



Neighborhood Legal Services
of Los Angeles County

EQUAL JUSTICE SOCIETY

April 13, 2022

Via E-mail and U.S. Priority Mail

Honorable State Superintendent Tony Thurmond
Local Agency Systems of Support Office
California Department of Education
1430 N Street
Sacramento, CA 95814
superintendent@cde.gov; lcff@cde.ca.gov, jstrong@cde.ca.gov.

RE: Appeal of Antelope Valley Union High School District Response re: LCAP Uniform Complaint

Dear Honorable Superintendent Thurmond,

On behalf of Complainants Diana Padilla and Cancel the Contract-Antelope Valley, a project of Reform LA Jails, NLSLA and Equal Justice Society submit this appeal of the determination of the Antelope Valley Union High School District (“AVUHSD” or “District”) with respect to Complainants’ February 9, 2022 UCP Complaint. The Complaint, attached as Exhibit I, outlines several failures on the part of the District to comply with legal requirements pertaining to its Local Control Accountability Plan (“LCAP”).

Specifically, as described more fully in the underlying UCP Complaint, AVUHSD’s LCAP fails to meet the basic legal requirements of the statutes and regulations governing LCAPs under the Local Control Funding Formula (“LCFF”) in the following ways:

1. Failing to explain large discrepancies in its budgeted versus estimated actual expenditures of supplemental and concentration grant (“S&C”) funding for the 2019-2020 school year;
2. Failing to adequately justify several key allocations of S&C funding—including a multi-million-dollar law enforcement contract—for the 2019-2020 and 2021-2022 school years, as required by 5 CCR § 15496;

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3. Failing to meet its obligation to proportionately increase or improve services for high-needs students as required by 5 CCR § 15946;
4. Failing to articulate any goals for unduplicated pupils and numerically significant pupil subgroups including, but not limited to, low-income students, Black students, homeless students and/or foster youth as required by § 52064 of the California Education Code; and
5. Denying community stakeholders an opportunity to meaningfully participate in the development and accountability processes embedded within LCFF statutes and regulations due to its lack of transparency in its plans, processes, and expenditures of S&C funds.

On March 15, 2022, Complainants' counsel received AVUHSD's response and investigation report, in which the District disclaimed all liability and concluded that it complied with its statutory obligations and the LCFF regulations.¹ The District's findings and assertions are not supported by substantial evidence and contravene applicable LCFF law as well as previous decisions by CDE.² For the reasons set forth below, CDE should find in favor of Complainants on all of their claims and order the requested remedies and any additional remedies that the Department deems proper.

I. Allegation 1: AVUHSD's LCAP indicated significant shortfalls and overspending of budgeted versus estimated actual spending in several actions supported by S&C funding in 2019-2020.

Complainants' UCP complaint contains a detailed 3-page chart that includes significant discrepancies in budgeted versus estimated actual expenditures of supplemental and concentration grant funds that amounted to a combined shortfall of \$6,974,913.³ Similarly, Complainants included a detailed chart that included discrepancies, broken down by goals and action items, between budgeted and estimated actual expenditures that indicated overspending of S&C funds in excess of \$3,265,513.⁴

In the District's LCAP, there is no accounting for or explanation of the multi-million-dollar shortfall or how any of the S&C funds were ultimately allocated or will be allocated for foster youth, English learners, and/or low-income students. Similarly, there is no explanation provided for significant over-expenditures of S&C funds. This is particularly disturbing because the over-expenditures of S&C funds were for basic services that could be paid for by other funds, including expansion of infrastructure, staff recruitment, and improving attendance for expenses that are attendant to baseline educational services.

A. The District's Response

The District admitted that it experienced shortfalls in the expenditures of S&C funds in 2019-2020 and that it utilized COVID-19 relief funds in lieu of S&C funds for various planned

¹ Exhibit 2, District's Response to Complainants' LCAP

² See 5 Cal. Code Regs. § 4632(b)(3) and (4)

³ Exhibit 1, pp. 2-4

⁴ Exhibit 1, pp. 5-6

actions. The District admitted that it transferred unused funds to “Targeted Resource” funds within its Special Reserve 17 allocations.

The District’s response fails to account for its over-expenditures of S&C funds.

B. Legal Argument

i. Underspending and Misappropriation of Carryover S&C Funds

AVUHSD has a duty to meet the underlying statutory requirement in Education Code § 42238.07 to “increase or improve services for unduplicated pupils” in proportion to the increased funding that it receives as a result of enrolling those students. While districts have flexibility in how they allocate S&C funds, these targeted dollars must be allocated to “increase or improve services for unduplicated pupils as compared to the services provided to all pupils.”⁵

Although proportionality may be demonstrated qualitatively (growth in quality, i.e., improvement in services) or quantitatively (growth in quantity, i.e., increase in services), the demonstration must show how the cumulative increase and improvement in services meets a quantitative threshold, which is the minimum proportionality percentage, or MPP.⁶ Neither the statute nor regulations permit LEAs to shirk their proportionality obligation, which is a condition of funding, nor does that obligation disappear after the fiscal year ends. Similarly, the LCAP template appropriately requires LEAs to describe how they are meeting their annual MPP for the present LCAP year, but that does not extinguish LEAs’ mandatory duty to further increase or improve services by the requisite MPP shortfall from prior years if it failed to do so in those fiscal years.

In its response to Complainants’ UCP complaint, the District flippantly states that it transferred unused S&C funds to its Special Reserve Fund 17 allocations—which, as defined under Education Code Sections 42842 and 42840, is a storage place for general fund moneys used for general operating purposes other than capital outlay. While LCFF affords school districts with some measure of local control, as discussed, it nonetheless has important conditions, namely, the obligation to increase or improve services to unduplicated pupils by the MPP. Like Title I funds, if a school district fails to satisfy the conditions that run with the funding to support high-need students, it must return them.⁷ Nevertheless, the District admits to storing S&C funds in a nebulous general operating fund reserve.

a. AB 1835 clarifies existing law and does not absolve AVUHSD of its responsibility to utilize carryover funds for high needs students.

AB 1835 and the 2022-2023 LCAP Template create specific requirements to carry over unused S&C funds and incorporate any such funds in the MPP percentage. However, AB 1835 merely clarified existing law that districts’ proportionality obligations must be met—in whichever year an LEA meets them—and sought to provide a standardized mechanism by

⁵ 5 Cal Code Regs. § 15496(a).

⁶ See 5 Cal. Code Regs. § 15496

⁷ See *Bennett v. Kentucky Dep’t of Educ.*, 470 U.S. 656, 673-74 (1985); *State of Cal., Dep’t of Educ. v. Bennett*, 833 F.2d 827, 829, 831-32 (9th Cir. 1987); see also *O’Connell v. Super. Ct.*, 141 Cal. App. 4th 1452, 1475 (2006) (affirming the prohibition on “diverting unspent funds from money that the Legislature had previously appropriated for specific purposes”).

which the state, counties, and LEAs could track the increase/improve obligation. This law does not exculpate LEAs, like AVUHSD, who have misused and misappropriated carryover funds.

As Governor Newsom noted, he did not disagree with the notion that S&C funds must be expended on services for high-need students and that that obligation continues beyond the year in which the S&C funds are allocated.⁸ Rather, his concerns centered on how to implement a systemic solution to ensure that counties and LEAs account for carried over S&C funds and properly use them to meet goals for high-need students.

For these reasons, Complainants request that CDE order the District to reallocate any underspent and misappropriated S&C funds towards services for unduplicated pupils.

ii. Overspending of S&C Funds

Complainants outline 18 LCAP action items for which the District overspent millions of dollars in S&C funding. The District provides no explanation for significant overages of S&C funds in its complaint response.

These action items in contention are:

- **Goal 1, Action 1:** Provide students the opportunity to visit colleges and universities. (\$2,339 in overspending).
- **Goal 1, Action 9:** Add additional staff to administer and monitor ELPAC outcomes. (\$54,486 in overspending).
- **Goal 1, Action 15:** Designated English Learner staff to monitor academic progress of all Reclassified Fluent English Proficient (“RFEP”) students for 4 years after reclassifications including the addition of regional staff to ensure equitable practices. (\$63,231 in overspending).
- **Goal 1, Action 18:** Provide “Naviance” software to students to improve College and Career readiness. (\$9,424 in overspending).
- **Goal 2, Action 2:** Augment guidance services to ensure that students have multiple opportunities for academic, collegiate, professional and personal growth. This includes the addition of four full-time social workers. (\$314,366 in overspending).
- **Goal 2, Action 3:** Increase professional development opportunities using both internal and external expertise to further the development of Common Core State Standard curriculum. (\$773,121 in overspending).

⁸ <https://edsources.org/2021/gov-newsom-calls-for-closing-big-loophole-in-school-funding-for-high-needs-students/648406>

- **Goal 2, Action 7:** Professional development for staff to engage in facilitated interdepartmental and cross-curricular lesson design to improve student achievement on Next Generation Assessments. (\$27,418 in overspending).
- **Goal 2, Action 9:** The revised 9th grade AVID Health Survey/Healthful Living curriculum will be implemented. (\$25,135 in overspending).
- **Goal 2, Action 10:** Expand technology infrastructure (including enhanced staffing), wireless capacity, and online access and lower student to device ratio. (\$275,564 in overspending).
- **Goal 2, Action 14:** Provide students with opportunities to take enrichment courses above and beyond their 6 period day through a virtual platform. (\$123,265 in overspending).
- **Goal 2, Action 15:** Expand infrastructure to implement and monitor 21st century learning environments and enhancements. (\$1,448,458 in overspending).
- **Goal 3, Action 5:** Enroll in “LinkedIn” account to recruit and retain teachers for programs targeted at our unduplicated students that are difficult to staff. (\$7,850 in overspending).
- **Goal 3, Action 9:** Hire a Director of Attendance/Chronic Absenteeism Intervention (\$1,370 in overspending).
- **Goal 3, Action 16:** Provide release periods at Comprehensive Sites for administrative interns to provide for a safer and more secure environment. (\$83,632 in overspending).
- **Goal 3, Action 17:** Add administrative support to each comprehensive site to monitor additional actions contained within Goal #3 (Certificated and Classified staff). (\$84,632 in overspending).
- **Goal 3, Action 18:** Utilize Community Attendance Workers to improve attendance rates and lower chronic absenteeism. (\$33,235 in overspending).
- **Goal 3, Action 22:** Hire a Director of School Personnel to ensure safe and supportive learning environments. (\$4,172 in overspending.)
- **Goal 4, Action 2:** Use “Parent Link” system for messaging families (phone, text, and email), creating a digital app and coordinating social media. This should provide more information to families in multiple formats. (\$32,660 in overspending).

The District’s over-expenditures on each these 18 action items are unjustified because the District failed to articulate how any of these districtwide usages of S&C funds for the described action items (with the possible exception of Goal 1, Action 15 on RFEP academic progress) are principally directed towards, and effective in, meeting goals for unduplicated pupils as defined under Section 42238.07 of the Education Code and 5 Cal. Code Regs.

Section 15496(b). CDE has itself imposed more rigorous requirements on districts to justify districtwide expenditures of S&C funds:

An LEA describes how a service is principally directed to meeting the LEA's goals for unduplicated pupils when it explains in its LCAP how it considered factors such as the needs, conditions or circumstances of its unduplicated pupils, and how the service takes these factors into consideration (such as, for example, by the service's design, content, methods, or location). In addition, the description must explain how the LEA expects the service to support the LEA's conclusion that the service will be effective to meet the LCAP goals for its unduplicated pupils. When properly explained in the LCAP, it will be apparent how the LEA is acting to increase or improve services for unduplicated pupils, and why it has determined the services identified will be effective to achieve its goals for unduplicated pupils.⁹

On their face, the District's actions fail to meet the requirements of LCFF statutes as they are largely designed to increase administrative and staff capacity and build infrastructure across the District, and are not targeted in any way towards increasing and improving services for unduplicated pupils. The District also did not provide the requisite justifications for these expenditures as required by CDE.¹⁰

The District's overspending on these action items is thus unjustified and the usage of S&C funds for these underlying action items is invalid. The District should be ordered to redistribute these funds to measurably increase and improve services for unduplicated pupils.

II. Allegation 2: AVUHSD fails to articulate any goals for unduplicated pupils and numerically significant subgroups, as required by Education Code Section 52064.

AVUHSD failed to articulate any goals for numerically significant subgroups as required by Education Code Section 52064(b)(1) in its 2019-2020 and 2021-2022 LCAP.

A. The District's Response

The District admits that it does not include goals for numerically significant subgroups in its LCAP. The District primarily defends this failure by stating that it followed the state's LCAP template, that the Los Angeles County Office of Education ("LACOE") approved its LCAP, and that its LCAP is comparable to those of other large districts in the state. The District states that it referenced pupils with disabilities and homeless youth within the 2019-2020 and 2021-2022 LCAPs in its "Measuring and Reporting Results" and "Required Descriptions" sections. However, no goals for ethnic subgroups are in either LCAP.

B. Legal Argument

Numerically significant subgroups, as defined by Section 52052(a)(2) of the Education Code, include: (A) Ethnic subgroups; (B) Socioeconomically disadvantaged pupils; (C) English learners; (D) Pupils with disabilities; (E) Foster youth; and (F) Homeless youth. A numerically

⁹ Exhibit 3, CDE Decision on 2017 Fresno LCAP Complaint

¹⁰ *Id.*

significant subgroup, according to Section 52052(a)(3) of the Education Code, is one that consists of at least 30 pupils, or 15 pupils for foster youth or homeless youth.

As delineated in Complainants' UCP complaint, the Education Code unambiguously requires a description of annual goals for numerically significant subgroups in District LCAPs. Specifically, Education Code Section 52064(b) requires a district's LCAP to include:

A description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605, subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, subdivision (d) of Section 52060, or subdivision (d) of Section 52066, as applicable, and for any additional local priorities identified by the governing board of the school district, the county board of education, or in the charter school petition. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in subdivision (a) of Section 52052.

AVUHSD concedes that its LCAP does not include goals for numerically significant subgroups but maintains that it included reference to subgroups in its "Required Descriptions" and "Measuring and Reporting Results" sections of its LCAP. AVUHSD's response is indefensible.

First, the "Measuring and Reporting Results" section of LCAPs is a place where districts must, for each action being provided to an entire school, include an explanation of (1) how the needs of foster youth, English learners, and low-income students were considered first, and (2) how these actions are effective in meeting the goals for these students. By definition, this section of an LCAP does not contain specifically articulated goals. Instead, it is a place where districts justify districtwide expenditures of S&C funds.

Second, the "Measuring and Reporting Results" section of an LCAP is where districts measure progress on previously articulated goals. No specifically articulated goals are defined in these LCAP sections. The District cannot in good faith argue that cursory reference to subgroups in this section of LCAP fulfills the statutory requirements to create goals for numerically significant subgroups, as articulated under Section 52064(b) of the Education Code.

Furthermore, while the District maintains that it references ethnic subgroups in these two subsections of the LCAP, Black and Latinx students are not specifically mentioned in any way in either LCAP year. In fact, the only reference to Black students was on page 3 of the AVUHSD LCAP, where the District makes cursory reference to equity and performance gaps experienced by Black students. That deficit, however, is not addressed in any manner in the District's LCAP.

Finally, the District cannot hide behind adherence to the LCAP template's facial requirements as a justification for noncompliance with LCFF statutes, nor can it hide behind LACOE's approval of its LCAP. CDE has found that multiple COE-approved LCAPs have failed to meet statutory and regulatory LCFF requirements.¹¹ Moreover, CDE recently found that the San

¹¹ See Exhibit 3, and Exhibit 4, CDE Decision on SBCOE LCAP Approvals

Bernardino County Office of Education was impermissibly approving multiple noncompliant district LCAPs.¹² Accordingly, the District's arguments as to this allegation are nonstarters and should be discounted.

III. **Allegation 3: AVUHSD continually fails to describe how allocations of S&C funds are principally directed towards and effective in meeting goals for unduplicated pupils, in violation of 5 Cal. Code Regs. § 15496.**

Complainants identify 24 action items and corresponding districtwide S&C fund expenditures in AVUHSD's 2019-2020 LCAP where the District has failed to meet the requirements of 5 Cal. Code Regs. Section 15496.

- **Goal 1, Action 7 (1.7a)** – Reduce class sizes - \$41,907
- **Goal 1, Action 8 (1.7b)** – Reduce class sizes - \$41,907
- **Goal 1, Action 9 (1.8)** – Additional staff for ELPAC outcome monitoring - \$186,404
- **Goal 1, Action 17 (1.14)** – Credit recovery - \$3,369,985
- **Goal 1, Action 18 (1.15)** – Software for “College and Career readiness” - \$98,000
- **Goal 1, Action 19 (1.16)** – Hiring for Computer Science Coordinator - \$153,435
- **Goal 1, Action 20 (1.17)** – Instructional materials - \$1,003,102
- **Goal 2, Action 17 (2.17)** – NGSS Teacher on Assignment - \$114,006
- **Goal 3, Action 1 (3.1)** – Increase staff and student awareness of diversity - \$536,059
- **Goal 3, Action 5 (3.4b)** – Enroll in “LinkedIn” - \$20,000
- **Goal 3, Action 6 (3.4c)** – Recruit and retain staff - \$102,028
- **Goal 3, Action 15 (3.13)** – Staff to ensure positive learning environment - \$1,210,13
- **Goal 3, Action 16 (3.14)** – Release periods for safer environment - \$364,512
- **Goal 3, Action 17 (3.15)** – Additional administrative support - \$2,021,227
- **Goal 3, Action 18 (3.16)** – Community Attendance Worker - \$847,176
- **Goal 3, Action 20 (3.18)** – Expenses and actions for unduplicated students - \$2,114,207
- **Goal 3, Action 21 (3.19)** – Transportation - \$2,200,000

¹² Exhibit 4.

- **Goal 3, Action 22 (3.20)** – Hire Director of School Personnel - \$189,295
- **Goal 3, Action 23 (3.21)** – Contract with Sheriff - \$1,700,000
- **Goal 3, Action 24 (3.22)** – PBIS Coordinator – \$157,583

A. The District’s Response

The District avers that the delineated expenditures were appropriate because (1) the District adhered to the template adopted by the California State Board of Education; (2) the District’s 2019-2020 and 2020-2021 LCAPs contained a section labeled “Demonstration of Increased or Improved Services for Unduplicated Pupils”; and (3) the District’s 2020-2021 LCAP contained a subsection labeled “Required Description,” which included a description for how LEA-wide uses of funding would be principally directed towards, or effective in meeting, the District’s goals for unduplicated pupils during the 2021-2022 school year.

B. Legal Argument

With respect to the first argument, again, the District cannot rely on superficial adherence to CDE’s LCAP template to absolve itself of its statutory obligations.

Second, the District’s explanations provided in the “Demonstration of Increased or Improved Services” sections fail to meet the statutory requirements delineated in Education Code Section 42238.07 and 5 Cal. Code Regs. 15946 *et. seq.* With respect to each of the identified expenditures, the District provided no justification at all as to how these expenditures were principally directed towards and effective in meeting goals for unduplicated pupils.

In its February 13, 2019 decision on the Klamath Trinity Joint Unified School District LCAP appeal, CDE echoed its 2017 Fresno UCP decision and again reiterated the requirements for justifications of districtwide expenditures of S&C funds:

To provide the required justification for services provided on a “wide” basis, an LEA must distinguish between services directed toward unduplicated students based on that status, and services available to all students without regard to their status as unduplicated students or not. An LEA describes how a service is principally directed to meeting the LEA’s goals for unduplicated students in any state or local priorities when it explains in its LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated students, and how the service takes these factors into consideration (such as, for example, by the service’s design, content, methods, or location)... In addition, the description must explain how the service will be effective in meeting the LCAP goals for its unduplicated students. An LEA meets this requirement by providing in the LCAP an explanation of how it believes the action/service will help achieve one or more of the expected outcomes for the goal. Conclusory statements that an action/service will help achieve an expected outcome for the goal, without further explanation as to how, are not sufficient.¹³

In its LCAP, AVUHSD consistently fails to explain how its districtwide investment of supplemental and concentration funds considers the particular needs of targeted students, and instead relies on the incorrect assumption that these funds are justified if high need students benefit. High need students should benefit from all investments by the district, but

¹³ Exhibit 5, CDE Decision on Klamath Trinity Joint Unified LCAP, pp. 11-12

supplemental and concentration funds are designed to increase and improve services for these students above the services all students receive.

In fact, the District makes no attempt to demonstrate effectiveness on the expenditures identified above. For expenditures that were identified in the “Demonstration of Increased or Improved Services” sections, the District’s explanations are too often cursory and conclusory. For most actions, the District does not even attempt to establish the effectiveness of its expenditures on high needs students. On occasion, the district makes a nod to its obligation to demonstrate effectiveness by referring to unconnected, heavily repeated, and vaguely relevant statistics or makes unsupported statements such as “AVUHSD understands the effectiveness of this action as indicated by the following outcomes: Basics- teacher- Local Indicator-standard met-2020.”¹⁴

For these reasons, the CDE should find that the expenditures at issue were impermissible uses of S&C funds.

IV. Allegation 4: AVUHSD’s Expenditure of S&C Funds on Sheriff Contract

AVUHSD earmarks 1.7 million dollars in S&C funds on its Sheriff’s contract in Goal 3, Action 23 of its 2019-2020 LCAP. AVUHSD rationalizes this expenditure by stating: “This improved service is a contract with the Los Angeles County Sheriff’s Department to provide a deputy at each campus. This service goes above and beyond what is required and can significantly contribute to a safer and more secure learning environment.”

A. The District’s Response

The District maintains that it was not prohibited from expending S&C funds on law enforcement during the 2019-2020 school year, but it has since been advised by LACOE that school districts within LACOE’s jurisdiction may not spend S&C funds on contracts with law enforcement.

B. Legal Argument

The District’s justification for the use of S&C funds on its law enforcement contract is simply that this service “goes above and beyond what is required.” This justification is a tautology and reflects the District’s absolute failure to consider “the needs, conditions, or circumstances of its unduplicated students” in determining appropriate uses of S&C funds, as required by CDE.¹⁵

While LACOE may not have explicitly prohibited its resident districts from using S&C funds in 2019-2020, AVUHSD was still legally obligated to follow the requirements of Education Code 42238.07 and 5 Cal. Code Regs. 15946 *et. seq* to justify districtwide expenditures of S&C funds, which it has failed to do. Additionally, prior to the 2019-2020 school year, CDE had found the usage of S&C funds on law enforcement impermissible.¹⁶

¹⁴ AVUHSD LCAP 2021-2022, starting at pp 16.

¹⁵ Exhibit 3

¹⁶ Exhibits 3

Moreover, as laid out in Complainants' underlying UCP complaint, the Sheriff's Department has a well-documented history of violence and cruelty towards Black students and students with disabilities, a significant number of whom are low-income students and fall into the LCFF unduplicated count. The AVUHSD cannot in good faith argue that its usage of S&C funds on law enforcement measurably increased or improved services for unduplicated pupils.

The CDE should find the District's 1.7-million-dollar expenditure of LCFF funds invalid and require the District to redirect those funds towards refined and measurably increased and improved services for unduplicated pupils.

V. Allegation 5: AVUHSD's LCAP lacks transparency regarding the use of S&C funding.

AVUHSD's LCAP does not allow interest holders to determine how the District is using its S&C grant funds. This violates LCFF's transparency requirements and makes it impossible to assess the nature, legality, and effectiveness of services funded by these funds, in violation of its responsibility to describe specific actions and associated expenditures and to identify and justify districtwide and school wide uses of supplemental and concentration funds as required under 5 Cal. Code Regs. Section 15496.

A. The District's Response

The District, again, counters that its LCAP followed CDE's template. It also describes the actions it took to solicit feedback from the public on its LCAP.

B. Legal Argument

As set forth above, the District's argument regarding its purported (but disputed) compliance with the LCAP template is a nonstarter. CDE should discount this defense as LCFF statutes and regulations require more than surface-level adherence to the template.

