



Los Angeles Unified School District

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September 20, 2019

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Laura Muschamp
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1999 Avenue of the Stars
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Re: Uniform Complaint Procedures Case #UCP-004-19/20
Ana Carrion and Elvira Velasco, Complainants

Mr. Affeldt and Ms. Muschamp:

The Los Angeles Unified School District (the District) has completed its investigation of the above-referenced complaint alleging the District violated sections of the *California Education Code* pertaining to Local Control Funding Formula (LCFF) in developing the Local Control and Accountability Plans (LCAP). Enclosed is a copy of the final report that includes details of the investigation, conclusions, and, if necessary, corrective actions.

Be assured of the confidential treatment of this complaint and accompanying report. Information is only being provided to those persons within the District on a need to know basis within the confines of the District's reporting procedures and investigative process. You are advised that the District prohibits retaliation against you or anyone who files a complaint, anyone who requests an appeal or anyone who participates in any complaint investigation process. You are also advised that civil law remedies may be available to you.

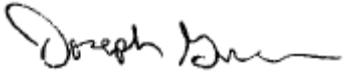
Appeal Information

If you disagree with the findings and conclusions presented to you by this office you have the right to appeal within fifteen days of the receipt of this letter. Such an appeal should specify the reason for appealing the decision. A copy of the original complaint and a copy of this report should be included. Send your appeal to:

Local Agency Systems Support Office
California Department of Education
1430 N Street
Sacramento, CA 95814

If you have any questions or need more information pertaining to the complaint process or the enclosed report, please feel free to call me at (213) 241-7682.

Sincerely,



Dr. Joseph Green, UCP Coordinator
Educational Equity Compliance Office

C: Pedro Salcido, Chief of Staff
Megan Reilly, Deputy Superintendent, Business Services and Operations
Dr. Derrick Chau, Senior Executive Director, Strategy and Innovation
David Holmquist, General Counsel
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Los Angeles Unified School District
Uniform Complaint Procedure Case #: UCP-004-19/20
Ana Carrion and Elvira Velasco v. Los Angeles Unified School District and Los Angeles
County Office of Education

I. Background

On June 18, 2019, the Board of Education (“Board”) of the Los Angeles Unified School District (“LAUSD” or the “District”) approved the District’s 2019-20 LCAP and Annual Update (“June 18, 2019 LCAP”). The approval came after many months of community engagement with parents and stakeholders, and after complying with all of the procedural requirements of Education Code section 52062.

Following the Board’s approval, the Los Angeles County Office of Education (“LACOE”) wrote to the District on July 29, 2019, to clarify aspects of the LCAP pursuant to Education Code section 52070, and followed this up with another correspondence on August 21, 2019, requesting specific changes. As a result of the ongoing dialogue with LACOE since the Board approved the June 17, 2019 LCAP, District staff have been revising the LCAP. The Board will vote on an amended LCAP (“Amended LCAP”) on September 24, 2019.

The June 18, 2019 LCAP represents the third year in a three-year 2017-20 LCAP plan. As such, the general structure of the LCAP, including the structure of the goals and actions, is almost entirely based on the District’s two previous LCAPs. Based on the LCAP template instructions and on communications with LACOE, the District felt it would be inappropriate to substantially restructure its actions in the third and final year of its three-year LCAP, but may make such changes for the 2020-23 LCAP.

Importantly, the current goals and actions were previously approved as appropriate by LACOE, as were many of the same descriptions of changes in expenditures and explanations of how funds are used to increase and improve services for high-need students. The District has relied heavily on these previous approvals as guidance in drafting its 2019-20 LCAP.

This Uniform Complaint Procedures Complaint to State Superintendent Tony Thurmond (“Complaint”) was filed on July 11, 2019, and referred to the District on July 22, 2019. At that time, the June 18, 2019 LCAP was the operative LCAP. Within four days of issuance of this investigative report (“Report”), however, the Board will vote on whether to adopt the Amended LCAP. Should that vote succeed, the Amended LCAP will be the operative LCAP and the June 18, 2019 LCAP will be moot. This Report pertains only to the June 18, 2019 LCAP, as that is the LCAP that was in effect at the time the Complaint was filed, the Complaint was referred to LAUSD, the District investigated the Complaint, and this Report was issued. Accordingly, the findings in this Report do not in any way pertain to the Amended LCAP, as that LCAP has not yet been finalized or approved.

