

# Are Oakland Charter Schools Double Dipping?

*An analysis of Paycheck Protection Program loans to charter schools located in the Oakland Unified School District*

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**PARENTS UNITED FOR PUBLIC SCHOOLS**

AND

**IN THE PUBLIC INTEREST**

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**T**he COVID-19 pandemic has caused immense job loss, social isolation, and economic hardship. Despite falling short of what's truly needed, both the federal government and state governments have provided relief through a number of programs, such as the federal Paycheck Protection Program (PPP), which is directed at small businesses in an effort to maintain employment. Other programs have provided relief to public entities, including public schools. However, some charter schools—which are publicly funded but privately managed—have applied for and received PPP loans despite having no loss in public funding.<sup>1</sup> **This data brief examines PPP funding within the boundaries of just one public school district in California, the Oakland Unified School District (OUSD), and finds that Oakland's charter schools have received a total of at least \$18,909,300 in loans from the PPP.**

## Continued Funding for Public Schools (Including Charter Schools)

The crisis has made clear that public schools are a critical resource for communities, providing information, technology, and food for children and families, even when school buildings are closed. The need for social distancing and sheltering in place has resulted in crisis education strategies that have left families desperate to return to regular schooling. In order to ensure some continuity of education, California Governor Gavin Newsom issued an order maintaining full funding for all public schools, including charter schools, through the end of the school year.<sup>2</sup> The order makes clear that the intended use of the continued funding includes paying school employees. This has enabled California public schools to continue to employ all staff with no reduction in state funding, while using additional funds to implement distance learning. In addition, Federal CARES Act funding has been granted to the state of California and will be distributed to all Local Education Agencies (LEAs) that apply and qualify.<sup>3</sup> Also, the California State Legislature allocated \$100,000,000 to all LEAs (including charter schools) for emergency measures needed to deal with the immediate crisis.<sup>4</sup>

<sup>1</sup> <https://www.washingtonpost.com/education/2020/05/27/did-some-charters-schools-double-dip-federal-coronavirus-relief-funding/>

<sup>2</sup> <https://www.gov.ca.gov/2020/03/13/governor-newsom-signs-executive-order-ensuring-state-funding-for-schools-even-in-event-of-physical-closure/>

<sup>3</sup> <https://www.cde.ca.gov/fg/cr/caresact.asp>

<sup>4</sup> <https://www.cde.ca.gov/nr/ne/yr20/yr20rel0401.asp>

## Paycheck Protection Program (PPP)

Separate from state and federal aid for public education, the federal CARES Act established the Paycheck Protection Program (PPP) in order to allow small businesses (as opposed to public agencies and schools) to maintain employment. As described by the U.S. Small Business Administration: “The Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll. SBA will forgive loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities.”<sup>5</sup> A subsequent bill extended the covered period to 24 weeks from the date of the loan’s origination, or December 31, 2020, whichever comes earlier.<sup>6</sup>

The intent of the program is clear: “With the COVID-19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, and local public health measures that are being taken to minimize the public’s exposure to the virus. These measures, some of which are government-mandated, are being implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, are being implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.”<sup>7</sup>

Thus far, the PPP has been criticized for a lack of guidance and being difficult to access for many small businesses.<sup>8</sup> For example, Octavio Diaz, owner of the Oakland restaurant Agave Uptown, was forced in April to lay off over 60 percent of staff because the business didn’t have the financial resources to keep a full payroll.<sup>9</sup> He’d previously reported applying for a PPP loan but was waiting for a response.<sup>10</sup> Beninni, a men’s formalwear store in Hayward, California, was forced to close and lay off employees shortly after the area’s lockdown began.<sup>11</sup> After waiting weeks to get an update on its PPP application, the small business finally received a loan through the program only after a reporter reached out to the lending bank for information. A May U.S. Census Bureau survey of 90,000 small businesses found that almost 40 percent had not received PPP assistance.<sup>12</sup>

<sup>5</sup> <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>

<sup>6</sup> <https://www.forbes.com/sites/anthonyнити/2020/06/03/congress-agrees-on-favorable-changes-to-paycheck-protection-loans-what-does-it-mean-for-borrowers/#31956ff666fd>

<sup>7</sup> <https://www.federalregister.gov/documents/2020/04/15/2020-07672/business-loan-program-temporary-changes-paycheck-protection-program>

<sup>8</sup> <https://www.brookings.edu/blog/the-avenue/2020/05/29/how-the-paycheck-protection-program-is-coming-to-ground-in-the-nations-large-metro-areas/>

<sup>9</sup> <https://www.restaurantdive.com/news/independent-restaurants-grapple-with-layoffs-but-fight-to-survive/575923/>