Moreover, irrespective of the legitimacy or effectiveness of the District's interest holder outreach, the District's use of S&C expenditures remains opaque and indiscernible, especially in light of the significant, unexplained millions of dollars of over-expenditures and shortfalls in S&C funding. For example, as laid out in Allegation 1, the District admitted to transferring S&C funds into a funding reserve, which was never disclosed to the public in the LCFF interest holder engagement process. The District's occlusion of its intended uses of S&C funds for high needs students therefore violates LCFF transparency requirements and deprives the public of its right to meaningfully participate in the LCAP process.

Conclusion

For the reasons set forth above, the CDE should find in favor of Complainants on each allegation and order the requested relief outlined in Complainants' UCP complaint.¹⁷

¹⁷ Exhibit 1, pp. 11-12

Sincerely,



Sahar Durali
Chelsea Helena
Neighborhood Legal Services of Los Angeles County



Alexandra Santa Ana
Mona Tawatao
Equal Justice Society

Exhibit 1

Feb 9, 2022, LCAP Complaint



February 9, 2022

Greg Nehen, Superintendent
Antelope Valley Union High School District
44811 North Sierra Highway
Lancaster, CA 93534

Sent via U.S. Mail and email (gnehen@avhsd.org)

RE: UCP complaint regarding Antelope Valley Union High School District's failure to comply with legal requirements governing the Local Control Accountability Plan

Dear Superintendent Nehen,

Neighborhood Legal Services of Los Angeles County ("NLSLA") and Equal Justice Society ("EJS") submit this complaint regarding the Antelope Valley Union High School District's ("AVUHSD" or "District") failure to comply with the legal requirements pertaining to its Local Control Accountability Plan ("LCAP"). This complaint is submitted on behalf of our clients, AVUHSD parent Diana Padilla and Cancel the Contract-Antelope Valley, a project of Reform LA Jails.

Currently, the District's LCAP fails to meet the basic legal requirements of the statutes and regulations governing the LCAP under the Local Control Funding Formula ("LCFF"). As explained in more detail below, the District fails to explain large discrepancies in its budgeted versus estimated actual expenditures of supplemental and concentration grant ("S&C") funding for the 2019-2020 school year and fails to adequately justify several key allocations of S&C funding for the 2021-2022 school year. The District also fails to describe its annual goals for unduplicated pupils and numerically significant pupil subgroups including, but not limited to, low-income students, Black students, homeless students and/or foster youth as required by Section 52064 of the California Education Code. The District also fails to meet its obligation to proportionately increase or improve services for high-needs students as required by 5 CCR § 15496.

I. AVUHSD's LCAP indicates significant shortfalls and overspending in budgeted v. estimated actual spending in several actions supported by S&C funding in 2019-2020.

The table below identifies several actions in which the District has indicated a significant shortfall with respect to budgeted items that are presumed to use S&C funding, as they are directed towards serving one or all of the three high needs student groups identified and targeted for S&C funds in LCFF legislation: foster youth, English learners, and low-income students.

AVUHSD LCAP ANNUAL UPDATE		
ACTION	BUDGETED V. ESTIMATED ACTUAL	SHORTFALL
Goal 1, Action 2: Administer PSAT for all students grades 9, 10, and 11 and administer SAT to all 11 th grade students as an indication of college readiness.	S&C Funds Budgeted: \$478,786 S&C Estimated Actual: \$10,399	\$468,387
Goal 1, Action 3: Provide new Curriculum Coordinator to focus on writing across all subject areas.	S&C Funds Budgeted: \$140,079 S&C Estimated Actual: \$0	\$140,079
Goal 1, Action 4: Send requisite number of teachers to summer AP training to maintain appropriate levels of qualified staffing.	S&C Funds Budgeted: \$220,000 S&C Estimated Actual: \$15,753	\$204,247
Goal 1, Action 5: Expand tutoring and remediation options outside of the regular school day to enhance academic support for all students.	S&C Funds Budgeted: \$761,882 S&C Estimated Actual: \$188,181	\$573,701
Goal 1, Action 7: Reduce class sizes to a 25:1 ratio for intensive ELA and literacy support classes.	S&C Funds Budgeted: \$41,907 S&C Estimated Actual: \$0	\$41,907
Goal 1, Action 8: Reduce class sizes to a 25:1 ratio for intensive Algebra and support classes.	S&C Funds Budgeted: \$41,907 S&C Estimated Actual: \$17,672	\$24,235
Goal 1, Action 16: Three additional professional development days per teacher focused on best practices for low income, English learner, and foster youth student achievement.	S&C Funds Budgeted: \$1,873,685 S&C Estimated Actual: \$1,424,473	\$449,212
Goal 1, Action 17: Provide above and beyond alternative means for students to recapture credits after unsuccessful attempts above and beyond core services and what is offered.	S&C Funds Budgeted: \$3,369,985 S&C Estimated Actual: \$2,253,979	\$1,116,006
Goal 1, Action 20: Provide ancillary instructional materials, beyond the core, to increase and improve interactivity at the classroom level.	S&C Funds Budgeted: \$1,003,102 S&C Estimated Actual: \$553,876	\$449,226
Goal 2, Action 4: Utilize "DigiCOACH" classroom walk-through tool to gather evidence about Common Core implementation, 21 st Century teaching practices and best practices for targeted students for coaching purposes.	S&C Funds Budgeted: \$23,970 S&C Estimated Actual: \$0	\$23,970
Goal 2, Action 5: Utilize external professional development to build the capacity of teachers and school leadership to ensure the effective implementation of Common Core and NGSS.	S&C Funds Budgeted: \$405,293 S&C Estimated Actual: \$315,965	\$89,328
Goal 2, Action 6: Increase the number of students who pass an AP exam with a score of 3 or better. This will include increasing access for students to take the AP exam.	S&C Funds Budgeted: \$664,688 S&C Estimated Actual: \$553,048	\$111,640

Goal 2, Action 8: Increase number of academy and pathway options and offerings available.	S&C Funds Budgeted: \$53,245 S&C Estimated Actual: \$29,253	\$23,992
Goal 2, Action 11: Conduct site, regional, and district-wide STEM based expositions.	S&C Funds Budgeted: \$32,730 S&C Estimated Actual: \$11,382	\$21,348
Goal 2, Action 13: Provide a director who will focus on "Linked Learning" initiatives and creating concurrent enrollment above and beyond what already may exist.	S&C Funds Budgeted: \$180,931 S&C Estimated Actual: \$172,627	\$8,304
Goal 2, Action 16: Enhance staffing and infrastructure to improve data systems that provide students, teachers, parents and administrators with timely information to provide proactive resources.	S&C Funds Budgeted: \$272,393 S&C Estimated Actual: \$205,961	\$66,432
Goal 2, Action 17: Provide a teacher on assignment to work with staff on Next Generation Science Standards (NGSS) to assist unduplicated students in finding success in the sciences.	S&C Funds Budgeted: \$114,006 S&C Estimated Actual: \$0	\$114,006
Goal 3, Action 1: Increase staff and student awareness of our diverse student and community populations.	S&C Funds Budgeted: \$537,059 S&C Estimated Actual: \$295,576	\$240,483
Goal 3, Action 6: Provide incentives to recruit and retain hard to staff programs directed at targeted student groups.	S&C Funds Budgeted: \$102,028 S&C Estimated Actual: \$4,348	\$97,680
Goal 3, Action 10: Increase average daily attendance through increased contact with parents.	S&C Funds Budgeted: \$135,000 S&C Estimated Actual: \$130,900	\$4,100
Goal 3, Action 11: Support MTSS framework with At-Risk Coordinators.	S&C Funds Budgeted: \$895,370 S&C Estimated Actual: \$612,631	\$282,739
Goal 3, Action 13: Reduce suspension rates through implementation and support of Positive Behavior Intervention and Support (PBIS) strategies. Reduce suspension rates through implementation of PBIS strategies.	S&C Funds Budgeted: \$354,188 S&C Estimated Actual: \$323,944	\$30,244
Goal 3, Action 14: Expand professional development opportunities for classified staff.	S&C Funds Budgeted: \$101,616 S&C Estimated Actual: \$743	\$100,873
Goal 3, Action 15: Additional staff to ensure a positive learning environment.	S&C Funds Budgeted: \$1,210,130 S&C Estimated Actual: \$1,176,541	\$33,589
Goal 3, Action 20: The district and sites will be given an allocation to account for expenses/actions that arise from the following themes and which are principally directed to unduplicated students: - College trips -Tutoring/Remediation -Professional Development and Training -EL Services -STEM Expos -Parent Engagement Activities -Additional staffing to meet the needs of targeted students -	S&C Funds Budgeted: \$2,114,207 S&C Estimated Actual: \$782,347	\$1,331,860

Curriculum and Assessment directed at improving achievement of targeted students.		
Goal 3, Action 21: Transportation will be provided to students, above and beyond what is required, who need assistance getting to school or to school events.	S&C Funds Budgeted: \$2,200,000 S&C Estimated Actual: \$2,179,757	\$20,243
Goal 3, Action 23: Add a contract with the Los Angeles County Sheriff Department to increase safety in order to enhance and improve school learning environments.	S&C Funds Budgeted: \$1,700,000 S&C Estimated Actual: \$1,422,143	\$277,857
Goal 3, Action 24: Add Coordinator of Student Services to improve PBIS implementation at the school sites.	S&C Funds Budgeted: \$157,583 S&C Estimated Actual: \$0	\$157,583
Goal 4, Action 1: Use data/analytics platform "Qualtrix" to better communicate important information to students, parents, teachers, and administration.	S&C Funds Budgeted: \$135,000 S&C Estimated Actual: \$120,531	\$14,469
Goal 4, Action 3: Conduct college information, goal setting and financial aid workshops for non-English speaking parents of English Learner students.	S&C Funds Budgeted: \$102,045 S&C Estimated Actual: \$68,712	\$33,333
Goal 4, Action 5: Increase contact and interaction with students' parents/guardians of targeted groups through technology, face-to-face meetings and workshops intended to foster parent involvement.	S&C Funds Budgeted: \$291,791 S&C Estimated Actual: \$209,118	\$82,673
Goal 4, Action 6: Employ a Director of Communications to better engage the families and community partners of the District and individual schools.	S&C Funds Budgeted: \$196,249 S&C Estimated Actual: \$0	\$196,249
Goal 4, Action 8: Utilize various agencies to better communicate and market programs and services that are directed at unduplicated students.	S&C Funds Budgeted: \$174,451 S&C Estimated Actual: \$30,953	\$143,498

In total, there is a shortfall of \$6,974,913. There is no explanation for this multi-million-dollar shortfall or any statement indicating how these S&C funds were ultimately allocated or will be allocated for foster youth, English learners, and/or low-income students. It is not possible to tell from AVUHSD's descriptions where the money allocated to these students has been re-directed or used on their behalf. There is no accounting whether or how the S&C funds were in fact used to increase or improve services for unduplicated pupils, and no indication of whether the funds were or will be re-allocated for their legislatively mandated purpose. It is also alarming that the district spent less than 65% of the total funds budgeted for improving school culture in 2019-2020.

The following table identifies several actions for which the District spent significant S&C funds in excess of what was budgeted for the 2019-2020 school year.

AVUHSD LCAP ANNUAL UPDATE		
ACTION	BUDGETED V. ESTIMATED ACTUAL	OVERSPENDING
Goal 1, Action 1: Provide students the opportunity to visit colleges and universities.	S&C Funds Budgeted: \$26,387 S&C Estimated Actual: \$28,726	\$2,339
Goal 1, Action 9: Add additional staff to administer and monitor ELPAC outcomes.	S&C Funds Budgeted: \$186,404 S&C Estimated Actual: \$240,890	\$54,486
Goal 1, Action 15: Designated English Learner staff to monitor academic progress of all Reclassified Fluent English Proficient (RFEP) students for 4 years after reclassifications including the addition of regional staff to ensure equitable practices.	S&C Funds Budgeted: \$1,283,610 S&C Estimated Actual: \$1,346,841	\$63,231
Goal 1, Action 18: Provide "Naviance" software to students to improve College and Career readiness.	S&C Funds Budgeted: \$98,000 S&C Estimated Actual: \$107,424	\$9,424
Goal 2, Action 2: Augment guidance services to ensure that students have multiple opportunities for academic, collegiate, professional and personal growth. This includes the addition of four full-time social workers.	S&C Funds Budgeted: \$7,627,903 S&C Estimated Actual: \$7,942,269	\$314,366
Goal 2, Action 3: Increase professional development opportunities using both internal and external expertise to further the development of Common Core State Standard curriculum.	S&C Funds Budgeted: \$1,312,948 S&C Estimated Actual: \$2,086,069	\$773,121
Goal 2, Action 7: Professional development for staff to engage in facilitated interdepartmental and cross-curricular lesson design to improve student achievement on Next Generation Assessments.	S&C Funds Budgeted: \$326,903 S&C Estimated Actual: \$354,321	\$27,418
Goal 2, Action 9: The revised 9 th grade AVID Health Survey/Healthful Living curriculum will be implemented.	S&C Funds Budgeted: \$924,693 S&C Estimated Actual: \$949,828	\$25,135
Goal 2, Action 10: Expand technology infrastructure (including enhanced staffing), wireless capacity, and online access and lower student to device ratio.	S&C Funds Budgeted: \$3,482,239 S&C Estimated Actual: \$3,757,803	\$275,564
Goal 2, Action 14: Provide students with opportunities to take enrichment courses above and beyond their 6 period day through a virtual platform.	S&C Funds Budgeted: \$964,438 S&C Estimated Actual: \$1,087,703	\$123,265
Goal 2, Action 15: Expand infrastructure to implement and monitor 21 st century learning environments and enhancements.	S&C Funds Budgeted: \$480,249 S&C Estimated Actual: \$1,928,707	\$1,448,458
Goal 3, Action 5: Enroll in "LinkedIn" account to recruit and retain teachers for programs targeted at our unduplicated students that are difficult to staff.	S&C Funds Budgeted: \$20,000 S&C Estimated Actual: \$27,850	\$7,850
Goal 3, Action 9: Hire a Director of Attendance /Chronic Absenteeism Intervention.	S&C Funds Budgeted: \$203,592 S&C Estimated Actual: \$204,962	\$1,370

Goal 3, Action 16: Provide release periods at Comprehensive Sites for administrative interns to provide for a safer and more secure environment.	S&C Funds Budgeted: \$364,512 S&C Estimated Actual: \$448,299	\$83,787
Goal 3, Action 17: Add administrative support to each comprehensive site to monitor additional actions contained within Goal #3 (Certificated and Classified Staff).	S&C Funds Budgeted: \$2,021,227 S&C Estimated Actual: \$2,105,859	\$84,632
Goal 3, Action 18: Utilize Community Attendance Workers to improve attendance rates and lower chronic absenteeism.	S&C Funds Budgeted: \$847,176 S&C Estimated Actual: \$880,411	\$33,235
Goal 3, Action 22: Hire a Director of School Personnel to ensure safe and supportive learning environments.	S&C Funds Budgeted: \$189,295 S&C Estimated Actual: \$193,467	\$4,172
Goal 4, Action 2: Use "Parent Link" system for messaging families (phone, text, and email), creating a digital app and coordinating Social Media. This should provide more information to families in multiple formats.	S&C Funds Budgeted: \$32,450 S&C Estimated Actual: \$65,110	\$32,660

Overall, as indicated in the table above, AVUHSD's estimated actual expenditures of S&C funds are in excess of \$3,264,513 of what was budgeted for in 2019-2020. Again, no explanation is provided for these significant over-expenditures of S&C funds, which must be used to increase or improve services for unduplicated pupils.

These excessive expenditures are particularly troubling because they are mainly for basic services that could be paid for by other funds. In particular, expanding infrastructure, staff recruitment, and improving attendance are expenses that are attendant to baseline educational services. AVUHSD has failed to articulate how these additional S&C funds are being used to increase or improve services on behalf of low-income students, English learners, and/or foster youth, and has similarly failed to demonstrate how, if at all, the funding is principally directed towards, and effective in meeting goals for these students.

After accounting for all budget shortfalls and overages in AVUHSD's LCAP Actions, there is a total shortfall of \$3,610,400 from the \$40,644,167 of S&C funds that were budgeted in 2019-2020. This sizeable carry-over is not accounted for in the 2021-2022 LCAP outside of a vague and legislatively insufficient mention in Goal 2, Action 12, which states:

"Mini-grants will be made available to school sites to support innovative initiatives that are likely to enhance experiences and opportunities principally directed towards unduplicated student groups. Dollars devoted to these grants may include Targeted **carry-over** from prior years to ensure services go to appropriate student groups. Grants will be awarded based on justification, need, available resource and innovation."

There are no funds attached to this Goal/Action, and no further explanation documenting how these "mini-grants" will target appropriate student groups or how much carry over will be used in furtherance of this goal, in violation of 5 CCR § 15496.

2. AVUHSD fails to articulate any goals for unduplicated pupils and numerically significant pupil subgroups as required by Educ. Code § 52064.

Education Code § 52064(b)(1) requires a district's LCAP to include:

A description of the annual goals, **for all pupils and each subgroup of pupils identified pursuant to Section 52052**, to be achieved **for each of the state priorities** identified in subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605, subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, subdivision (d) of Section 52060, or subdivision (d) of Section 52066, as applicable, and for any additional local priorities identified by the governing board of the school district, the county board of education, or in the charter school petition. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in subdivision (a) of Section 52052.

Numerically significant subgroups, as defined by Section 52052(a)(2) of the Education Code, include: (A) Ethnic subgroups; (B) socioeconomically disadvantaged pupils; (C) English learners; (D) Pupils with disabilities; (E) Foster youth; (F) Homeless youth. A numerically significant subgroup, according to Section 52052(a)(3) of the Education Code, is one that consists of at least 30 pupils, or 15 pupils for foster youth or homeless youth.

There are no annual goal statements in the 2019-2020 or 2021-2022 AVUHSD LCAP for any of the pupil groups identified in Section 52052 of the Education Code. There are zero goals for ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, or homeless youth despite the fact that all of these groups constitute numerically significant pupil subgroups for the Antelope Valley Union School District. For example, during the 2019-2020 school year, AVUHSD had 3,750 Black students, making up over 16% of its total student population, and 14,438 Latinx students, representing 64% of all students. Additionally, 61 students identified as American Indian or Alaska Native, 615 identified as Asian, Filipino, or Pacific Islander, and 1,043 identified as having two or more races. Over 16,700 students in AVUHSD are socio-economically disadvantaged, 2,033 are English learners, 2,879 are students with disabilities, 425 are foster youth, and 184 are experiencing homelessness.

AVUHSD's LCAP fails to identify goals that would measure any improvement expected to result from allocations of LCAP funds. Without specific annual goals to address the unique academic needs of these numerically significant pupil subgroups, the District cannot meaningfully track or improve outcomes for these students. Of particular concern is the lack of goals for Black students, students with disabilities, homeless students, and foster youth as the indicators for these student groups were at the lowest ranking levels in every reported indicator.

3. AVUHSD continually fails to describe how allocations of S&C funds are principally directed towards and effective in meeting the goals for unduplicated pupils in violation of 5 CCR § 15496.

While districts have flexibility in how they allocate S&C funds, the money must be allocated to “increase or improve services for unduplicated pupils as compared to the services provided to all pupils.” 5 CCR § 15946. “[T]o increase or improve services” means “to grow services in quality [or] quantity,” and districts must demonstrate this growth in their LCAP in addition to demonstrating how the funds “are principally directed towards, and are effective in, meeting the district’s goals for its unduplicated pupils.” 5 CCR § 15946(b)(1)(B). AVUHSD fails to adequately identify an increase or improvement in the overwhelming majority of actions which use districtwide S&C funds.

In its 2021-2022 LCAP, AVUHSD has budgeted \$42,570,718 in S&C funds, however there are several key Actions for which the District fails to include language describing how LEA-wide uses of this funding will be principally directed towards, or effective in meeting, the District’s goals for unduplicated pupils in 24 key Actions, as required by 5 CCR § 15946(b)(1)(B).

According to its 2019-2020 LCAP, AVUHSD budgeted LEA-wide S&C expenditures for the following actions:

- Goal 1, Action 7 (1.7a) – Reduce class sizes - \$41,907
- Goal 1, Action 8 (1.7b) – Reduce class sizes - \$41,907
- Goal 1, Action 9 (1.8) – Additional staff for ELPAC outcome monitoring - \$186,404
- Goal 1, Action 17 (1.14) – Credit recovery - \$3,369,985
- Goal 1, Action 18 (1.15) – Software for “College and Career readiness” - \$98,000
- Goal 1, Action 19 (1.16) – Hiring for Computer Science Coordinator - \$153,435
- Goal 1, Action 20 (1.17) – Instructional materials - \$1,003,102
- Goal 2, Action 17 (2.17) – NGSS Teacher on Assignment - \$114,006
- Goal 3, Action 1 (3.1) – Increase staff and student awareness of diversity - \$536,059
- Goal 3, Action 5 (3.4b) – Enroll in “LinkedIn” - \$20,000
- Goal 3, Action 6 (3.4c) – Recruit and retain staff - \$102,028
- Goal 3, Action 15 (3.13) – Staff to ensure positive learning environment - \$1,210,130
- Goal 3, Action 16 (3.14) – Release periods for safer environment - \$364,512
- Goal 3, Action 17 (3.15) – Additional administrative support - \$2,021,227
- Goal 3, Action 18 (3.16) – Community Attendance Worker - \$847,176
- Goal 3, Action 20 (3.18) – Expenses and actions for unduplicated students - \$2,114,207
- Goal 3, Action 21 (3.19) – Transportation - \$2,200,000
- Goal 3, Action 22 (3.20) – Hire Director of School Personnel - \$189,295
- Goal 3, Action 23 (3.21) – Contract with Sheriff - \$1,700,000
- Goal 3, Action 24 (3.22) – PBIS Coordinator - \$157,583

- Goal 4, Action 1 (4.1) – Parent communication software - \$135,000
- Goal 4, Action 4 (4.4) – Contract with Spanish radio station - \$14,400
- Goal 4, Action 5 (4.5) – Technology for parent involvement - \$291,791
- Goal 4, Action 8 (4.8) – Marketing programs and services - \$174,451

None of these Actions are included in the LCAP section listing the required descriptions for Goals and Actions; therefore, AVUHSD's LCAP does not contain statements as to these Actions identifying the needs, conditions, or circumstances of unduplicated pupils or how services being provided by the Action will take these factors into consideration, in violation of 5 CCR § 15496.

Additionally, in order to justify services “provided on a ‘wide’ basis, the District must distinguish between services directed toward unduplicated pupils based on the status and services available to all pupils.”¹ School districts may not fund services with S&C funds that are, in fact, designed for and provided to all students regardless of circumstance or need. Because AVUHSD's LCAP neglected to include any required descriptions for the above Actions, AVUHSD has failed to justify its planned expenditures of S&C funds for 2021-2022 LCAP in a manner that is consistent with the requirements of 5 CCR § 15946.

4. AVUHSD's Expenditure of S&C Funds on Sheriff Contract

One particularly problematic and improper expenditure of S&C funds in AVUHSD's LCAP is allocating \$1,700,000 to a contract with the Los Angeles County Sheriff's Department, found in Goal 3, Action 23. AVUHSD designates contract with the Sheriff's Department as contributing to the increased and improved services requirement for high needs students, but it makes no effort to describe how this action is either principally directed or effective at meeting the needs of these students. This disbursement harms high needs students rather than increasing or improving services for them and is not tailored to the particular needs, conditions, or circumstances of high-need students.² As research and data consistently show, the presence of law enforcement is not effective in improving school climate or students' sense of safety.³ In fact, evidence shows that the presence of

¹ See California Department of Education (“CDE”) decision dated May 5, 2017 regarding a UCP complaint filed against the Fresno Unified School District based on violations of LCAP requirements. In its review of Fresno Unified's LCAP, CDE found that the District's conclusory statement that “the District is able to allocate services that are principally directed towards, and are effective in meeting the District's goals for its unduplicated pupils...” and “all districtwide and schoolwide actions and services have been developed based on the needs of all students as well” was inadequate without more:

“(A)n LEA describes how a service is principally directed to meeting the LEA's goals for unduplicated pupils when it explains in its LCAP how it considered factors such as the needs, conditions or circumstances of its unduplicated pupils, and how the service takes these factors into consideration... When properly explained in the LCAP, it will be apparent how the LEA is acting to increase or improve services for unduplicated pupils, and why it has determined the services identified will be effective to achieve its goals for unduplicated pupils.”

