

**UCP COMPLAINT TO STATE SUPERINTENDENT TONY THURMOND**

**c/o Local Agency Systems Support Office**

**California Department of Education**

**1430 N Street**

**Sacramento, CA 95814-5901**

**Via email: lcff@cde.ca.gov**

**Ana Carrion and Elvira Velasco**

**v.**

**Los Angeles Unified School District &  
Los Angeles County Office of Education**

*UCP Complaint Requesting Direct State Intervention to Address Irreparable Harm Resulting from LAUSD & LACOE's Fundamental Violations of the Local Control Funding Formula in LAUSD's LCAPs*

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**UCP COMPLAINT REQUESTING DIRECT STATE INTERVENTION TO ADDRESS  
IRREPARABLE HARM RESULTING FROM LOS ANGELES UNIFIED SCHOOL DISTRICT’S &  
LOS ANGELES COUNTY OFFICE OF EDUCATION’S FUNDAMENTAL VIOLATIONS OF THE  
LOCAL CONTROL FUNDING FORMULA IN LAUSD LCAPS**

To Superintendent Thurmond and the California Department of Education:

Public Advocates and the Covington law firm present this Uniform Complaint Procedure Act (“UCP”) complaint on behalf of LAUSD parents, Ana Carrion and Elvira Velasco, requesting Direct State Intervention pursuant to 5 CCR § 4650(a)(6). The Los Angeles Unified School District (“LAUSD” or the “District”) and the Los Angeles County Office of Education (“LACOE”) have acted in direct contravention of the Local Control Funding Formula (“LCFF”) law and regulations by expending and approving the spending of billions of LCFF dollars in ways that fundamentally conflict with the transparency, community engagement, accountability and equity mandates of LCCF in the District’s Local Control Accountability Plan (“LCAP”). Unless the California Department of Education (“CDE”) grants immediate relief to require compliance with state law, LAUSD will proceed with and LACOE will approve without material correction—as has been its pattern to date—an illegal and flawed LCAP and complainants will be permanently denied a voice in the District’s allocation of billions in LCFF funds.

As set forth more fully below, we respectfully request that the CDE immediately and directly intervene in this matter to order LAUSD to wholly revise its 2019-20 LCAP to conform with the legal standards set forth in the LCFF statute, regulations, LCAP template and template instructions and CDE decisions as set forth herein and, further, order LACOE to approve that LCAP only if it satisfies those legal standards, and yet further, order LAUSD to fully vet its revised proposed LCAP through the mandatory community engagement and public approval processes set forth in law as expeditiously as possible so that LCFF funds may be legally spent as close as possible to the start of the 2019-20 school year.

**INTRODUCTION**

LAUSD receives over \$5 billion per year in LCFF funds and, in particular, more than \$1.1 billion annually in supplemental and concentration funds generated by the District’s unduplicated pupils (low-income students, English Learners or Foster Youth or, collectively, “high need” students) to be used for increasing or improving services that will advance high need pupil goals. The District’s allocation accounts for nearly 12% of all the supplemental and concentration (or “S&C”) funds allocated annually in the State of California. Yet, tragically, LAUSD’s LCAPs are so rife with fundamental errors that they undermine basic notions of transparency and equity and thwart meaningful efforts at local engagement and accountability. In this complaint, we will analyze in-depth both the currently county-approved LCAP (the LAUSD 2018-19 LCAP) and the newly board-adopted and proposed LCAP (the LAUSD 2019-20 LCAP), both of which reveal the same patterns of fundamental errors

Before turning to those errors, however, the SPI and CDE must intervene to correct an even more foundational harm to LCFF:

- LAUSD repeatedly disrespects and ignores the public hearing and approval processes concerning LCAPs, treating this public pact instead as its own private plan capable of unilateral alternation at any time. Most recently, after publicly vetting and approving an LCAP on June 18<sup>th</sup>, LAUSD posted a new LCAP on June 28<sup>th</sup> which we believe the District is advancing to LACOE for approval. The June 28<sup>th</sup> LCAP substantially alters the June 18<sup>th</sup> version, including a downshift of overall \$100 million in S&C funds for one item and a radically diluted Foster Youth program. Yet, *this LCAP version has never been vetted publicly nor approved by LAUSD's Board as required by LCFF.* On this basis alone, CDE's immediate intervention is needed to declare this latter LCAP invalid and identify the current operative 2019-20 LCAP. (Other instances of the District misrepresenting to the public as official a version of its LCAP that LACOE had rejected and of unilateral modifications to its LCAP without public notice or formal approval will be discussed herein.)

The pattern of fundamental errors that appear over and over again in LAUSD's LCAP and which have been ignored by LACOE to date include the following:

- LAUSD bundles multiple discrete actions and services into single "mega-actions," which violates LCFF's transparency requirements and makes it impossible to assess the nature, legality and effectiveness of increased/improved services for high-need students. As LA Board members themselves acknowledged on June 18<sup>th</sup> in approving the 2019-20 LCAP, the LCAP and its accompanying budget overview "are 'unintelligible' documents that provide little insight into specific program and funding changes."<sup>1</sup> LCFF requires that the District separately identify each specific action in the LCAP, reflect its cost, assess it for effectiveness and, where districtwide and supported with S&C funds, justify it as advancing high need pupil goals. LAUSD is bundling over \$940 million of its \$1.137 billion in S&C funds into just 4 actions, with one action alone accounting for \$880 million of S&C funds or approximately 9% of all S&C funds in the state. These "actions" clearly are improper bundles of separate and distinct actions with different natures, serving different grade spans and school sites and having different rationales for effectively serving high need pupils. By merging multiple actions into uber-bundles, the District prevents the required assessment of each action's cost, legality and effectiveness.
- LAUSD allocates hundreds of millions of dollars of S&C funds to school sites in violation of LCFF's transparency requirements. In 2019-20 alone, the District is

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<sup>1</sup> Exhibit ("Ex.") 1 at 1. "None of the documents add up to anything you can count on,' board member Jackie Goldberg said, noting that she'd read 'virtually every page' on three different occasions." *Id.*

sending over (and likely *well* over) \$460 million of S&C funds to local school sites for schoolwide uses. While complainants applaud the enhanced local control and community engagement this can engender consistent with LCFF principles, LAUSD's LCAPs violate LCFF by: (1) failing to identify the specific schools receiving the funds, (2) failing to identify the specific actions that will be carried out at the school or schools, (3) failing to justify how the specific schoolwide actions are principally directed and effective for high need pupils; and (4) failing to assess the school-level actions for effectiveness after implementation.

- LAUSD fails to demonstrate it is either meeting its overall obligation to increase or improve services for high need pupils by 32% above what it provides to all pupils or that its specific districtwide and schoolwide uses of supplemental and concentration funds satisfy LCFF's legal standards. LAUSD's LCAPs make no attempt to engage in the required quantitative or qualitative analysis to demonstrate it is directing 32% more in enhanced services toward high need pupils. Though the District, without more, simply asserts in the relevant LCAP section that it is investing all of its \$1.1 billion in S&C funds toward its high need student population, an associated budget document summarizing those investments totals only \$803 million.<sup>2</sup> Item-by-item analysis of LAUSD's specific uses of S&C funds consistently shows that the District is failing to prove it is meeting its equity obligation. In nearly every case, LAUSD fails to demonstrate its "equity" investments are either principally directed toward high need pupil goals or demonstrably effective—and typically both.<sup>3</sup>
- Casting further doubt on whether it is meeting its equity obligation under LCFF, a forensic analysis of LAUSD's LCAPs going back to 2017-18, reveals the District has impermissibly claimed \$340 million of unidentified S&C expenditures under its bundled "School Autonomy" Action and rolls those forward each year. What new actions these funds are supporting has not been identified in LAUSD's LCAPs, much less have they been publicly vetted or justified as principally and effectively serving high need pupils. Curiously, the gap between the District's \$803 million quantification of its high need student investments<sup>4</sup> and its \$1.14 billion allocation of S&C funds under LCFF is \$340 million.

LCFF recognizes that providing the same level and type of support for all students is not enough to unleash the potential of high-need pupils. Yet, it is far from clear that the high need students of LAUSD are receiving the enhanced services they are due under LCFF. What is clear is that the District is not meeting its legal obligations to be transparent about its spending and to justify its uses of supplemental and concentration funds as properly serving high need students. Absent that transparency and demonstration of increased and improved services, LAUSD will

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<sup>2</sup> Ex. 7.

<sup>3</sup> *E.g.*, Ex. 10.

<sup>4</sup> Ex. 7.

only continue to thwart the promise of community engagement and local accountability on which LCFF is premised. As Complainants Carrion and Velasco—two community leaders and parents of LAUSD low-income elementary and middle school students—contend: without the required transparency and the trust in community stakeholders’ input, the District will continue to fall short of the transformative change LCFF promises.<sup>5</sup>

It is no secret that LAUSD is facing serious fiscal challenges. Yet, to date, it has elected largely to look for ways to evade its equity obligations under LCFF rather than confront them head on. Caught in an unlawful annual allocation of \$450 million in S&C funds in 2017 in the prior *CoCo v. LAUSD* litigation,<sup>6</sup> the District appears to be relying instead on a subtle ledger shift of \$340 million in unidentified and unjustified expenditures toward its equity obligation. To regain the public’s trust, it is time for the LAUSD to get its fiscal house in order. To start, the District needs to fully meet its transparency and equity obligations under LCFF. We respectfully request Superintendent Thurmond and the CDE order Respondents to do just that.

## **INVALID LCAP**

### **I. The Amended June 28<sup>th</sup> LCAP and Budget Overview Are Null and Void Because LAUSD Failed to Vet Them with the Public or Approve Them in a Public Hearing as Required by LCFF.**

On June 18, 2019, the LAUSD Board of Education adopted its 2019-20 LCAP and budget in a public meeting,<sup>7</sup> following a prior public hearing on the LCAP and budget on June 11, 2019.<sup>8</sup> The LCAP posted for public review prior to these public meetings was 112 pages and the LCFF Budget Overview for Parents projected a total revenue of \$7.391 billion, of which \$5.587 billion is LCFF funding and \$1.137 billion is generated based on the enrollment of high needs students.<sup>9</sup> On June 28, 2019, an updated Budget Overview and a revised LCAP appeared

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<sup>5</sup> It should go without saying, but Complainants and counsel remind the District of its obligation to avoid taking any type of retaliatory action against Ms. Carrion and Ms. Velasco or their children for pursuing this complaint.

<sup>6</sup> S. Kohli, H. Blume, Settlement will send \$151 million to 50 L.A. schools over the next three years, *Los Angeles Times* (Sept. 14, 2017). <https://www.latimes.com/local/education/la-me-edu-lausd-lcff-settlement-20170914-story.html>

<sup>7</sup> LAUSD Board of Education, Regular Meeting Stamped Order of Business, Item No. 18 (June 18, 2019) at p. 5, available at <http://laschoolboard.org/sites/default/files/06-18-19RegBdOBMaterialsLinked6-13-19Public.pdf>.

<sup>8</sup> LAUSD Board of Education, Regular Meeting Revised Order of Business (June 11, 2019), available at <http://laschoolboard.org/sites/default/files/06-11-19RegBdRevisedOBMaterialsLinked6-7-19.pdf>.

<sup>9</sup> See LAUSD Board of Education, 06-11-19 Regular Board Revised OB Materials With Links, p. 256-370, available at <http://laschoolboard.org/sites/default/files/06-11-19RegBdRevisedOBMaterialsLinked6-7-19.pdf>; LAUSD Board of Education, 06-18-19 Meeting Materials with Links, p. 414-528 (June 18,

on the LAUSD website that was twice as long, reflects \$396.6 million fewer LCFF dollars overall and announces several substantial changes in program and budget expenditures for supplemental and concentration funds that the public never had the opportunity to review and that the Board has never considered or adopted in a public meeting.<sup>10</sup> Just two examples of substantial S&C changes appearing for the first time in the June 28<sup>th</sup> LCAP can be found in the School Autonomy and the Foster Youth program actions:

- School Autonomy (Goal 1, Action 5) sees an additional action rolled into it.<sup>11</sup> As reflected in the June 28<sup>th</sup> LCAP Goals, Actions, Services (GAS) section, Goal 1, Action 10 (School Innovation Fund) funds “are shifted to Goal 1 Action 5 School Autonomy,”<sup>12</sup> The School Innovation Fund effort was a previously separate action in the June 18<sup>th</sup> LCAP, totaling \$72.4 million in expenditures.<sup>13</sup> Accordingly, one would expect to see the total budgeted expenditures for School Autonomy increase by this amount between the June 18<sup>th</sup> and June 28<sup>th</sup> LCAP versions. Yet, the total budgeted expenditures for School Autonomy in the June 28<sup>th</sup> LCAP *decreased* by \$31 million,<sup>14</sup>—and this even though the June 28<sup>th</sup> Budget Overview projects marginally more total supplemental and concentration funds (\$36,475) for LAUSD.<sup>15</sup> Thus, overall, in ten days’ time, despite the description of actions undertaken in School Autonomy expanding, budgeted expenditures for high need students covering all the actions encompassed therein have decreased by

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2019), available at <http://laschoolboard.org/sites/default/files/06-18-19RegBdOBMaterialsLinked6-13-19Public.pdf>.