The District has thoroughly investigated the claims made in the Complaint pursuant to California Code of Regulations, title 5, section 4631, and issues this Report based on that investigation.

II. Summary of Allegations

On July 22, 2019, the Educational Equity and Compliance Office received a copy of a letter dated the same date that was sent to the LAUSD Superintendent, Austin Beutner, by the California Department of Education (“CDE”), Local Agency Systems Support Office. The letter stated that the CDE currently lacks jurisdiction over the Complaint, and ordered the District and LACOE to investigate the Complaint. The Complaint makes the following seven allegations:

1. The District posted an amended June 28 LCAP that alters the one posted for public hearing and approved by the Board (the June 18 LCAP).
2. The District bundled actions and services into “mega-actions” which violates LCFF transparency requirements and is incomprehensible.
3. The District violated LCFF’s transparency and accountability requirements when allocating unspecified amounts to unspecified school sites for unspecified actions.
4. The District’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.
5. The District’s LCAP fails to demonstrate how the District is meeting its obligation to increase or improve services for high need students each year by 32% above the level of service provided to all pupils.
6. The District failed to demonstrate that its specific uses of \$1.1 billion in annual supplemental and concentration funds increase or improve services for high need students.
7. The District inappropriately rolled forward funds for high need students without accounting for how that carryover is being spent or where it comes from.

III. Method of Investigation

The investigation was conducted at the direction of Julie Hall-Panameño, Director of the Educational Equity Compliance Office. Information was gathered from interviews to investigate the allegations made in the Complaint. The following individuals were interviewed as part of the investigation:

- Pedro Salcido, Chief of Staff, LAUSD
- Megan Riley, Deputy Superintendent, Business Services and Operations, LAUSD
- Scott Price, Chief Financial Officer, LAUSD
- Derrick Chau, Ph.D., Senior Executive Director, Strategy and Innovation, LAUSD
- Tony Atienza Director, Budget Services & Financial Planning, LAUSD
- Samuel Gonzalez, Budget Policy Analyst, LAUSD
- Jeanne Keith, Coordinator III, LCAP State & Federal Programs, LACOE
- Ana Carrion, Complainant

- Elvira Velasco, Complainant
- John Affeldt, attorney for Complainant
- Nicole Ochi, attorney for Complainant
- Robert Zhou, attorney for Complainant

The investigation also reviewed the following documentation as part of this investigation:

- The June 18, 2019 LCAP and Annual Update.
- A working draft of revisions to the June 18, 2019 LCAP and Annual Update that was posted online on June 28, 2019.
- Several versions of working drafts of revisions to the June 18, 2019 LCAP and Annual Update that were posted online on June 28, 2019.
- July 29, 2019 letter from the LACOE to the District regarding the June 18, 2019 LCAP.
- August 13, 2019 letter from District Superintendent Austin Beutner to LACOE in response to their July 29, 2019 letter.
- August 21, 2019 letter from LACOE to the District regarding the June 18, 2019 LCAP.
- Many internal budget-related documents.
- Approved District LCAPs from the past three years.
- All 20 exhibits included in the Complaint.
- Multiple versions of the document entitled “Proposed Los Angeles Unified School District Investments to Support Targeted Youth,” one version of which is included as Exhibit 7 to the Complaint.
- LCAPs from other school districts, including one from Long Beach Unified School District provided by Complainants.
- A revised template titled “2018-2019 School-level Plan for Use of Targeted Student Population (TSP) Program Funds” provided by Complainants.

The investigation has also given Complainants and their attorneys multiple opportunities to provide additional information and feedback, including:

- An initial telephonic meet and confer between an attorney for the District and an attorney for Complainants on August 15, 2019.
- An in-person meet and confer with both Complainants, Complainants’ attorneys, District staff, and District attorneys on August 16, 2019.
- A post-meeting correspondence from Complainants’ attorneys dated August 22, 2019.
- A follow-up correspondence from Complainants’ attorneys dated August 29, 2019.
- Emails from Complainants’ attorneys dated August 26, 2019; August 27, 2019; and September 12, 2019.

IV. Applicable Statutes, Regulations, and Other Authorities

- California Code of Regulations, title 5, sections 4600-4631.
- California Code of Regulations, title 5, sections 15494-15497.5.
- Education Code, sections 2574, 2575, and 52060-52077.