² See Emily Elena Dugdale, In the Antelope Valley, Sheriff's Deputies Settle Schoolyard Disputes. Black Teens Bear the Brunt, LAIST (Sept. 29, 2021), https://laist.com/news/criminal-justice/antelope-valley-schools-sheriffs-deputies-discipline-black-teens-bear-the-brunt?utm_campaign=20212909+School+Police+Racism&utm_medium=email&utm_source=sfmc_&utm_content=&utm_term=188728864.

³ See, e.g., ALEXIS STERN & ANTHONY PETROSINO, WHAT DO WE KNOW ABOUT THE EFFECT OF SCHOOL-BASED LAW ENFORCEMENT ON SCHOOL SAFETY? 2 (WestEd, 2018), <https://www.wested.org/wpcontent/uploads/2018/04/JPRC-Police->

law enforcement on school campuses disproportionately harms the high-needs students of color who are supposed to benefit from S&C funds under LCFF.⁴ Law enforcement expenditures are antithetical to the purpose of LCFF and should not be counted towards the increased and improved services requirement, especially when they come at the cost of positive students supports proven to close opportunity gaps for high needs students, including mental health support, counseling, and restorative justice and/or positive behavior intervention and support.⁵

AVUHSD's contract with the Los Angeles County Sheriff's Department assigns deputies as School Resource Officers at every single campus in the District. Contacts with law enforcement are highly racially disparate, with Black students accounting for more than 60% of deputy interactions and more than 50% of arrests despite making up less than 20% of enrollment.⁶ Because Black students are heavily overrepresented in foster youth and low income student populations—making up 31.9% of foster youth and 18% of low income students—consequences of racially-disproportionate numbers of police encounters impact the high-needs groups targeted by LCFF legislation.

5. AVUHSD's LCAP lacks transparency regarding the use of S&C funding.

Meaningful engagement of parents, students, and other stakeholders, including those representing and/or serving unduplicated pupils, is critical to the development of LCAP and the budget process. The current LCAP makes it impossible for anyone to determine how AVUHSD is using its S&C grant funds including what services and supports the S&C funding is expected to provide for unduplicated pupils on several key Actions (see above). The current LCAP does not provide sufficient information for stakeholders regarding how S&C funds are going to be used to increase and improve services for unduplicated pupils or how the funds are principally directed towards, and effective at, meeting the needs of unduplicated students this school year.

Stakeholders cannot meaningfully participate in developing, reviewing, and supporting implementation of the LCAP without information relevant to the services being provided to students. If it is not possible to tell how money is or is not being used, the most basic principle of being involved in its funding decisions is missing. Parents and other stakeholders cannot provide feedback about the Plan for students in their schools and District if significant information is obscured. The risk of AVUHSD using funding in a way that does not create effective outcomes for students and does not increase or improve services for unduplicated pupils is too great to not inform stakeholders properly.

Schools-Brief.pdf ("There is no conclusive evidence that the presence of school-based law enforcement has a positive effect on students' perceptions of safety in schools."); Emily K. Weisburst, *Patrolling Public Schools: The Impact of Funding for School Police on Student Discipline and Long-Term Education Outcomes*, U. OF TEXAS AUSTIN EDUC. RES. CTR. 3 (2018), <https://texaserc.utexas.edu/wp-content/uploads/2018/11/21-UTA034-BriefBPCAB-11.1.18.pdf> ("Police presence may create an adversarial school culture and alter the experience of attending school.")

⁴ See Nicole Gon Ochi, et al., *OUR RIGHT TO RESOURCES: SCHOOL DISTRICTS ARE CHEATING STUDENTS TO FUND LAW ENFORCEMENT* 26-27 (2020).

⁵ See Richard T. Lapan et al., *Connecticut Professional School Counselors: College and Career Counseling Services and Smaller Ratios Benefit Students*, 16(2) *PROF. SCH. COUNSELING* 117–24 (2012); see also Susan C. Whiston et al., *School Counseling Outcome: A Meta-Analytic Examination of Interventions*, 89 *J. OF COUNSELING & DEV.* 37–55 (2010) (establishing a strong connection between comprehensive counseling programs and the reduction of suspension rates and student discipline in secondary schools).

⁶ *Supra* note 2.

Remedy Requested

1. Investigate the discrepancies in budgeted versus actual spending of S&C funds for 2019-2020 and 2021-2022 and provide a report identifying:
 - a. For shortfalls, how S&C funds budgeted but not used were or will be re-allocated;
 - b. For overspending, why the additional spending of S&C funds was necessary and how those funds were used to increase or improve services as well as principally directed towards and effective in meeting the needs of unduplicated pupils.

2. Before adopting its 2022-2023 LCAP, the District must:
 - a. Review and revise the descriptions and justification for AVUHSD's 2019-2020 LCAP LEA-wide Actions, including:
 - i. Goal 1, Actions 7, 8, 9, 17, 18, 19, and 20
 - ii. Goal 2, Action 17
 - iii. Goal 3, Actions 1, 5, 6, 15, 16, 17, 18, 20, 21, 22, 23, and 24
 - iv. Goal 4, Actions 1, 4, 5, and 8;
 - b. Provide the required descriptions and justifications consistent with 5 CCR § 15496, and as further described by the California Department of Education;⁷
 - c. Specify annual goals for unduplicated pupils and numerically significant pupil subgroups as required by Educ. Code § 52064.

3. Present any revisions to AVUHSD's parent advisory committee, the English learner parent advisory committee, and members of the public in accordance with Educ. Code § 52062.
 - a. Consult with NLSLA and EJS regarding additional necessary outreach and effective stakeholder engagement for this year's LCAP cycle.

4. In the event there are such expenditures which cannot be described and justified as set forth in #3:
 - a. AVUHSD shall not include those expenditures, including law enforcement expenditures, in its estimate of prior year expenditures for unduplicated pupils that were in addition to what was expended for all pupils when it calculates the minimum proportion by which it must increase or improve services for unduplicated pupils in the 2022-2023 LCAP year. 5 CCR § 15946.
 - b. In addition, the District must exclude any such services included in its 2021-2022 LCAP from services that contribute to meeting the requirement to increase or

⁷ *Supra* note 1.

improve services for unduplicated pupils over services provided to all pupils in the LCAP year.

We are interested in working directly with you to resolve this complaint. Please contact Chelsea Helena at ChelseaHelena@nlsia.org or Alexandra Santa Ana at ASantaAna@equaljusticesociety.org with any questions.

Sincerely,



NEIGHBORHOOD LEGAL SERVICES OF LOS ANGELES COUNTY
Chelsea Helena
Sahar Durali
Attorneys for Diana Padilla



EQUAL JUSTICE SOCIETY
Alexandra Santa Ana
Mona Tawatao
Attorneys for Cancel the Contract

Exhibit 2

District Response and LEA Investigation Report

March 15, 2022

BOARD OF TRUSTEES

JILL MCGRADY

Via E-Mail

AMANDA L. PARRELL

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Personnel Services

BRIAN HAWKINS
Assistant Superintendent
Business Services

Alexandra Santa Ana
Equal Justice Society
Attorneys for Cancel the Contract
ASantaAna@equaljusticesociety.org

Re: February 9, 2022, Uniform Complaint; Investigation Report

Dear Ms. Helena and Ms. Santa Ana:

This correspondence constitutes the Antelope Valley Union High School District's ("District" or "AVUHSD") response to your February 9, 2022, Uniform Complaint ("Complaint"). In your Complaint, you alleged that the District did not comply with the legal requirements pertaining to its Local Control and Accountability Plan ("LCAP"). The District takes seriously its obligation to ensure compliance with all applicable state and federal laws and, as such, has conducted a prompt and thorough investigation into your Complaint.

This Investigation Report is being provided to you pursuant to the enclosed Board Policy ("BP") and Administrative Regulation ("AR") 1312.3, Uniform Complaint Procedures ("UCP") and Title 5 of the California Code of Regulations, section 4631.

Summary of Investigation

The District investigated this matter pursuant to the District's Uniform Complaint Procedures, as outlined in AR 1312.3. The investigation process included identifying potential witnesses and additional evidence related to the investigation, interviewing witnesses, reviewing all relevant information and materials related to the investigation, and preparing a report of the investigation's findings.

The following individuals were interviewed in the course of this investigation: (1) Will Laird, Director of Educational Services; (2) Shandelyn Williams, Assistant Superintendent of Student Services; (3) Brian Hawkins, Assistant Superintendent of Business Services; and (4) Trixie Flores, Director of Business Services.

March 15, 2022

Page Two

The following documents were reviewed in the course of this investigation: (1) District’s 2019-2020 LCAP; (2) District’s 2021-2022 LCAP; (3) 2019 LCAP template prepared by the California Department of Education; (4) 2020 LCAP template prepared by the California Department of Education; (5) District’s journal entry PS21-237 for Transfer of Reserve Economic Uncertainties; and (6) District’s journal entry PS21-126 for Transfer of Reserve Economic Uncertainties.

Allegation 1: AVUHSD’s LCAP indicates significant shortfalls and overspending in budgeted v. estimated actual spending in several actions supported by S&C funding in 2019-2020

The Complaint alleges that the District failed to explain discrepancies in its budgeted versus estimated actual expenditure of supplemental and concentration grant (“S&C”) funding for the 2019-2020 school year. Specifically, the complaint alleges that “there [was] a shortfall of \$6,974,913,” in various listed actions and an overspending of \$3,264,513 for other planned actions, resulting in a “total shortfall of \$3,610,400 from the \$40,644,167 of S&C funds that were budgeted in 2019-2020.” The Complaint alleges that the District’s 2021-2022 LCAP does not account for this “carry-over.”

A. Findings of Fact

- The District experienced shortfalls in its expenditure of S&C funds during the 2019-2020 due to distance learning and school closures caused by the COVID-19 pandemic.
- The District experienced shortfalls in its expenditure of S&C funds during the 2019-2020 because, in lieu of S&C funds, the District utilized COVID-19 relief funds to fund various planned actions.
- As a result, the District transferred these unused funds to a “Targeted Resources” funds within its Special Reserve Fund 17 allocations.

B. Conclusions of Law

The District did experience shortfalls and overspending within various planned actions. The shortfall in spending was caused due to the COVID-19 school closures and by the receipt of COVID-19 relief funds, which were utilized to fund a variety of planned actions. The District prioritized spending the COVID-19 relief funds because those funds had a deadline by which, if not used, the District would lose the funding; as opposed to the unused S&C funds which could be, and were, carried over. The District, thus, made the sound financial decision to recategorize items in its budgets that it could pay for using COVID-19 funds. The District transferred unused funds to a “Targeted Resources” funds within its Fund 17 allocations. Those funds are all accounted for in the District’s budget, and remain available for the District to use in the event of a future shortfall of S&C funds.



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Allegation 2: AVUHSD fails to articulate any goals for unduplicated pupils and numerically significant pupil subgroups as required by Educ. Code § 52064

The Complaint alleges the District violated Education Code section 52064(b)(1), because there are “no annual goal statements in the 2019-2020 or 2021-2022 AVUHSD LCAP for any of the pupil groups identified in Section 52052 of the Education Code.”

A. Findings of Fact

Based on a review of the District’s 2019-2020 LCAP, the District makes the following findings of fact:

- The District’s 2019-2020 LCAP adhered to the template adopted by the California State Board of Education and is consistent with Los Angeles County Office of Education's ("LACOE") training and guidance provided to the District.
- Although the District’s 2019-2020 LCAP did not list annual goal statements specific to each subgroup, the “Action / Services” chart of each goal contained a “Students to be Served” section that identified specific student subgroups.
- The District’s 2019-2020 LCAP identified “Planned Actions” for the following subgroups: (1) English learners; (2) foster youth; (3) low income; and (4) pupils with disabilities.
- The District’s 2019-2020 LCAP addresses the needs of homeless youth, stating “[i]n terms of raising outcomes for our Homeless Youth, we are partnering with Los Angeles County and utilizing resources through our Student Services division to meet their unique needs as this population fluctuates quite a bit.”
- The District’s LCAP, itself, and its LCAP practices are consistent with other large school districts in Los Angeles County.
- LACOE reviewed and approved the District’s 2019-2020 LCAP.

Based on a review of the District’s 2021-2022 LCAP, the District makes the following findings of fact:

- The District’s 2021-2022 LCAP adhered to the template adopted by the California State Board of Education and is consistent with LACOE's training and guidance provided to the District.
- Although the District’s 2021-2022 LCAP did not list annual goal statements specific to each subgroup, the “Measuring and Reporting Results” chart of the annual goals and the “Required Descriptions” identified specific student subgroups.
- The District’s 2021-2022 LCAP identified plans in the “Measuring and Reporting Results” and “Required Descriptions” sections for the following subgroups: (1) English learners; (2) foster youth; (3) low income; and (4) homeless youth.

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- The District’s 2021-2022 LCAP identified plans in the “Measuring and Reporting Results” and “Required Descriptions” sections of the LCAP for the following subgroups: (1) ethnic groups; and (2) pupils with disabilities.
- LACOE reviewed and approved the District’s 2021-2022 LCAP.

B. Conclusions of Law

On an initial note, school districts are required to follow the LCAP Template approved by the State Board of Education (“SBE”). (Educ. Code §§ 52064, 52070.) In fact, the requirements set forth in Education Code section 52064(b)(1) are not directed at school districts. Rather, Education Code section 52064(b)(1) states:

On or before January 31, 2022, the template adopted by *the state board* shall require the inclusion of all of the following information:

(1) A description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605, subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, subdivision (d) of Section 52060, or subdivision (d) of Section 52066, as applicable, and for any additional local priorities identified by the governing board of the school district, the county board of education, or in the charter school petition. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in subdivision (a) of Section 52052.

(Emphasis supplied.) A school district’s LCAP must be completed in conformance with the SBE-approved template. (Education Code §§ 47606.5, 52060, 52061, 52064, 52066, 52067; 5 C.C.R. §§ 15494–15497.) Moreover, the California Department of Education’s “LCFF Frequently Asked Questions” expressly state that the “template may not be materially altered” by school districts (See <https://www.cde.ca.gov/fg/aa/lc/lcffffaq.asp>.)

The LCAP templates provided to the District were in the format of an interactive form with boxes or fields to fill out. As discussed below, the District completed its 2019-2020 and 2021-2022 LCAPs in conformance with the template adopted by the SBE, provided by the CDE, and filled out all the required fields.

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The 2019-2020 LCAP template did not include any fields in its “Annual Update” sections where annual goals could identify each subgroup of pupils that the goals applied to for the specific year. Within the “Planned Actions / Services” section of the template, there existed two fields for stating which students were to be served by a planned action of a goal. The 2019-2020 template included a section for “Actions/Services not included as contributing to meeting the Increased or Improved Services Requirement” with a field to specify “Students to be Served: (Select from All, Students with Disabilities, or Specific Student Groups)” The template also included a section “Actions/Services included as contributing to meeting the Increased or Improved Services Requirement” with a field to specify Students to be Served: (Select from English Learners, Foster Youth, and/or Low Income)”

The District completed its 2019-2020 LCAP in conformance with the requirements listed above, and specified planned actions for (1) English learners; (2) foster youth; (3) low income; and (4) homeless youth. Subsequently, LACOE reviewed and approved the District’s 2019-2020 LCAP.

Similarly, the 2021-2022 LCAP template did not include any fields in its “Annual Update” sections where annual goals could identify each subgroup of pupils that the goals applied to for the specific year. However, the “Measuring and Reporting Results” chart of the annual goals and the “Required Descriptions” identified specific student subgroups, including: (1) English learners; (2) foster youth; (3) low income; and (4) homeless youth. Additionally, the District’s 2021-2022 LCAP provided:

In order to maintain and ensure continued academic, social-emotional and behavioral success in these areas, we will utilize our internal data-base systems, Data Central Plan Summary 2021-2022 and NWEA Map assessments systematically, to track, monitor, mentor and provide goals and interventions more effectively and efficiently for all students including Student with Disabilities, Homeless Youth and African American students, with an additional emphasis on English learner (EL) Low-Income (LI) and Foster Youth (FY) students.

Based on the above, the District completed the 2021-2022 LCAP in conformance with the template and filled out all the required fields. Subsequently, LACOE reviewed and approved the District’s 2021-2022 LCAP.

Allegation 3: AVUHSD continually fails to describe how allocations of S&C funds are principally directed towards and effective in meeting the goals for unduplicated pupils in violation of 5 CCR § 15496.

The Complaint alleges that the District’s LCAP fails to adequately identify an increase or improvement in the overwhelming majority of actions that use districtwide S&C funds. It states that “[i]n its 2021-2022 LCAP, [the District] budgeted \$42,570,718 in S&C funds,” but “there are several key Actions for which the District fails to include language describing how LEA-wide uses of this funding will be principally directed towards, or effective in meeting, the District’s goals for unduplicated pupils in 24 key Actions, as required by 5 CCR § 15946(b)(1)(B).”

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Additionally, the Complaint lists out 24 S&C expenditures from the District’s 2019-2020 LCAP and alleges that none of the “Actions are included in the LCAP section listing the required descriptions for Goals and Actions”

A. Findings of Fact

Based on a review of the District’s 2019-2020 LCAP, the District makes the following findings of fact:

- The District’s 2019-2020 LCAP adhered to the template adopted by the California State Board of Education.
- As required by the template, the District’s 2019-2020 LCAP contained a section labeled “Demonstration of Increased or Improved Services for Unduplicated Pupils.” Consistent with the template’s instructions, this section of the LCAP included a description for how LEA-wide uses of funding would be principally directed towards, or effective in meeting, the District’s goals for unduplicated pupils during the 2019-2020 school year.

Based on a review of the District’s 2021-2022 LCAP, the District has determined the following findings of fact:

- The District’s 2021-2022 LCAP adhered to the template adopted by the California State Board of Education.
- As required by the template, the District’s 2021-2022 LCAP contained a subsection labeled “Required Description.” Consistent with the template’s instructions, this section of the LCAP included a description for how LEA-wide uses of funding would be principally directed towards, or effective in meeting, the District’s goals for unduplicated pupils during the 2021-2022 school year.

B. Conclusions of Law

The LCFF apportions additional funds to school districts on the basis of the number and concentration of unduplicated students (low-income, English learner, and foster youth). (Educ. Code §§ 42238.02, 42238.07). School districts are required to increase or improve services for unduplicated students as compared to the services provided to all students in the fiscal year in proportion to the additional funding provided (Educ. Code § 42238.07; 5 C.C.R. §15496). School districts are further required to provide evidence in their LCAP to demonstrate how these services support the unique needs of their unduplicated students (5 C.C.R. § 15496[a]).

A school district with an enrollment of unduplicated pupils of fifty-five (55) percent or more of the district's total enrollment in the fiscal year for which an LCAP is adopted or in the prior year may expend supplemental and concentration grant funds on a districtwide basis. (5 C.C.R. § 15496(b)(1)). A school district expending funds on a districtwide basis must do all of the following:

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(A) Identify in the LCAP those services that are being funded and provided on a districtwide basis.

(B) Describe in the LCAP how such services are principally directed towards, and are effective in, meeting the district's goals for its unduplicated pupils in the state and any local priority areas.

(Ibid.)

Here, both the District's 2019-2020 and 2021-2022 LCAPs contain sections that identify which services are funded on a districtwide basis and describe how such services are directed towards meeting the district's goals for its unduplicated pupils. As such, the District's LCAPS are in conformance with the requirements of the templates and Title 5 of the California Code of Regulations, section 15496.

Allegation 4: AVUHSD's Expenditure of S&C Funds on Sheriff Contract

The Complaint alleges that the District's expenditure of S&C funds, allocating \$1,700,000 to a contract with the Los Angeles County Sheriff's Department, is problematic and improper. It adds that "AVUHSD designates contract with the Sheriff's Department as contributing to the increased and improved services requirement for high needs students, but it makes no effort to describe how this action is either principally directed or effective at meeting the needs of these students..." claiming that the "disbursement harms high needs students rather than increasing or improving services for them and is not tailored to the particular needs, conditions, or circumstances of high-need students."

A. Findings of Fact

Based on a review of the District's 2019-2020 LCAP, the District makes the following findings of fact:

- Goal 3 Action 23 of the District's 2019-2020 LCAP expended \$1,700,000 to a contract with the Los Angeles County Sheriff's Department.
- The District's 2019-2020 provides the following description for Goal 3 Action 23:
 - "This improved service is a contract with the Los Angeles County Sheriff's Department to provide a deputy at each campus. This service goes above and beyond what is required and can significantly contribute to a safer and more secure learning environment."

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B. Conclusions of Law

At the time the District allocated its S&C funds to a contract with the Los Angeles County Sheriff's Department, the District was not prohibited from expending its S&C funds on a contract with a law enforcement agency. In or around July 2021, however, the District was advised by LACOE that school districts **may no longer** expend S&C funds on contracts with law enforcement. Accordingly, in the 2021-2022 LCAP, the District did not allocate any "S&C" funds to a contract with the Los Angeles County Sheriff's Department.

Allegation 5: AVUHSD's LCAP lacks transparency regarding the use of S&C funding

The Complaint alleges that the District's "current LCAP makes it impossible for anyone to determine how AVUHSD is using its S&C grant funds including what services and supports the S&C funding is expected to provide for unduplicated pupils on several key Actions." It adds that the District's current LCAP does not provide sufficient information for stakeholders regarding how S&C funds are going to be used to increase and improve services for unduplicated pupils or how the funds are principally directed towards, and effective at, meeting the needs of unduplicated students this school year."

A. Findings of Fact

- The District's 2021-2022 LCAP adhered to the template adopted by the California State Board of Education.
- As required by the template, the District's 2021-2022 LCAP contained a subsection labeled "Required Description." Consistent with the template's instructions, this section of the LCAP included descriptions of LEA-wide expended funds.
- The District elicited stakeholder feedback, conducted needs assessments, and monitored the progress of LCAP goals.
- To discuss and develop the current LCAP, the District engaged with the following groups: (1) District English Learner Advisory Council ("DELAC"); (2) District Site and Leadership Team ("DSLTL"); (3) District Parent Advisory Committee ("DPAC"); (4) Labor Groups; and (5) SELPA. The District's LCAP specifies in detail how stakeholder engagement was achieved.
- To develop the current LCAP, the District conducted multiple surveys. The survey data was shared with various stakeholders throughout the year, at Assistant Principal and Principal meetings, at Virtual Site visitations, and meetings with DSLTL, DELAC, DPAC, Labor Groups, and SELPA.
- The public was notified of the opportunity to submit written comments regarding the LCAP actions and expenses.

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- LACOE reviewed and approved the steps taken by District to elicit stakeholder feedback as specified in the District's LCAP.

B. Conclusions of Law

As discussed above, the District's 2021-2022 LCAP identified services being funded and provided descriptions of the funds expended on a districtwide basis. Additionally, in developing the LCAP, the District engaged with shareholders and various groups, sharing survey data, and afforded the public an opportunity to submit comments regarding the LCAP actions and expenses. Accordingly, the District's current LCAP is transparent regarding the use of S&C funding. To the extent the LCAP template that the District is required to use makes it difficult for members of the community to track the use of S&C funds, the District is, unfortunately, unable to change that template, as explained above.

Disposition, Rationale and Corrective Action

Thank you for bringing these concerns to the District's attention. The evidence shows that both the District's 2019-2020 and 2021-2022 LCAP adhered to the requirements of the mandatory templates provided by the California Department of Education.

Appeal Rights

Thank you for bringing your concerns to the District's attention.

Please be advised that, in accordance with AR 1312.3, your complaint and this investigation will be maintained in confidence except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring, maintain the integrity of the process, or as otherwise required by law. No form of retaliation against any person who participated in the investigation will be permitted. If you believe retaliation has taken place, please immediately report the incident to me or the District administration.

If you are dissatisfied with this decision, you may, within five business days, file the complaint in writing with the Board. The Board may consider the matter at its next regular Board meeting or at a special Board meeting. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final. If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the District's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (AR 1312.3; 5 CCR § 4631.)

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Additionally, if you are dissatisfied with this decision, you have the right to appeal this decision to the California Department of Education ("CDE") by filing a written appeal within 30 days of receiving this decision. The appeal must specify the basis for the appeal and how the facts of the District's decision are incorrect and/or the law has been misapplied, and must include a copy of the complaint filed with the District and a copy of this decision. (5 C.C.R. § 4632.)