<sup>10</sup> See Los Angeles Unified School District, LCAP Home, Final Draft LCAP (Updated June 28, 2019), <https://achieve.lausd.net/Page/10828>. Hereinafter, this LCAP shall be referred to as the Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP.

<sup>11</sup> The June 18 2019-20 LCAP previously announced that at least three previously separate actions were being rolled into Goal 1, Action 5 School Autonomy for the 2019-20 school year. These are Goal 2, Action 11 (Targeted Instructional Support/Class Size Reduction), Goal 4, Action 1 (Targeted Parental Involvement) and Goal 5, Action 1 (School Climate and Restorative Justice). See Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 82, 90-91, 94; see also Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP at 110.

<sup>12</sup> Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP at p.124.

<sup>13</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 63-64.

<sup>14</sup> See Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP at p. 125 (School Innovation Funds); p. 111-12 (School Autonomy); compare Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 58-9.

<sup>15</sup> See Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP (Budget Overview) at p. 1, compare Ex. 5, Board-Approved LAUSD 2019-20 LCAP (Budget Overview) at p. 1.



\$103.4 million.<sup>16</sup> There is no explanation in the June 28<sup>th</sup> LCAP for the disappearance of this substantial amount of services and budgeted expenditures for high need students.

- The Foster Youth Support Plan and Family Resource Centers (Goal 2, Action 1) from the June 18<sup>th</sup> LCAP is materially changed by incorporating several additional student populations into the program, some of whom receive services not based on their status as foster youth, low-income, or English Learners.<sup>17</sup> The June 18<sup>th</sup> LCAP did not provide notice of these substantial changes because no changes were made to the Actions/Services under 2.1.<sup>18</sup> Although the program now proposes to expand to serve several other high need populations, the proposed 6/28 expenditures remain substantially similar, which means that services targeted to foster youth will be significantly diluted and less effective. The June 28<sup>th</sup> LCAP provides no analysis of this diminution of services to foster youth or unduplicated pupils but continues to take full credit in its Demonstration of Increased/Improved Services for Unduplicated Pupils (DIISUP) section for the program as serving only foster youth and as fully counting toward LAUSD's proportionality obligation.<sup>19</sup>

The June 28<sup>th</sup> budget overview and LCAP appeared publicly for the first time on the District's website on or about June 28, 2019. As such, they were not provided to the parent advisory committee, the DELAC, or the public for review and comment prior to adoption as required by Cal. Educ. Code § 52062 and 52064.1(c)(1)(A). Moreover, there is no record of the June 28<sup>th</sup> LCAP and Budget Overview having ever been presented to the Board in a public meeting, much less adopted in such a meeting by the Board.<sup>20</sup> Were that not enough, the June 28<sup>th</sup> LCAP, which makes substantial changes to the LAUSD budget as partially reflected above,

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<sup>16</sup> This is the sum of the total 6/18 budgeted expenditures for Goal 1, Action 10 plus the overall decrease in School Autonomy expenditures of \$31 million reflected in the revised LCAP, *see* Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP 2019-20 at p. 111-12 (School Autonomy).

<sup>17</sup> *See* Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP at p. 132-33 (“Beginning in the 2019-20 school year, the District will aim to provide local, integrated, specialized support services for targeted student populations, ensuring that students in foster care continue to be served effectively and consistently while strategically increasing support for students experiencing homelessness and/or involved in the juvenile justice system.”).

<sup>18</sup> The June 18<sup>th</sup> LCAP noted that 2.1 was modified, but the description of the program remained unchanged other than minor formatting issues. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 67.

<sup>19</sup> Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP at p. 213.

<sup>20</sup> The only board meeting held between the June 18<sup>th</sup> LCAP and budget adoption and the revised June 28<sup>th</sup> LAUSD 2019-20 LCAP (*Ex. 6*) was a special meeting on June 25, 2019. Neither the LCAP nor the budget was on the agenda for this meeting. *See* LAUSD Board of Education, Special Meeting Stamped Order of Business (June 25, 2019), available at <http://laschoolboard.org/sites/default/files/06-25-19SpclBdCSSTAMPEDOB.pdf>.

was not adopted together with a budget as required by Cal. Educ. Code § 52062(b)(2). Instead, the District’s budget, with its expenditures aligned to the June 18<sup>th</sup> LCAP (presumably), was adopted by the Board on June 18<sup>th</sup>. For all these substantial failings, the June 28<sup>th</sup> LCAP must be considered null and void and of no legal effect.

Because the only operative LCAP the Board has adopted in line with LCFF’s statutory procedures prior to the annual July 1 deadline<sup>21</sup> is the June 18<sup>th</sup> LCAP, our analysis of the 2019-20 LCAP in this complaint will refer to the June 18<sup>th</sup> version. However, the same fundamental problems identified in the operative June 18<sup>th</sup> version are all fully replicated in the unlawfully amended June 28<sup>th</sup> version.<sup>22</sup>

As an overarching matter, moreover, LAUSD’s illegal substitution of the June 18<sup>th</sup> LCAP with a revised June 28<sup>th</sup> version has only served to sow further confusion and a lack of clarity for the public and for LACOE’s review. Which version shall the public, the Board and LACOE consider to be LAUSD’s proposed 2019-20 LCAP? And, indeed, it is not entirely clear that LACOE has the authority to enforce that part of the LCFF statute which concerns local board approval among its three enumerated duties in reviewing LCAPs.<sup>23</sup> Accordingly, the District’s recent illegal “adoption” only further justifies CDE’s immediate intervention in this matter. Without direct and immediate intervention prior to the upcoming August 15 and October 8 statutory deadlines for county review,<sup>24</sup> LAUSD will not be on track to have (and LACOE will not be on track to review) a valid LCAP and budget that lawfully serve its hundreds of thousands of high need students and that have been properly publicly vetted before the 2019-20 school year begins.

### **LACK OF TRANSPARENCY AND ACCOUNTABILITY**

#### **II. LAUSD’s Bundling of Multiple Discrete Actions/Services into Single “Mega-Actions” Violates LCFF’s Transparency Requirements and Makes It Impossible to Assess Increased/Improved Services for High-Need Students.**

LAUSD’s LCAPs impermissibly bundle multiple, discrete actions into such all-encompassing mega-actions that the District violates LCFF’s core transparency requirements, thwarting, thereby, any meaningful exercise of local engagement and accountability.

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<sup>21</sup> Cal. Educ. Code § 52060(a)-(b).

<sup>22</sup> After visual comparison, we have to highlight differences between the two June versions of the LAUSD LCAP by highlighting deletions in the June 18<sup>th</sup> version and changes in the June 28<sup>th</sup> version. *See Ex.’s 5 and 6.*

<sup>23</sup> *See* Cal. Educ. Code § 52070(d).

<sup>24</sup> Cal. Educ. Code § 52070.

A. LCFF Requires Districts to Separately Identify, Justify and Assess the Specific Actions and Expenditures It Will Undertake to Achieve State and Local Goals.

At the heart of LCFF is the requirement that districts be fully transparent around the “specific actions” being undertaken and the associated spending for and effectiveness of each such action so that community stakeholders can hold districts accountable for using funding equitably and effectively. Indeed, during the passage of LCFF, the Brown Administration’s consistent rationale for the shift away from Sacramento-dictated categorical-centered accountability to accountability through “local control” was that the local community would be able to see what school boards do with their new spending flexibility and hold them accountable through local democratic processes. Thus, the name given to LCFF’s centerpiece mechanism was the Local Control Accountability Plan.

To notify the public of how it is spending its money, a school district is required to “include a description of the specific planned actions an LEA will take to meet the identified goals, and a description of the expenditures required to implement the specific actions.”<sup>25</sup> In addition, a school district must separately identify and justify how the revenue generated by and for high need students translates into increased and improved services for these students.<sup>26</sup> Accordingly, the LCAP template requires that districts “[i]dentify *each* action/service being provided on a schoolwide or LEA-wide basis” and provide the principally directed and effectiveness justifications required by the LCFF regulations.<sup>27</sup> Finally, the school district must

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<sup>25</sup> See Ex. 17, LCAP Template Instructions, Cal. Dep’t of Educ. (last reviewed Feb. 1, 2019) at p. 13, *also available at* <https://www.cde.ca.gov/re/lc/templateinstructions.asp>. School districts are required to provide all the information specified in the LCAP template. See also Cal Educ. Code § 52062(A)(3)-(5) (describing the district’s obligation to notify members of the public and hold a public hearing regarding “*the specific actions and expenditures* proposed to be included in the local control and accountability plan or annual update to the local control and accountability plan”) (emphasis added); § 52064(b)(2)(requiring the state board to create a template that includes “[a] description of *the specific actions* the school district, county office of education, or charter school will take during each year of the local control and accountability plan to achieve [state] goals”) (emphasis added). Pursuant to Cal. Educ. Code § 52064(j), the current LCAP template is subject to the prior version of the statute which similarly required LCAPs to provide “a description of *the specific actions* the school district will take during each year of the LCAP...”, former Cal. Educ. Code § 52060(c) (emphasis added).

<sup>26</sup> See, e.g., 5 Cal. Code Reg. § 15496(b)(1)(A) (permitting a school district with an enrollment of unduplicated pupils of 55 percent or more to expend supplemental and concentration grant funds on a districtwide basis provided the district “[i]dentify in the LCAP those services that are being funded and provided on a districtwide basis [and] describe 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.”).

<sup>27</sup> See Ex. 17, LCAP Template and Template Instructions (emphasis added) at p. 17.

report on what it did, how much it spent, whether its specific actions were effective, and if it plans to change any of its specific actions and services for the upcoming year.<sup>28</sup>

Though the statute and the template do not further explicitly define the term “each specific action,” they should not have to. The plain meaning and what is needed to align with the statutory and regulatory purposes provide ample clarity into what is required. The plain meaning of “specific,” “action” and “each” sufficiently conveys what the legislature intended when it specified that “specific actions and expenditures” must be identified in the LCAP or Annual Update. *People v. Wright* (2006) 51 Cal.Rptr.3d 80, 92; *see also California Teachers Ass. v. Governing Bd. of Rialto Unified Sch. Dist.* (1997) 14 Cal.Rptr.2d 671, 673 (“Our first step [in determining the Legislature's intent] is to scrutinize the actual words of the statute, giving them a plain and commonsense meaning.”). “Specific” means “detail, particular” while “action” means “a thing done” or “the accomplishment of a thing usually over a period of time, in stages, or with the possibility of repetition.” The Merriam-Webster Dictionary (2019). “Each” means “every individual one.” *Id.* The plain and ordinary meaning of these words require that the district, in its proposed plans, include a detailed and particular description for every discrete activity or service that the LEA intends to carry out in support of its state and local goals and its unduplicated pupils.

Moreover, the meaning—and in particular the level of specificity required here—must align to the statutory and regulatory purposes and their required framework for achieving those goals.<sup>29</sup> That is, the local school community, the school board and the county must be able to understand what discrete activities and services are being undertaken, how much each costs, how well each entity-wide service is directed to serve high need students and whether, after implementation, the discrete action is effective for LCFF to be satisfied. As discussed below, in Section VI. as concerns the DIISUP, to establish an entity-wide action is principally directed requires a context-specific identification of the needs, conditions and circumstances being addressed and how the specific action will be designed to address those factors. The effectiveness justification requires a demonstration that the specific action will advance the

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<sup>28</sup> *See* Ex. 17, LCAP Template Instructions at p. 15-16.; *see also* Cal. Educ. Code § 52064(b)(7) (requiring the LCAP template to include “[a] review of the progress toward the goals included in the existing local control and accountability plan, a review of any changes in the applicability of the goals, an assessment of the effectiveness of the specific actions described in the existing local control and accountability plan toward achieving the goals, a description of changes to the specific actions and related expenditures the school district, county office of education, or charter school will make as a result of the review and assessment, and an update on progress implementing the specific actions in the current fiscal year, including estimated actual expenditures for the specific actions”). *See also former* Cal. Educ. Code § 52061(a)(2)-(3) (requiring the LCAP’s annual update include an “assessment of the effectiveness of the specific actions...toward achieving the goals,” a listing and description of the expenditures “implementing the specific actions,” and any planned “changes to the specific actions . . .”).

<sup>29</sup> *See People v. Licas* (2007) 60 Cal. Rptr. 3d 31, 34 (“In construing a statute, our role is to ascertain the Legislature's intent so as to effectuate the purpose of the law.”)

identified high need students toward one or more expected outcomes. It follows that actions which have distinct natures (*e.g.*, counselors vs. clerical support vs. parent engagement) will require distinctive demonstrations of principally-directedness as well as unique discussions of effectiveness. Where such is the case, such discrete actions cannot be merged under one mega-action heading and a single vague justification.