<sup>10</sup> <https://www.cbsnews.com/news/paycheck-protection-program-trump-administration-small-businesses-billios/>

<sup>11</sup> <https://www.businessinsider.com/small-business-ppp-loan-many-thousands-still-waiting-2020-5>

<sup>12</sup> <https://www.reuters.com/article/us-usa-economy-ppp-census/nearly-75-of-u-s-small-businesses-sought-help-via-government-ppp-idUSKBN22Q3DU>

## At Least 70 Percent of Oakland Charter Schools Have Accessed PPP

Forgivable PPP loans are desperately needed by struggling local businesses to continue paying their employees, including parents of district students. Despite that need and the limited funds available, Oakland's charter school industry is heavily accessing this "first come, first served" small business funding source, while at the same time receiving full continuity of education funding from the state, plus access to federal CARES Act funding. In other words, charter schools are receiving full funding to pay their employees as public schools while also seeking PPP funds to pay those same employees as private businesses.

**Overall, the charter schools located within OUSD's boundaries have received a total of at least \$18,909,300.** Adding in estimated CARES Act allocations,<sup>13</sup> OUSD-area charter schools were awarded at least \$23,177,755 in federal funding.

Of the 43 charter schools located within OUSD's boundaries:

- 30 schools, or 70 percent of all charter schools, have received PPP funding
- 27 schools received a total of almost \$19 million
- Three schools received an unknown amount
- Eight schools were not eligible because their charter management organization has more than 500 employees
- Five schools do not have any reference to accepting PPP funds in board minutes, nor does the OUSD charter office show they have received these funds.

**OUSD-area charter schools that were awarded forgivable PPP loans received an average of almost \$2,000 more per student than OUSD schools** and charter schools that did not receive PPP awards.

It is clear that some schools in the charter industry are aware of the ethical questions raised in taking these funds and whether they are the intended target. Mike Barr, board member of the Education for Change charter management organization (CMO), which manages seven charter schools in Oakland, raised these questions during the May 13, 2020, board meeting:

*“Most California schools including the [Education for Change] schools are frankly made whole this current fiscal year and there is not massive impact to schools because of COVID from a financial perspective because we are getting the full revenue we would normally get.”<sup>14</sup>*

Some schools are reporting a better financial position in the middle of this pandemic than before, due to “increased revenue and savings due to COVID.”<sup>15</sup> While small businesses are struggling to survive and are shut out of PPP loans, some charter schools are treating this as a “cheap form of cash flow financing that we can use over

<sup>13</sup> <https://www.cde.ca.gov/fg/cr/>

<sup>14</sup> <https://drive.google.com/file/d/1PWeQCb4P2zj-OMuf53FiXnGYoQbYttm7/view> at 4:20 mark

<sup>15</sup> <https://drive.google.com/file/d/11wXGptLsp4iWWxN1iPICG4B4FHgTu41/view?usp=sharing> (page 2)

next 24 months.” They are also acknowledging that they are probably going to have to pay some of it back, but they should take it anyway. While the state is providing funding to meet payroll costs, Education for Change may be claiming these costs as qualifying funds to maximize their forgivable portion of PPP and then use the “jack(ed) up” unrestricted funds to balance their budget in coming years.<sup>16</sup> This is not aligned with the intent stated in the CARES Act about the need for this emergency small business relief.

The charter school industry very publicly identifies their institutions as public schools. Yet the industry’s politically powerful lobbying organizations are also encouraging and supporting charter schools to access PPP funds that were intended to maintain employment for small businesses that may otherwise be forced to lay off workers. The California Charter Schools Association (CCSA) provides information about PPP loans and encourages their members to move quickly: “As there is a funding cap and loans will be made on a first-come, first-served basis, organizations are encouraged to apply as soon as possible.”<sup>17</sup> The National Alliance for Public Charter Schools has a webpage dedicated to informing charter schools about accessing PPP funds.<sup>18</sup>

## Are Charter Schools Public or Private Entities?

According to the National Alliance for Public Charter Schools, “Charter schools are public, tuition-free schools that are open to all students.”<sup>19</sup> On CCSA’s website, charter schools are described as “100% public.”

Academics and others have pointed out that charter schools are sometimes treated as private entities and other times treated as public entities.<sup>20</sup> Last year, the California Legislature voted to require that charter schools abide by the same transparency and accountability laws that public entities are required to follow, such as the California Public Records Act and the Brown Act, as the charter industry and its supporters have opposed legislation that would have imposed these requirements. (Charter schools’ mandate to follow these laws is why the authors were able to obtain the data included in this report.)