You may also pursue available civil law remedies outside of the District's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. The 60-day moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Educ. Code § 262.3.) Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Thank you again for bringing your complaint to our attention. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Marisa Rissling
Director of Student Services

Enclosure: Board Policy and Administrative Regulation 1312.3, Uniform Complaint Procedures

cc: Greg Nehen, Superintendent

Exhibit 3
CDE Fresno Decision



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

May 5, 2017

Abre' Conner, Staff Attorney
Sylvia Torres-Guillen, Director of Education
ACLU of Northern California
39 Drumm Street
San Francisco, CA 94111

Subject: **Request for Appeal – Fresno Unified School District
American Civil Liberties Union, Appellant**

Dear Abre' Conner and Ms. Torres-Guillen:

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal received on December 6, 2016. You are appealing the Fresno Unified School District's (District) Decision (Decision) dated November 18, 2016.

I. BACKGROUND

On September 21, 2016, the ACLU (Appellant) submitted a Uniform Complaint Procedure Complaint to the District regarding alleged failures of the District related to its 2015-2016 Local Control and Accountability Plan (LCAP). The District considered the Complaint, and on November 18, 2016, it issued a written decision in which it determined that the District had not violated applicable law and that the requested remedies would not be granted. The ACLU appealed this decision to the CDE on December 6, 2016. On December 7, 2016, the CDE sent a Notice of Appeal letter to the District per *California Code of Regulations*, Title 5 (5 CCR), Section 4633. On February 6, 2017, the CDE sent a letter to the Appellant and the District indicating it would require additional time to complete its investigation of the Complaint. Following receipt of the District's Investigation file, the CDE reviewed all material received related to the District's complaint investigation, applicable laws and the District's complaint procedures. The CDE finds that the District complied with its complaint procedures.

II. SUMMARY OF COMPLAINT AND DISTRICT DECISION

The Complaint

The Complaint contained the following allegations, summarized by the District in its Decision and restated by the Appellant in the Appeal:

Allegation 1: “The District’s LCAP fails to explain how S&C¹ funds will be ‘principally directed towards, and effective in, meeting the district’s goals for its high-need pupils.’”

The Complaint alleged the District’s description of districtwide and schoolwide actions and services provided in the LCAP are vague, summary statements and do not meet the requirements of the LCAP Template and 5 CCR 15496(b) because the statements do not explain how the expenditures are principally directed toward and effective in meeting the District’s goals for unduplicated pupils. (Attachment A, Complaint, p.3.) The Complaint focused on five actions and related expenditures for which it alleged the District fails to provide the required justification:

- \$14.7 million allocated to school sites
- \$5.6 million for middle school redesign
- \$3.8 million for employee supports
- \$5.6 million for bathroom renovations, additional custodians, and maintenance positions
- \$7.153 million for various special education programs

(Complaint, p.3-5.) Citing Section 3A of the LCAP Template, the Complaint stated that the District must revise its LCAP to identify and justify each schoolwide and district use of funds and explain how each such use is “principally directed towards, and effective in, meeting the needs of high-needs pupils.” (Complaint, p.5.)

Allegation 2: “The LCAP fails to include data that demonstrates specific outcomes for high-need students in the Annual Update.”

The Complaint alleged that the data in the annual update must be disaggregated by each high-need pupil group in order to help parents and students decipher which programs help high-need students. (Complaint, p.5.)

Allegation 3: “The District fails to offer any meaningful justification for use of S&C funds on police expenditures.”

The Complaint alleged that the District did not adequately describe how the expenditure of supplemental and concentration grant funding on School Site Security Enhancements, including Community and School Resource Officers, and the Fresno Police Department’s Chaplaincy and shot spotter programs, is principally directed toward and effective in meeting the District’s goals for unduplicated pupils. (Complaint p. 5-6.) In this regard, the

¹ “S&C” is an acronym used by Appellant to reference funding apportioned to the District on the basis of the number and concentration of unduplicated pupils (low income, foster youth and English learners), identified by Appellant as “high-need” pupils. (EC sections 44238.01, 44238.02, 44238.07.)

Complaint stated that the LCAP is unclear as to how the shot spotter program, which may allow better pinpointing of gunfire across the city, will help pupils, and unduplicated pupils in particular. The Complaint also stated the LCAP does not, and likely cannot, provide, the required justification for expenditures for additional police officers. According to the Complaint, in the District, black and Latino students, many of whom meet the unduplicated criteria, are more likely to be arrested or reported to police, with terrible consequences for their futures. (Complaint, p.7-8.)

Requested Remedy: The Complaint requested that the District amend its 2016-2017 LCAP to provide the required justifications for “all districtwide and schoolwide spending of S&C funds and to disaggregate Annual Update data to meaningfully evaluate last year’s use of S&C funds to increase or improve services for high-needs students...”. In addition, the Complaint requested the District “reallocate its proposed S&C funds to enhance school safety and school climate rather than on police expenditures.” (Complaint, p. 8.)

The District’s Decision

Allegation 1: The District determined that its LCAP includes adequate justification for each districtwide use of supplemental and concentration funding. According to the District, statements are included within the actions and services in the goals section of the LCAP. In addition, the District notes that its unduplicated count of English learners, foster youth and students living in poverty exceeds 86%. The District states “86% of students live below the Federal Poverty level” and “[e]ach action taken by the District, regardless of the funding source, must take into account the challenging economic environment of our community.” (Attachment B, Decision, p. 3.) According to the Decision, planned expenditures for 2016-2017, as described in its LCAP, reflect increases over 2015-2016 in the area of services for English learners and foster youth. (Decision, p. 3.) Also, the District notes that “supplemental programs for students with disabilities, outlined in the UCP and funded by supplemental and concentration funds, were not possible prior to this availability of this funding.” The District stated that “[t]hese programs, including specialized preschool programs and early autism screening, provide increased benefits to students living in extreme poverty.” (Decision, p. 3-4.)

Allegation 2: The District concluded that disaggregating data in the Annual Update by high-need pupil group is not required by statute or regulation. However, the Decision points out that the District’s LCAP provides data on 49 different indicators of student success, most of which include information disaggregated into 13 student subgroups. In addition to the data incorporated into the Annual Update portion of its LCAP, the District included all the data in an Appendix A to the LCAP, as a matter of “best practice.” (Decision, p. 4.)

Allegation 3: In its Decision, the District described the shot spotter program in the context of a broader approach to support school site security. In addition to the shot spotter program, the District provided additional crossing guards, additional school community

resource officers, and police chaplain volunteers. According to the Decision, “violent crime in Fresno is significantly higher than the state and national average.” Also, District engagement efforts identified additional security investments as a request of certificated staff. With respect to the “Shot Spotter” device, the District decision stated it is intended to reduce school time disruption at 24 schools with a high propensity for gunfire. (Decision, p. 4.)

Based on its findings, the District determined that the allegations of the Complaint were not substantiated, and that there was no violation of *EC* Section 42238.07 or 5 *CCR* 15496 with respect to the District’s 2016-2017 LCAP. (Decision, p. 5.)

III. APPEAL

The Appeal reiterates the allegations of the Complaint. Appellant rejects the Decision’s finding that the LCAP sufficiently justified services provided on a districtwide and schoolwide basis as “principally directed towards, and effective in, meeting the district’s goals for its high-needs students.” (Attachment C, Appeal, p. 2.) The Appeal again focuses on particular services identified in the Complaint. (described above at p. 2.) The Appeal also asserts that the Decision failed to explain why its LCAP Annual Update does not disaggregate data by high-need pupil group. (Appeal, p. 4.) Finally, the Appeal states that the District failed to identify sufficiently how police expenditures are principally directed towards, and effective in, meeting its goals for high-need students. (Appeal, p. 4.) Appellants continue to seek remedies for the alleged violations of law as set forth in their Complaint. (described above at p. 3.)

IV. LEGAL AUTHORITIES

California Education Code sections 44238.01, 42238.02, 42238.07, 52060 – 52077
California Code of Regulations sections 15494 – 15497.5

V. ANALYSIS OF APPEAL

Allegations 1 and 3: The CDE considers and responds to Allegations 1 and 3 together. Both allege that the District LCAP does not justify how supplemental and concentration grant funding for schoolwide or districtwide actions and/or services (services) are principally directed to and effective in meeting the District’s goals for unduplicated students.

The Local Control Funding Formula (LCFF) apportions additional funds to Local Education Agencies (LEAs) on the basis of the number and concentration of unduplicated pupils (low-income, English learner, and foster youth). (*EC* sections 442238.01, 42238.02.) LEAs are

required to increase or improve services for unduplicated pupils as compared to the services provided to all pupils in the fiscal year in proportion to the additional funding provided. (EC Section 42238.07; 5 CCR 15496.) “To improve services” means to “grow services in quality,” and “to increase services” means to “grow services in quantity.” (5 CCR 15495(k) and (l).) As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students over services provided for all pupils in the LCAP year.² The regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated pupils above services provided to all pupils in the fiscal year.³ (5 CCR 15496(a)(1)–(8).)

The collective set of services described by an LEA that will contribute to meeting the required proportional increase or improvement in services for unduplicated students over services provided to all pupils may include two categories of services:

- Services that are limited to serving one or more unduplicated student group, or
- Services that upgrade the entire educational program of an LEA or a school site(s).

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charterwide) service. The LCAP Template applicable to the 2016-2017 year addresses supplemental and concentration grant funding in Section 3.⁴ An LEA is required to follow the LCAP Template approved by the State Board of Education (SBE). (EC sections 52064, 52070.) Section 3A of the LCAP Template required the District to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated pupils, and to describe how it was expending these funds in the LCAP year, including a description of, and justification for, the use of any funds in a districtwide or schoolwide manner. (5 CCR 15496.) Because the District’s unduplicated pupil enrollment was 88%, the District was required to describe in its LCAP how services provided on a districtwide basis are “*principally directed towards*” and “*effective in*” meeting its goals for unduplicated pupils.⁵ (EC Section 42238.07, 5 CCR 15496(b).)

² As the District has done in its LCAP, an LEA may choose to refer to LCFF funds as “Base”, “Supplemental” or “Concentration” grant funds at the local level. However, they are not required to do so. An LEA may choose to simply identify the fund source to implement an action or service as LCFF.

³ Note the requirement is to increase or improve services for unduplicated pupils over services for all pupils *in the fiscal year for which the LCAP is adopted*. (5 CCR 15496(a).) It is not a requirement to increase or improve services from year to year.

⁴ This LCAP Template was adopted as 5 CCR 15497.5. In November 2016, the SBE adopted a new LCAP Template, applicable beginning with the 2017-2018 school year.

⁵ Schoolwide services at a school district school with enrollment of unduplicated pupils that is 40 percent or more of its total enrollment must be supported by the same description.

In order to provide the required justification for services provided on a “wide” basis, an LEA must distinguish between services directed toward unduplicated pupils based on that status, and services available to all pupils without regard to their status as unduplicated pupils or not. An LEA describes how a service is principally directed to meeting the LEA’s goals for unduplicated pupils when it explains in its LCAP how it considered factors such as the needs, conditions or circumstances of its unduplicated pupils, and how the service takes these factors into consideration (such as, for example, by the service’s design, content, methods, or location). In addition, the description must explain how the LEA expects the service to support the LEA’s conclusion that the service will be *effective* to meet the LCAP goals for its unduplicated pupils. When properly explained in the LCAP, it will be apparent how the LEA is acting to increase or improve services for unduplicated pupils, and why it has determined the services identified will be effective to achieve its goals for unduplicated pupils.

CDE reviewed the District’s 2016-2017 LCAP to determine whether it provided the required description of, and justification for, use of supplemental and concentration grant funding on a districtwide or schoolwide basis, focusing on the services challenged in the Complaint and Appeal:

The District’s 2016-17 LCAP Section 3A identifies \$154.3 million as the amount of funds calculated on the basis of the number and concentration of unduplicated pupils. (Attachment D, District 2016-2017 LCAP.) It further states that “Supplemental and Concentration fund expenditures are itemized in Section 2” of the LCAP, and that “[a]ll actions and expenditures were developed based on an analysis of data, input from our stakeholders, and the needs of our unduplicated population in mind, and that “[d]ue to this high risk population, the actions below, and described in section 2, are being implemented school wide or district wide.” (2016-2017 LCAP Section 3A, p. 181 of 185.) Section 3A lists 49 actions, identified numerically to correspond to their respective locations in Section 2 of the LCAP.

Section 3A of the District’s LCAP also states that district and school site leadership have access to current data using the “School Quality Improvement Index (SQII)”, and the SQII is used by district “leaders to identify schools with the most need and site leaders use SQII to identify school wide and individual student need. Using the SQII tool the District is able to allocate services that are principally directed towards, and are effective in meeting the District’s goals for its unduplicated pupils...” Finally, Section 3A states “[a]ll districtwide and schoolwide actions and services have been developed based upon the needs of unduplicated students, but will serve the needs of all students as well.”

In Section 3B, the District identified 29.57% as the percentage by which it was required to increase or improve services for unduplicated pupils in the LCAP year as compared to services for all pupils. As noted above, Section 3B required the District to demonstrate how it met this requirement to proportionately increase or improve the services for unduplicated

pupils. Section 3B states “the proportionality percentage is met by expending Supplemental and Concentration funds allocated to the district on services for the unduplicated student populations as demonstrated and detailed in section 2 of the LCAP plan.” (2016-2017 LCAP Section 3B, p. 183 of 185.)

With respect to Section 3A, the CDE finds the LCAP enumerates in summary fashion “Supplemental and Concentration fund expenditures” and indicates that actions enumerated are being provided on a districtwide or schoolwide basis due to its unduplicated student population of 88% (described as a high risk population.) There is no description of how the use of funds proposed are “principally directed towards” and “effective in” meeting its goals for unduplicated pupils. The LCAP statement that the District “had the needs of our unduplicated population in mind” is a conclusory statement that fails to provide the required description.

The reference to the use of SQII tool to “allocate services that are principally directed towards, and are effective in, meeting the District’s goals for its unduplicated as measured by the required metrics” is not associated with any particular action or service in the LCAP. The statement lacks sufficient information to constitute a description of and justification for how a districtwide or schoolwide service is “principally directed towards” and “effective in” meeting its goals for unduplicated pupils.

CDE also notes that the District references its 88% unduplicated pupil enrollment as a reason it provides actions on a districtwide or schoolwide basis. However, while a high unduplicated pupil percentage may be a reason to offer a majority of services directed toward increasing or improving services for unduplicated pupils on a “wide” basis, by itself it does not provide a sufficient explanation of how such services are principally directed towards unduplicated students. Thus, based on the above, Section 3A, standing alone, does not provide adequate description and justification of services provided on a districtwide and schoolwide basis.

CDE also reviewed the descriptions of the particular districtwide and schoolwide services in the 2016-2017 LCAP, Section 2, for which Appellant alleged the District failed to provide the required justification. (see the list above at p. 2.) The District response to the Complaint states that additional clarifying language was incorporated into the LCAP following meeting with Appellate to address concerns.

Appellant challenges the description associated with districtwide Action #48 (Goal 5), “School Site Allocations to be prioritized by each School’s Site Council.” (2016-2017 LCAP Section 2, p. 117.) Budgeted expenditures are \$19.8 million (\$14.7 million LCFF Sup and Con)⁶ and \$5.1 million Title 1 (there is also additional reference to these site allocations

⁶ The abbreviation “Sup and Con” is as it appears in the District’s LCAP, and CDE understands it to be a reference to funding apportioned on the basis of the number and the concentration of unduplicated pupils.

being combined with “EL investments” for a total of \$26 million.) The action is described as follows:

- “Supplemental materials and technology
- Academic interventions and supports
- Supplemental counseling services
- Staff for attendance support
- Parent involvement
- Psychological services
- Bilingual office staff
- Each school was required to evaluate data on low income, English learner and foster youth student populations, as well as other subgroups, to create plans focused on addressing the needs of those groups
- Site personnel worked with School Site Councils to incorporate feedback and revise plans
- Developing a site-based plan for English learners is a requirement of this process”

The associated identified need for Goal #5 is “each school needs a Single Plan for Student Achievement (SPSA) that is aligned with school goals for improving student achievement and is based on school site data (AR 0420).” By review of the materials submitted in connection with this appeal, it appears the District added further explanation to this action based on communications with Appellant (the last bullets above). The additional material assists to some extent in providing the required justification. However, because the description states that the sites were to direct plans focused on the needs of low income, English learner and foster youth student populations, *as well as other subgroups*, it is not possible to definitely conclude that the action is “principally directed towards” unduplicated pupils. In addition, the description lacks sufficient information describing how the actions are “effective in” meeting goals for unduplicated pupils, as required for districtwide actions. Thus, the requirements of 5 CCR 15496(b) and the LCAP Template are not met with regard to Action #48.

Action #5, “Maintain Middle School Redesign,” (LCAP Section 2 p. 24) is also challenged. This action is associated with Goal #1 (“All students will excel in reading, writing and math”), and is budgeted \$5.6 million (LCFF Sup and Con). It is schoolwide at district middle schools. The LCAP states:

- “Initiated in 2013-2014
- ensures all students have access to electives as well as core classes

- Allows teachers, teaching the same subjects, to have a common preparation time
- PLUS teams (Professional Learning Updraft System) added to ensure direct instruction to students when teachers attend professional learning or collaboration days.
- This action is principally directed towards, and is effective in, increasing or improving services for unduplicated students as teams allow for no loss of instructional time while teachers are attending profession learning or collaboration days. Loss of instruction time unfairly impacts high-need students.”

From the LCAP description of Action #5, it is not possible to adequately understand what the “Middle School Redesign” consists of and how the various actions described are related, if at all, and how the budget expenditure is associated with the components. One aspect appears to give all students access to electives. There is no explanation offered as to how this is “principally directed towards” unduplicated pupils. Other aspects are common preparation time and the addition of PLUS teams to ensure pupils direct instruction when teachers attend professional development or collaboration days. The LCAP description and justification for “this action” appear to apply only to *a portion* of the action; i.e., the common preparation time and PLUS teams, and is unclear. Ideally, this description and justification would be more clearly stated, perhaps by a description and justification such as “loss of instructional time results in significant decreases in the academic achievement of low income, English learner, and foster youth” and use of PLUS teams will reduce loss of instructional time and assist in maintaining these students’ academic progress. As stated, the description is insufficient to meet the requirement to describe and justify Action #48 in total as “principally directed towards and effective in meeting the goals for unduplicated pupils.”

The Complaint challenged Action #10 “Employee Supports.” (2016-2017 LCAP Section 2, p. 27.) This action is associated with Goal #1, and budgeted \$3.8 million (LCFF Sup and Con). The LCAP indicates this action is for high schools, and 2 specific middle schools. The description of this action is as follows:

- “Reduce large core classes in high schools (not an class enrollment cap)
- Additional middle school Vice Principals for Gaston and Fort Miller. Both have amongst the highest concentrations of English learners, foster youth and students living below the Federal poverty level in the District
- Since introducing additional supports, both Fort Miller and Gaston have seen an improvement in test scores and attendance as well as a reduction in suspensions and expulsions”

The above description of Action #10 provides no information as to how reducing large core classes in high schools is an action principally directed towards unduplicated pupils. Accordingly, the description does not meet the requirements of 5 CCR 15496(b) or the

LCAP Template. However, the action and accompanying description related to additional middle school vice principals does meet these requirements. The explanation provided shows the action is directed to two middle schools with among the “highest concentrations of unduplicated pupils” and also that the test scores and attendance have increased, and discipline incidences decreased. Thus, the LCAP describes how this portion of the action is principally directed towards and effective in meeting the district’s goals for unduplicated pupils. However, the stated description and justification is not sufficient to meet the requirements to describe and justify Action #10, in total, as “principally directed towards and effective in meeting the goals for unduplicated pupils.”

Actions #43 and #44 of Goal 4 are challenged by the Appellant. (2016-2017 LCAP Section 2, p. 108.) Goal #4 is stated as “All students will stay in school, on track to graduate”, and the identified need 4B is stated as “Fresno USD needs to provide a safe, clean and orderly learning and working environment.” Action #43 is to maintain 40 additional custodians, 3 custodial supervisors and 4 grounds maintenance positions. Action #44 is to renovate high school bathrooms. The LCAP identifies budgeted expenditures of \$5.6 million (LCFF Sup and Con) with these two actions. The description for Action #43 is:

- “To ensure facilities are clean and in good repair
- Custodians were requested during the engagement for the 2014/15 LCAP and are above former base staffing levels to ensure school sites are positive and clean centers for each of the Fresno neighborhoods served
- Custodians are located in schools with older facilities
- According to the National Education Association, clean schools reduce the spread of infectious illness, reduce triggers for asthma and allergies and reduce absenteeism for both students and staff”

The description for Action #44 is:

- “Replace damaged fixtures, incorporate standardization of facilities, and increase accessibility for high school bathrooms
- Focus on partitions, hand dryers and soap dispensers
- Campus Culture team will work with student representatives to create a campaign to keep bathrooms clean
- Invitations were sent for student input to 75 foster and English learner students.
- Properly maintained bathrooms was the single most consistent request made during the 17 meetings the district conducted with students

- According to the National Education Association, clean schools reduce the spread of infectious illness, reduce triggers for asthma and allergies and reduce absenteeism for both students and staff”

The description of these actions states benefits for each. However, neither provides any description of how the District considered the factors such as the needs, conditions or circumstances of its unduplicated pupils in particular, in connection with these actions. The description fails to explain how the actions are principally directed towards and effective in meeting the District’s goals for unduplicated pupils. Accordingly, the requirements of 5 CCR 15496(b) and the LCAP Template are not met with regard to these actions.

Appellant also specifically challenged some of the District’s districtwide special education programs, alleging the District fails to sufficiently describe and justify how they are “principally directed towards, and effective in, meeting the District’s goals for high-need students.” Included in the challenge are Actions #13, #14 and #25. (2016-2017 LCAP Section 2, p. 41, 54-55.) Actions #13 and #14 are associated with the District Goal #1, “All students will excel in reading, writing and math” and the Identified Need 1B: “Every student can and must read at grade level.” The District’s LCAP describes these actions as follows:

Action #13 is “Maintain Elementary Augmentation for Students with Disabilities.” It is identified as “districtwide” and students served are “ALL.” Budgeted expenditures are \$2.3 million (LCFF Sup and Con). The action is described as:

- “Expanding inclusive educational opportunities for preschool students with disabilities
- Providing specialized classes for preschool students with moderate to severe disabilities
- Early intervention and continuum of services for students with Autistic-like behaviors
- Starting school and identifying disabilities early will assist unduplicated students to achieve higher levels of academic achievement”

Action #14 is “Additional Special Education Director.” The action is Districtwide for “students with disabilities”; budgeted expenditures are identified as \$153,000 (LCFF Sup and Con). The action is described as:

- “Close monitoring and oversight of programs for students with disabilities
- Improving continuum of service for students with disabilities up to age 22
- Experience has shown additional oversight of Special Education programs allow high-need students the best access to the least restrictive environment”

Action #25 is “Investments for Secondary Students with Disabilities.” It is also associated with District Goal #1, and the associated Identified Need is 1C: “Fresno Unified School

District needs to ensure students have the greatest number of postsecondary choices from the widest array of options.” The action is identified as being districtwide for pupils with disabilities; budgeted expenditures are identified as \$3.4 million (LCFF Sup and Con).

While there is some description of how unduplicated students might benefit from each of these actions, there is no description of how the actions are “principally directed toward” unduplicated pupils. Each generally describes actions that are available to all pupils, and in some cases those actions are required to be available to all pupils who qualify under the Individuals with Disabilities Act (IDEA). The descriptions are not a sufficient description and justification as principally directed towards and effective in meeting the district’s goals for unduplicated pupils as specified in 5 CCR 15496(b).