The framework of the LCAP template, and in particular its Goals, Actions, Services (GAS) section, also explicitly acknowledges that specific actions are ones which serve specific student populations (*i.e.*, all students, students with disabilities, specific student groups, English Learners, Foster Youth, and/or Low-Income), have unique scopes of service (LEA-wide, Schoolwide, or Limited to Unduplicated Student Groups) and unique locations (*i.e.*, All Schools, Specific Schools, and/or Specific Grade Spans) and, accordingly, must be listed separately even if they are directed to the same goal.<sup>30</sup> Thus, one is not complying with the statute's and the template's call for separate analyses of specific actions where one's so-called "action" has multiple parts, some of which are LEA-wide, serving all schools and grade spans, while others are schoolwide but only at some schools, and yet others may be grade span specific.

Where a district like LAUSD bundles into a single mega-action numerous discrete actions that have distinctive natures, different scopes of service and locations separate rationales for being principally directed, distinct outcome objectives and separate analyses of effectiveness, none of the transparency and accountability requirements core to LCFF can be met. It becomes impossible to see, much less identify the effectiveness of each action, and impossible to hold the district accountable for ongoing reflection and improvement. Whether progress toward a goal is significant, modest or wholly lacking, the community and the board cannot ascertain, for example, which discrete actions are hindering or supporting progress, which are serving or disserving high need pupil goals and which particular investments are paying dividends or wasting resources.<sup>31</sup>

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<sup>30</sup> Ex. 17, LCAP Template at p. 6.

<sup>31</sup> Indeed, vague descriptions regarding a school district's commitment of resources have repeatedly been found to be insufficient to meet statutory requirements for specific and detailed descriptions. *See, e.g., Bend LaPine Sch. Dist. v. K.H.*, No. CIV. 04-1468-AA, 2005 WL 1587241, at \*10 (D. Or. June 2, 2005), *aff'd sub nom. Bend-Lapine Sch. Dist. v. K.H.*, 234 Fed.Appx. 508 (9th Cir. 2007) (holding that IEP behavior plan providing for specially designed instruction "throughout the school day" was "vague and indefinite" and fail[ed] to adhere to statute's requirements that the IEP must be drafted "so that the level of the agency's commitment of resources will be clear to parents and other IEP team members," 20 U.S.C. § 1414(d)(A)(vi); 34 C.F.R. § 300.347(a)(6)); *Knable Ex.rel. Knable v. Bexley City Sch. Dist.*, 238 F.3d 755, 769 (6th Cir. 2001) (holding that IEP violated procedural requirements of IDEA where it contained only "generalized proposal of behavioral and educational goals for [student], with minimal details describing how the [proposed educational program] would help [student] meet such goals"); *S.H. v. Mount Diablo Unified Sch. Dist.*, 263 F. Supp. 3d 746, 765 (N.D. Cal. 2017) (finding that the school

B. LAUSD Improperly Bundles Several Specific Actions in Goal 1 Action 9 (A-G Immediate Intervention Plan).

Goal 1 Action 9 is a typical example of LAUSD’s impermissible bundling. In 2018-19, LAUSD spent approximately \$15.6 million on A-G Immediate Intervention support (Goal 1, Action #9), which bundled at least 19 specific actions that have different scopes of service covering vastly different grade spans in different locations with different purposes and metrics for evaluating effectiveness. A complete list of the discrete actions included in Goal 1, Action #9 in the 2018-19 LCAP is available in Ex. 8, and a sample of discrete actions is analyzed in the table below.<sup>32</sup>

<b>Specific Action<sup>33</sup></b>	<b>Scope of Services</b>	<b>Location(s)</b>	<b>Purpose</b>	<b>Evaluation Metric<sup>34</sup></b>
Auxiliaries/ independent study/winter break and spring break , RIG, and other credit recovery programs	LEA-wide	All High Schools	Provide opportunities for students who have failed classes to graduate	4-year Cohort Graduation rate 4-year Dropout rate
Algebra I/Geometry Intervention Pathway Program	LEA-wide	All High schools	To prevent students from failing classes	4-year Cohort Graduation rate 4-year Dropout rate

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district failed to specify the type of services being offered, violating the statute’s requirement that each IEP “must specify the nature of the special services that the school will provide.”).

<sup>32</sup> The same bundling occurs in LAUSD’s 2019-20 LCAP. *See* Ex. 9 (Table 2: Bundled Services in LAUSD 2019-20 LCAP).

<sup>33</sup> Each of these discrete actions is listed in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15-20.

<sup>34</sup> Unless otherwise noted, these metrics are based on the annual measurable outcomes for Goal 1, which is 100 percent graduation. While the District does not actually identify which AMO its sub-actions are seeking to address, we have identified the most obvious pertinent outcome.

Pre-AP/AP Summer Institute	LEA-wide	All High schools	Increase participation of diverse learners in A-G and AP classes	% of grads w/ 3+ on 2+ AP exams  % of grads completing A-G w/ C or better
Parent engagement/support (parent/family seminars, College Café, etc.)	LEA-wide	All Schools <sup>35</sup>	Increase support for students from families; empower families to help students access college	% of parents who state: My school provides resources to help me support my child's education <sup>36</sup>
Transition to College Mathematics and Statistics (TCMS)	Schoolwide <sup>37</sup>	34 unspecified high schools <sup>38</sup>	College readiness for students who passed Algebra 2, but have low test scores	% of students who exceeded college readiness standards in Math (EAP test)
AP Readiness programs (APR)	LEA-wide	All High schools	Support for students enrolled in an AP class and their teachers.	% of grads w/ 3+ on 2+ AP exams

<sup>35</sup> The location for all of Goal 1, Action 9 is listed as “All high schools, select middle schools” in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15. However, the parent engagement activities, such as the Quaglia Institute Parent and Family Seminars, are “[o]pen to all LA Unified families.” *Id.* at 19. Therefore, it does not appear to be limited to high school and middle school families, even though these seminars occurred at high schools.

<sup>36</sup> Although parent engagement support is listed as an action to achieve Goal 1 (100 percent graduation), it appears to fit best under Goal 4 (parent, community, and student engagement) as Goal 1 has no parent-related AMO. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 40-41.

<sup>37</sup> The Scope of Services for all of Goal 1, Action 9 is listed as “LEA-wide” in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15. However, the Annual Update states that this specific action was available only at 34 select schools and not LEA-wide. *Id.* at 18.

<sup>38</sup> The location for all of Goal 1, Action 9 is listed as “All high schools, select middle schools” in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15. However, the Annual Update states that this specific action was available only at 34 select schools and not at all high schools. *Id.* at 18.

Middle school Intervention Star 8	LEA-wide	All Middle schools <sup>39</sup>	Prepare students for success in high school A-G classes	% of grads completing A-G w/ C or better
Middle school college/ career coaches	Schoolwide <sup>40</sup>	All Title I middle schools	Support at-risk students and teachers	% of grads completing A-G w/ C or better
Edgenuity Intervention Programs	LEA-wide	All K-8 schools <sup>41</sup>	Prepare students for A-G success	% of grads completing A-G w/ C or better

As the table above illustrates, grouping disparate actions together under one mega-action makes it impossible to determine: (1) how much money is invested in each discrete action; (2) whether in the DIISUP each discrete action is justified as both principally directed and effective; and, in the Annual Update (3) whether the actions have been successful and (4) changed in any material way.

The 2018-19 Annual Update in LAUSD’s 2019-20 LCAP states, for example, that the graduation rate continues to increase year-over-year, but the percentages of students meeting the 11<sup>th</sup> grade Early Assessment Program (EAP) college readiness level in English Language Arts and mathematics were below the District’s targets.<sup>42</sup> If Goal 1, Action 9 were unbundled into its discrete actions, it would be possible to distinguish, for example, LAUSD’s investment in credit

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<sup>39</sup> The location for all of Goal 1, Action 9 is listed as “All high schools, select middle schools” in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15. However, the Annual Update states that this specific action was available at all middle schools (not just selected middle schools). *Id.* at 20.

<sup>40</sup> The Scope of Services for all of Goal 1, Action 9 is listed as “LEA-wide” in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15. However, the Annual Update states that this specific action was available only at Title I middle schools and not LEA-wide. *Id.* at 20.

<sup>41</sup> The location for all of Goal 1, Action 9 is listed as “All high schools, select middle schools” in the 2018-19 Annual Update. *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.15. However, the Annual Update states that this specific action was available for grades K-8 (not just selected middle schools). *Id.* at 20.

<sup>42</sup> *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 21. Indeed, the poor transparency only further enables what generally seems to be LAUSD’s weak commitment to self-reflection and continuous improvement evinced in its Annual Updates. The 2018-19 Annual Update for Goal 1 concludes that the graduation rate increases year after year but fails to note that English Learner graduation rates are decreasing or that LAUSD students continue to fall short of their expected measurable outcomes across the board.



recovery (which is designed to reduce dropout rate and increase graduation rate) from its investment in college readiness (*i.e.*, TCMS) and determine whether more investments need to be made in the latter, given the lack of progress on college readiness. However, because both actions (and many more) are bundled into a single mega-action, it is impossible to engage in this sort of reflection and analysis. If the district is not engaging in this analysis and does not provide the public an opportunity to do so, no progress—much less Complainants’ hoped-for transformative progress—can be made on college readiness for hundreds of thousands of high need LAUSD students. In 2018, only 10 percent of English Learners, 13.5 percent of Foster Youth, and 26.6 percent of Homeless students were prepared for college, with no significant increase since 2017.<sup>43</sup> LCFF generates revenue to improve these outcomes, but LAUSD is not engaging in the reflection needed to put these dollars to work effectively and is obstructing the public from doing so.

C. LAUSD’s Most Egregious Bundling Obscures Whether the District is Using \$880 Million in School Autonomy Funds to Increase and Improve Services for High Need Students.

For the 2018-19 school year, LAUSD generated approximately \$1.164 billion in supplemental and concentration grant funds designated to increase and improve services for high need students.<sup>44</sup> LAUSD spent two-thirds of that (\$775.9 million)<sup>45</sup> on a single action (Goal 1, Action 5): School Autonomy. For the 2019-20 school year, LAUSD will increase expenditures on School Autonomy to \$880.4 million,<sup>46</sup> which accounts for 77.4 percent of its estimated supplemental and concentration funds (\$1.137 billion).<sup>47</sup> Thus, the lion’s share of LAUSD’s supplemental and concentration funds are invested in this single action which constitutes approximately 9 percent of all supplemental and concentration funds allocated throughout the State of California; yet, it is impossible to determine how these funds are used, much less whether they are principally directed and effective for high need students as LAUSD has now bundled at least 22 disparate actions together.<sup>48</sup> In 2018-19, these specific actions numbered 19 in all and included:

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<sup>43</sup> California Dashboard, LAUSD, 2018, College/Career Readiness, <https://www.caschooldashboard.org/reports/19647330000000/2018#college-career-card>

<sup>44</sup> See Ex. 4, LAUSD 2018-19 LCAP at p. 223 (“Estimated Supplemental and Concentration Grant Funds”).

<sup>45</sup> See Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 12 (sum of Estimated Actual Expenditures for Goal 1, Action 5 – School Autonomy).

<sup>46</sup> See Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p.58-59 (Budgeted Expenditures for 2019-20).

<sup>47</sup> *Id.* at p. 112.

<sup>48</sup> Ex. 9, (Table 2: Bundled Services in LAUSD 2019-20 LCAP).

Enhances School Climate (no grade span specified; presumably all)<sup>49</sup>

1. Nursing services
2. Campus aides
3. Clerical
4. Community representatives
5. Building/ground maintenance

Supports Academic planning and Instructional Interventions (no grade span specified; presumably all)<sup>50</sup>

6. Assistant Principals
7. Professional development
8. Tutoring supports

Services for Elementary Schools<sup>51</sup>

9. Administrative support
10. Redesigned arts program

Services for Middle Schools<sup>52</sup>

11. Class size reduction – math/ELA
12. Elective teachers (arts/PE)
13. Librarian/Library Aide

Services for High Schools<sup>53</sup>

14. Optional educational settings (alternative to high schools)
15. A-G supports - credit recovery
16. Class size reduction – math/ELA (9th)
17. Elective teachers (arts/PE) – HS
18. Counselors – PSA
19. Counselors - PSW

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<sup>49</sup> Each of these actions are listed in GAS section and no grade spans are specified in the DIISUP section. See Ex. 4, LAUSD LCAP 2018-19 at p. 121-23 (GAS section); p. 224-25 (DIISUP section).