In addition to these statutes and regulations the District reviewed the LCAP Template and Template Instructions, as well as the following materials from the CDE:

- June 10, 2015 letter from State Superintendent of Public Instruction Tom Torlakson to County and District Superintendents and Charter School Administrators with the subject, “Use of Local Control Funding Formula Supplemental and Concentration Grant Funds.
- May 5, 2017 letter from State Superintendent Tom Torlakson to Abre’ Conner, Staff Attorney, and Sylvia Torres-Guillen, Director of Education, of the ACLU of Northern California with the subject, “Request for Appeal – Fresno Unified School District, American Civil Liberties Union, Appellant.”
- November 2, 2018 letter from State Superintendent Tom Torlakson to Sylvia Torres-Guillen, Director of Education Equity/Senior Legal Counsel, of the ACLU of Northern California and others with the subject, “Request for Appeal – Klamath-Trinity Joint Unified School District Yurok Tribe, Hoopa Tribal Education Association, and American Civil Liberties Union, Appellants.”
- February 13, 2019 letter from State Superintendent Tony Thurmond to Linnea Nelson, Education Equity Staff Attorney, of the ACLU Foundation of Northern California and others with the subject, “Request for Appeal – Klamath-Trinity Joint Unified School District Yurok Tribe, Hoopa Tribal Education Association, and American Civil Liberties Union, Appellants”

V. Findings of Fact and Conclusions of Law

The District has investigated each of the Complaint’s seven allegations, and makes the following findings and conclusions as to each.

Allegation 1. The District posted an amended June 28, 2019 LCAP that alters the one posted for public hearing and approved by the Board (the June 18 LCAP).

The Complaint alleges that the Board adopted its LCAP on June 18, 2019, but then adopted, or “substituted,” without a public meeting a revised LCAP on June 28, 2019.¹ The Complaint alleges that the June 28 LCAP was therefore improperly adopted for failing to comply with several procedural requirements.²

District Findings and Analysis as to Allegation 1.

The District has investigated this allegation and determined based on interviews with District staff that the June 28, 2019 LCAP was simply an early working draft of revisions to the June 18, 2019

¹ Complaint, p. 7.

² *Ibid.*

LCAP,³ posted online to increase transparency and public participation. The June 28, 2019 LCAP draft was never adopted by the Board, nor submitted to LACOE. Therefore, the only operative LCAP at the time that this Complaint was filed was the June 18, 2019 LCAP, and the Complaint concedes that all procedural requirements were followed before the June 18, 2019 LCAP was adopted by the Board.⁴ The Complaint also acknowledges that it relies exclusively on the June 18, 2019 LCAP as the operative LCAP for purposes of the Complaint.⁵

Conclusion as to Allegation 1.

The District has followed all procedures required under the Education Code, including those in Education Code section 52062, with the June 18, 2019 LCAP. Because the June 18, 2019 LCAP is the only version of the LCAP that has been adopted by the Board and operative as of the time of this Complaint, and all applicable procedures have been followed with respect to that LCAP, the District has determined that there is no violation of law as to Allegation 1, and no corrective actions are required.

Allegation 2. The District bundled actions and services into “mega-actions,” which violates LCFF transparency requirements and is incomprehensible.

The Complaint alleges that the LCAP impermissibly bundles discrete actions into “all-encompassing mega-actions,” and that these “mega-actions” make it impossible to meet LCFF requirements related to transparency and accountability.⁶ The allegation lists multiple actions that allegedly use impermissible bundling.

District Findings and Analysis as to Allegation 2.

The CDE’s LCAP Template Instructions Addendum states that an “LCAP must describe, for the school district and each school within the district, goals and specific actions to achieve those goals for all students and each student group identified by the Local Control Funding Formula (LCFF).”⁷ The Instructions Addendum also refers subsequently to providing information for “each action/service,” such as the scope of the services, budgeted expenditures, and goals the action is intended to achieve.⁸

Education Code section 52062, subdivision (a) states that the District Superintendent shall “notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the [LCAP]” and “review school plans submitted pursuant to

³ The District has been working on amendments to the June 18 LCAP, but the Board will not have voted on these amendments before this Investigative Report is issued.

⁴ See Complaint, p. 4 (“On June 18, 2019, the LAUSD Board of Education adopted its 2019-20 LCAP and budget in a public meeting, following a prior public hearing on the LCAP and budget on June 11, 2019.”), footnote omitted.

⁵ *Id.* at p. 7.