Allegation 3 of the Complaint challenges districtwide and schoolwide Action #47 (Goal 4) “School Site Security Enhancements.” (2016-2017 LCAP Section 2, p. 109.) The budgeted expenditures are identified as \$440,000 (LCFF Sup and Con). As noted above, the Complaint and Appeal expressed concern that expenditures for the actions described may actually be detrimental to unduplicated pupils. In addition, the Complaint and Appeal also alleged the LCAP does not set out the required description and justification for this districtwide and schoolwide action. The action is accompanied by the following description in Section 2 of the LCAP:

- “School safety was a top request from teachers resulting from the District’s outreach to stakeholders
- Funds to support additional crossing guards
- District share of Police Department grant for additional Community and School Resource Officers at secondary schools
- Police Department Chaplaincy programs at Elementary schools. School Resource Chaplains volunteer at Elementary school campuses teaching a characters and integrity curriculum and assist in identifying and reducing crimes against children. School Resource Chaplains are trained to connect children and families to needed resource in the community.
- Continue expanded coverage for Shot Spotter to reduce school time disruptions in areas with high crime. Shot Spotter assists responding officers with identifying gunshots (versus fireworks, car backfires, or other loud noises) often within a few feet.
- This leads to school and community safety, as well as reduced downtime and classroom disruption that occurs from the stoppage of classroom instruction when safety protocols need to be implemented”

Addressing the issue of whether this schoolwide and districtwide action is supported by the required description of how the security-related actions are principally directed towards and

effective in meeting the goals for unduplicated pupils point, it is evident from the description contained above that the LCAP provides no such description. In the District Decision, the District stated that, as outlined in its LCAP, the \$440,000 expenditure for school site security is part of “a comprehensive approach to serving the unique needs of our large student population”. It also stated that “crime in Fresno is significantly higher than the state and national average.” (Decision, p. 4.) No statement describing how the security investments are directed towards meeting the needs of unduplicated pupils, as opposed to all pupils, is provided. Based on the description provided, the requirements of 5 CCR 15496(b) and Section 3A of the LCAP Template are not met with respect to Action #47.

Furthermore, Appellant suggested that the District “cannot justify that more police or the shot spotter program will help high-needs students in the District” (Appeal, p. 5.) In light of its determination that the District’s LCAP does not provide a sufficient description and justification for Action #47, the CDE does not make a determination on this additional issue raised by Appellant.

For the reasons set forth above, the CDE finds that the District’s 2016-2017 LCAP fails to describe how the districtwide and schoolwide services described in Actions #48, #5, #10, #43, #44, #13, #14, #25 and #47 are principally directed toward and effective in meeting the District’s goals for its unduplicated pupils as required by 5 CCR 15496(b) and Section 3A of the LCAP Template.

Allegation 2: “The LCAP fails to include data that demonstrates specific outcomes for high-need students in the Annual Update.”

The Appeal states that the District should disaggregate outcome data based on pupil groups, and high-need pupils in particular (Appeal, p. 4.) According to the Appeal, the data must be disaggregated in order to help parents and students decipher which programs help high-need students, and that the District never responded to why it refuses to disaggregate the data and “show clear and specific actions of how high-need students have improved.” (Appeal, p. 4.)

EC Section 52061 requires that an annual update to an LCAP be developed using the template adopted by the SBE. The annual update must include a review of any changes in the applicability of an action, a review of progress on the goals included in the LCAP, an assessment of the effectiveness of the specific actions included in the LCAP toward achieving the goals, and a description of any changes to the specific actions the school district plans to make as a result of the review. (EC Section 52061(a)(1) and (2).) Expenditures to implement actions in the LCAP, including those that serve unduplicated pupils, must be provided as well. (EC Section 52061(a)(3) and (4).)

The LCAP Template Annual Update Instructions specify: “For each goal in the prior year LCAP, review the progress toward the expected annual outcome(s) based on, at a

minimum, the required metrics pursuant to Education Code sections 52060 and 52066.⁷ The review must include an assessment of the effectiveness of the specific actions. Describe any changes to the actions or goals the LEA will take as a result of the review and assessment. In addition, review the applicability of each goal in the LCAP.”

Appellant appears to argue that the District is required to include disaggregated data as part of its Annual Update in the LCAP. However, neither the statute nor the LCAP Template instructions require this disaggregation. The District’s Annual Update in the LCAP does show that it reviewed progress on goals as required. In addition, in responding to the Complaint, the District made clear that it regularly monitors data tied to its LCAP goals. Further, it has made available an “Appendix A” to its LCAP which shows disaggregated outcome data on the LCAP priorities. For these reasons, the CDE finds that Allegation 2 is not sustained.

VI. CORRECTIVE ACTIONS

Before the District adopts its 2017-2018 LCAP and Annual Update, the District must review the descriptions and justification for the District’s 2016-2017 LCAP schoolwide and districtwide Actions #48, #5, #10, #43, #44, #13, #14, #25 and #47 and revise them to provide the required descriptions and justifications consistent with this report. Any revisions shall be presented to the District’s parent advisory committee, the English learner parent advisory committee, and members of the public in accordance with *EC* Section 52062. In the event there are such expenditures which cannot be so described and justified as set forth in this report, the District shall not include those expenditures in its estimate of prior year expenditures for unduplicated pupils that were in addition to what was expended for all pupils when its calculates the minimum proportion by which it must increase or improve services for unduplicated pupils in the 2017-2018 LCAP year. (5 *CCR* 15496(a)(2).) In addition, the District must exclude any such services included in its 2017-2018 LCAP from services that contribute to meeting the requirement to increase or improve services for unduplicated pupils over services provided to all pupils in the LCAP year. The CDE will monitor and support the District’s progress in this regard, and is prepared to work in consultation with the District and the Fresno County Office of Education to achieve this result.

VII. CONCLUSION

⁷ *EC* sections 52060 and 52066 set out the state priorities which must be addressed in the LCAP for school districts and county offices of education respectively.

Abre Conner, Staff Attorney
Sylvia Torres-Guillen, Director of Education
May 5, 2017
Page 15

The CDE has investigated the complaint initially filed with the Fresno Unified School District on September 21, 2016. The District is required to implement the Corrective Actions specified above.

Further questions about the uniform complaint process or this letter may be addressed to the CDE as follows:

**Local Agency Systems Support Office
California Department of Education
1430 N Street, Suite 5506
Sacramento, CA 95814
ATTN: Jeff Breshears, Director**

Pursuant to 5 CCR Section 4665, within 35 days of receipt of this report, either party may request reconsideration.

I may be reached in the Local Agency Systems Support Office by phone at 916-319-0809 or by e-mail at jbreshears@cde.ca.gov.

Sincerely,



Jeff Breshears, Director
Local Agency Systems Support Office

JB:jf

Attachment A: Complaint (September 2, 2016)
Attachment B: District Decision on Complaint (November 18, 2016)
Attachment C: Appeal to the CDE (December 6, 2016)
Attachment D: District 2016-2017 LCAP

cc: Bob Nelson, Interim Superintendent, Fresno Unified School District
Tammy Townsend, Executive Officer of State and Federal Programs, Fresno Unified School District
Jim Yovino, Fresno County Superintendent of Schools
Kathryn Catania, Deputy Superintendent, Fresno County Office of Education

Exhibit 4
CDE SBCOE Decision



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TONY THURMOND
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

June 18, 2021

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131 Steuart Street, Suite 300
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Victor Leung, Senior Staff Attorney
Ariana Rodriguez, Policy Counsel
ACLU Foundation of Southern California
1313 West Eighth Street
Los Angeles, CA 90017

Subject: **Appeal of County Decision – SBCOE
Public Advocates, Inc. and ACLU Foundation of Southern California,
Appellants**

As Clarified on Reconsideration on June 18, 2021

Case #: 2020-0193

Dear Mr. Affeldt, Ms. Gon Ochi, Mr. Leung, and Ms. Rodriguez:

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal dated October 15, 2020. You are appealing the decision issued by the San Bernardino County Office of Education (SBCOE) and signed by the San Bernardino County Superintendent of Schools (SBCSS) dated September 15, 2020. (Hereafter collectively referred to as the SBCOE).

I. Background

The Local Control Funding Formula (LCFF) statute authorizes the filing of an administrative complaint pursuant to the Uniform Complaint Procedures (UCP) to resolve allegations that a local educational agency (LEA), such as a county office, failed to meet the requirements of Article 4.5. Local Control and Accountability Plans (LCAPs) and the Statewide System of Support (California *Education Code* [EC] sections 52059.5

– 52077, *California Code of Regulations*, Title 5 [5 CCR] Section 4600 et seq.).¹ On June 30, 2020, Public Advocates, Inc. and American Civil Liberties Union (Appellants) submitted a UCP complaint (Complaint) on behalf of Inland Congregations United for Change and Congregations Organized for Prophetic Engagement to the SBCOE, alleging that the SBCOE failed to ensure districts’ LCAPs met the approval requirements in *EC* Section 52070(d).

The SBCOE issued a Decision responding to the Complaint on September 15, 2020. Appellants submitted an Appeal of the Decision on October 15, 2020. The CDE then notified the SBCOE of the Appeal in a letter dated November 2, 2020. The SBCOE responded to the notice of appeal on November 23, 2020. The CDE sent a letter to Appellants and the SBCOE, dated November 23, 2020, notifying both parties of the CDE’s determination that exceptional circumstances warranted an extension of the 60-day timeline for issuing an appeal decision, pursuant to *EC* Section 33315(a)(4).

Following receipt of the documentation from the SBCOE, the CDE reviewed all material received related to the Complaint, applicable laws, and the County’s complaint procedures. Title 5 *CCR* 4633(g)(1) requires the CDE to include a finding that the County complied or did not comply with its complaint procedures. The CDE has reviewed the complaint procedures for the County and finds that the County fully complied with its complaint procedures in this matter.

II. Summary of Complaint and County Decision

The Complaint

The Complaint alleges the following:

Allegation 1

“SBCOE Failed to Ensure 2019–20 District LCAPs Identify and Justify All S&C-Funded Actions, Violating LCFF’s Transparency Requirements and Undermining Meaningful Community Engagement and Accountability” (Complaint, p. 4).

The Complaint alleges that the SBCOE “approved multiple LCAPs with egregious proportionality deficiencies, undermining the fundamental LCFF requirements of equity, transparency, and community accountability, and denying high-need students the benefit of the increased and improved services needed to close opportunity gaps.” (Complaint, p. 5). In support of this allegation, the Complaint references the SBCOE-approved 2019–2020 LCAPs from San Bernardino City Unified School District (SBCUSD), Hesperia Unified School District (HUSD), and Victor Valley Union High School District (VVUHSD). The Complaint alleges that the SBCOE approved these districts’ LCAPs despite their lack of demonstration, either qualitatively or quantitatively,

¹ LEA means a school district, county office of education, or charter school. (5 *CCR* 15495[d]).

of how the districts met their Minimum Proportionality Percentage (MPP) as required by 5 CCR Section 15496(a).

According to the Complaint, none of the districts referenced provided a qualitative demonstration of their increased or improved services as a means of meeting their MPP requirement. In turn, the Complaint alleges that each district's quantitative demonstration of increased or improved services did not sufficiently address its MPP requirement, thus resulting in a collective proportionality shortfall of over \$150 million in funding intended for high-needs students.

As a result, the Complaint alleged, "SBCOE has failed to fulfill its LCFF oversight and accountability responsibilities when it approved 2019–20 LCAPs that violated LCFF statutory requirements, expenditure regulations, and the LCAP template and instructions" (Complaint, p. 8). Further, the Complaint asserts that SBCOE's failure to hold districts accountable to the LCFF requirements, it "undermines the legitimacy of the entire system [and] risks stakeholders losing faith in the engagement process" (Complaint, p. 9).

In summary, Allegation 1 alleges that the SBCOE approved the 2019-20 LCAPs for SBCUSD, HUSD, and VVUHSD despite the lack of demonstration, either qualitatively or quantitatively, of how the aforementioned districts met their Minimum Proportionality Percentage (MPP) requirement. As means of meeting the MPP requirement, LEAs are required to demonstrate within their LCAPs how services for low-income, English Learners (EL), and foster youth students are being increased or improved by the percentage required.

Allegation 2

"SBCOE Failed to Ensure that 2019–20 District LCAPs Address Material Proportionality Shortfalls from Prior Years, Violating LCFF's Fundamental Equity Requirement"
(Complaint, p. 9).

The Complaint alleges, "SBCOE failed to hold districts responsible for materially meeting their proportionality obligation in the years the obligations were incurred and improperly allowed them to carry the obligations forward into subsequent years without limitation" (Complaint, p. 10). According to the Complaint, the SBCOE approved LCAPs for SBCUSD, HUSD, and VVUHSD despite the fact that these districts allegedly provided less than half of the required increased or improved services for their high-needs students during the 2018–19 school year, as evidenced by the amount of supplemental and concentration (S&C) grant funds that allegedly went unspent. The Complaint includes a table demonstrating the alleged amount of S&C funds that were

not spent by each district, and states the allegedly unspent S&C funds resulted in a proportionality shortfall within each district.²

The Complaint asserts, “A proportionality shortfall occurs when an LEA fails to meet its proportionality obligation because it did not actually increase or improve services by the required percentage— as evidenced by substantial S&C ‘carryover’ funds or by otherwise failing to qualitatively demonstrate the LEA’s MPP level of promised services” (Complaint, p. 9). Because the aforementioned districts allegedly did not address their proportionality shortfalls from 2018–19 in their planned actions and services for 2019–2020, the Complaint suggests that the districts did not spend the remaining 2018–19 S&C funds, illustrated in the table on page 11 of the Complaint, to support high-needs students.

The Complaint reiterates, “Because County Superintendents must ensure that LEAs’ LCAPs adheres [sic] to the proportionality requirement in the expenditure regulations, they must also be vigilant about material proportionality shortfalls” (Complaint, p. 9). Therefore, according to the Complaint, the SBCOE is in violation of the law for not identifying the material proportionality shortfalls for the aforementioned districts, and approving these districts’ LCAPs despite the districts not accounting for and redressing the prior year shortfalls they incurred.

In summary, Allegation 2 alleges that the SBCOE approved the 2019-20 LCAPs for SBCUSD, HUSD, and VVUHSD despite the fact the districts did not address the alleged unspent S&C funds from 2018–19 within the planned actions and services in their 2019–2020 LCAPs.

Allegation 3

“SBCOE Improperly Allowed Districts to Count Law Enforcement Expenditures Towards Their Proportionality Requirement, Harming the Very Students Whom LCFF is Designed to Support Rather than Actually Increasing or Improving Services for Them” (Complaint, p. 14).

Primarily, the Complaint alleges, “SBCOE failed to review LEAs’ descriptions of districtwide or schoolwide services in their LCAPs and enforce the regulations’ ‘principally directed’ and ‘effective’ standards for districtwide and schoolwide services” (Complaint, p. 15). The Complaint states, “County Superintendents are responsible for reviewing these descriptions to ensure that LEAs have fully demonstrated that they will increase or improve services for high-need students” (Complaint, p. 14). By allegedly not properly reviewing these districts’ descriptions, the SBCOE allowed LEAs to

² Supplemental and concentration funds are funds apportioned to the LEA on the basis of the number and concentration of unduplicated pupils (low income, foster youth and English learners), pursuant to *EC* sections 42238.01, 42238.02, 42238.07.

attribute millions of dollars toward their MPP requirements on services that did not actually increase or improve the education of high-needs students.

Secondarily, the Complaint alleges, “SBCOE approved multiple LCAPs that improperly counted across-the-board law enforcement expenditures as contributing to the increased or improved services requirement. These expenditures on law enforcement and school police departments are not tailored to the particular needs, conditions, or circumstances of high-need students and, as research and data consistently demonstrate, are not effective in improving school climate or students’ sense of safety” (Complaint, p. 15). The Complaint uses the LCAPs from HUSD, Chaffey Joint Union High School District (CJUHSD), and Apple Valley Unified School District (AVUSD) to specifically illustrate the SBCOE’s violation. Additionally, the Complaint includes citations for various research to support the claim that law enforcement and school police departments “are not effective in improving school climate or students’ sense of safety” (Complaint, p. 15).

In summary, Allegation 3 alleges that the SBCOE approved the 2019-20 LCAPs for HUSD, CJUHSD, and AVUSD despite the lack of justification for how the actions provided on an LEA-wide and schoolwide basis were principally directed and effective in meeting the needs of the LEAs’ high-needs students.

Requested Remedy

The Complaint requested that the SBCOE find merit in the UCP complaint and immediately pursue technical assistance from the CDE to develop and implement an LCAP review and approval process for the next regular three-year LCAP cycle to assist the SBCOE in identifying and correcting the deficiencies discussed above prior to approving any LCAP. The Complaint requests that this review and approval process be extended to any Learning Continuity and Attendance Plan for the 2020–21 school year, as applicable.

The Complaint requests the review and approval process include, but not be limited to:

1. Verification that the LEA’s MPP is demonstrated qualitatively or quantitatively in the increased or improved services section of the LCAP.
2. Verification that the actions and services listed as contributing meet the LEA’s required MPP in totality.
3. Identification of any “material proportionality shortfall” in the LEA’s Annual Update.
4. Verification that the LEA is rectifying any “material proportionality shortfalls” in the planned actions and services of its current year LCAP, in addition to the current year MPP requirement.
5. Verification that each wide action listed as contributing to meeting MPP is “justified as principally directed and effective, with particular scrutiny on law

enforcement actions that presumptively fail both the ‘principally directed’ and ‘effectiveness’ requirements” (Complaint, p. 19).

The Complaint has requested that the SBCOE review, at a minimum, the five 2019–2020 LCAPs analyzed within the Complaint to clarify the deficiencies addressed. Additionally, the Complaint requests the SBCOE require the aforementioned districts to remove all actions where law enforcement actions or other districtwide and schoolwide services are not principally directed and effective, and calculate any proportionality shortfalls. Once the proportionality shortfalls have been identified, the Complaint requests the SBCOE ensure the aforementioned districts are rectifying all “material identified proportionality shortfalls...and that these districts carry the obligation shortfall forward to the next regular, three-year LCAP in addition to fulfilling the current fiscal year’s proportionality obligation” (Complaint, p. 19).

County’s Decision

In its Decision, the SBCOE determined each district identified in the Complaint met its statutory requirements “within the four corners of the LCAPs and Annual Updates adopted by the five school districts named in the Complaint, and approved by SBCSS for the 2019-2020 school year”, therefore finding that each of the allegations in the Complaint lacked merit (Decision, p. 12).

Allegation 1

The SBCOE found that each district identified in the Complaint “met their 2019-20 required MPP, and SBCSS properly approved the Districts’ Annual Updates to their LCAPs in accordance with its oversight obligations” (Decision, p. 16). According to the Decision, the MPP calculations cited in the Complaint for Allegation 1 omitted “various expenditures which contribute towards the identified districts’ MPPs” and “fail[ed] to consider the additional programs and services identified in the Districts’ Demonstration of Increased or Improved Services for Unduplicated Pupils section (DIISUP), which is the section that correlates directly to the MPP obligation” (Decision, p. 16).

Additionally, the Decision disagreed with the assertion that “a district must include, dollar for dollar, every expense of S&C funds in its LCAP, and, more specifically, in its DIISUP section” as it “is not required under statute or regulations” (Decision, p. 16). The Decision further found, “All programs and services described in the DIISUP section do not have to correlate to actions and services listed under the Goals, Actions and Services (GAS) section of the LCAP. Districts are not required to, and generally do not, include each expense of S&C funds in their LCAP. Rather, they only include expenditures on those programs and services that are directly related to the Goals and Actions specified in the LCAP” (Decision, p. 17). As such, the Decision concluded, “Districts are simply required to *demonstrate*—not *enumerate*—in the DIISUP section that the MPP is met.” (Decision, p. 20), further supporting the SBCOE’s determination that each District identified in the Complaint “met their 2019-20 required MPP” as stated above.

Allegation 2

The SBCOE concluded that “LEAs are not required to revisit their MPP obligations from prior LCAP years and account for, or carryover, “shortfalls” to the current year. As such, SBCSS has no obligation to require this accounting year over year based on budgeted or actual expenditures” (Decision, p. 26). Therefore, the Decision states, “SBCSS would have no authority to refuse to approve an LCAP on this basis”, thus making Allegation 2 outside the scope of the SBCOE’s statutory requirements (Decision, p. 27).

Allegation 3

First, the SBCOE’s decision refers to its training and support services, including its methods of coaching districts to explain how their contributing expenditures are “principally directed towards” and “effective in” meeting goals for high-need students. The Decision includes the SBCOE’s approach, stating, “Districts write their LCAPs in a way that is understandable and consistent with the language used by the stakeholders. the SBCOE is required to approve a district’s LCAP if it meets the requirements set forth in *Education Code* section 52070, subdivision (d), and may not decline to approve an LCAP on the basis that the exact terms ‘principally directed towards’ and ‘effective in’ are not utilized, so long as the district has conveyed the same message through the use of similar illustrative language” (Decision, p. 31).

Second, the SBCOE disagreed that the use of S&C funds towards law enforcement or security measures is prohibited. Instead, the Decision noted “expenditures of S&C funds on law enforcement and security are appropriate so long as a district describes in its LCAP how those services are ‘principally directed towards’ and ‘effective in’ meeting the district’s goals for its high-need students in the state and any local priority areas” (Decision, p. 30).

The Decision further explains “expenditures are determined through feedback received from stakeholder groups at the local district level. That is, SBCSS does not determine expenditures for school districts. It only reviews the districts’ LCAPs to determine that the requirements set forth above have been met where a district utilizes S&C funds on a school-wide or district-wide basis” (Decision, p. 31). Therefore, the Decision concludes the method by which an LEA and its stakeholders determines how to spend the LEA’s S&C funds is beyond the scope of the SBCOE’s statutory requirements.

III. Appeal

The Appeal reiterates the allegations in the Complaint and Appellants reject the Decision’s findings for all allegations in this matter.

Allegation 1

The Appeal disputes the SBCOE’s claim that “because each and every expense of S&C funds is not captured in the LCAP, SBCSS conducts a comprehensive review of district

LCAPs alongside other budgetary documents provided by the districts to ensure that those programs and services referenced in the DIISUP section equal or exceed the district's required MPP for the LCAP year" (Appeal, p. 4). The Appeal argues that this is an unlawful interpretation of the LCFF regulations and LCAP template instructions as both require that the LEA demonstrate that it met its MPP obligation. The Appeal states that using outside documentation is "inadequate because these documents do not allow for any demonstration of how that action is principally directed and effective for high-need students" (Appeal, p. 4). Further, by using outside documentation to demonstrate MPP, "districts undermine transparency when they share certain vital information only in the crosswalk at stakeholder engagement meetings as opposed to having that information in the LCAP, which is available in its entirety to the public for review and dialogue at several public board meetings" (Appeal, p. 4). As such, the Appeal reiterates the assertion that the SBCOE approved multiple LCAPs in 2019–2020 that fell short of MPP demonstration, violating the SBCOE's responsibilities of oversight and accountability, and disputes the SBCOE's interpretation of LCFF regulations and the LCAP template and instructions that the demonstration of MPP completely within the LCAP is not required.

Allegation 2

The Appeal asserts that "LEAs must fulfill the equity mandate and actually increase or improve services for high-need students by the requisite MPP for each fiscal year supplemental and concentration funds are received" (Appeal, p. 12). The Appeal reiterates that failure to fulfill the equity mandate within the fiscal year "results in a proportionality shortfall that must be made up in future years to satisfy this mandatory duty" (Appeal, p. 12). To support its argument, the Appeal mentions that the LCFF spending regulations refer to the "fiscal year" for calculating an annual MPP. Therefore, the Appeal argues, even if the LEA does not actually increase or improve services for high-need students by the requisite MPP in the particular fiscal year in question, this does not eliminate an LEA's duty to actually meet that annual MPP and to make up for any shortfall in future years if it fails to do so in the previous fiscal year (Appeal, p. 13). As such, the Appeal restates its desired remedy that the CDE "require SBCSS to calculate prior shortfalls and ensure they are redeemed in subsequent-year LCAPs" (Appeal, p. 17).