<sup>50</sup> *Id.*

<sup>51</sup> These actions are not mentioned in the GAS section, but are specified for the first time in the DIISUP section. *Id.*

<sup>52</sup> These actions are mentioned in the GAS section and more detail about grade span is provided in the DIISUP. *Id.*

<sup>53</sup> These actions are mentioned in the GAS section, except for the optional educational settings, but more specificity about grade span is provided in the DIISUP section. *Id.*

On its face, each of these efforts constitute discrete actions because they provide students with very different types of services that have distinctive purposes requiring separate justifications and metrics for measuring effectiveness. The GAS section of the LCAP differentiates these actions into two categories: (1) enhance school climate; and (2) support academic planning and interventions. This alone should signal that Goal 1, Action 5 is impermissibly bundling actions that should be separated. In addition, the DIISUP section of the LCAP further disaggregates these discrete actions into grade span categories, which also signals improper bundling because services provided for different grade spans rely on different metrics to measure success – i.e. for elementary school students, we might look at early literacy benchmarks and SBAC results to determine whether actions are effective, whereas college readiness standards and graduation rates are a more appropriate metric for high school students on certain actions.

Confusingly, all these discrete actions are bundled under one mega-action titled “School Autonomy” when in fact, only a fraction of the expenditures are allocated for schools to use in their discretion,<sup>54</sup> whereas the vast majority appear to be districtwide programs or mandates.<sup>55</sup>

On August 13, 2018, Public Advocates and Complainant Velasco wrote to LACOE expressing serious concerns regarding LAUSD’s bundling of specific actions under School Autonomy, among other issues.<sup>56</sup> We requested that LACOE require the District to “identify each unique and separate action to support unduplicated pupil goals and the related expenditures currently bundled under one ‘School Autonomy’ action” and “justify each unique and separate action” prior to approving the 2018-19 LCAP.<sup>57</sup> In response, LACOE required LAUSD to amend its 2018-19 LCAP. On or around October 12, 2018, LACOE approved LAUSD’s revised 2018-19 LCAP in which Respondents break out the actual actions and services in School Autonomy in more detail. In the Annual Update included in this revised LCAP, LAUSD admits

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<sup>54</sup> In April 2018, LAUSD passed the Student Equity Needs Index 2.0 resolution, which required the district to allocate certain supplemental and concentration funds in 2018-19 according to a sophisticated formula developed by community groups that includes indicators such as gun violence and asthma rates to identify the schools in LAUSD with the highest needs. *See, e.g.*, LAUSD Board Resolution 037-17/18, “Equity is Justice 2.0: Moving Toward a New Direction,” *available at* <http://10.10.34.39/EquityIsJustice2.02018.pdf>. Schools may choose from a menu of options to increase and improve services for the highest need students at their school site depending on local needs. For the 2018-19 school year, the SENI allocation to schools was \$25 million, *id.* For the 2019-20 school year, the SENI allocation will increase to approximately \$290 million, although what actions are to be carried out with those funds and which are district-mandated versus true school site determinations has only become more obscure. *See Ex. 7, LAUSD Superintendent’s Final Budget, 2019-20 – Attachment I.*

<sup>55</sup> *See Ex. 8 (Table 1: Bundled Services in LAUSD 2018-19 LCAP); see also Ex. 4, LAUSD 2018-19 LCAP at p. 31-32 (describing the categories of resources under Goal 1, Action 5 in the 2017-18 Annual Update).*

<sup>56</sup> *See Ex. 13 at p. 2-3 (Public Advocates’ Letter to LACOE).*

<sup>57</sup> *Id.* at 3.

that School Autonomy is not a single, specific action, but “a cadre of services” and a “cadre of support and autonomy.”<sup>58</sup> Respondents’ description then proceeds to break the School Autonomy “action” into 4 sub-buckets of actions under the headings of School Climate, Parent Involvement, Student Achievement & State Standards and Student Engagement, which are further sub-divided by grade span-specific services (elementary, middle school, and high school), and yet still further sub-divided as belonging to one of three distinct types of actions: (1) central district mandated; (2) central district determined, but optional; and (3) true school level autonomy.<sup>59</sup> The fact that LAUSD sub-divides School Autonomy into various discrete buckets of actions (which are themselves still bundled and unjustified) is nothing less than an admission by both Respondents that this mega-action is not the required “specific action” called for by the statute and the template. The somewhat increased (but now lost)<sup>60</sup> transparency around what School Autonomy contains nonetheless fails to satisfy LCFF requirements as LACOE never required LAUSD to actually unbundle the sub-actions so as to reveal their associated specific expenditures, nor justify each as both principally directed and effective, nor separately analyze them for effectiveness and material changes.

In fact, the districtwide mandates, such as professional development to help Assistant Principals and Counselors support high need students, must distinctly be justified as a districtwide action. In contrast, the true school autonomy actions must be justified on a school-by-school basis because each school will choose different actions to increase and improve services to address the specific needs of the unduplicated students at their school. Because of the bundling in School Autonomy, neither justification ever takes place.

Despite Public Advocates’ and Ms. Velasco’s efforts to obtain more transparency in the District’s LCAPs, the approved 2019-20 LCAP is even more opaque and bundled than the 2018-19 LCAP.<sup>61</sup> In addition to the 19 separate actions that were bundled into the School Autonomy item in the 2018-19 LCAP, LAUSD rolled three additional actions designed to address different goals, into this item. These actions include:

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<sup>58</sup> Ex. 4, LAUSD 2018-19 LCAP at p. 24.

<sup>59</sup> *Id.* at 24-34.

<sup>60</sup> LAUSD inexplicably has failed to use this LACOE approved 2018-19 LCAP as its actual LCAP, instead posting on its website the draft, non-approved 2018-19 LCAP without the updated Annual Update description of actual services as its official 2018-19 LCAP. See Ex. 3, Excerpts from 6/6/18 LAUSD LCAP; Home, Latest LCAP Release 6/6/18, LCAP 2018-2019 UPDATE, *available at* <https://achieve.lausd.net/cms/lib/CA01000043/Centricity/Domain/358/TAB%204%20LAUSD%20LCAP%202018-19.pdf>. Moreover, in the 2019-20 LCAP’s Annual Update for 2018-19, LAUSD has reverted to a description of actual services very close to the shorter, less transparent description for School Autonomy services that LACOE rejected last Fall. See Ex. 5, Board-Approved LAUSD 2019-20 LCAP at 12-13.

<sup>61</sup> See Ex. 9 (Table 2: Bundled Services in the 2019-20 LCAP).

- **Goal 2, Action 11 - Targeted Instructional Support (\$11.9 million):** In previous LCAPs, one of the actions designed to achieve the goal of grade-level proficiency for all students was targeted instructional support.<sup>62</sup> Specifically, middle school, high school, and some elementary schools received a 1 FTE teacher position to reduce class sizes and add enrichment electives or courses according to the District's school equity index. The School Autonomy action also included class size reduction teachers and elective teachers, but only for 9<sup>th</sup> grade math and ELA classes and middle school math and ELA classes at schools with high concentrations of unduplicated students. In 2019-20, these funds are combined into the School Autonomy item, making it impossible to determine how class size reduction and elective teachers are being allocated and whether they are effective.
- **Goal 4, Action 1: Targeted Parental Involvement (\$4.26 million):** The 2019-20 LCAP also rolls all parent training, learning opportunities, and workshops into school autonomy so that supposedly individual school sites can determine how to best increase parent engagement at their school. Although decentralized parent engagement may be a good concept, it should be a separate action that is justified and tracked separately instead of subsumed by the omnibus School Autonomy item. The metrics of success on parent engagement and collaboration are very different than the metrics of success for the School Autonomy action (100 percent graduation rate); collapsing them into a single action will undermine the community's ability to determine whether LAUSD is effectively increasing parent engagement.
- **Goal 5, Action 1 - School Climate and Restorative Justice Program (\$9.8 million):** According to the 2019-20 LCAP, the majority of expenditures that were previously under this action to reduce suspensions and expulsions and improve school climate (all but \$530,166) were moved to the school autonomy item for schools to determine the best way to reduce discipline issues within their schools. Although decentralized school climate work may be sensible, it cannot be combined with every other action that is subject to local decision-making. Restorative justice programs are a key victory from the hard-fought campaign to adopt the School Climate Bill of

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<sup>62</sup> In the 2018-19 LCAP, Goal 2, Action 11 included Early Language and Literacy Program, as well as Targeted Instructional Support. In the 2019-20 LCAP, the entire budget for this action is eliminated and purportedly rolled over to the school autonomy item, but only the elective/class reduction teachers are referenced. Therefore, it is not clear whether the ELLP program was discontinued, continues under the School Autonomy item (Goal 1, Action 5), or has been rolled over to a different, unspecified item. California law requires districts to describe and explain any changes to the actions. *See* Cal. Educ. Code § 52061. LAUSD's failure to account for the disappearance of ELLP exemplifies how improper bundling thwarts the public's ability to see how actions materially change over time.

Rights<sup>63</sup> and the districts' implementation of these practices cannot be evaluated unless it is described, justified, and assessed as a separate action.

D. LAUSD Improperly Bundles Several Specific Actions in Goal 3 Action 2 (Targeted Supports to Increase Student Engagement at Campuses of Highest Need).

Another “mega-action” is Goal 3, Action 2, which is labeled “Targeted Supports to Increase Student Engagement at Campuses of Higher Need,” and includes at least 8 distinct actions for unspecified high need schools (although the LCAP incorrectly states that it is provided LEA-wide at all schools).<sup>64</sup> These actions include such distinct services as clerical support, custodial, nurses, Pupil Services and Attendance counselors, and Foster Youth Leadership Council, among others.<sup>65</sup> Each of these sub-actions serve different purposes, respond to different needs, and must be separately assessed for effectiveness.

Moreover, this item includes the same sub-actions as many of the specific actions bundled in School Autonomy yet they are separated here as a distinct action. Presumably, these are distinct services as the District has not rolled them into Action 1.5 as it has done with other previously separate actions. However, unless the specific actions and school-level allocations are properly identified (*see* Section III. re school-level allocations), it is impossible for the Board, LACOE, and community stakeholders to ascertain if in fact the District is double-counting the more than \$31 million in expenditures from Goal 3, Action 2 as meeting its minimum proportionality percentage.<sup>66</sup>

E. LAUSD Improperly Bundles Several Specific Actions in Goal 2 Action 9 (English Learner Supports).

If multiple actions with distinct target populations, purposes, and scopes of service are bundled into a single item and categorized as increasing/improving services, it is impossible to determine if that equity requirement is in fact satisfied. In 2018-19, LAUSD spent approximately \$20.6 million of supplemental and concentration funds on Goal 2, Action 9, which is labeled “English Learner Supports.”<sup>67</sup> This action is listed as contributing toward the

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<sup>63</sup> *See, e.g.* David Washburn, *Budget realities challenging California school districts' restorative justice programs*, EdSource (July 1, 2019), <https://edsources.org/2019/budget-realities-challenging-california-school-districts-restorative-justice-programs/614572>.

<sup>64</sup> *See* Ex. 8 (Table 1: Bundled Services in LAUSD 2018-19 LCAP). The 2019-20 LCAP did not make any changes from 2018-19 and is objectionable for the same reasons, *see* Ex. 9 (Table 2: Bundled Services in LAUSD 2019-20 LCAP).

<sup>65</sup> *Id.*

<sup>66</sup> *See, e.g.*, Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 57.

<sup>67</sup> *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 53.

increased/improved services requirement and states that it is limited to English Learners and low-income students (as opposed to LEA-wide or schoolwide).<sup>68</sup> Yet, this single action combines at least 21 discrete actions, some of which are not limited to English Learners or focused on supporting them at all.<sup>69</sup> As set forth in detail in Table 1, this action includes everything from EL instructional services and transition services, which seem to satisfy the increasing/improving services requirement, to administrative support to implement the LCAP, which cannot be justified as increasing/improving services because these actions support all students.<sup>70</sup> However, since all of these actions are bundled and collectively justified, it is impossible to determine which expenditures properly meet the increased/improved services requirement and which ones do not. It is possible that most of the expenditures under this item do not meet the increased/improved services requirement, but that is obscured by the sometimes inaccurate label (“English Learner Supports”) and scope of services (“Limited to Unduplicated Student Group(s)"). The same bundling exists in the 2019-20 LCAP.<sup>71</sup>

This is not just a bureaucratic exercise. LAUSD is almost certainly using some of the \$20.6 million that it claims to be using on English Learner supports on actions that are not targeted to English Learners, and therefore should not count towards the increased/improved services requirement. The School Board and the school community cannot ascertain that amount because the actions are bundled, but the 115,857 English Learners in LAUSD are entitled to have those funds and services focused on English Learner goals—and they desperately need them.<sup>72</sup> English Learners have the lowest graduation rates of any student group in LAUSD (59.6 percent) and are the least prepared for college (10 percent).<sup>73</sup> LAUSD serves nearly a tenth of English Learners in the state, yet have worse outcomes than the state overall.<sup>74</sup>

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<sup>68</sup> *Id.*

<sup>69</sup> See Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 53-58; see also Ex. 8 (Table 1: Bundled Services in LAUSD 2018-19 LCAP) and Ex. 9 (Table 2: Bundled Services in LAUSD 2019-20 LCAP).