⁶ *Id.* at pp. 7-10.

⁷ LCAP Template Instructions, Cal. Dep’t of Educ., available at <https://www.cde.ca.gov/re/lc/templateinstructions.asp>.

⁸ *Ibid.*

Section 64001 for schools within the school district and ensure that the specific actions included in the [LCAP] are consistent with strategies included in the school plans submitted pursuant to Section 64001.”⁹ It also states that the District Board “shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the local control and accountability plan.”¹⁰

Notably, and as Complainants concede, the terms “action” and “specific action” are not defined in the statutes, regulations, or template instructions. As a result of this ambiguity, the District has relied heavily on the precedent set by approvals of its own and other districts’ LCAPs.¹¹ The actions used in the June 18, 2019 LCAP are virtually identical to the actions used in the previous two LAUSD LCAPs, both of which were approved as appropriate classifications of expenditures.¹²

Even if the District wished to materially restructure its actions to conform with the legal theories presented in the Complaint, it would be inappropriate to do so for the 2019-20 LCAP because it is the third year of a three-year plan. The template and instructions are designed to promote continuity across a three-year plan so that goals and actions can be tracked over that period. For example, the Annual Update section requires districts to copy “verbatim” the goals and actions from the previous year’s LCAP and allow only for correction of “[m]inor typographical errors.”¹³ While the instructions do allow for changes in the Goals, Actions, and Services section, the instructions lead by reminding school districts and county offices of education that the “LCAP is a three-year plan, which is reviewed and updated annually, as required.”¹⁴ Indeed one piece of feedback that the District received from LACOE in response to the June 18, 2019 LCAP was that the District should avoid, where possible, making structural changes to its actions, such as combining actions. Additionally, the District did not receive any requests from stakeholders to materially restructure its actions, but if it were to do so at this late stage, it would be done without input from stakeholders. As such, the District has felt as though it should not materially restructure its actions until the 2020-21 LCAP, which will begin a new three-year LCAP.¹⁵

⁹ Ed. Code, § 52062, subs. (a)(3)-(a)(4).

¹⁰ *Id.* at subd. (b)(1).

¹¹ *Corbett v. State Board of Control* (1922) 188 Cal. 289, 291 (“[I]t is a familiar rule of statutory interpretation that words and phrases are construed according to the approved usage of the language, and that words of common use are to be taken in their ordinary and general sense.”); see also *Citizens Opposing a Dangerous Environment v. County of Kern* (2014) 228 Cal.App.4th 360, 384 (finding it was reasonable for a county to rely on the expertise of a federal agency in a particular field).

¹² Compare Complaint Exh. 2 with Exh. 3.

¹³ LCAP Template Instructions, Cal. Dep’t of Educ., available at <https://www.cde.ca.gov/re/lc/templateinstructions.asp>.

¹⁴ *Ibid.*

¹⁵ The District notes that its 2015-16 LCAP was legally challenged, resulting in a settlement prohibiting future challenges to that LCAP. Some of the same attorneys now challenge aspects of the June 18, 2019 LCAP that are identical to those in the 2015-16 LCAP, but were not challenged at that time. As such the District believes that these challenges to components to the present LCAP that were previously challengeable are improper and the Settlement Agreement would serve as an affirmative defense to

Despite that all of the actions at issue have previously been approved by LACOE as appropriate, that the District reasonably believed it was not at liberty to substantially restructure the actions, and that several actions went unchallenged in a previous legal challenge to a previous LAUSD LCAP, the District has investigated each of the alleged instances of improper bundling and makes the following findings as to each:

- **Goal 1, Action 9 (A-G Immediate Intervention Plan).** There is no authority requiring that the District treat individual services, such as “Algebra I/Geometry Intervention Pathway Program” or “Pre-AP/AP Summer Institute”¹⁶ as an LCAP “Action.” With a district as large as LAUSD, treating such granular services as full LCAP Actions would make the LCAP unnecessarily cumbersome and inaccessible to the public. In addition, the District reasonably believed it could not materially alter these actions for the 2019-20 LCAP. Starting with the 2020-21 LCAP, when the District is able to adjust its actions, the District will work with stakeholders to determine whether this action should be restructured, such as an action focused on college readiness and a separate action focused on graduation rates. For the reasons stated above regarding all actions, and because Goal 1, Action 9 meets the statutory definition of an action, the LCAP is in compliance.
- **Goal 1, Action 5 (School Autonomy).** There is no authority requiring that the District treat individual services, such as “Tutoring supports”¹⁷ as an LCAP “Action.” With a district as large as LAUSD, treating such granular services as full LCAP Actions would make the LCAP unnecessarily cumbersome and inaccessible to the public. In addition, the District reasonably believed it could not materially alter these actions for the 2019-20 LCAP. Starting with the 2020-21 LCAP, when the District is able to adjust its actions, the District will work with stakeholders to determine whether this action should be restructured. For the reasons stated above regarding all actions, and because Goal 1, Action 5 meets the statutory definition of an action, the LCAP is in compliance.