Allegation 3

The Appeal reiterates the SBCOE's statutory responsibility to approve contributing actions/services in LCAPs only if the LEA adequately justifies that said actions/services are "principally directed" and "effective" in meeting the needs of the LEA's high-needs students. The Appeal cites the inclusion of law enforcement expenditures in the HUSD, CJUHSD, and AUSD 2019–2020 LCAPs as an example of a contributing action/service that was not properly justified as being "principally directed" and "effective" in meeting the high-needs students served in those districts. The Appeal further states, "To ensure accountability, it follows that the more controversial the contributing action is, the more important it is for the reviewing entity to review the action and justification through a critical and skeptical lens" (Appeal, p. 18). As such, the Appeal re-asserts that the three

identified LCAPs were not properly approved, and concludes that the SBCOE failed to hold the LEAs accountable when it approved LCAPs that included actions/services that were not fully justified as “principally directed” and “effective” in meeting the needs of the aforementioned LEAs’ high-needs students.

IV. Legal Authorities

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52059.5 – 52077

California Code of Regulations sections 15494 – 15497

V. CDE Findings of Fact and Conclusions of Law

County offices of education, such as the SBCOE, hold the responsibility to ensure district LCAPs meet the applicable statutory requirements of *EC* sections 52059.5 – 52077. Specifically, *EC* Section 52070(d) requires county superintendents to review district LCAPs to determine:

- (1) The LCAP or annual update to the LCAP adheres to the template adopted by the state board pursuant to *EC* Section 52064 and follows any instructions or directions for completing the template that are adopted by the state board.
- (2) The budget for the applicable fiscal year adopted by the governing board of the school district includes expenditures sufficient to implement the specific actions and strategies included in the LCAP adopted by the governing board of the school district, based on the projections of the costs included in the plan.
- (3) The LCAP or annual update to the LCAP adheres to the expenditure requirements adopted pursuant to *EC* Section 42238.07 for funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to *EC* sections 42238.02 and 42238.03.

The Complaint alleged that the SBCOE did not fulfill the statutory obligations in *EC* Section 52070(d), and approved district LCAPs that were out of compliance with applicable laws. The Complaint established three separate allegations asserting this violation, and cited five school districts’ 2019–2020 LCAPs as evidence to support the identified allegations.

Allegation 1

“SBCOE Failed to Ensure 2019–20 District LCAPs Identify and Justify All S&C-Funded Actions, Violating LCFF’s Transparency Requirements and Undermining Meaningful Community Engagement and Accountability” (Complaint, p. 4).

Background

The LCFF apportions additional funds to LEAs on the basis of the number and concentration of unduplicated students (low-income, English learner, and foster youth) (*EC* sections 42238.02, 42238.07). These funds are commonly referred to as “supplemental and concentration grant funds.” LEAs are required to increase or improve services for unduplicated students as compared to the services provided to all students in the fiscal year in proportion to the additional funding provided (*EC* Section 42238.07; 5 *CCR* 15496). LEAs are required to provide evidence in their LCAP to demonstrate how these services support the unique needs of their unduplicated students (5 *CCR* 15496[a]).

Regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated students above services provided to all students in the fiscal year (5 *CCR* 15496). To “improve services” means to “grow services in quality,” and to “increase services” means to “grow services in quantity” (5 *CCR* Section 15495[k] and [l]).

An LEA is required to follow the LCAP Template approved by the State Board of Education (SBE) (*EC* sections 52064, 52070). The DIISUP section of the 2017–2020 LCAP Template requires an LEA to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated students, and to identify the percentage by which it must increase or improve services for unduplicated students as compared to all students. This section also requires an LEA to describe how the services provided for unduplicated students are increased or improved by at least this percentage, either quantitatively or qualitatively, as compared to services provided for all students in the LCAP year (*EC* Section 42238.07; 5 *CCR* 15496).

As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students as compared to services provided for all students in the LCAP year. An LEA does not meet its obligation to increase or improve services by describing planned expenditures. Likewise, the increase or improvement provided by an action or service in the LCAP is not measured in terms of the expenditures that support it. The increase or improvement in services are described in terms of the planned results or outcomes that will occur as a result of an LEA making the associated expenditures. As such, LEAs are required to describe in the LCAP the required increase or improvement of services provided in terms of those services that are increased or improved and not in terms of the amount of expenditures associated with the actions.

The collective set of services described by an LEA that will contribute to meeting the required proportional increase or improvement in services for unduplicated students over services provided to all students include two categories of services:

- Services that are limited to serving one or more unduplicated student group
- Services that upgrade the entire educational program of an LEA or school site(s)

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charterwide) service.

The actions included as contributing to meeting the increased or improved services requirement must be indicated as such in the GAS section of the LCAP. As a result, the description of actions and services in the DIISUP section must be aligned with those actions that are included in the GAS section as contributing to meeting the increased or improved services requirement. An adequate description of how an LEA will meet its increased or improved services requirement must address in some manner the actions included in the GAS section as contributing to meeting this requirement.

Findings

The CDE reviewed the 2019–2020 LCAPs for the three identified districts brought forth by the Appellants in the Complaint to determine whether the SBCOE approved these districts' LCAPs despite their lack of demonstration, either qualitatively or quantitatively, of how the districts increased or improved services for their unduplicated students as compared to services provided for all students in proportion to the increase in funding generated by the number and concentration of their unduplicated students, as required by 5 CCR 15496(a).

SBCUSD

The 2019–2020 LCAP for SBCUSD contains three contributing actions in the GAS section to demonstrate how it planned to increase or improve services for its unduplicated students as compared to services provided for all students (Goal 1, Actions 2, 3, and 5).

In the DIISUP, the District attempts to describe how the services provided in Actions 2 and 5 were increased or improved to meet the needs of its unduplicated students as compared to services being provided for all students, but there is no mention of Action 3. Additionally, the district explains that it “continues to provide centralized supplemental support to schools throughout the District total over \$11 million for English Learners, African American Student Achievement, Latino Student Achievement, and Gifted Students” (2019–2020 SBCUSD LCAP, p. 117). However, it is unclear if these supplemental supports are reflected in the GAS section and how these services increased or improved services for its unduplicated students as compared to services provided for all students. Lastly, the District describes its Advancement Via Individual Determination (AVID) program as “principally directed to support the academic achievement of low achieving, low income students,” but there are no actions in the GAS section related to the AVID program that are marked as contributing to meet the increased or improved services requirement (2019–2020 SBCUSD LCAP, p. 117).

HUSD

The 2019–2020 LCAP for HUSD contains 14 contributing actions in the GAS section to demonstrate how it planned to increase or improve services for its unduplicated

students as compared to services provided for all students (Goal 1, Actions 1-9; Goal 2, Actions 2-5; and Goal 3, Action 1).

In the DIISUP, the District listed the services that were identified in its contributing actions; however, the District did not provide an explanation for how those services were increased or improved to meet the needs of the District's unduplicated students as compared to services being provided for all students. Additionally, the District provided a list of expenditures that were not tied to actions in the GAS section. As described above, an LEA does not meet its obligation to increase or improve services by describing planned expenditures. It is unclear how these expenditures demonstrate increased or improved services for the District's unduplicated students as compared to services provided for all students as they were not tied to any actions in the GAS section of the District's 2019–2020 LCAP.

VVUHSD

The 2019–2020 LCAP for VVUHSD contains 29 contributing actions in the GAS section to demonstrate how it planned to increase or improve services for its unduplicated students as compared to services provided for all students (Goal 1, Actions 1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 18, 20, 23, 25, 26, and 27; Goal 2, Actions 1, 5, 6, 7, 10, 11, and 12; Goal 4, Action 3; Goal 5, Actions 2, 5, 6, and 8).

In the DIISUP and throughout some of the action descriptions, the District attempts to describe how the services provided in its contributing actions were increased or improved for the District's unduplicated students as compared to services being provided for all students. However, at the end of the District's DIISUP section, it states, "Additional information which is directly impacting the supplementary and concentration grant funding includes action and programs not directly listed as action/services in the 2019-2020 LCAP" (2019–2020 VVUHSD LCAP, p. 279). This is inconsistent with the statutory requirements in 5 CCR 15496(a), which require an LEA to demonstrate in its LCAP how it planned to increase or improve services for its unduplicated students as compared to services provided for all students.

Conclusion for Allegation 1

A review of the identified districts' 2019–2020 LCAPs found that the districts' 2019–2020 LCAPs did not meet the requirement to demonstrate increased or improved services for their unduplicated pupils as compared to the services provided to all pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils within their LCAPs (5 CCR 15496[a]).

As such, the SBCOE did not fully uphold its statutory obligation, consistent with *EC* Section 52070(d), and approved the 2019–2020 LCAPs for SBCUSD, HUSD, and VVUHSD despite their lack of demonstration, either qualitatively or quantitatively, of how the districts increased or improved services for their unduplicated students as compared to services provided for all students in proportion to the increase in funding

generated by the number and concentration of their unduplicated students, as required by 5 CCR 15496(a). Therefore, the Appeal has merit.

Required Corrective Actions:

The SBCOE must ensure that identification of actions included as contributing to meeting the increased or improved services requirement in its districts' 2021–22 LCAPs sufficiently demonstrate, either qualitatively or quantitatively, how the districts increased or improved services for their unduplicated students as compared to services provided for all students in proportion to the increase in funding generated by the number and concentration of their unduplicated students, as required by 5 CCR 15496(a).

The SBCOE is required to consider the findings of the CDE's Investigation Report dated June 18, 2021, as it fulfills its statutory duty to review and approve the school district LCAPs in San Bernardino County consistent with the approval criteria provided in EC Section 52070.

Allegation 2

“SBCOE Failed to Ensure that 2019–20 District LCAPs Address Material Proportionality Shortfalls from Prior Years, Violating LCFF’s Fundamental Equity Requirement”
(Complaint, p. 9).

Background

The LCFF apportions additional funds to LEAs on the basis of the number and concentration of unduplicated students (EC sections 42238.02, 42238.07). These funds are commonly referred to as “supplemental and concentration grant funds.” LEAs are required to increase or improve services for unduplicated students as compared to the services provided to all students in the fiscal year in proportion to the additional funding provided (EC Section 42238.07, 5 CCR Section 15496). To “improve services” means to “grow services in quality,” and to “increase services” means to “grow services in quantity” (5 CCR Section 15495(k) and (l)).

As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students over services provided for all students in the LCAP year. Regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated students above services provided to all students in the fiscal year (5 CCR 15496).

Findings

The CDE reviewed 2019–2020 LCAPs for the three identified districts brought forth by the Appellants in the Complaint to determine whether the “SBCOE failed to hold the districts responsible for materially meeting their proportionality obligation in the years the obligations were incurred and improperly allowed them to carry the obligations forward into subsequent years without limitation” (Complaint, p. 10).

Because there is no spending requirement, there also is no requirement to “carry-over” unspent S&C funds. An LEA has discretion as to how it chooses to increase or improve services for its unduplicated students, irrespective of the cost. The increase or improvement provided by an action in the LCAP is not measured in terms of the expenditures that support it. Rather, the increase or improvement in services are described in terms of the planned results or outcomes that will occur as a result of an LEA making the associated expenditures. As such, LEAs are required to describe in the LCAP the required increase or improvement of services provided in terms of those services that are increased or improved and not in terms of the amount of expenditures associated with the actions. As long as an LEA demonstrates in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students over services provided for all pupils in the LCAP year, the LEA has met its legal obligations.

Conclusion for Allegation 2

After a thorough review of the County’s investigation file, the Complaint, the County’s Decision, the Appeal, and documents provided by the Appellant, in accordance with 5 CCR Section 4633(g), the CDE finds that the Decision is supported by substantial evidence and its legal conclusions are not contrary to law. Therefore, the Appeal has no merit.

Although the CDE upholds the Decision by the SBCOE, it is anticipated that forthcoming changes to *EC* Section 42238.07, proposed in Assembly Bill 1200 Education Omnibus Trailer Bill, Section 13, if adopted into law, would require an LEA to reconcile its total budgeted expenditures and total planned improvements for the specific actions that contribute to increasing or improving services for unduplicated pupils with its total estimated actual expenditures and total actual improvements for the specific actions that contribute to increasing or improving services for unduplicated pupils, beginning with the 2022–23 LCAP. Depending on the results of the reconciliation of expenditures and quality improvements, an LEA may be required to expend unutilized funds in the subsequent year solely on implementing specific actions that satisfy the increased or improved services requirement, in addition to meeting its MPP for that school year.

Allegation 3

“SBCOE Improperly Allowed Districts to Count Law Enforcement Expenditures Towards Their Proportionality Requirement, Harming the Very Students Whom LCFF is Designed to Support Rather than Actually Increasing or Improving Services for Them” (Complaint, p. 14).

Background

The LCFF apportions additional funds to LEAs on the basis of the number and concentration of unduplicated students (*EC* sections 42238.02, 42238.07). These funds are commonly referred to as “supplemental and concentration grant funds.” LEAs are

required to increase or improve services for unduplicated students as compared to the services provided to all students in the fiscal year in proportion to the additional funding provided (*EC* Section 42238.07; 5 *CCR* 15496). LEAs are required to provide evidence in their LCAP to demonstrate how these services support their unduplicated students (5 *CCR* 15496[a]).

Regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated students above services provided to all students in the fiscal year (5 *CCR* 15496). To “improve services” means to “grow services in quality,” and to “increase services” means to “grow services in quantity” (5 *CCR* Section 15495[k] and [l]).

An LEA is required to follow the LCAP Template approved by the SBE (*EC* sections 52064, 52070). The DIISUP section of the 2017–2020 LCAP Template requires an LEA to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated students, and to identify the percentage by which it must increase or improve services for unduplicated students as compared to all students. This section also requires an LEA to describe how the services provided for unduplicated students are increased or improved by at least this percentage, either quantitatively or qualitatively, as compared to services provided for all students in the LCAP year (*EC* Section 42238.07; 5 *CCR* 15496).

The collective set of services described by an LEA that will contribute to meeting the required proportional increase or improvement in services for unduplicated students over services provided to all students include two categories of services:

- Services that are limited to serving one or more unduplicated student group
- Services that upgrade the entire educational program of an LEA or school site(s)

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charterwide) service.

In the DIISUP, the LEA is required to include a description of, and justification for, the use of any funds in a districtwide or schoolwide manner (5 *CCR* 15496). An LEA is required to describe how services provided on a “wide” basis are “principally directed towards” and “effective in” meeting its goals for unduplicated pupils (*EC* Section 42238.07, 5 *CCR* 15496[b]).

In order to provide the required justification for services provided on a “wide” basis, an LEA must distinguish between services directed toward unduplicated pupils based on that status, and services available to all pupils without regard to their status as unduplicated pupils or not. An LEA describes how a service is principally directed to meeting the LEA’s goals for unduplicated pupils when it explains in its LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated pupils, and how the service takes these factors into consideration (such as, for example, by the service’s design, content, methods, or location). In addition, the description must explain how the LEA expects the service to support the LEA’s conclusion that the

service will be *effective* to meet the LCAP goals for its unduplicated pupils. When properly explained in the LCAP, it will be apparent how the LEA is acting to increase or improve services for unduplicated pupils, and why it has determined the services identified will be effective to achieve its goals for unduplicated pupils.

Findings

The CDE reviewed 2019–2020 LCAPs for the three identified districts brought forth by the Appellants in the Complaint to determine whether the SBCOE approved the districts' LCAPs despite their omission of the required description of, and justification for, the use of any funds on a districtwide or schoolwide basis. The Complaint focused on the inappropriate use of LCFF S&C funds spent on law enforcement services and stated that the identified districts' LCAPs did not justify the need for nor analyze the effectiveness of such services.

HUSD

The 2019–2020 LCAP for HUSD has 14 contributing actions provided on a districtwide and schoolwide basis (Goal 1, Actions 1-9; Goal 2, Actions 2-5; and Goal 3, Action 1). The Complaint and Appeal alleged the 2019–2020 HUSD LCAP did not include the required descriptions and justifications for its districtwide and schoolwide actions. The Complaint and Appeal identified Goal 2, Action 2 to support this allegation.

On page 84 of the 2019–2020 HUSD LCAP, Goal 2, Action 2 states:

“Provide school police officers and additional campus assistants at secondary schools to help ensure safety on the campuses.”

On page 103 in the 2019–2020 HUSD LCAP, the District attempts to demonstrate why its wide actions are principally directed towards meeting the needs of its unduplicated students with the following explanation:

“Expenditures are planned on a districtwide and schoolwide basis due to our unduplicated pupil count percentage being 76.56%. These funds are being used to provide an increase of quality learning opportunities through... School Police to provide greater securing to all students.”

It is evident that this explanation does not demonstrate how providing school police officers and additional campus assistants at its secondary schools is principally directed to meeting any identified need(s) of any of its unduplicated student groups. Simply stating that an LEA has a high enrollment percentage of a specific student group or groups does not meet the increased or improved services standard because enrolling students is not the same as serving students.

Additionally, the 2019–2020 HUSD LCAP does not demonstrate how Goal 2, Action 2 is effective in meeting any identified need(s) of its unduplicated student group(s). It is unclear how the LEA planned to measure the effectiveness of school police officers and additional campus assistants. There is not an established through line between the

LEA's identified metrics and the use of school police officers and campus assistants to improve outcomes for the LEA's unduplicated students as compared to the outcomes of all students.

Therefore, based on the description provided, the requirements of 5 CCR 15496(b) and the instructions for the DIISUP in the LCAP Template are not met with respect to Goal 2, Action 2.

CJUHSD

The 2019–2020 LCAP for CJUHSD has 40 contributing actions provided on a districtwide and schoolwide basis (Goal 1, Actions 1, 3, 4, 5, 6, 9, 11, 12, 13, 14, 15, 16, 17; Goal 2, Actions 1, 2, 4, 5, 7, 8, 9, 10, 11, 12; Goal 3, Actions 1, 2, 5, 6, 7, 8, 11, 12, 13, 14, 15; Goal 4, Actions 1, 2, 3, 5, 6, 7). The Complaint and Appeal alleged the 2019–2020 CJUHSD LCAP does not include the required descriptions and justifications for its districtwide and schoolwide actions. The Complaint and Appeal identified Goal 3, Action 12 to support this allegation.

On page 143 of the 2019–2020 CJUHSD LCAP, the action description for Goal 3, Action 12 includes:

Increase campus security resources.

- Partner with local municipalities and law enforcement to provide a School Resource Officer on each school site. Contracts with Ontario and Montclair police departments and San Bernardino Probation office for PO at Chaffey High.
- Interquest Canine Services
- Director of Safety and Campus Officers
- Increase staffing for Campus Officers
- Other related security services and training
- Contracts with Ontario, Montclair, Rancho Cucamonga, and County law enforcement agencies
- Additional Campus Officers
- Additional training

On page 166 of the 2019–2020 CJHUSD LCAP, the District attempts to demonstrate why its wide actions are principally directed towards meeting the needs of its unduplicated students with the following explanation:

The District also offers services and programs that are aligned with LCAP goals that serve all students in areas such as, intervention counseling, recruitment and retention of quality teachers, RTI administrative support and committees at each site, positive behavior support, SEL, and restorative practices. School wide implementation of these practices will not only have an impact on learning environment and the climate of the schools as a whole but will also have a disproportionately positive impact on the targeted subgroups.

The District recognizes that while these funds are generated in order to serve the focus students, some services may, should the need arise, be utilized for students outside the focus subgroups. While the majority of students served will be focus students (61.8%), there may be other students in need that the District does not want to overlook.

By providing the services identified without limitations, CJUHSD will best serve all students, especially students who need the most support to provide them equitable access and opportunity. The full list of expenditures is aligned with the goals of the CJUHSD Local Control and Accountability Plan and addresses the needs of the District's English learners, socioeconomically disadvantaged students and foster youth. Services included are principally directed to unduplicated students.

It is unclear if the increased campus security resources described in Goal 3, Action 12 are included as part of this explanation. Additionally, simply stating that "services are principally directed to unduplicated students" is a conclusory statement. Conclusory statements that a service will help achieve an expected outcome for the goal, without an explicit connection or further explanation as to how, are not sufficient. Therefore, this explanation does not demonstrate how providing increased campus security resources is principally directed to meeting any identified need(s) of any of its unduplicated student groups.

Additionally, the 2019–2020 CJUHSD LCAP does not demonstrate how Goal 3, Action 12 is effective in meeting any identified need(s) of its unduplicated student group(s). It is unclear how the LEA planned to measure the effectiveness of increased campus security resources. There is not an established through line between the LEA's identified metrics and the use of increased campus security resources to improve outcomes for the LEA's unduplicated students as compared to the outcomes of all students.

Therefore, based on the description provided, the requirements of 5 CCR 15496(b) and the instructions for the DIISUP in the LCAP Template are not met with respect to Goal 3, Action 12.

AVUSD

The 2019–2020 LCAP for AVUSD has 21 contributing actions provided on a districtwide and schoolwide basis (Goal 1, Actions 1-5; Goal 2, Actions 1-4; Goal 3, Actions 1, 3, 4,

5, 8, 9, 10, 11, 12; Goal 4, Actions 3 and 4). The Complaint and Appeal alleged the 2019–2020 AVUSD LCAP does not include the required descriptions and justifications for its districtwide and schoolwide actions. The Complaint and Appeal identified Goal 4, Action 4 to support this allegation.

On page 112 of the 2019–2020 AVUSD LCAP, the action description for Goal 4, Action 4 includes:

“Increased supervision and security measures at school sites. Includes police officers, deans, Campus Security and Proctors depending upon site need. Includes the addition of two elementary principals thereby giving each K8 site at least one fulltime coadministrator [sic] per the [District Advisory Committee] DAC request.”

On pages 131 and 132 of the 2019–2020 AVUSD LCAP, the District attempts to demonstrate why its wide actions are principally directed towards meeting the needs of its unduplicated students with the following explanation:

The following actions, discussed by goal area, are LEA wide actions that are principally directed to the over 70% of students who comprise the unduplicated count of pupils. The actions will have a majority impact on those students and in some cases are not the type of service that can be restricted from the remaining minority of students.

Goal four, action three is principally directed toward students of poverty who make up the great majority of our bus riding population thereby allowing an improvement in transportation service by reducing the distance that students must walk to school in our area of roads without sidewalks or safe shoulders. Action four allows for supplemental supervision and administrative support staff to build relationships, mentoring, and intervention programs for students in need.

It is evident that this explanation does not demonstrate how providing increased supervision and security measures at school sites through police officers, deans, campus security, and proctors is principally directed to meeting any identified need(s) of any of its unduplicated student groups. Simply stating that an LEA has a high enrollment percentage of a specific student group or groups does not meet the increased or improved services standard because enrolling students is not the same as serving students.

Additionally, the 2019–2020 AVUSD LCAP does not demonstrate how Goal 4, Action 4 is effective in meeting any identified need(s) of its unduplicated student group(s). It is unclear how the LEA planned to measure the effectiveness of providing increased supervision and security measures at school sites through police officers, deans, campus security and proctors. There is not an established through line between the LEA’s identified metrics and the increased supervision and security measures at school sites through police officers, deans, campus security, and proctors to improve outcomes for the LEA’s unduplicated students as compared to the outcomes of all students.

Therefore, based on the description provided, the requirements of 5 CCR 15496(b) and the instructions for the DIISUP in the LCAP Template are not met with respect to Goal 4, Action 4.

Conclusion for Allegation 3

A review of the identified districts' 2019–2020 LCAPs found that the districts' 2019–2020 LCAPs did not meet the requirement to describe how services provided on a districtwide or schoolwide basis are “principally directed towards” and “effective in” meeting its goals for unduplicated pupils (*EC* Section 42238.07, 5 CCR 15496[b]).

As such, the SBCOE did not uphold its statutory obligation, consistent with *EC* Section 52070(d)(3), and approved the 2019–2020 LCAPs for HUSD, CJUHSD, and AVUSD despite their lack of description of how services provided on a districtwide or schoolwide basis are “principally directed towards” and “effective in” meeting goals for unduplicated pupils. Therefore, the Appeal has merit.

Required Corrective Action:

The SBCOE must ensure that identification of actions included as contributing to meeting the increased or improved services requirement in its districts' 2021–22 LCAPs sufficiently support the districts' explanations of how the actions are principally directed towards, and are effective in, meeting goals for their unduplicated students.

The SBCOE is required to consider the findings of the CDE's Investigation Report dated June 18, 2021, as it fulfills its statutory duty to review and approve the school district LCAPs in San Bernardino County consistent with the approval criteria provided in *EC* Section 52070.

VI. Conclusions

With respect to Allegation 1, the Appeal has merit.