<sup>70</sup> See Section VI below re a proper DIISUP showing.

<sup>71</sup> See Ex. 9 (Table 2: Bundled Services in LAUSD 2019-20 LCAP).

<sup>72</sup> See California Dashboard, LAUSD, English Learner Enrollment (2018), <https://www.caschooldashboard.org/reports/19647330000000/2018>.

<sup>73</sup> Compare Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 49 (baseline 2017-18 graduation rate for English Learners is 56.6 percent; expected graduation rate for 2017-18 is 58 percent for English Learners), with p. 5 (actual 2017-18 graduation rate 51.2 percent for English Learners).

<sup>74</sup> The graduation rate for ELs in California in 2018 was 70.9 percent, more than 10 percentage points higher than the rate for ELs in LAUSD. See California Dashboard, State of California, Graduation Rate (2018), <https://www.caschooldashboard.org/reports/ca/2018/academic-engagement#graduation-rate>. Similarly, 14.5 percent of ELs statewide were prepared for college in 2018, compared to 10 percent of ELs in LAUSD. See California Dashboard, State of California, College/Career (2018), <https://www.caschooldashboard.org/reports/ca/2018/academic-performance#college-career>.

In sum, LCFF requires districts to identify the *specific actions* that it plans to undertake to achieve state and local priorities, demonstrate how school- and district-wide S&C *specific actions* increase and improve services for high need students, and report on the actual *specific actions* implemented and whether they were effective in meeting the district's goals. LAUSD repeatedly bundles multiple discrete actions totaling nearly a billion dollars in supplemental and concentration funding into single mega-actions, rendering it impossible to determine what the District is doing, whether it is using its supplemental and concentration funds in accordance with the law, and whether its investments are effective.

### **III. LAUSD Also Repeatedly Violates LCFF's Transparency and Accountability Requirements When Allocating Unspecified Amounts to Unspecified School sites for Unspecified Actions.**

LAUSD's transparency issues have spilled over to its school site allocations. In its 2019-20 LCAP, LAUSD aims to allocate over \$460 million across at least seven different actions in supplemental and concentration funds to individual school sites.<sup>75</sup> In its 2018-19 LCAP it allocated at least as much to school sites across at least ten different actions.<sup>76</sup> The practice of driving supplemental and concentration dollars and increased and improved services for unduplicated pupils down to school sites with the most acute and concentrated needs is one Complainants applaud. Indeed, the practice is aligned with LCFF's theory of change that those closest to local problems can have the most insight into their resolution. Unfortunately, all of LAUSD's school site allocations are for unspecified amounts of S&C funds to unidentified schools for unspecified actions of unestablished legality.

LAUSD's blind approach to school site allocations runs afoul of LCFF's transparency and accountability requirements for all the same reasons its bundling practice does, plus one more: (1) the LCAPs do not identify what specific actions are being undertaken and with what amount of LCFF budgeted expenditures; which further means that (2) the schoolwide uses of S&C funds are not justified as both principally directed and effective in serving high need pupil goals; and (3) the Annual Updates cannot and do not undertake any analysis of whether the expected school-level actions were implemented, materially changed, and effective.<sup>77</sup> What is more, as the LCAP Template Instructions dictate, (4) when actions are targeted at specific schools, each specific school should be identified in the Goals, Actions and Services section.<sup>78</sup>

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<sup>75</sup> See Ex. 12, (Table 5).

<sup>76</sup> See Ex. 11, (Table 4).

<sup>77</sup> See generally Section II.A., above discussing requirements around transparency for specific actions.

<sup>78</sup> Ex. 17, LCAP Template instructions (Feb. 1, 2019), <https://www.cde.ca.gov/re/lc/templateinstructions.asp> ("If the services are provided to specific schools



That LCFF’s basic transparency requirements require school-level identification of specific actions and school-level justifications of S&C uses was affirmed recently by the CDE in the Klamath II decision. There the district did more than merely delegate an allocation of funds to one or more school sites as LAUSD does. It specifically allocated S&C funds to fulfill a site-level Single Plan for Student Achievement (SPSA) in a Title I school. Even so, CDE concluded that it is not enough for an LEA to generally reference a SPSA plan to justify an allocation of S&C funds; the LEA must specify and justify each action or service. The CDE ruled that the school district must, “identify the actual actions/services implemented to meet the described goal” and that “the 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.” Thus, the CDE concluded that the district failed to adhere to the LCAP template requirements.<sup>79</sup>

Nowhere in LAUSD’s LCAP is it clear which specific schools these hundreds of millions of dollars of S&C money are going to each year or what actions, upon arrival, the schools will spend the money on or if the school-level uses will be used to increase or improve services for high need students. For example, in LAUSD’s 2019-20 LCAP:

- Goal 1, Action 8—the A-G Diploma Program—has a budgeted expenditure of more than \$2 million<sup>80</sup> going to “20 middle schools...with a duplicated percentage...exceeding 75% TSP students.”<sup>81</sup> However, neither here nor anywhere else in the LCAP does LAUSD list which middle schools will be receiving this money or how much money they will be receiving individually—whether that be equal amounts or differing amounts depending on the percentage.

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within the LEA . . . . ., the LEA must mark “Specific Schools” . . . . . Identify the individual school or a subset of schools . . . . ., as appropriate.”)

<sup>79</sup> See Ex. 20, California Department of Education, Klamath-Trinity JUSD II decision (hereinafter, Klamath II decision), p. 16; see also Ex. 18 California Department of Education, Fresno USD decision (hereinafter, Fresno decision), p. 8 (“ . . . the description states that the sites were to direct [SPSA] 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 action are ‘effective in’ meeting goals for unduplicated students, as required for districtwide actions.”)

<sup>80</sup> Ex. 4, LAUSD 2018-19 LCAP at p. 123-24 (Goals, Actions, and Services).

<sup>81</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 61-62 (Goals, Actions, and Services).

- Goal 2, Action 12, the Arts Program, funds schools based on the “Arts Equity Index,” only explained as an identification tool that takes into account unduplicated pupils.<sup>82</sup> The Arts Program is only described as “arts programming” and “arts curriculum” but describes no actual specific actions that will be taken to bring “parity to school sites...that have historically not have access” to the arts.<sup>83</sup> This lack of transparency makes it impossible to tell what the funds would be spent on at individual schools.
- Goal 1, Action 8 in LAUSD’s 2019-20 exemplifies, as well, the lack of annual reflection on actions taken at the school site level. While the Goals, Actions, and Services section of the LCAP says that the action has not changed from 2017-18 and will not change for the 2019-20 year, the Annual Update makes it clear that the action has changed significantly—including in terms of budget, schools targeted, and steps taken.<sup>84</sup>

LAUSD has not identified, much less justified, any of its specific school site allocations as principally directed or effective in the DIISUP sections of its LCAPs. At most, in the 2018-19 LCAP, it has pointed to its school sites’ SPSAs and their Targeted Student Population (TSP) plans<sup>85</sup> and only for its School Autonomy mega-action (though even this language disappeared in the 2019-20 LCAP).<sup>86</sup> As noted, CDE has determined that such blind references to vague school site plans with multiple different actions do not satisfy LCFF’s call for identification and justification of specific actions. Moreover, an actual review of LAUSD SPSAs and TSP plans only further confirms the propriety of that conclusion as neither of the District’s plans satisfy LCFF’s requirements, particularly as concerns establishing that each specific schoolwide use of S&C funds is principally directed and effective.<sup>87</sup>

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<sup>82</sup>Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 84 (Goals, Actions and Services).

<sup>83</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 84(Goals, Actions and Services).

<sup>84</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 61-62.

<sup>85</sup> Ex. 4, LAUSD 2018-19 LCAP at p. 122.

<sup>86</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 57-58 (compare GAS description for 2018-19 with that for 2019-20).

<sup>87</sup> The SPSA plans in LAUSD suffer from the same infirmity noted by the CDE in Klamath and Fresno. Many of the actions are generally serving all pupils at the school and are not principally directed to address high need students needs and circumstances. *See, e.g.,* Ex. 14 at p. 17-20, 36-37. As to the TSP Plans, there is no space to explain how schoolwide expenditures are either principally directed or effective in improving outcomes for high need students. *Id.* at TSP Plan, *e.g. at* p. 47. (The TSP plan template also lacks any kind of reflection or Annual Update section, so there is no space to reflect on the effectiveness of services and plan for continuous improvement. *Id.*) Moreover, some schools do not even fill out a TSP plan. *See, e.g.,* Ex. 15 (SPSA for South Gate Middle School is missing Section 18, the TSP plan).

The level of transparency and accountability required by LCFF, including as to school-level allocations, should be welcomed by LAUSD as a key means to improve community engagement and outcomes in its schools. The work of providing the necessary additional clarity should not continue to be ignored and avoided, especially given the hundreds of millions of additional dollars generated for the District by high need students here and the additional flexibility given to LAUSD under LCFF. Of course, meeting these school-level transparency and justification requirements will require that SPSA and TSP planning align with LAUSD's LCAP development. In other words, the District will need to have completed its site-level planning for the upcoming year, including with respect to the planned use of any delegated S&C funds, early enough so as to be able to include both the identification of actions/services and their justification as principally directed and effective in the drafts and the final adopted LCAP itself or addenda. Large districts around the state like Elk Grove and Sacramento City are adopting innovative new approaches to ensure their school-level planning flows into their LCAP development.<sup>88</sup> There is no reason LAUSD, with its vastly greater resources, could not do the same.

#### **IV. LAUSD's Annual Updates Violate LCFF's Requirement that Material Changes in Actions Implemented and/or in the Budgeted Amounts for Specific Actions be Reflected and Explained.**

As noted above, the LCFF statute requires that districts, in their Annual Update, report any material changes to the specific actions and the related expenditures.<sup>89</sup> LAUSD's LCAPs uniformly fail to do so. First, as an outgrowth of the District's unlawful bundling practice, LAUSD is not, by and large, identifying specific enough actions and therefore, even when it notes something materially changed, the public cannot actually see what alterations took place or how spending went up or down from what was anticipated at the specific action level. As to material budget changes, LAUSD has a standard boilerplate response which it relies on to completely obscure how spending on specific actions materially changed. Rather than identifying what specific action's spending changed and then answering the prompt to "[e]xplain material differences between Budgeted Expenditures and Estimated Actual Expenditures," LAUSD frequently responds with the exact same non-specific verbiage:

“Material differences between the planned expenditures and estimated actual expenditures are a result of changes in salary/benefit costs, change in staffing

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<sup>88</sup> See, e.g., Improving LCFF Implementation Through User-Centered Design: Year 1 of the LCFF Test Kitchen, CCEE/CCDR/Pivot/WestEd, A Site-Based LCAP: Elk Grove USD at 6-9, available at <https://lcfftestkitchen.org/project-updates/LCFF-Test-Kitchen-Prototypes.pdf>.

<sup>89</sup> See note 28, above.

availability for particular programs and delayed implementation of particular programs at the school-wide level.”<sup>90</sup>

In this way, LAUSD avoids identifying which specific actions (or even which specific “particular programs”) experienced material changes in implementation and budgeting. As part of correcting LAUSD’s LCAP practices, the CDE should direct LAUSD to identify in its LCAP’s reflection section which specific actions have materially changed and to explain the material differences in specific actions’ budgeted expenditures.

### **FAILURE TO DEMONSTRATE INCREASED AND IMPROVED SERVICES**

#### **V. LAUSD’s LCAPs Fail to Demonstrate the District is Meeting Its Overall Obligation to Increase or Improve Services for High Need Students Each Year by 32% Above the Level of Service Provided to All Pupils.**

LAUSD’S Minimum Proportionality Percentage (MPP) is 32.35% for 2019-20 and 32.60% for 2018-19 based on receipt of supplemental and concentration grants of \$1.14 and \$1.16 billion for the last two years, respectively.<sup>91</sup> The MPP is the percentage by which the District must demonstrate it is increasing or improving services above what is provided to all students.<sup>92</sup> Although demonstrating how an LEA is meeting its proportionality obligation toward high need students is one of the principal purposes of the LCAP, LAUSD utterly fails in this regard. The District’s LCAP offers no quantitative or qualitative analysis to demonstrate it is doing 32% more for high need students. For each of the last three LCAP years, the mandatory prompt in the DIISUP section calling for the overall demonstration of how the MPP has been met, either quantitatively or qualitatively, has been ignored.<sup>93</sup> LACOE has approved this practice twice and, without CDE intervention, is headed toward a third such approval for the 2019-20 school year.

##### **A. The 2019-20 DIISUP Fails to Demonstrate That the MPP Has Been Met.**

As noted, the prompt calling for the District’s analysis of how it has met its MPP is effectively ignored in the 2019-20 DIISUP. Nor does the response to the prompt immediately thereafter—which calls for an identification and justification of each entity-wide action being funded and provided with S&C funds—offer the analysis. Nowhere in the brief descriptions of the individual actions and mega-actions or the overall summary of the District’s program is there

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<sup>90</sup> *E.g.*, Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 21, 36, 39, and 42 as to Goals 1, 2, 3 and 4.

