepancy
18 between it and comparison schools is neutralized].)

19 39. In fact, the campus the District offers to Bullis’ K-6 students is a temporary
20 campus on a corner of another school’s site, made up entirely of portable buildings. In contrast,
21 each of the comparison K-6 schools have brand new, recently modernized facilities and
22 campuses. (In fact, the camp site the District offers to Bullis was built to serve as an interim
23 campus for District-run schools while their campuses were being renovated, all within the last ten
24 years.) Nonetheless, the District claims that the site offered to Bullis at Egan is “qualitatively
25 superior” to the comparison schools.

26 //

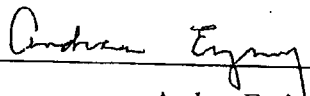
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 2nd day of ~~June~~^{July}, at Mountain View, California.



Andrea Eyring