With respect to Allegation 2, the Appeal has no merit.

With respect to Allegation 3, the Appeal has merit.

VII. Corrective Actions

Allegation 1: The SBCOE must ensure that identification of actions included as contributing to meeting the increased or improved services requirement in its districts' 2021–22 LCAPs sufficiently demonstrate, either qualitatively or quantitatively, how the districts increased or improved services for their unduplicated students as compared to services provided for all students in proportion to the increase in funding generated by the number and concentration of their unduplicated students, as required by 5 CCR 15496(a).

June 18, 2021

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The SBCOE is required to consider the findings of the CDE's Investigation Report dated June 14, 2021, as it fulfills its statutory duty to review and approve the school district LCAPs in San Bernardino County consistent with the approval criteria provided in *EC* Section 52070.

Allegation 2: No required corrective actions.

Allegation 3: The SBCOE must ensure that identification of actions included as contributing to meeting the increased or improved services requirement in its districts' 2021–22 LCAPs sufficiently support the districts' explanations of how the actions are principally directed towards, and are effective in, meeting goals for their unduplicated students.

The SBCOE is required to consider the findings of the CDE's Investigation Report dated June 18, 2021, as it fulfills its statutory duty to review and approve the school district LCAPs in San Bernardino County consistent with the approval criteria provided in *EC* Section 52070. As the SBCOE is making these improvements, they will have technical assistance available to them from the CDE, pursuant to *EC* Section 52075(e).

As described in 5 *CCR* 4665, within 30 days of receipt of this report, either party may request reconsideration by the Superintendent or the Superintendent's designee. The request for reconsideration shall specify and explain why:

- (1) Relative to the allegation(s), the Department Investigation Report lacks material findings of fact necessary to reach a conclusion of law on the subject of the complaint, and/or
- (2) The material findings of fact in the Department Investigation Report are not supported by substantial evidence, and/or
- (3) The legal conclusion in the Department Investigation Report is inconsistent with the law, and/or
- (4) In a case in which the CDE found noncompliance, the corrective actions fail to provide a proper remedy.

Should you have any questions related to this Investigation Report, please contact Joshua Strong, Administrator of LASSO, by email at jstrong@cde.ca.gov.

Sincerely,

Lindsay Tornatore, Ed.D., Director
Student Achievement and Support Division

LT:br

June 18, 2021

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cc: Ted Alejandre, Superintendent, San Bernardino County Superintendent of Schools
Richard De Nava, Assistant Superintendent, Business Services, San Bernardino County Superintendent of Schools
James Dilday, Interim Assistant Superintendent, Education Support Services, San Bernardino County Superintendent of Schools
James Baca, Chief Operating Officer, Atkinson, Andelson, Loya, Ruud, & Romo Law Corporation

Exhibit 5

CDE Klamath-Trinity Joint Unified Decision



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TONY THURMOND
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

February 13, 2019

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Yurok Tribe Klamath Office
190 Klamath Blvd
P.O. Box 1027
Klamath, CA 95548

Erika Tracy, Executive Director
Hoopa Tribal Education Association
47 Orchard Street
P.O. Box 428
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Linnea Nelson, Education Equity Staff Attorney
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111

Dear Mr. McQuillen, Ms. Tracy, Ms. Nelson:

Subject: Request for Appeal – Klamath-Trinity Joint Unified School District
Yurok Tribe, Hoopa Tribal Education Association, and American Civil
Liberties Union, Appellants

Case Number 2019-0009

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal received on December 12, 2018. You are appealing the Klamath-Trinity Joint Unified School District's (District's) Decision dated November 27, 2018, and the District's Decision dated November 30, 2018.

Background

The Local Control Funding Formula (LCFF) statute authorizes the filing of an administrative complaint pursuant to the Uniform Complaint Procedures (UCP) to

resolve allegations that a local educational agency (LEA)¹, such as a school district, failed to meet the requirements of Article 4.5. [Local Control and Accountability Plans and the Statewide System of Support [52059.5 – 52077] (*California Education Code (EC)* Section 52075; *California Code of Regulations*, Title 5 (5 *CCR*) Section 4600 et seq.). On September 28, 2018, the Yurok Tribe, Hoopa Tribal Education Association, and American Civil Liberties Union (Appellants) submitted a UCP Complaint (Complaint) to the District, alleging that the District's 2018-19 Local Control and Accountability Plan (LCAP) violates the LCFF statute.

The District issued its Decision in this matter on November 27, 2018. The Appellants submitted an Appeal to the CDE of the District's Decision on December 12, 2018. The CDE sent a notice of appeal letter, dated December 14, 2018, to the District requesting the investigation file and other applicable documentation as required by 5 *CCR* Section 4633. The CDE received the District's documentation on December 21, 2018.

The District issued a subsequent Decision, dated November 30, 2018, in response to an allegation made in a previous Appeal by the Appellants to the CDE, dated September 21, 2018. In this Appeal, it was alleged that the District failed to constitute a Parent Advisory Committee as required by *EC* Section 52062(a). This allegation was not made in the initial complaint. As required by 5 *CCR* Section 4632(d), in a letter dated October 1, 2018, the CDE referred this allegation back to the District for resolution as a new complaint. The District was required to complete an investigation of this allegation per its uniform complaint procedures and issue a decision to the Appellants within 60 days. The District issued its Decision regarding this particular allegation on November 30, 2018.

The Appeal, dated December 12, 2018, to which this report is responding, appeals both the District's Decision dated November 27, 2018, and the District's Decision dated November 30, 2018. These Decisions are referenced as either the November 27 Decision or the November 30 Decisions or, in the plural, as the Decisions.

Following receipt of this documentation from the District, the CDE reviewed all material received related to the Complaint, applicable laws, and the District's complaint procedures. Title 5 *CCR* 4633(d)(1) requires the CDE to include a finding that the LEA complied or did not comply with its complaint procedures. The CDE has reviewed the complaint procedures for the District and finds that the District fully complied with its complaint procedures in this matter.

After review of the Complaint, the District's Decisions, and the Appeal, the CDE determined that Allegation 4 in the Appeal raised a new allegation not contained in the Complaint. In the Appeal, Allegation 4 was expanded to include the allegation that the

¹ LEA means a school district, county office of education, or charter school (5 *CCR* 15495(d)).

District failed to post its LCAP prominently on its homepage as required by *EC* Section 52065(a). This specific allegation was not included in the initial Complaint. In a letter dated February 11, 2019, and consistent with 5 *CCR* Section 4632(d), the CDE referred this specific allegation in the Appeal back to the District for resolution as a new complaint under 5 *CCR* sections 4630 and 4631. The District is required to complete an investigation of this allegation per its uniform complaint procedures and issue a decision to the Appellants within 60 days. The CDE addresses the remaining allegations of the Complaint below.

Additionally, the CDE determined that the District's Decisions failed to address an issue raised in the Complaint, regarding alleged deficiencies in the LCAP adoption process. Specifically, the Complaint provides the following timeline for adoption of the 2018-19 LCAP:

- June 26, 2018, 5:00 p.m. LCAP Public Hearing;
- June 26, 2018, 6:17 p.m. District provided LCAP to stakeholders via email;
- June 27, 2018, 9:30 a.m. District adopts LCAP

Without additional information, such a timeline would be inconsistent with the requirements of *EC* Section 52062(b)(1), which requires an LEA to hold at least one public hearing and to provide public access to the LCAP at least 72 hours prior to this public hearing. Neither the District's Decision dated November 27, 2018, nor its Decision dated November 30, 2018, addressed this issue.

As required by 5 *CCR* Section 4632(e), and in a letter dated February 11, 2019, the CDE has referred this matter to the LEA to make the necessary findings and conclusions on the issue not addressed. The District must address the issue within 20 days from the date of the referral.

Summary of Complaint and District Decisions

The Complaint

The Complaint alleges the following:

Allegation 1: “The District fails to justify each schoolwide and districtwide S&C expenditure as ‘principally directed towards’ and ‘effective in meeting’ its goals for high-need students” (Complaint, p. 2).

“The District fails to justify each schoolwide and districtwide S&C expenditure as ‘principally directed towards’ and ‘effective in meeting’ its goals for high-needs students” (Complaint, p. 2). The Complaint also alleges, as part of Allegation 1, that the District fails to identify all uses of supplemental and concentration funds in the LCAP. The Complaint references four specific actions (Goal 1, Actions 2, 4, 7, 21) as examples of

Allegation 1. Goal 1, Actions 2 and 4 support teacher salaries and class size reduction; Action 7 supports technology spending; Action 21 supports “Indian Land Tenure utilizing the Indian Education Department” (KTJUSD 2018-19 LCAP, p. 76).

Allegation 2: “The District fails to account for all S&C funds in its estimated actual spending and reallocated significant amounts of S&C funds after the LCAP approval process” (Complaint, p. 6).

“The District fails to account for all S&C funds in its estimated actual spending and reallocated significant amounts of S&C funds after the LCAP approval process” (Complaint, p. 6). Specifically, the District fails to account for \$1,072,583 of its supplemental and concentration grant funds for the 2017-18 LCAP year. The District did not spend \$85,515 of \$97,298 budgeted for a school counselor; spent \$42,329 less than budgeted on outreach consultants; spent \$108,504 less than budgeted on instructional aides and monitors. Additionally, the District failed to report whether \$103,649 budgeted for highly qualified teachers for 2017-18 was spent. The Complaint states that the District does not offer any justification for these differences, nor does the District explain how it engaged stakeholders in the decision to reallocate the funds in question.

Allegation 3: “The District fails to adequately describe the actions/services implemented and how these are effective in meeting the District’s goals in its Annual Update” (Complaint, p. 7).

In addition to alleging that the District fails to describe the actual actions/services in the Annual Update, Allegation 3 alleges that the District provides inadequate responses to the first, second, and fourth prompts of the Analysis part of each goal in the Annual Update. Also alleged is that the District fails to offer data specific to 2017-18 for comparison. The Complaint claims that there are only two annual measurable outcomes in the entire LCAP that cite comparable data from the 2017-18 LCAP year. As an example, the Complaint states that the high school graduation rate from 2014-15 and the dropout rates from 2015-16 are used in Goal 2.

Allegation 4: “The District must strengthen its LCAP stakeholder engagement process” (Complaint, p. 10).

According to the Complaint, the District failed to meet stakeholder engagement requirements pertaining to the Parent Advisory Committee (PAC). Specifically, the Complaint alleges that the District utilizes individual School Site Councils (SSC) in place of a districtwide PAC. The Complaint claims that at the September 11, 2018 Board of Trustees meeting, the District acknowledged that it has not constituted a PAC.

Additionally, the Complaint alleges that the District made substantial changes to its LCAP between June 2018 and September 2018 without engaging in any stakeholder engagement process.

District's Decisions

In both the November 27 Decision and the November 30 Decision, the District found itself to be in compliance with respect to each of the relevant allegations.

Allegation 1:

In its November 27 Decision, the District claims that it is in compliance with the requirement to describe LEA-wide and schoolwide services as principally directed toward, and effective in meeting, the LEA's goals for its unduplicated students. The District states that the expenditure of teacher salaries is related to state priority 1 and that supplemental and concentration grant funds support small class sizes, which "will positively impact unduplicated pupils" (November 27 Decision, p. 9). The technology spending in question, according to the District, "relates to the LCAP Goal 1 and is appropriately included within the defined scope of 'services' for unduplicated pupils" (November 27 Decision, p. 9). Goal 1, Action 21² is justified, according to the District, because the "action directly relates to the LCAP Goal 1 and is appropriately included within the defined scope of services for unduplicated pupils" (November 27 Decision, p. 10).

Regarding the District's requirement to increase or improves services for unduplicated students, generally speaking, the District asserts that "The District adequately justified the District-wide use of such funds based on impacting the learning environment at the school, which would in turn, positively impact unduplicated pupils, especially considering the District's nearly 90% unduplicated pupil count" (November 27 Decision, p. 10). In the Decision's findings of fact, the District provides the following five reasons why services provided on a districtwide basis "are the most effective use of funds" (November 27 Decision, p. 6).

- "The resource/Response to Instruction and Intervention ("RtI") specialists will identify and allocate resources to students targeting foster youth, students with disabilities, and/or students who are Native America, and/or Socio-Economically Disadvantaged.
- All students will be enrolled in classes with a lower teacher to student ratio and will not be in combination grade classes.

² The description provided for Goal 1, Action 21 in the 2018-19 LCAP year states: "Director provides direct services to all district students implementing Indian Land Tenure utilizing the Indian Education Department" (KTJUSD 2018-19 LCAP, p. 76 of 109).

- Students will participate in Restorative Justice Practices, Behavioral Intervention and Support, Common Core State Standards, College and Career readiness programs, and After School Education and Safety.
- There will be a focus on attendance, Advanced Placement, A-G enrollment, CAASPP proficiency, parent involvement, and graduation/promotion rates in the identified sub-groups, as well as decreased dropout rates, and lower suspension and expulsion rates.
- Staff training for emotional-social well-being, trauma informed care, resiliency, and students in poverty that will be especially targeted for Foster Youth and Low Socio-Economic students” (November 27 Decision, p. 6).

Allegation 2:

In its November 27 Decision, the District concludes that it adequately accounted for supplemental and concentration funds and did not inappropriately reallocate such funds after the LCAP approval process. The District also states that it identified and explained all material differences between budgeted and actual estimated expenditures.

Allegation 3:

In its November 27 Decision, the District concludes that the annual update section of the 2018-19 LCAP, which reviews goals, actions, and services implemented in the 2017-18 LCAP year, adequately describes actual actions and services and how such actions and services were effective in meeting the District’s goals. In the November 27 Decision’s relevant findings of fact, the District states that for each goal in the Annual Update, it reports specific data on multiple expected annual measurable outcomes and whether or not each action was implemented as written or otherwise.

Allegation 4:

In its Decision, the District states that Allegation 4 in the Complaint does not identify a specific legal requirement that the District allegedly violated. Furthermore, “the District concludes that it complied with the legal requirements applicable to reviewing, updating, and adopting the LCAP, including the stakeholder engagement process” (November 27 Decision, p. 11).

In the November 27 Decision’s relevant findings of fact, the District states that, prior to approval of the LCAP, it published a draft of the LCAP and included a notice in the local newspaper that the draft LCAP is available at the District office for review. The District states that it “held a public hearing to solicit recommendations and comments from the community on the proposed 2018-19 LCAP and District budget” (November 27 Decision, p. 2). The LCAP was approved by the District’s local governing board on June

27, 2018, and then submitted to the Humboldt County Office of Education (HCOE) for review and approval. The District received feedback from the HCOE on July 11, 2018, identifying required changes to the LCAP prior to approval by the HCOE. On September 11, 2018, the District's local governing board approved a revised LCAP to meet the changes required by the HCOE.

Regarding the LCAP stakeholder engagement process, in the relevant findings of fact provided in the November 27 Decision and the November 30 Decision, the District provided the following information. Stakeholders were invited to monthly school site council meetings and to at least two Community Input Nights at which stakeholders could provide feedback on the relevant School Plan and LCAP. The "Action Plans" in each School Plan served as the starting point for the development of the 2018-19 LCAP. The District also engaged stakeholders through its Indian Policies and Procedures Task Force (IPP Task Force), which is composed of 17 members and includes standing positions for the Chairperson and Education Director of the Karuk, Yurok, and Hoopa Valley Tribes as well as representatives from the Tsnungwe Tribe. The IPP Task Force also includes one District board member, five District staff members, and 11 parents/guardians of District students, including at least two parents/guardians of foster youth students. The District's Board Policy 0410.1 states that the District will merge the IPP Task Force recommendations with the District's LCAP. As part of the LCAP process, the IPP Task Force reviews the School Plans prior to development of the LCAP.

Appeal

Allegation 1: "The District fails to explain how the majority of its S&C funds will be 'principally directed towards, and effective in,' meeting the District's goals for its high-need students" (Appeal, p. 3).

The Appellants appeal the District's November 27 Decision regarding Allegation 1 on the grounds that the District's Decision fails to adequately explain how its districtwide uses of supplemental and concentration funds will be principally directed towards, and effective in, meeting the District's goals for its unduplicated students. Appellants allege that the District's 2018-19 LCAP does not identify all districtwide and schoolwide use of supplemental and concentration funds, that most of the Demonstration of Increased or Improved Services section of the LCAP describes services intended for all students, and that the District does not explain in its LCAP how it considered factors such as the needs, conditions, or circumstances of its high-need students relative to districtwide expenditures of supplemental and concentration grant funds.

Allegation 2: "The District failed to account for all S&C funds in its estimate actual spending and, as reflected in the Annual Update, reallocated significant

amounts of S&C funds after the LCAP approval process without undergoing the requisite stakeholder engagement process” (Appeal, p. 3).

Appellants appeal the District’s November 27 Decision regarding Allegation 3 on the grounds that the District’s Decision fails to adequately address the lack of accounting for \$1,072,583 of supplemental and concentration funds for 2017-18 and is incorrect to treat \$236,348 of unspent supplemental and concentration grant funds budgeted for 2017-18 as not being material. Specifically, the District spent \$11,783 of \$97,298 budgeted for a psychologist/counselor, a difference of \$85,515 (Annual Update Goal 3, Action 2). The District spent \$193,272 of \$235,601 budgeted for outreach consultants, a difference of \$42,329 (Annual Update, Goal 2, Action 3). The District spent \$115,761 of \$224,265 budgeted for instructional aides and monitors, a difference of \$108,504 (Annual Update, Goal 1, Action 11). The sum total of these three differences equals \$236,348.

Allegation 3: “The District fails to provide in its Annual Update adequate description of the actions/services implemented and how these are effective in meeting the District’s goals” (Appeal, p. 5).

The Appellants appeal the District’s November 27 Decision regarding Allegation 3 on the grounds that the District’s Decision is conclusory in its response to Allegation 3 and that the District is incorrect to state that the relevant responses to the prompts in the Analysis part of each Annual Update Goal is adequate.

Allegation 4: “The District has failed to meet basic legal requirements for the LCAP stakeholder engagement process” (Appeal, p. 6).

The Appellants appeal both the November 27 Decision and the November 30 Decision regarding Allegation 4 on the grounds that the District is incorrect to state that it has met the legal requirements for the LCAP stakeholder engagement process and reiterate Allegation 4 from the Complaint, including the allegation that the District has failed to meet stakeholder engagement requirements pertaining to the Parent Advisory Committee (PAC) and that the use of the IPP Task Force does not meet statutory requirements for the PAC.

Legal Authorities

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52059.5 – 52077
California *Code of Regulations* sections 15494 – 15497

CDE Findings of Fact and Conclusions of Law

Allegation 1

The Appellants allege that the District fails to provide the required justification for each of its LEA-wide actions/services in the LCAP and fails to identify all such actions/services in the “Demonstration of Increased or Improved Services for Unduplicated Pupils” (Demonstration) section.

The LCFF apportions additional funds to LEAs on the basis of the number and concentration of unduplicated students (low-income, English learner, and foster youth) (*EC* sections 42238.02, 42238.07.) These funds are commonly referred to as “supplemental and concentration grant funds”. LEAs are required to increase or improve services for unduplicated students as compared to the services provided to all students in the fiscal year in proportion to the additional funding provided (*EC* Section 42238.07; 5 *CCR* 15496). “To improve services” means to “grow services in quality,” and “to increase services” means to “grow services in quantity” (5 *CCR* Section 15495(k) and (l)).

As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students over services provided for all students in the LCAP year. Regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated students above services provided to all students in the fiscal year (5 *CCR* 15496(a)(1)–(8)).

The collective set of services described by an LEA that will contribute to meeting the required proportional increase or improvement in services for unduplicated students over services provided to all students may include two categories of services:

- Services that are limited to serving one or more unduplicated student group, and
- Services that upgrade the entire educational program of an LEA or a school site(s).

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charterwide) service. An LEA is required to follow the LCAP Template approved by the State Board of Education (SBE) (*EC* Sections 52064, 52070). The Demonstration section requires an LEA to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated students, and to identify the percentage by which it must increase or improve services for unduplicated students over all students. Also in this section, the LEA must describe how the services provided for unduplicated students are increased or improved by at least this percentage, either quantitatively or qualitatively, as

compared to services provided for all students in the LCAP year (*EC* Section 42238.07; 5 *CCR* 15496). The actions/services included as contributing to meeting the increased or improved services requirement must be indicated as such in the Goals, Actions, and Services section of the LCAP. As such, the description of actions and services in the Demonstration section must align with the actions and services that are included in the Goals, Actions, and Services section as contributing to meeting the increased or improves services requirement. An adequate description of how a District will meet its increased or improved services requirement must address in some manner the actions/services included in the Goals, Actions, and Services section as contributing to meeting this requirement.

Description of Increased or Improved Services

The District's 2018-19 LCAP contains 13 actions over four Goals that are included as contributing to meeting the increased or improved services requirement for the 2018-19 LCAP year (Goal 1, Actions 4, 6, 7, 9-13, 21; Goal 2, Actions 3, 4; Goal 3, Action 2; Goal 4, Action 1). Of these 13 actions, some of them are addressed in some manner by the description of increased or improved services provided in the Demonstration section. The other actions/services do not appear to fall within the scope of the description provided in the Demonstration section. For example, the description provided in the Goals, Actions, and Services section for Goal 2, Action 3 states, "Maintain 3 Outreach Consultants" (2018-19 KTJUSD LCAP, p. 82 of 109). The description of increased or improved services in the Demonstration section references "parent involvement through Outreach Consultants," which appears to provide additional information about the purpose of Goal 2, Action 3 (2018-19 KTJUSD LCAP, p. 109 of 109).

However, for most of the actions/services included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement, inclusion within the description of increased or improved services provided in the Demonstration section is not as readily forthcoming as it is for Goal 2, Action 3. For example, consider Goal 1, Action 7, described in the Goals, Actions, and Services section as such: "Information Technology department. Aides in the implementation of digital curriculum and all of student technology needs" (2018-19 KTJUSD LCAP, p. 55 of 109). There is no mention of digital curriculum or the technology needs of students, nor is there anything that would suggest as much, within the description of increased or improved services in the Demonstration section. Provided the District intends to include this action as contributing to meeting the increased or improved services requirement, it must be included within the description of increased or improved services in the Demonstration section. If the District does not intend to include this action as contributing to meeting the increased or improved services requirement, the District must indicate as such in the Goals, Actions, and Services section by appropriately completing the LCAP Template for this action.

Consider Goal 4, Action 1, described in the Goals, Actions, and Services section as such: “Maintain Music Teacher” (2018-19 KTJUSD LCAP, p. 105 of 109). There is no mention of a music teacher or music instruction, nor is there anything that would suggest as much, within the description of increased or improved services in the Demonstration section. Provided the District intends to include this action as contributing to meeting the increased or improved services requirement, it must be included within the description of increased or improved services in the Demonstration section. If the District does not intend to include this action as contributing to meeting the increased or improved services requirement, the District must indicate as such in the Goals, Actions, and Services section by appropriately completing the LCAP Template for this action.

Due to this demonstrated insufficiency of the description of increased or improved services provided in the Demonstration section, the District fails to sufficiently describe how the District plans to meet its increased or improved services requirement for the 2018-19 LCAP year.

Required Justification for LEA-Wide and Schoolwide Actions/Services

The template also requires an LEA to identify each action/service contributing to the increased or improved services requirement that is funded and provided on a schoolwide or LEA-wide manner, and to include the required description supporting each schoolwide or LEA-wide action/service. An LEA such as KTJUSD, which has an unduplicated student enrollment greater than 55%, must describe in its LCAP how the actions/services are “*principally directed towards*” and “*effective in*” meeting its goals for unduplicated students in the state and any local priority areas³ (EC Section 42238.07, 5 CCR 15496(b)).

To provide the required justification for services provided on a “wide” basis, an LEA must distinguish between services directed toward unduplicated students based on that status, and services available to all students without regard to their status as unduplicated students or not. An LEA describes how a service is principally directed to meeting the LEA’s goals for unduplicated students in any state or local priorities when it explains in its LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated students, and how the service takes these factors into consideration (such as, for example, by the service’s design, content, methods, or location).