<sup>91</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 102; LAUSD 2018-19 LCAP at p. 223.

<sup>92</sup> Cal. Educ. Code § 42238.07(a)(1); 5 Cal. Code Reg. §15496(a)(8).

<sup>93</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 102, 104, 107.

a quantitative or qualitative analysis even asserting that high need students are receiving 32% more in services than all pupils, *i.e.*, that MPP has been met.<sup>94</sup>

Without any analysis, the District proffers a quantitative statement in a single sentence in the box following the two prompts: “For 2019-20, LA Unified will budget \$1.18 billion in supplemental and concentration funds for continued support and increased services for low income, English learners and foster youth.”<sup>95</sup> First of all, the obligation is not simply “to budget,” *i.e.*, to propose to increase or improve services, but to actually increase or improve. Accordingly, the quantitative commitment from the District must be “to spend” not simply to budget. More telling is the District’s failure there as well to “[d]escribe how services provided for unduplicated pupils are increased or improved by at least the percentage identified...as compared to the services provided for all students in the LCAP year.”<sup>96</sup> There is no discussion of how LAUSD is getting to \$1.18 billion of increased and improved services nor how that compares to the services provided to all students. The one document that comes the closest to providing such an analysis is not in the LCAP, but a budget document presented to the Board at the time of the adoption of the June 18 2019-20 LCAP and budget.<sup>97</sup> Tellingly, this document, which claims to summarize the District’s investment in unduplicated pupils, demonstrates that LAUSD is only dedicating \$803 million toward high need students, some \$340 million short of its quantitative proportionality obligation.<sup>98</sup>

The District’s follow-up discussion to its unsupported conclusory assertion regarding its \$1.18 billion of budgeted expenditures, if anything, demonstrates here *in the DIISUP section* that its program is *not* proportionally increasing or improving services for high need students. Only one bulleted item of twelve (the fourth) singles out high need students; the remainder describe the District’s general program serving all pupils:

“To ensure that *all students* are prepared for success in college, career and life, LA Unified has focused on offering a cohesive delivery of services that is aligned with multitiered systems of support (MTSS). Schools have received professional development on implementation of MTSS, and the Central Office and Local Districts have been supporting the identification of diagnostics and the development of interventions. *By placing students* at the center of the work ahead, District initiatives will focus on empowering principals, supporting teachers and engaging families and communities in the coming year by:

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<sup>94</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 102-103.

<sup>95</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 102.

<sup>96</sup> See Ex. 5, Board-Approved LAUSD 2019-20 LCAP, DIISUP prompt at p. 102.

<sup>97</sup> Ex. 7, LAUSD Superintendent’s Final Budget, 2019-20 – Attachment I.

<sup>98</sup> *Id.*

- Reducing class size
- Adding counselors, nurses, librarians and support staff to work with teachers
- Developing personalized pathways *for all students*
- Improving services *for students* with disabilities
- Increasing funding targeted toward high needs students
- Aligning Local District supports to communities of schools
- Reducing operational demands on principals so they can focus on instruction
- Building the capacity of school leaders
- Increasing budget flexibilities
- Providing more complete information to families and organizations *about each school*
- Developing opportunities for direct family engagement in Local Districts
- Delivering more wraparound services through the “All In for Public Education” campaign”<sup>99</sup>

B. The 2018-19 DIISUP Fails to Demonstrate That the MPP Has Been Met.

The same failure to demonstrate that the District has met its Minimum Proportionality Percentage toward high need students is found in the 2018-19 DIISUP section. The District again fails to separately address the prompt asking for the demonstration of how it has met its MPP.<sup>100</sup> It nowhere offers the analysis that is called for by that prompt to “[d]escribe how services provided for unduplicated pupils are increased or improved by at least the percentage identified . . . as compared to the services provided for all students in the LCAP year.”<sup>101</sup> In the box immediately following the subsequent prompt LAUSD only proffers an assertion that it has budgeted \$1.16 billion in supplemental and concentration funds, but again fails to offer any quantitative or qualitative analysis of how it is achieving its MPP.<sup>102</sup> The grandiloquent assertions that follow concerning LAUSD’s purportedly “cohesive delivery of services to all unduplicated pupils” nowhere provide the mandatory analysis. As will be discussed further in the next section, neither does the District’s failed attempts to demonstrate individual specific actions increase or improve services for high need students satisfy LCFF’s legal obligations, individually or as a whole.

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<sup>99</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 103 (emphasis added).

<sup>100</sup> Ex. 4, LAUSD 2018-19 LCAP at p. 223.

<sup>101</sup> *Id.*

<sup>102</sup> Ex. 4, LAUSD 2019-20 LCAP at p. 223.

## VI. LAUSD Consistently Fails to Demonstrate Its Specific Uses of \$1.1 Billion in Annual Supplemental and Concentration Funds Increase or Improve Services for High Need Students, in Further Contravention of LCFF’s Equity Mandate.

A foundational principle of LCFF is the recognition that providing the same level and type of services for students who face greater systemic barriers to achieving their potential—English Learners, Foster Youth, and Low-Income students—will lead to inequitable results. To achieve equitable outcomes for all students in California, LCFF allocates more money to districts who serve students with greater needs (supplemental funds) and an additional sum for those that have large concentrations of high need students (concentration funds). Districts have wide latitude in using these funds if they are used to improve and increase services for high need students. In districts like LAUSD, where 55% or more of students generate supplemental and/or concentration funds, these equity dollars can be used to *upgrade* a district or, where over 40% concentrated, a school site’s entire educational program as long as the LCAP describes how these system-wide actions 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.” 5 CCR 15496(b)(1)(B).

In other words, for *each* different districtwide or schoolwide action, *the district must explain how that action will be both “principally directed towards” and “effective in” meeting the district’s goals for high-need students.*<sup>103</sup> As the California Department of Education has stated: “When properly explained in the LCAP, it will be apparent how the [district] 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 [high-need] pupils.”<sup>104</sup> Nearly all of LAUSD’s supplemental and concentration funds each year are used on districtwide and schoolwide actions. As will be demonstrated below, LAUSD fails to properly justify any of its \$1.1 billion allocation of supplemental and concentration funds to serve high needs students in the 2019-20 LCAP and most of its allocation from the 2018-19 LCAP.

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<sup>103</sup> 5 Cal. Code Regs. § 15496(b). *See also* Ex. 17, LCAP Template Instructions, Demonstration of Increased or Improved Services for Unduplicated Pupils (“If the overall increased or improved services include any actions/services being funded and provided on a schoolwide or districtwide basis, identify each action/service and . . . [f]or school districts with an unduplicated pupil percentage of 55% or more . . . : Describe how these services are **principally directed to** and **effective in** meeting its goals for unduplicated pupils in the state and any local priorities.”)

<sup>104</sup> *See* Ex. 18, Fresno Decision at p. 6.

A. LAUSD Fails to Justify Any of the Entity-wide Actions in its 2019-20 LCAP as Principally Directed Towards, and Effective, in Meeting Its Goals for High Need Students.

LAUSD is the largest school district in California and serves nearly 700,000 students, approximately 85 percent of whom are either eligible for a free or reduced lunch, classified as an English learner, or in the foster youth system.<sup>105</sup> For 2019-20, LAUSD will receive approximately \$1.14 billion in supplemental and concentration grants to increase and improve services for high need students by 32.35% over and above the services provided to all pupils.<sup>106</sup> Incredibly, the District fails to justify its use of a single dollar of these funds in its 2019-20 LCAP. In just barely over a page of text, the entire 2019-20 DIISUP section admittedly sets forth only “[b]rief descriptions” of 19 bulleted items that the District identifies as its services for unduplicated pupils.<sup>107</sup> None of these bullets come close to satisfying the requirements that they demonstrate how the items are “principally directed” and “effective” in meeting district goals for high need students. The bullets simply describe what the action (or mega-action) is but consistently fail to make the type of showing that the CDE has indicated is needed to establish an action is principally directed: *i.e.*, by identifying the needs, conditions or circumstances the action is responding to or how it is responsive to those factors in design, content, methods or location.<sup>108</sup> Nor is there a single instance in the 2019-20 DIISUP where a showing of effectiveness is even attempted much less established. Thus, none of the 19 bulleted items offer “an explanation of how [the district] believes the action/service will help achieve one or more of the expected outcomes for the goal”<sup>109</sup> referred to.

A closer examination is warranted for Action 1, Goal 5, “School Autonomy.” As discussed above, LAUSD concentrates more than 77 percent of all of its supplemental and concentration funds into this one item, and this single “mega-action” improperly obscures at least 22 distinct actions and services.<sup>110</sup> Yet, in its 2019-20 DIISUP, LAUSD attempts to justify its “School Autonomy” action and more than \$880 million in funding for high need students in three scant lines:

The Student Equity Needs Index distributes funding based on a formula that includes indicators of student and community need. Schools have autonomy to

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<sup>105</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 1.

<sup>106</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 102.

<sup>107</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 103.

<sup>108</sup> See Ex. 19, California Department of Education, Klamath-Trinity JUSD I Decision (hereinafter, Klamath I Decision) at p. 7-8; see also Ex. 18, Fresno Decision at 6.

<sup>109</sup> Ex. 19, Klamath I Decision at 8.

<sup>110</sup> See Ex. 9 (Table 2: Bundled Services in the 2019-20 LCAP).



develop a plan to utilize these funds to support district goals. Examples of expenditures for schools include nurses, counselors, class size reduction teachers, and additional professional development.<sup>111</sup>

This description does not satisfy the legal requirement to: (1) identify each of the services that are being funded and provided on a districtwide or schoolwide basis; (2) describe how these services are principally directed towards meeting the district’s goals for high need students; and (3) explain how these services are effective in increasing graduation rates and college/career readiness or any other Goal 1 expected outcome for high need students. Indeed, the DIISUP only references SENI, which accounts for approximately \$290 million of the \$880 million that is categorized as School Autonomy.<sup>112</sup> Because the DIISUP fails to even identify how nearly \$600 million in School Autonomy funding is used, it is even further legally insufficient. Although we applaud LAUSD for proposing to allocate more resources to its highest need schools, it is still required to demonstrate how those schools are using these funds to improve graduation outcomes for its high need students. And where the District is not in fact allocating funds to schools but engaging in central-office-directed actions, it is incumbent on the District to identify and justify each such specific action it is taking with S&C funds.<sup>113</sup>

Beyond the School Autonomy action, LAUSD 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 supplemental and concentration funds are designed to *increase and improve* services for these students above the services all students receive. Therefore, for example, the District-wide Student Engagement Plan (Goal 3, Action 4) may benefit high-need students, but is not targeted in any way to the unique needs, conditions, or circumstances of these students.<sup>114</sup>

LAUSD’s 2019-20 LCAP utterly fails to provide a legally sufficient justification for its use of supplemental and concentration funds and must be amended to provide the transparency and accountability for increased and improved services required by LCFF. If the District cannot

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<sup>111</sup> Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 103. Although the illegally revised 2019-20 LCAP (provides marginally more detail—i.e. describing the Assistant Principal, Counselor, School Librarian, and Nurses sub-actions in slight detail (all of which together concern but a minor portion of the \$880 million in budgeted expenditures)—the June 28<sup>th</sup> DIISUP still fails to come close to meeting the legal standards for justifying the School Autonomy item. *See* Ex. 6, Unilaterally Revised LAUSD 2019-20 LCAP 2019-20 at p. 212-13.

<sup>112</sup> Ex. 7, LAUSD Superintendent’s Final Budget, 2019-20 – Attachment I.

<sup>113</sup> *See* Section II.C (discussing how numerous 1.5 actions are not in fact school autonomy actions); Ex. 4, LAUSD LCAP 2018-19 at p. 22-23 (2017-18 Annual Update for 1.5).

<sup>114</sup> *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 103.

establish proper justifications for each action, then it will have to identify and justify new and different actions in its revised LCAP.

B. Most of the Actions Funded by Supplemental and Concentration Funds in LAUSD’s 2018-19 LCAP are Districtwide Actions That Are Not Principally Directed Towards, and Effective, in Meeting Its Goals for High Need Students.

