



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**TOM TORLAKSON**

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

April 14, 2015

Jim Yovino, Superintendent  
Fresno County Office of Education  
1111 Van Ness Avenue  
Fresno, CA 93721-2000

Re: Use of LCFF Supplemental and Concentration Funds for Salary Increase

Dear Superintendent Yovino:

This letter is in response to your February 25, 2015, correspondence directed to Jeff Breshears, Administrator, Local Agency Systems Support Office in which you ask under what circumstances is it permissible to use “supplemental and concentration funds” apportioned to a school district pursuant to the Local Control Funding Formula (LCFF) to fund a percentage salary increase on a district salary schedule for all teachers in a district. This question is asked in light of county superintendents’ responsibilities regarding review and approval of districts’ Local Control and Accountability Plans (LCAP).

**Background Information.** The LCFF provides districts a “base” level of funding that is then adjusted in two respects. The first adjustment is determined according to the grade levels of pupils served, with the high school grades receiving additional funding. The second adjustment provides additional funds based on unduplicated counts of pupils enrolled in a district who is low-income, English learners, and foster youth (“unduplicated pupils”). The formula for this second adjustment provides an additional 20 percent of the base for each unduplicated pupil. In addition, when the number of unduplicated pupils exceeds 55 percent of a school district’s enrollment, an additional 50 percent of the base amount for each unduplicated pupil in excess of 55 percent is provided to the school district. These amounts are known as “supplemental” and “concentration” funds.

A district LCAP is required to set forth the district’s goals and related specific actions and activities and budgeted expenditures for improving its educational program in eight state priorities areas and any locally-adopted priority area. The Legislature authorized the State Board of Education (SBE) to adopt regulations to provide a template for districts’ LCAP, and also to govern spending of the supplemental and concentration

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funds. The expenditure regulations and approved LCAP template are set forth in Title 5, California Code of Regulations (5 CCR), sections 15494 through 15497.5. The SBE adopted a regulation, 5 CCR, Section 15496, subdivision (a), which specifies requirements related to expenditures of supplemental and concentration funds. Under the regulation, a district's LCAP is required to provide evidence to demonstrate how the district will use supplemental and concentration funds to support unduplicated pupils. Further, the regulation specifies that such funding shall be used to "increase or improve services for unduplicated pupils as compared to services provided to all pupils, in proportion to the amount of funds apportioned based on the number and concentration of unduplicated pupils." The LCAP must explain how expenditures of supplemental and concentration funds will meet a district's goals for unduplicated pupils in the state priority areas. The regulation also describes how a district is to determine the percentage by which services for unduplicated pupils must be increased or improved above services for all pupils. (See 5 CCR, Section 15496(a).)

**Use of Supplemental and Concentration Funds for General Salary Increases.** You have asked under what circumstances is it permissible to use "supplemental and concentration funds" to fund a percentage salary increase on a district salary schedule for all teachers in a district. As you describe this salary increase, it appears to be a straightforward across the board salary increase without any condition for additional or enhanced level of service. In such case, a district is essentially "paying more" for the same level of service. As a general proposition, such an increase will not "increase" or "improve" services for unduplicated pupils, and the use of supplemental and concentration funds in this manner would not be appropriate. A district LCAP which projects use of supplemental and concentration funds for such an across-the-board salary increase will not adhere to the expenditure requirements for such funds adopted pursuant to California *Education Code (EC)* Section 42238.07 and set forth in 5 CCR, Section 15496. Accordingly, it would be appropriate for a County Superintendent of Schools to find that such an LCAP does not adhere to expenditure requirements and to withhold his or her approval on that basis. (*EC* Section 52070(d)(3); 5 CCR, sections 15496, 15497, and 15497.5.)

In some limited circumstances, it might be possible to demonstrate in an LCAP that a general salary increase will increase or improve services for unduplicated pupils. However, the burden on a district to justify use of supplemental and concentration funds for such an increase is very heavy. For example, a district with demonstrably low salaries, in comparison to other districts in its labor market, may be able to document in its LCAP that low salaries result in difficulties in recruiting, hiring and retaining qualified staff to such extent the quality of the district's educational program is adversely affected, particularly for unduplicated pupils. In such case, the district's LCAP might document

that schools with high numbers of unduplicated pupils disproportionately bear the adverse impacts of teacher recruitment, hiring and retention difficulties, and that the salary increase will address these adverse impacts. To support the use of supplemental and concentration funds for a general salary increase, the district's LCAP must include documentation specifying its factual and analytical basis for its determination that (1) the district faces difficulties in recruiting, hiring and retaining highly qualified teachers which negatively impact the quality of educational program, and (2) a salary increase will address these challenges, resulting in increased or improved services "for unduplicated pupils as compared to services provided all pupils, in proportion to the increase in supplemental and concentration funds." Furthermore, the LCAP must specify the goal and state priority to which such expenditure of supplemental and concentration grant funds are tied. (See, 5 CCR, Section 15496(a).)

In addition, it is important to keep in mind the requirements related to use of supplemental and concentration funds on a districtwide basis. Use of supplemental and concentration funds for a general salary increase is a districtwide use of funds. When a district's percentage of unduplicated pupils is 55 percent or more, districtwide use of funds is permitted only if a district demonstrates in its LCAP that the planned use of funds is "principally directed towards" as well as "effective in" meeting goals for unduplicated pupils. When a district's percentage of unduplicated pupils is less than 55 percent, a district LCAP must, in addition, describe how the use of funds for the general salary increase is the "most effective" use of the funds, and provide the basis for this determination, including alternative considered and any supporting research, experience, or educational theory. (See, 5 CCR, Section 15496(b)(2).) In our view, this additional burden of documenting a use of funds as "most effective" is extremely, if not impossible, to meet in light of the availability of numerous other strategies more targeted to addressing the needs of unduplicated pupils.

Finally, districts are required to annually update their LCAP using the LCAP template. In this regard, districts are required to include an assessment of the effectiveness of actions in accomplishing goals and changes to actions or goals made as a result of the review and assessment. (See, EC Section 52061(a); 5 CCR, Section 15497.5.) If the annual update review indicates the salary increase has not resulted in improved or increased services for unduplicated pupils within a reasonable time of its implementation, the district should discontinue use of supplemental and concentration supplemental funds for the increase. In that case, the district would be required to identify alternative actions and anticipated expenditures of these funds to increase or improve services for unduplicated pupils in the LCAP annual update. If an annual update fails to document the required review, or make changes to actions or goals

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resulting from the review, a county superintendent of schools may withhold his or her approval.

**Targeted Salary Increases.** Districts that use supplemental and concentration funds to provide more targeted salary increases are more likely to meet the legal requirements for expenditure of such funds. Examples could include providing increased compensation for a longer instructional day, particularly at targeted schools or when coupled with programs or strategies directed at improving the educational program for unduplicated pupils. Again, however, it is critical that an LCAP appropriately document a district's basis and strategies for use of supplemental and concentration funds as described above, including requirements for expending funds on a districtwide or schoolwide basis, in keeping with 5 CCR, Section 15496(b).

We hope this information is of assistance to you in reviewing district LCAPs and providing districts assistance as they adopt LCAPs and annual updates to their LCAPs. If you require further assistance, please contact me by phone at 916-319-0303 or by e-mail at [jbreshears@cde.ca.gov](mailto:jbreshears@cde.ca.gov).

Sincerely,

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JB:mb

cc: Michelle Zumot, Assistant Chief Deputy Superintendent, California Department of Education