³ Schoolwide services at a district school with enrollment of unduplicated pupils that is 40 percent or more of its total enrollment must be supported by the same description. Schoolwide services at a school district school with less than 40 percent unduplicated pupil enrollment must be supported by the additional description of how the schoolwide use of funds is the *most effective* use of the funds to meet the LEA’s goals for its unduplicated pupils. This tripartite explanation is also required for action/services provided on LEA-wide basis in an LEA with unduplicated pupil enrollment of less than 55%. (5 CCR 15496(b)).

In addition, the description must explain how the service will be *effective* in meeting the LCAP goals for its unduplicated students. An LEA meets this requirement by providing in the LCAP an explanation of how it believes the action/service will help achieve one or more of the expected outcomes for the goal. Conclusory statements that an action/service will help achieve an expected outcome for the goal, without further explanation as to how, are not sufficient.

When an LCAP contains the necessary descriptions as described above for actions/services provided on a wide basis, it will be apparent how the LEA is acting to increase or improve services for unduplicated students, and why it has determined the services identified will be effective to achieve its goals for unduplicated students. Simply stating that an LEA has a high percentage of unduplicated student enrollment does not meet this standard because serving students is not the same as enrolling students.

As stated above, the District's 2018-19 LCAP contains 13 actions over four Goals that are included as contributing to meeting the increased or improved services requirement for the 2018-19 LCAP year (Goal 1, Actions 4, 6, 7, 9-13, 21; Goal 2, Actions 3, 4; Goal 3, Action 2; Goal 4, Action 1). Each of these actions is either LEA-wide or schoolwide. In the description of increased or improved services provided in the Demonstration section, the District references some of the actions/services being implemented to increase or improve services for unduplicated students. The District states that it will use the amount of supplemental and concentration funds to "offer a variety of programs and supports specifically for low income students and foster youth" (2018-19 KTJUSD LCAP, p. 126). The District provides the following in the Demonstration section as justification for the districtwide and schoolwide services:

"The justification for the district-wide implementation of these practices is the importance of making an impact on the learning environment and the climate of the schools as a whole which will have a positive impact on the targeted subgroups" (2018-19 KTJUSD LCAP, p. 108 of 109).

The District does not explain either in the Demonstration section or elsewhere in the LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated student, nor how the actions/services takes these factors into consideration. As a result, the District has failed to describe how districtwide and schoolwide actions/services included as contributing to meeting the increased or improved services requirement are principally directed to meeting the LEA's goals for unduplicated students in any state or local priorities.

While the District describes in its LCAP actions and services that are provided to all students and unduplicated students, the LCAP does not include any consideration of the needs, conditions, or circumstances of the District's unduplicated students, whether in the Demonstration section specifically or in other sections of the LCAP. As a result, there is no possible way to describe how the districtwide or schoolwide actions/services

included as contributing to meeting the increased or improved services requirement are principally directed towards, and effective in, meeting goals for the District's unduplicated students. As a result, the District has failed to provide the necessary justification for districtwide and schoolwide actions/services included as contributing to meeting the increased or improved services requirement.

The CDE finds that the District failed to adequately describe how it plans to meet its increased or improved services requirement because its LCAP fails to provide a description in the Demonstration section that applies to all actions/services included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement. The CDE also finds that the District failed to adequately describe how it plans to meet its increased or improved services requirement because its LCAP fails to provide the necessary justification for all districtwide and schoolwide actions/services included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement.

The appeal of the District's November 27 Decision regarding Allegation 1 has merit.

Allegation 2

Appellants appeal the District's November 27 Decision regarding Allegation 2 on the grounds that the District's Decision fails to adequately address the lack of accounting for \$1,072,583 of supplemental and concentration funds for 2017-18 and is incorrect to treat \$236,348 of unspent supplemental and concentration grant funds budgeted for 2017-18 as not being material. Specifically, the District spent \$11,783 of \$97,298 budgeted for a psychologist/counselor, a difference of \$85,515 (Annual Update Goal 3, Action 2). The District spent \$193,272 of \$235,601 budgeted for outreach consultants, a difference of \$42,329 (Annual Update, Goal 2, Action 3). The District spent \$115,761 of \$224,265 budgeted for instructional aides and monitors, a difference of \$108,504 (Annual Update, Goal 1, Action 11). The sum total of these three differences equals \$236,348.

First, there is no requirement to distinguish between supplemental and concentration funds and other LCFF funds in the LCAP. However, an action or service included as contributing to meeting the increased or improved services requirement must be supported by at least one expenditure of LCFF funds. These LCFF funds may be identified by the LEA as either base or supplemental and concentration funds or simply as LCFF funds or otherwise indicated as unrestricted. Whether an LEA distinguishes between LCFF base and LCFF supplemental and concentration funds in an LCAP is a decision to be made at the local level in consultation with stakeholders.

Regarding material differences, the Annual Update includes a prompt for each goal that requires an LEA to "explain material differences between budgeted expenditures and estimated actual expenditures" (LCAP Template, Annual Update, Analysis section). In

responding to this prompt, a school district should review the absolute amount by which expenditures projected when the LCAP was adopted differ from estimated actual expenditures, as well as any resulting impacts on implementation of the related actions or services. Applying the results of this review, an LEA must make a reasonable judgment regarding which of the differences are material, and explain, in the annual update, the reasons for the differences in these expenditures.

What is considered a material difference is not only a function of either the absolute or relative size of the expenditure difference, but is also determined in part by those differences that cause meaningful changes in the implementation of actions or services that support a goal. Small amounts are more likely to be material when purchasing textbooks while larger amounts pertaining to personnel costs may not be material. For example, the cost of providing a full-time teacher may range in cost to an LEA from \$60,000 to \$110,000. On the other hand, in the context of textbook costs, a difference of \$1,000 could indicate that a substantial number of textbooks were not purchased. As a result, a determination of “materiality” based solely on the application of a blanket rule (for example, 20% variance) may not be sufficient, depending on the circumstances applicable to the particular goal, action, or service.

In making a judgment as to “materiality” and in writing related explanations as part of the LCAP annual update and development process, the LEA should be aware that determining material differences and explaining them in the LCAP is critically important to meaningful stakeholder engagement. This knowledge informs stakeholders how resources have been deployed (or not) in support of goals, and can assist both stakeholders and the LEA in deciding whether or not goals, actions, or services should be eliminated or modified to enhance student achievement.

Allegation 2 specifically references three actions, as described above (Annual Update, Goal 1, Action 11; Goal 2, Action 3; Goal 3, Action 2). To address the difference between budgeted and estimated actual expenditure amounts for Goal 1, Action 11 in the Annual Update, the District states specifically with respect to Action 11, “The District experienced several vacancies throughout the entire year” (2018-19 KTJUSD LCAP, p. 18 of 109). Such an explanation, while brief, provides sufficient information to account for such an expenditure difference. If the District is unable to fill vacancies for which expenditures have been included in the LCAP, the actual amounts of the expenditures will be lower than expected.

To address the difference between budgeted and estimated actual expenditure amounts for Goal 2, Action 3 in the Annual Update, the District states specifically with respect to Action 3, “We did not fill the position at Captain John as the School Site Council determined the position was not needed” (2018-19 KTJUSD LCAP, p. 27 of 109). Such an explanation, while brief, provides sufficient information to account for such an expenditure difference.

To address the difference between budgeted and estimated actual expenditure amounts for Goal 3, Action 2 in the Annual Update, the District states specifically with respect to Action 2, “unfilled vacancy[,] We did a contract at the end of the year with an outside vendor to provide Psychological services” (2018-19 KTJUSD LCAP, p. 33 of 109). Such an explanation, while brief, provides sufficient information to account for such an expenditure difference.

The appeal of the District’s November 27 Decision regarding Allegation 2 is denied.

Allegation 3

Allegation 3 is comprised of four separate sub-allegations:

- 3a: The District fails to provide adequate descriptions of the actions/services implemented;
- 3b: The response to the first prompt of the Analysis part of the Annual Update section, regarding implementation, is insufficient for each goal in the Annual Update;
- 3c: The response to the second prompt of the Analysis part of the Annual Update section, regarding the effectiveness of actions and services, is insufficient for each goal in the Annual Update;
- 3d: The response to the fourth prompt of the Analysis part of the Annual Update section, regarding changes made to the goal, is insufficient for each goal in the Annual Update.

3a: *The District fails to provide adequate descriptions of the actions/services implemented.*

The LCAP directions state:

“Identify the planned Actions/Services and the budgeted expenditures to implement these actions toward achieving the described goal. Identify the actual actions/services implemented to meet the described goal and the estimated actual annual expenditures to implement the actions/services. As applicable, identify any changes to the students or student groups served, or to the planned location of the actions/services provided.”

Per the LCAP template directions, the requirement is to identify the *actual* actions/services implemented to meet the described goal and to identify any changes to the students or student groups served, or to the *planned* actions/services provided, as applicable. An LEA transposes the *planned* actions/services from the prior LCAP year into the Annual Update for the relevant LCAP year. *Planned* actions/services are

entered into the left-hand column. In the right-hand column, next to each *planned* action/service, an LEA identifies the *actual* action/service that was implemented relative to what was planned. If all goes as planned for a *planned* action/service, the description of the *actual* action/service will be the same or very similar as that provided for the corresponding *planned* action/service. When not all goes as planned, the description of the *actual* action/service will be different than the description provided for the corresponding *planned* action/service.

The LCAP Template directions do not include specific requirements for what constitutes the identification of an *actual* action/service. The underlying question being addressed by a distinction between *planned* and *actual* actions/services seeks to clarify the extent to which a *planned* action/service was implemented. An LEA is addressing whether or not it carried out the action/service as planned or not, whether in whole or in part. As such, what constitutes a sufficient identification of an *actual* action/service will depend on the relative complexity of the action/service or the level of specificity provided by the description of the corresponding *planned* action/service.

The Appellants do not reference in the Complaint or the Appeal a specific example of an insufficient description of an actual action in the Annual Update section. A review of the Annual Update section of the 2018-19 LCAP finds that the District has not provided adequate descriptions of the actual actions and services. For example, the descriptions provided for the actual actions and services for Goal 2, Actions 5 – 10 in the Annual Update all refer back to Goal 1 (“See Goal 1”). The descriptions provided in Goal 1 of the Annual Update for actual actions and services do not make clear what actual actions or services are being described. For example, for the planned action for Goal 1, Action 15 states, “As defined in the TVES 021 Title I Allocation SPSA” (2018-19 KTJUSD LCAP, p. 14 of 109). The description provided for the corresponding actual action and services states,

“Trinity Valley Elementary School followed the Site Council/Board approved school site plan that outlined the use of Title I funding” (2018-19 KTJUSD LCAP, p. 14 of 109).

The requirement is to “identify the actual actions/services implemented to meet the described goal” (LCAP Template Directions). This description provided does not identify any specific actions or services. Rather, it identifies a school plan without identifying the actions or strategies being referred to as included in that plan.

As a result, the CDE finds that the District fails to adhere to the LCAP template directions pertaining to the identification of the *actual* actions/services in the Annual Update.

The Appeal of the District’s November 27 Decision regarding Allegation 3a has merit.

3b: *The response to the first prompt of the Analysis part of the Annual Update section, regarding implementation, is insufficient for each goal in the Annual Update.*

The LCAP template directions provided for the Analysis part of the Annual Update state:

“Using actual annual measurable outcome data, including data from the LCFF Evaluation Rubrics, analyze whether the planned actions/services were effective in achieving the goal. Respond to the prompts as instructed” (LCAP Template Directions).

LCAP template directions specific to the first prompt state:

“Describe the overall implementation of the actions/services to achieve the articulated goal. Include a discussion of relevant challenges and successes experienced with the implementation process” (LCAP Template Directions).

For the four goals in the Annual Update, the District provides the following responses to this prompt:

Goal 1: “Although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages” (2018-19 KTJUSD LCAP, p. 18).

Goal 2: “As stated in Goal 1, although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages. Due to the staffing shortages, more outreach to community members has been tasked to our school staff” (2018-19 KTJUSD LCAP, p. 27).

Goal 3: “As stated in Goal 1, although faced with multiple challenges, the overall implementation was successful. We continue to increase the expectations to increase the overall effectiveness of the plan” (2018-19 KTJUSD LCAP, p. 33).

Goal 4: “As stated in Goal 1, although faced with multiple challenges, the overall implementation was successful” (2018-19 KTJUSD LCAP, p. 37).

The responses provided for Goals 1 and 2 do reference a challenge presented by staffing shortages and, with respect to Goal 2, states that school staff is taking on more outreach responsibilities as a result. However, the requirement, as provided in the LCAP Template directions is to “include a discussion of *relevant* challenges and successes...” Neither response for Goal 1 or 2 is relevant. Goal 1 in the LCAP addresses “high quality instruction” and “Common Core Standards”. Goal 2 states, “All students will have the opportunity to learn in a culturally responsive, socially, emotionally and physically safe environment” (2018-19 KTJUSD LCAP, p. 77). Neither the expected measurable outcomes nor the actions/services for either Goal 1 or Goal 2 make a reference to staffing shortages. While staffing shortages may impact many

aspects of a program, the District does not describe or otherwise make clear such a relationship in the LCAP. As such, the responses provided to the first prompt of the Analysis part for Goal 1 and Goal 2 in the Annual Update section does not meet the stated requirements as provided in the LCAP Template.

Unlike the responses provided for Goals 1 and 2, the responses provided for Goals 3 and 4 do not reference a specific challenge or success. Rather, the descriptions provide the conclusory statement that the District was “faced with multiple challenges.” This does not meet the requirement to include a discussion of challenges and successes.

The CDE finds that the District’s response to the first prompt for Goals 1, 2, 3, and 4 do not adhere to the LCAP template directions for the first prompt of the Analysis part of the Annual Update.

The Appeal of the District’s November 27 Decision regarding Allegation 3b has merit.

3c: *The response to the second prompt of the Analysis part of the Annual Update section, regarding the effectiveness of actions and services, is insufficient for each goal in the Annual Update.*

The LCAP template directions specific to the second prompt state:

“Describe the overall effectiveness of the actions/services to achieve the articulated goal as measured by the LEA” (LCAP Template Directions).

The District’s responses to the second prompt in the Analysis part of the Annual Update for each goal are as follows:

Goal 1: “Goals were clear but individual school plans still lacked the clarity to accomplish the goals. However, after multiple drafts and resubmissions, plans are becoming more complete and transparent” (2018-19 KTJUSD LCAP, p. 18).

Goal 2: “Goals were clear and schools (and their individual communities) were able to communicate a[nd] successfully obtain their goals” (2018-19 KTJUSD LCAP, p. 27).

Goal 3: “Actions and services were clear and schools (and their individual communities) were able to communicate the plan to obtain their goals. We anticipate even better results as complete implementation is expected by the end of 2018-19” (2018-19 KTJUSD LCAP, p. 33).

Goal 4: “All students are participating in PE activit[i]es – but teachers, students, and community have asked for more options within the PE program. We have a music program on our campuses once a week and teachers are also doing music in their classrooms. Teachers in 6-8 continue to use things they learned through

Arts Integration; they have all worked with special presenters and teachers. The schools have also attended multiple field trips this year that are a part of the VAPA space. Science is being taught in classes. Additionally, one of our community events was focused on science and those in attendance enjoyed having fun with hands on science activities. Teachers are instruction the Land Tenure curriculum and adding to it as well” (2018-19 KTJUSD LCAP, p. 37).

The directions for this prompt require an LEA to relate the overall effectiveness of the actions/services, as measured by the LEA, with the relevant LCAP goal.

Goal 1 in the Annual Update included in the 2017-18 LCAP is stated as follows:

“All students will receive high quality instruction, aligned to Common Core Standards, which will engage them as 21st Century learners and prepare them for college and careers” (2018-19 KTJUSD LCAP, p. 4).

The response provided to the second prompt in the Analysis part of the Annual Update for goal 1 does not reference anything of substance from the goal 1 statement nor does further examination of the measurable outcomes or actions and services provide clarification. The response to the prompt states that the goals were clear and the school plans still lack clarity but are becoming more complete and transparent. The LCAP template directions for the relevant prompt require an LEA to relate overall effectiveness of the actions/services, as measured by the LEA, with the relevant LCAP goal. The District’s response to the second prompt of the Analysis part for goal 1 of the Annual Update does not adhere to these directions.

The same is true for Goal 2 and 3 of the Annual Update. The response provided to the second prompt for Goal 4 is considered very adequate and serves as a good example of the kind of response that should be elicited by the second prompt.

As a result, the CDE finds that the District does not adhere to the LCAP template directions provided for the second prompt of the Analysis part of the Annual Update for all Goals 1, 2, and 3.

The Appeal of the District’s November 27 Decision regarding Allegation 3c has merit.

3d: *The response to the fourth prompt of the Analysis part of the Annual Update section, regarding changes made to the goal, is insufficient for each goal in the Annual Update.*

The LCAP template directions specific to the fourth prompt state:

“Describe any changes made to this goal, expected outcomes, metrics, or actions and services to achieve this goal as a result of this analysis and analysis

of the data provided in the LCFF Evaluation Rubrics, as applicable. Identify where those changes can be found in the LCAP” (LCAP Template Directions).

The District’s provides the same response to the fourth prompt in the Analysis part of the Annual Update for each goal as follows:

“Instead of seeking part-time positions, extra efforts were made to make as many positions fulltime, with benefits to encourage more applicants and fill more vacancies. Several actions have been removed due to stakeholder input and duplication in order to make the LCAP more user friendly” (2018-19 KTJUSD LCAP, pp. 19, 27, 33, 37).

Goals 1 – 4 in the Goals, Actions, and Services section of KTJUSD’s 2018-19 LCAP do not contain any action that addresses a shift from hiring part-time employees to hiring full-time employees with benefits or any other action that appears intended to encourage more applicants. As the District’s response to this prompt does not appear to address the goals, actions, or services planned for the 2018-19 LCAP year, the District fails to adequately respond to this prompt. As a result, the CDE finds that the District does not adhere to the LCAP template directions provided for the fourth prompt of the Analysis part of the Annual Update for all four goals.

The Appeal of the District’s November 27 Decision regarding Allegation 3d has merit.

Allegation 4:

Allegation 4 is comprised of the following two sub-allegations:

- 4a: The District failed to meet stakeholder engagement requirements pertaining to the Parent Advisory Committee;
- 4b: The District made substantial changes to its LCAP between June 2018 and September 2018 without engaging in any stakeholder engagement process.

4a: *The District failed to meet stakeholder engagement requirements pertaining to the Parent Advisory Committee.*

As provided in *EC* Section 52062, and as part of the stakeholder consultation process, a district superintendent is required to present the LCAP to the parent advisory committee (PAC) and the English learner parent advisory committee (ELPAC) for review and comment and to respond, in writing, to comments received from both groups. Meetings of a PAC are subject to the meeting requirements specified in *EC* Section 35147(b), commonly known as the Greene Act. These committees are not subject to the Brown Act requirements.

As provided for in 5 CCR 15495(f), a PAC shall be composed of a majority of parents of students and shall include parents of unduplicated students. A school district is not required to establish a new PAC if a previously established committee meets these requirements.

The district must also consult with, teachers, principals, administrators, other school personnel, local bargaining units, parents and pupils in developing the LCAP in accordance with *EC* sections 52060(g) and 52066(g).

In its Decision, dated November 30, 2018, the District indicates that its Indian Policies and Procedures Task Force (IPP Task Force) serves as its PAC. The District states that membership of the IPP Task Force includes 11 parents out of a total of 17 members and at least two of these members are parents of foster youth students, who meet the definition of unduplicated students.

The District also references its Board Policy 0410.1, which states that the District will merge the IPP Task Force recommendations with the District's LCAP. In its description of the role played by the IPP Task Force in the LCAP development process, the District states that this task force "reviews all of the School Plans and provides comments prior to consideration and adoption of the School Plans and the creation of the LCAP" (November 30 Decision, p. 4). The task force also "reviews the Annual Impact Aid Report to Tribes and Community" (November 30 Decision, p. 3). **The District does not, however, claim that the superintendent presented the LCAP to this task force for review and comment or that the superintendent responded in writing to comments received from the task force as required by *EC* Section 52062(a)(1).**

Although the District's IPP Task Force may meet the compositional requirements for the PAC, there is no evidence to suggest that the District adhered to the requirements of *EC* Section 52062(a)(1).

The Appeal of the District's Decision regarding Allegation 4a has merit.

4b: The District made substantial changes to its LCAP between June 2018 and September 2018 without engaging in any stakeholder engagement process.

The local governing board of a school district shall adopt an LCAP in a public meeting on or before July 1 of each year (*EC* Section 52061). As provided for in *EC* Section 52062(c), the local governing board of a school district may adopt revisions to an LCAP during the period the LCAP is in effect. Should revisions be made to the LCAP during the period it is in effect, the local governing board must follow the process to adopt an LCAP pursuant to *EC* Section 52062, and adopt the revisions in a public meeting.

The process by which a county superintendent of schools reviews and approves a school district's LCAP is provided in *EC* Section 52070. The local governing board of a

school district submits its LCAP to the county superintendent of schools no later than five days after the LCAP is adopted by the local governing board. On or before August 15 of each year, the county superintendent may seek clarification, in writing, from the local governing board about the LCAP. The local governing board must respond in writing to the county superintendent's requests for clarification within 15 days.

Within 15 days of receiving the local governing board's response, the county superintendent may submit recommendations, in writing, for amendments to the LCAP. The local governing board must consider the recommendations submitted by the county superintendent in a public meeting within 15 days of receiving the recommendations. The county superintendent shall approve a school district's LCAP by October 8 of each year only if the LCAP meets the three approval criteria provided in *EC* Section 52070(d)(1-3).

After the local governing board submits its LCAP to the county superintendent and before the county superintendent approves the LCAP, the local governing board may make amendments to its LCAP in response to the county superintendent's written recommendations. Such amendments may be necessary in order for the LCAP to meet the required approval criteria. Provided the process of making such amendments adheres to *EC* Section 52070 and such amendments are considered during a public meeting of the local governing board, such amendments do not trigger the stakeholder engagement process described in *EC* Section 52062.

The Complaint references "substantial changes to [the District's] LCAP between June 2018 and September 2018" and does not reference any specific change. This date range falls within the timeline provided for the review and approval process.

The Appeal of the District's Decision regarding Allegation 4b is denied.

Conclusions

The CDE finds the Appeal of Allegations 1, 3a through d, and 4a, have merit. The CDE denies the Appeal of Allegations 2 and 4b.

The CDE has referred the allegation that the District failed to post its LCAP prominently on its homepage back to the District to be processed as a new complaint consistent with 5 *CCR* Section 4632(d). The District must issue a decision regarding this allegation within 60 days from the date of the referral.

The CDE has referred the allegation that the District failed to adhere to *EC* Section 52062(b)(1), by not providing public access to the LCAP at least 72 hours prior to the public hearing, back to the District consistent with 5 *CCR* Section 4632(e). The District must make the necessary findings and conclusions on this issue within 20 days of the date of the referral.

Corrective Actions

With respect to the 2017-20 LCAP adopted for the 2018-19 LCAP year considered in its entirety, the District is required to work with the Humboldt County Office of Education, with the support of the California Department of Education, to ensure that the 2018-19 LCAP meets the requirements of the LCAP template, specifically with respect to the findings included in this report. Should conforming revisions to the 2018-19 LCAP be necessary in order to comply with these corrective actions, the District must adhere to the LCAP and annual update adoption process, including the stakeholder engagement requirements as described in *EC* Section 52062 and the LCAP must be adopted in a public meeting no later than April 15, 2019.

Additionally, the District is required to work with the Humboldt County Office of Education, with the support of the California Department of Education, to ensure that the District adheres to the requirements of *EC* Section 52062(b)(1).

As described in 5 *CCR* 4665, within 35 days of receipt of this report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s), or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied.

I may be reached in the Local Agency Systems Support Office by phone at 916-319-0809 or by email at jbreshears@cde.ca.gov.

Sincerely,



Jeff Breshears, Director
Local Agency Systems Support Office

JB:jf

cc: Jon Ray, Superintendent, Klamath-Trinity Joint Unified School District
Sylvia Torres-Guillén, Director of Education Equity, ACLU Foundation of Northern California
Theodora Simon, Investigator, ACLU of Northern California
Jennifer Fairbanks, LCAP Coordinator, Humboldt County Office of Education