LAUSD’s 2018-19 LCAP provides more robust explanations for its use of supplemental and concentration funds than the 2019-20 version, but most expenditures are still not legally justified as set forth in Table 3, an item-by-item analysis of the 2018-19 DIISUP.<sup>115</sup> For example, Goal 1, Action 5 (School Autonomy), which includes 19 distinct actions and \$775 million in supplemental and concentration expenditures, is explained in more detail than a few lines.<sup>116</sup> However, 7 out of 19 distinct actions are not discussed at all in the DIISUP. The 12 actions that are discussed in the DIISUP section are not justified for the following reasons:

- **No attempt is made at demonstrating effectiveness beyond the occasional conclusory assertion:** For most actions, the district does not even attempt to establish effectiveness (i.e. School Libraries/Librarians).<sup>117</sup> On occasion, the district makes a nod to its obligation to demonstrate effectiveness by making a conclusory statement, such as “[t]he supplemental resources identified for this program [arts and physical education] will improve college and career readiness for student in these areas to achieve the 100% graduation and Proficiency for All Goals, as indicated in the District’s LCAP.”<sup>118</sup> CDE has determined that these type of “[c]onclusory statements that an action/service will help achieve an expected outcome for the goal, without further explanation as to how, are not sufficient.”<sup>119</sup>
- **Principal directedness is improperly attempted based on concentration of high need students rather than the required contextual analysis of the need, conditions, and circumstances for each action:** The only rationale that LAUSD provides for any of its actions under School Autonomy is that sites with high concentrations of unduplicated pupils will receive additional supports. CDE has roundly rejected similar attempts to justify an action as increasing or improving services solely based on a high concentration of high need students.<sup>120</sup> CDE has

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<sup>115</sup> See Ex. 10, (Table 3: Analysis of DIISUP Violations in LAUSD 2018-19 LCAP).

<sup>116</sup> See Ex. 4, LAUSD 2018-19 LCAP at p. 224-25.

<sup>117</sup> See Ex. 4, LAUSD 2018-19 LCAP at p. 224-25.

<sup>118</sup> *Id.* at 225.

<sup>119</sup> Ex. 19, Klamath I Decision at p. 8.

<sup>120</sup> See Ex. 18, Fresno Decision at p. 7 (“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

made clear that districts can only demonstrate that the proposed use of funds is “principally directed” to high need pupils by “explain[ing] 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.)”<sup>121</sup> The only specific action that comes even close to meeting this obligation is the redesigned arts program, which is offered at schools that have a low offering of arts curriculum and courses. However, this action still fails because no attempt at demonstrating effectiveness is attempted.

- **Failure to demonstrate the included expenditures are directed toward increasing and improving services for high need pupils above the base program provided to all pupils:** The School Autonomy action includes many specific actions that serve all students, such as Assistant Principals and Counselors, nurses and librarians. Although the district may be providing professional development and directives related to improving services for English Learners, Foster Youth, and low-income students,<sup>122</sup> those sorts of tweaks around the edges do not justify using S&C funds to cover the entire salary of all APs in the district who have many functions and generally serve all students.

These deficiencies are not limited to the School Autonomy action. A thorough analysis of each attempted justification in the 2018-19 DIISUP reveals that nearly every item fails either to satisfy principally-directedness or effectiveness and typically both.<sup>123</sup> In fact, only 6 actions in the entire 2018-19 DIISUP appear to be justified as increased or improved services for high need students:

- School Innovation Fund Program (Goal 1, Action 10) - \$56,450,985<sup>124</sup>
- Foster Youth Achievement Program (Goal 2, Action 1) - \$15,258,268<sup>125</sup>

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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.”); *see also* Ex. 19, Klamath I Decision at p. 8 (“Simply stating that an LEA has a high percentage of unduplicated student enrollment does not meet this standard.”)

<sup>121</sup> Ex. 19, Klamath I Decision at p. 7-8; Ex. 18, Fresno Decision at p. 6.

<sup>122</sup> Ex. 4, LAUSD 2018-19 LCAP at p. 224.

<sup>123</sup> *See* Ex. 10, Analysis of DIISUP in LAUSD 2018-19 LCAP.

<sup>124</sup> *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 20 (Estimated Actual Expenditures for Goal 1, Action 5).

<sup>125</sup> *See* Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 24 (Estimated Actual Expenditures for Goal 2, Action 1).

- Build Capacity and Support for Parents (Goal #4, Action #1) - \$4,259,227
- Expand Site Assigned Maintenance Program (Goal 6, Action 4) - \$33,187,863
- Expanded Transitional Kindergarten (one of two actions bundled in Goal #2, Action #6) - \$45,275,775.50<sup>126</sup>
- Bilingual differential (one of 21 bundled actions in Goal #2, Action #9) – unable to calculate an estimate

Because many of these actions are bundled with other actions, it is impossible to ascertain the precise amount of expenditures that fall into these buckets for purposes of ascertaining a proportionality percentage. However, it appears at most that roughly only \$154,432,118 against the District’s target of \$ 1,137,221,279—or 13.6 percent—in supplemental and concentration funds may have been properly justified. Thus, in the last school year, LAUSD did not provide the required transparency and accountability for nearly \$1 billion that was required to be used to increase and improve services for high need students. High need students have tangible needs—more mental health services, expanded access to libraries, literacy and math coaches—but LAUSD’s opaque LCAP, with its unjustified use of supplemental and concentration funds, does not allow community stakeholders to determine whether the students that need these services the most are actually getting them.

The District must be required to greatly improve its demonstration that it is meeting its obligation to proportionally increase or improve services for high need students in its 2019-20 LCAP and in all LCAPs going forward. And where it cannot make an honest showing of proportionality, LAUSD must adopt new and different actions in service of its high need students.

**VII. LAUSD’s LCAPs Conceal \$340 Million of Claimed Effort Toward Increased/Improved Services For High Need Pupils That Has Never Been Identified and Vetted Publicly, Much Less Justified As Principally Directed and Effective.**

LAUSD has impermissibly inflated the effort it expends toward its proportionality obligation by slipping into past LCAPs and rolling forward some \$340 million of undisclosed S&C expenditures. This practice began in 2017 when the District unilaterally reclassified a host of expenditures underlying its LCAP as supporting high need students which previously had been deemed base program services for all students. The District’s “realignment” was its response to having been prohibited from misallocating some \$450 million of S&C funds annually on special education services by the California Department of Education and the

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<sup>126</sup> See Ex. 5, Board-Approved LAUSD 2019-20 LCAP at p. 28 (Estimated Actual Expenditures for Goal 2, Action 6). LAUSD does not attempt to justify the other half of Goal 2, Action 6 (concerning an expansion of 8 California part-day preschool programs to full day). To arrive at an estimate for present purposes, we have allocated half of the expenditures for Goal 2, Action 6 toward the justified portion of that item concerning the Expanded Transitional Kindergarten program.

settlement of the *CoCo v. LAUSD* lawsuit brought by Public Advocates, Covington and the ACLU. The District has rolled its realignment reclassifications forward every year without ever disclosing to the public what actual services those funds support or demonstrating their use as principally directed and effective toward high need student goals as state law requires. Thus, nearly a quarter of LAUSD’s annual \$1.1 billion proportionality obligation is being met through a set of phantom expenditures that have never been justified or evaluated for effectiveness. It seems more than mere coincidence that the difference between LAUSD’s most comprehensive list of increased/improved services for high need students—Attachment I to its 2019-20 budget adoption—totals only \$803 million, precisely \$340 million short of its \$1.14 billion in supplemental and concentration funds received for 2019-20.<sup>127</sup>

This grave misstep was effectuated in LAUSD’s 2017-18 LCAP’s Annual Update section for 2016-17 where the District more than doubled its allocated expenditures in the School Autonomy black hole bundle (going from a budgeted total of \$255 million<sup>128</sup> in S&C funds to an estimated actual of \$595 million). The problem with LAUSD’s failure to identify specific actions in general and in the School Autonomy action in particular become particularly acute here. It is clear that LAUSD’s increased expenditures are not covering previously disclosed School Autonomy actions that somehow doubled in cost, but actually are reflecting unidentified but *newly-designated* “School Autonomy” specific actions with undisclosed but *newly-assigned* S&C expenditures (albeit the actual actions themselves appear not to be “new”, but simply old actions previously supported with base funds).<sup>129</sup> The District’s explanation in its 2016-17 Annual Update remains only at the highest, summary levels. In explaining the \$340 million material difference between budgeted and estimated actuals, the LCAP only states: “In Action 5, school autonomy reflect[sic] an augmentation due to a process by which the District re-identified resources for supplemental and concentration purposes.”<sup>130</sup>

Under a description of any changes to the planned actions and services, the 2016-17 Annual Update states:

“It is important to note there are several points in the LCAP where the District in 2016-17 re-evaluated base and supplemental programs to better address the needs of low-income, English learner and/or foster youth students. This process has been described as the “Realignment Process”, which required staff to assess whether

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<sup>127</sup> Compare Ex. 7 (Attachment I) to Ex. 5, Board-Approved LAUSD LCAP at p. 102 (“Estimated Supplemental and Concentration Grant Funds: \$1,137,221,279”).

<sup>128</sup> Of the District’s proposed \$500.8 million S&C budget for the School Autonomy item, \$245.8 million was “Undetermined;” thus, only \$255 million were actual allocated expenditures. Ex. 2, LAUSD 2017-18 LCAP (excerpts) at p. 20.

<sup>129</sup> Ex. 2, LAUSD 2017-18 LCAP (excerpts) at pp. 18-20, 25-26.

<sup>130</sup> Ex. 2, LAUSD 2017-18 LCAP (excerpts) at p. 25.

existing programs or services were directly benefiting low-income, English learner and/or Foster youth students and whether existing programs could be redesigned to directly benefit our low-income, English learner and/or Foster youth students. As a result of this process under Goal #1 several base funded resources were re-identified or redesigned to adhere to the supplemental and concentration expenditure requirements. Specifically, assistant principals, counselors and librarians were identified as base funded programs that would be modified to better serve and directly benefit low-income, English learner and foster youth students and are considered positions under Goal 1, Action 5, as school retain the discretion to hire and retain these personnel.”<sup>131</sup>

As such, the description identifies a “Realignment Process” by which programs and services were either: (1) “re-identified” or (2) “redesigned” so that they could be reclassified from base expenditures to S&C. “Re-identification,” the District explains, means that existing programs or services were determined, *upon internal unilateral reflection*, to actually more properly be considered to be principally directed and effective toward high need pupil goals, and “redesign” means that the District identified programs or services it could modify moving forward in ways to ensure the services would be principally directed and effective in serving high need students.

There are at least three fatal flaws with LAUSD’s \$340 million maneuver here. First, the 2016-17 Annual Update description *does not meet LCFF’s transparency requirements* concerning identification of material changes to specific actions and services and their budgeted expenditures. Indeed, by and large, the Annual Update does not identify *any* of the new School Autonomy specific actions or services. None are identified in the review of actual versus planned actions/services.<sup>132</sup> In the Analysis portion, the only specific positions called out are assistant principals, counselors and librarians. What specific actions or services these positions might have delivered is not identified. More concerning, the Analysis itself acknowledges that these particular positions and any actions or services they might offer to contribute towards LAUSD’s proportionality obligation could occur only *in the future* as the positions “would” need to “be modified” to accomplish that objective.<sup>133</sup> Accordingly, there is no basis for the District to have retroactively re-aligned 2016-17 expenditures toward its S&C obligation when any possible basis for it to do so could not be effectuated any earlier than the 2017-18 year.<sup>134</sup>

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<sup>131</sup> Ex. 2, LAUSD 2017-18 LCAP (excerpts) at p. 25-26.

<sup>132</sup> Ex. 2, LAUSD 2017-18 LCAP (excerpts) at p. 19.

<sup>133</sup> Ex. 2, LAUSD 2017-18 LCAP (excerpts) at p. 26.

<sup>134</sup> The District has continued to identify these 3 positions as sub-items under the School Autonomy bundle up to the present 2019-20 LCAP. For the reasons discussed above, however, it has never properly identified them and their services as separate specific actions with associated expenditures nor properly

The second and third fatal flaws with the District’s \$340 million Realignment follow from its first. Because LAUSD has never identified the specific actions underlying its Realignment, it has also *never subjected those actions to the community engagement and public vetting and approval* processes that LCFF requires—from presentation to the community, the Parent Advisory Committee and the DELAC to two board meetings and local board approval.<sup>135</sup> In addition, *LAUSD has never justified each of the specific actions at issue are principally directed and effective* in serving high need pupils. Likewise, the specific actions have never been reviewed and approved by the county office of education to verify they satisfy LCFF requirements including by being principally directed and effective.<sup>136</sup>

LAUSD’s unilateral, internal shift of \$340 million in expenditures from its base program to satisfaction of its proportionality obligation was accomplished contrary to LCFF’s transparency, engagement and equity requirements. The District has simply rolled this \$340 million credit forward each year toward meeting its proportionality obligation. Among the immediate remedies that CDE should direct of the District is the full public disclosure, justification and vetting of the specific actions and services underlying these S&C expenditures so that they can be subjected to LCFF’s legal and public accountability standards.<sup>137</sup>

### **IRREPARABLE HARM**

#### **VIII. The CDE Must Intervene to Protect Complainants from Immediate and Irreparable Harm.**

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justified them in its DIISUPs. Moreover, even accepting the very questionable proposition that 100% of all the salaries for these three positions could be reclassified as principally directed and effective in serving high need students over and above what all students receive, the sum total of the positions’ budgeted expenditures would be below \$100 million per year. The District has simply failed ever to fully disclose in its LCAP the specific actions underlying the new \$340 million of S&C expenditures that surfaced for the first time in the 2016-17 Annual Update.