While charter schools are considered public schools under California law, they are also incorporated as nonprofit entities. This structure has allowed them to access COVID-19 resources both for public schools and those intended for private small businesses and nonprofits, with both funding pools intended to support maintaining employment. While clearly asserting that charter schools are public schools, the National Alliance for Public charter Schools lobbied to ensure that charter schools could access funding intended for private entities.<sup>21</sup>

<sup>16</sup> <https://drive.google.com/file/d/1PWeQCb4P2zj-OMufS3FiXnGYoQbYttm7/view> at 9 minute mark

<sup>17</sup> <https://info.ccsa.org/covid-19-faq#governance>

<sup>18</sup> <https://covid.publiccharters.org/legislation/economic-assistance>

<sup>19</sup> <https://www.publiccharters.org/about-charter-schools>

<sup>20</sup> For example: Green, Preston C. III; Baker, Bruce D.; and Oluwole, Joseph O. (2015) “The Legal Status of Charter Schools in State Statutory Law,” *University of Massachusetts Law Review*: Vol. 10 : Iss. 2 , Article 1. <https://scholarship.law.umassd.edu/umlr/vol10/iss2/1>

<sup>21</sup> <https://www.washingtonpost.com/education/2020/05/27/did-some-charters-schools-double-dip-federal-coronavirus-relief-funding/>

## Conclusion and Recommendations

Because charter schools are currently receiving full funding as public schools intended to maintain employees, while at the same time receiving funding as private entities that are also intended to maintain employees, taxpayers are left covering what appears to be the same bill twice. The Small Business Administration has provided guidance that indicates that, for loans under \$2 million, there will be no audit of PPP funds, meaning the majority of PPP loans in Oakland will go unmonitored by the SBA.<sup>22</sup>

Given the limited oversight by the federal government of these public funds, it is incumbent upon charter school authorizers to provide needed oversight and accountability for both streams of funding to California charter schools. Charter authorizers and the California Department of Education should require that charter schools report whether they have applied for these funds, if they have received them, and a full accounting of how both these funds and state funding are being spent.

As the state moves forward with budget discussions, it may be wise to consider how funding may be adjusted for schools that are receiving these additional funds, to ensure that education dollars are equitably reaching the schools and students that need them most. Should additional funding be made available at the federal level, charter schools should be identified as either public entities or private entities, and have funding limited to the appropriate funding streams.

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<sup>22</sup> <https://www.sba.gov/document/support-faq-lenders-borrowers>

## Paycheck Protection Program and CARES Act Funding for Oakland Charter Schools

Name of School or Charter Management Organization (Schools Authorized by the County or State in Italics)	# Schools in OUSD	PPP Amount Received <sup>23,24</sup>	CARES Expected per CDE <sup>25</sup>	Total Received	Enrollment 2019–2020 <sup>26</sup>	Per Pupil PPP + CARES Funding	Per Pupil PPP Amount
American Indian Model Schools	3	\$1,922,400	304,843	\$2,227,243	1302	\$1,711	\$1,476
Amethod Public Schools (AMPS)	3	\$1,392,606	297,575	\$1,690,181	1025	\$1,648.96	\$1,359
ARISE High School	1		85,430	\$85,430	369	\$231.52	\$0
Aspire	7		952,261	\$952,261	2958	\$321.93	\$0
<i>Aurum Preparatory Academy</i>	1	\$200,000	35,239	\$235,239	112	\$2,100.35	\$1,786
Bay Area Technology School	1		99,654	\$99,654	289	\$344.82	\$0
Civicorps Academy	1	\$300,000	0	\$300,000	51	\$5,882.35	\$5,882
Conservatory of Vocal and Instrumental Arts High School	1	unknown	11,784	\$11,784	86	\$137.02	unknown
<i>Community School for Creative Education</i>	1	unknown	53,827	\$53,827	267	\$201.60	unknown
East Bay Innovation Academy	1	\$952,534	32,393	\$984,927	620	\$1,588.59	\$1,536
Education for Change	7	\$5,259,000	1,062,720	\$6,321,720	2986	\$2,117.12	\$1,761
<i>Envision Academy of Arts &amp; Technology</i>	1		102,032	\$102,032	412	\$247.65	\$0
Francophone Charter School of Oakland	1	\$421,800	17,872	\$439,672	289	\$1,521.36	\$1,460
KIPP Bridge Academy	1		172,089	\$172,089	540	\$318.68	\$0
Lighthouse Community Charter	3	\$2,473,600	293,623	\$2,767,223	1404	\$1,970.96	\$1,762
LPS Oakland R&D	1	\$782,000	148,775	\$930,775	498	\$1,869.03	\$1,570
North Oakland Community Charter School	1	\$221,800	28,956	\$250,756	187	\$1,340.94	\$1,186
Oakland Military Institute College Preparatory Academy	1	\$1,879,000	\$206,832	\$2,085,832	661	\$3,155.57	\$2,843
Oakland School for the Arts	1	\$1,480,201	14,239	\$1,494,440	793	\$1,884.54	\$1,867
Roses In Concrete <sup>27</sup>	1		68,886	\$68,886	224	\$307.53	\$0
Oakland Unity High School & Middle School	2		159,095	\$159,095	525	\$303.04	\$0
<i>Urban Montessori</i>	1	\$729,014	37,630	\$766,644	393	\$1,950.75	\$1,855
Vincent Academy	1	\$364,945	82,700	\$447,645	217	\$2,062.88	\$1,682
<i>Yu Ming</i>	1	\$530,400	0	\$530,400	487	\$1,089.12	\$1,089
	<b>43</b>	<b>\$18,909,300.00</b>	<b>4,268,455</b>	<b>\$23,177,755</b>	<b>16695</b>	<b>\$1,429.46</b>	<b>\$1,941</b>