<sup>135</sup> Cal. Educ. Code § 52060.

<sup>136</sup> Cal. Educ. Code §52070(d).

<sup>137</sup> The state of affairs with respect to LAUSD’s “Realignment Process” is even worse than discussed above. The actual 2017-18 LCAP adopted by the School Board and approved by LACOE had none of the albeit meager explanation discussed above and in Exhibit 2. That June 2017 LCAP, *see* Ex. 16, remained posted on the District’s website as late as October 30, 2018. Its actual services for School Autonomy reported in the 2016-17 LCAP reflect *no* realignment process. It did reflect the same new \$340 million of S&C School Autonomy expenditures but no different actions or services than originally anticipated. Also, the Analysis section changes no outcomes in exchange for the increase of a \$340 million S&C investment and makes no mention of Realignment. Ex. 16, Excerpts of Originally Adopted and Approved LAUSD 2017-18 LCAP at 15, 18-19. The currently posted version of LAUSD’s 2017-18 LCAP, Ex. 2, appears to have been posted well after the 2017-18 school year and unilaterally modified by staff, not the LAUSD board. *See* note 4 to Index of Exhibits.

Direct state intervention regarding unlawful LCFF/LCAP implementation is appropriate when “complainant alleges and the CDE verifies that he or she would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this Chapter, and that filing a complaint with the LEA would be futile.”<sup>138</sup> The District’s use of supplemental and concentration funds in a manner contrary to the fundamental transparency, equity and accountability requirements of LCFF will soon be causing immediate and irreparable injury by depriving high need students of educational services as well as by depriving them, and other interested community members, of the opportunity to provide input regarding the desired use of these funds. Complainants raised LAUSD’s LCAP violations for the 2017-18 and 2018-19 school years with LACOE on August 13, 2018 without success. LACOE’s failure to take action, combined with its consistent rubber stamping of the district’s LCAPs, show that filing a complaint with LAUSD would be futile and that immediate action by the CDE is warranted.

A. Complainants are Suffering and Will Continue to Suffer Immediate and Irreparable Harm.

The dissipation of improperly allocated funds irreparably harms the students of the district, since once paid out the funds cannot be recovered.<sup>139</sup> Further, each day that funds are not used to provide services to high needs students results in a loss of educational opportunities that cannot retroactively be imparted to students. Both misspent funds and missed educational opportunities, resulting from a lack of funds, cause irreparable injury to students that can only be curtailed by immediate action by the CDE.<sup>140</sup>

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<sup>138</sup> 5 CCR §4650(a)(6).

<sup>139</sup> Courts have found irreparable harm justified preliminary injunctive relief based on the risk of the dissipation of specific funds that would otherwise be lost. *See e.g. Heckmann v. Ahmanson* (1985) 168 Cal. App. 3d 119, 136 (“An injunction against disposing of property is proper if disposal would render the final judgment ineffectual.”); *Republic of the Philippines v. Marcos*, 862 F. 2d 1355, 1364 (9th Cir. 1988) (“A court has the power to issue a preliminary injunction to prevent a defendant from dissipating assets in order to preserve the possibility of equitable remedies.”); *Hendricks v. Bank of America, N.A.* (9th Cir. 2005) 408 F. 3d 1127, 1141 (Plaintiffs “would face a significant threat of irreparable injury if a preliminary injunction did not issue to prevent” the defendant bank from honoring a draw on funds where defendant was shown to be insolvent, because without an injunction the funds would likely have been dissipated if forced to wait until the end of litigation).

<sup>140</sup> *Van Scoy v. San Luis Coastal Unified Sch. Dist.*, 353 F. Supp. 2d 1083 (C.D. Cal. 2005) (likelihood of irreparable educational harm shown where “every school day that passes and [plaintiff] is not provided [special education services], it is likely that he is falling further and further behind on his educational goals”); *see also Larry P. v. Riles*, 343 F. Supp. 1306, 1308 (N.D. Cal. 1972), *aff’d* 502 F.2d 963 (9th Cir. 1974) (irreparable educational harm could occur from the improper placement of a student in an inferior educational setting for just a single month); *K.D. v. Oakley Union Elem. Sch. Dist.*, 2008 U.S. Dist. LEXIS 9559, at \*33 (N.D. Cal. 2008) (“deprivation of educational services can constitute irreparable harm”).



Making it worse, for both the 2018-19 and 2019-20 LCAPs, LAUSD completely disregards its obligation of transparency, failing to identify the specific actions that will be carried out in the LCAP and how these actions are principally directed and effective in meeting the needs of unduplicated pupils. Instead, LAUSD improperly designates nearly a billion dollars of supplemental and concentration funds for a bundled set of “School Autonomy” actions and other bundled actions. This bundling fails to justify how its actions and services are principally directed towards and effective in meeting goals for high-need students. Such lack of transparency deprives the public’s ability to assess the contents and the effectiveness of the District’s actions and poses great danger that the funds are being and will be misspent and wasted instead of spent on actions that high need students desperately need and the community has demanded, such as lower caseloads for foster youth, more investment in restorative justice, and more robust support for English Learners.

The harm is compounded by the fact that LAUSD, being the largest school district in the state and the second largest district in this country, receives 12% of all supplemental and concentration funds in the state every year. This amounts to over \$1.1 billion of funding for the 2019-20 school year. The district’s grossly deficient LCAP for 2019-20, which allows for \$880 million, roughly 80 percent of supplemental and concentration funds, to be used by unnamed schools for unknown actions under the vague notion of “School Autonomy.” Such a plan fails to ensure that funds are *principally directed* toward high needs students and prevents an evaluation of the services provided to determine if the use of funds was *effective*, both of which are not only required by statute, but are essential to improving the education of high needs students. What is more, where LAUSD has attempted to demonstrate how it is proportionally and lawfully increasing or improving services for high need students, its LCAPs are so woefully inadequate that there currently is no meaningful demonstration that LAUSD’s proportionality obligation is anywhere close to being met. Yet LACOE has consistently rubber-stamped LAUSD’s approach.

The district’s flawed LCAP process has also deprived Complainants and other interested parties of the opportunity to provide input on the use of supplemental and concentration funds, as required by the LCFF. Complainants, students, and other stakeholders have suffered and will continue to suffer irreparable harm to their rights through the loss of: (a) the right to transparent information about how supplemental and concentration funds are being directed toward high need students and (b) the right to affect the LCAP’s development through mandatory stakeholder consultation and input and public hearing processes on the best use of over a billion dollars’ worth of supplemental and concentration funds, (*see* Educ. Code §§ 52060(g), 52062, 52063). Where, as here, a statute mandates public participation in a government decision, a decision made without the requisite public input constitutes irreparable harm.<sup>141</sup>

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<sup>141</sup> *See Am. Indian Model Sch. v. Oakland Unified Sch. Dist.*, 227 Cal. App. 4th 258, 273 (2014) (finding that denial of educational access to the charter school’s students without proper procedures constitutes irreparable harm); *Elec. Frontier Found. v. Office of the Dir. of Nat. Intelligence*, 542 F. Supp. 2d 1181,

As is clear from prior years, LACOE has been approving LCAPs rife with flaws that transgress LCFF in the most fundamental ways. It is almost certain that LACOE will approve the 2019-20 LCAP, despite its glaring deficiencies. Immediate action by the CDE is necessary to prevent further erosion of the community’s right to understand and influence the district’s expenditure plan of over \$1.1 billion, to prevent the improper expenditure of supplemental and concentration funds, and to prevent the further compounding of the district’s LCAP transgressions.<sup>142</sup> As noted above, LAUSD’s June 28<sup>th</sup> substitution of an entirely new LCAP that has not been publicly vetted and Board-approved only further cries out for immediate CDE intervention to put the District on track for a proper and legal LCAP. Before another school year is allowed to begin, LAUSD and LACOE must both immediately be directed to make the proper showing to the public and the LA School Board of how the District is spending, justifying and evaluating its LCFF dollars. And where it cannot do so according to LCFF’s legal standards, then the District must reallocate those funds to proper expenditures.

**B. Filing a Complaint with LAUSD Would be Futile.**

Complainants wrote to the LACOE on August 13, 2018 and identified the exact same issues for LAUSD’s 2018-19 LCAP that continue to infect its 2019-20 LCAP, both of which are the subject of Complainants request for relief from the CDE. Exhibit 13. Complainants specifically asked LACOE to require LAUSD to identify each unique and separate action to support unduplicated pupil goals currently bundled under the “School Autonomy” label. *Id.* Complainants asked LACOE to address the fact that LAUSD was rolling forward some \$340 million of unidentified and unjustified supplemental and concentration expenditures. Complainants also requested that the county require LAUSD to justify each unique and separate action as “principally directed” toward and “effective” in meeting its goals for high-needs students and to cease counting expenditures toward its proportionality obligation towards high need students those supplemental and concentration funds spent on general education actions and services that support all students. LACOE did not provide any relief to Complainant.

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1187 (N.D. Cal. 2008) (“Irreparable harm exists where Congress is considering legislation . . . and the records [being sought in the FOIA request] may enable the public to participate meaningfully in the debate over such pending legislation.”); *Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005) (“FOIA requests could have a vital impact on development of the substantive record in favor of reauthorizing or making permanent the special voting provisions of the Voting Rights Act”); *ACLU v. Department of Justice*, 321 F. Supp. 2d 24, 30 (D.D.C. 2004) (irreparable harm found where “[principal] aim of plaintiff’s FOIA request is to provide information for the ongoing national debate about whether Congress should renew Section 215 and other Patriot Act surveillance provisions before they expire”).

<sup>142</sup> Courts have held that plaintiffs need not wait until they have suffered actual harm before applying for an injunction; they may seek injunctive relief against threatened infringement of their rights. *See, e.g., Maria P. v. Riles* (1987) 43 Cal. 3d 1281, 1292.

Having received no mandate from the county to fix the 2017-18 or 2018-19 LCAPs, the district has continued its non-transparent practices and its improper calculation of its proportionality obligations, resulting in an LCAP for the 2019-2020 school year that is even less transparent and compliant with LCFF. The DIISUP section became shorter and less specific and the “School Autonomy” category, which involves a total of \$880 million of funding, bundles even more actions and is only “justified” with three vague lines of text. LAUSD did not make any serious effort to show how its plan is principally directed and effective in meeting the needs of unduplicated pupils. LACOE’s failure to act in response to Complainant’s August 13, 2018 letter regarding problems with LAUSD’s 2017-18 and 2018-19 LCAPs is evidence that it would be futile to engage the formal complaint process with the LAUSD and LACOE, and that doing so would do nothing more than deprive high need students of educational services during the process. Pursuant to the UCP, CDE should give immediate direction to the District and the county to remedy the problems in the 2018-18 LCAP and develop a proper 2019-20 LCAP.

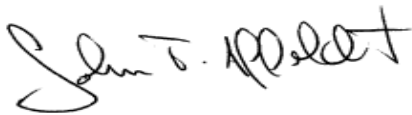
## **IX. Remedy**

For the foregoing reasons, Complainants respectfully request that the CDE accept this matter direct state intervention and order the following relief:

1. Declare the June 28, 2019 staff-modified LCAP null and void and of no legal effect;
2. Deem LAUSD’s June 18, 2019 Board-approved LCAP fundamentally deficient and order LAUSD to adopt a new 2019-20 LCAP and LACOE to only approve an LAUSD LCAP that fixes the fundamental errors identified herein including by doing the following:
  - a) Cease bundling specific actions together and instead identify each specific action the district will take to meet its state and local goals together with their budgeted expenditures;
  - b) For school level allocations of LCFF supplemental and concentration funds, identify and justify each specific action, the expenditure amounts for each such action and the specific schools receiving the allocations and carrying out the actions; further, annually evaluate the effectiveness and any material changes in budget or nature of each such school-level action after implementation;
  - c) Demonstrate how the District is meeting its overall proportionality obligation;

- d) Demonstrate for each entity-wide and schoolwide action using supplemental and concentration funds, how it is principally directed toward and effective in meeting high need pupil goals;
  - e) Identify and, if possible, justify the heretofore undisclosed and unjustified \$340 million in supplemental and concentration funds in the School Autonomy item (Goal 1, Action 5); and
  - f) In LAUSD's Annual Update and future reflection sections, identify and explain material changes in specific actions and/or their budgeted expenditures.
- 3. In revising its deficient 2019-20 LCAP as ordered above, follow all the community engagement provisions of LCFF required of an annual initial adoption of an LCAP; and
  - 4. Cease henceforth from unilaterally modifying previously LACOE-approved LCAPs; subject all future material amendments District LCAPs to the community engagement, board and county approval requirements set forth in Cal. Educ. Code § 52060.

Respectfully submitted this 11<sup>th</sup> day of July 2019 by,



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