<sup>23</sup> See attached chart with school by school sources

<sup>24</sup> For Charter Management Organization (CMO) with schools inside and outside of Oakland, this figure is calculated based on the percentage of students enrolled in the Oakland schools of the total amount awarded to the CMO.

<sup>25</sup> California Department of Education <https://www.cde.ca.gov/fg/cr/>

<sup>26</sup> California Department of Education <https://dq.cde.ca.gov/dataquest/>

<sup>27</sup> Roses In Concrete appears to have applied for a \$650,000 PPP loan, but we do not have confirmation that they have been awarded the loan.

## Sources for Paycheck Protection Program Award Amounts for Oakland Charter Schools

Spreadsheet provided via email by Oakland Unified School District Charter Office detailing amounts granted to charters: [OUSD Charter Office chart: PPP loan amounts](#)

School or Charter Management Organization	Source 1	Source 2	Source 3
American Indian Model Schools	April 30, 2020 Board Meeting Minutes; Item III C	April 30, 2020 Board Agenda Packet Pages 95-103; loan document and draft resolution	OUSD chart of PPP Loans
Amethod Public Schools	May 14, 2020 Board Meeting Minutes, Item 9.3 (page 3)	OUSD chart of PPP Loans	
Aurum Preparatory Academy	May 27, 2020 (page 2)	David Hardin, Director, heard during live meeting on 5/27/20 stating loan amount was \$200,000. ITPI is requesting written confirmation of this amount	
Civcorp Academy	May 20, 2020 Board Agenda (page 2)	Email from OUSD charter office	OUSD chart of PPP Loans
Conservatory of Vocal and Instrumental Arts High School	May 18, 2020 Board Agenda Item 12 (under Items Scheduled for Action)		
Community School for Creative Education	May 6, 2020 Special Board Meeting Agenda- Approval of SBA PPP Board Resolution		
East Bay Innovation Academy	May 20, 2020 Board Minutes Item IV. C.	May 20, 2020 Agenda Board Packet pp. 56 - 65	
Education for Change	May 13, 2020 Board Meeting Minutes	Video recording of May 13, 2020 Board Meeting (2:29 confirms loan approved; amount confirmed at 7:35 and 9:29)	OUSD chart of PPP Loans
Francophone Charter School of Oakland	May 1, 2020 Finance Committee Minutes, page 2 Item III B.	May 4, 2020 Board Meeting Agenda, Item III, A 1	OUSD chart of PPP Loans
Lighthouse Community Charter Schools	April 21, 2020 LCPS Board of Directors Meeting, Board Report Approval Item 3A	OUSD chart of PPP Loans	
Leadership Public Schools Oakland R&D	April 20, 2020 Board Meeting Minutes	Link to loan documents found under April 20, 2020 Agenda Item 3	OUSD chart of PPP Loans
North Oakland Community Charter School	April 16, 2020 Board Meeting Minutes Item II A. <i>Note that these minutes also reflect that fiscal issues appear to stem from unrealistic enrollment projections</i>	OUSD chart of PPP Loans	
Oakland Military Institute College Preparatory Academy	April 13, 2020 Board Packet pp.17-21 (loan documents)	April 13, 2020 Board Minutes Agenda Item 2H (May 21, 2020 Board Packet P. 6)	OUSD chart of PPP Loans
Oakland School for the Arts	May 6, 2020 board Meeting Minutes	OUSD chart of PPP Loans	
Urban Montessori	Board Resolution Approving PPP Loan	May 21, 2020 Draft Board Minutes Item III C	
Vincent Academy	May 11, 2020 Board Meeting Minutes Item IIA	OUSD chart of PPP Loans	
Yu Ming	May 18, 2020 Board Agenda Item III B; packet p.4-8 board resolution	Note: discussion took place as a closed session item	