Because this action involves a particularly large amount of money, the District has decided to include all of the individual expenditures in this action to provide maximum transparency in the Amended LCAP. This will provide far more transparency than in previous, approved LCAPs, and more than if the LCAP had simply used the “4 sub-buckets” identified in the Complaint.

- **Goal 2, Action 11; Goal 4, Action 1; and Goal 5, Action 1.** The Complaint alleges that these actions were impermissibly “rolled” into the School Autonomy action. The services within these actions were rolled into Goal 1, Action 5 (“School Autonomy”) because they are services that each are designed to increase school autonomy. There is no authority requiring that the District treat these individual services as an LCAP “Action.” For the reasons stated above regarding all actions, and because Goal 1, Action 5, which contained these services, meets the statutory definition of an action, the LCAP is in compliance. The District, however, has decided to report the services provided in Goal 2 Action 11 and Goal

allegations that the actions are improper. Despite the impropriety of these challenges, the District addresses them in this Report.

¹⁶ Complaint, pp. 11-12.

¹⁷ *Id.* at p. 15.

4 Action 1 as in the prior year LCAP to maintain continuity and to increase transparency. Certain services associated with Goal 5, Action 1, which related to restorative justice, will remain a part of School Autonomy and their associated expenditures will be enumerated in the Amended LCAP.

- **Goal 3, Action 2 (Targeted Supports to Increase Student Engagement at Campuses of Highest Need).** The Complaint alleges that this action “includes at least 8 distinct actions” including clerical support, custodial, and nurses among others.¹⁸ There is no authority requiring that the District treat these individual services as an LCAP “Action.” With a district as large as LAUSD, treating such granular services as full LCAP Actions would make the LCAP unnecessarily cumbersome and inaccessible to the public. In addition, the District reasonably believed it could not materially alter these actions for the 2019-20 LCAP. Starting with the 2020-21 LCAP, when the District is able to adjust its actions, the District will work with stakeholders to determine whether this action should be restructured. The Complaint also alleges that some services in this action may be “double-counted” in this and in the School Autonomy action.¹⁹ Upon investigation, it is clear that services may have the same name, such as clerical services, but the services are distinct and achieve distinct goals. There is no double-counting of services in the LCAP. The District has decided to clarify with better naming in future LCAPs. For the reasons stated above regarding all actions and because Goal 3, Action 2 meets the statutory definition of an action, the LCAP is in compliance.
- **Goal 2, Action 9 (English Learner Supports).** The Complaint alleges that this action contains 21 discrete actions, some of which are unrelated to the “English Learner Supports” action itself. There is no authority requiring that the District treat these individual services, such as “Coordinated Professional Development Framework” or “Fiscal support specialists,” as LCAP “Actions.” With a district as large as LAUSD, treating such granular services as full LCAP Actions would make the LCAP unnecessarily cumbersome and inaccessible to the public. In addition, the District reasonably believed it could not materially alter these actions for the 2019-20 LCAP. Starting with the 2020-21 LCAP, when the District is able to adjust its actions, the District will work with stakeholders to determine whether this action for English Learner Supports should be restructured. The Complaint also alleges that there are services in this action that are unrelated to English Learner Support.²⁰ Although there is no legal violation for including it in this action, the District has decided to relocate the “Central Office/Local District Supports for school-site school for school climate program implementation” to Goal 5, Action 1’s School Climate and Restorative Justice Program. For the reasons stated above regarding all actions and because Goal 2, Action 9 meets the statutory definition of an action, the LCAP is in compliance.

¹⁸ *Id.* at p. 19.

¹⁹ *Ibid.*

²⁰ *Id.* at p. 20.

Conclusion as to Allegation 2.

For all of the reasons stated above, the District has determined that there is no violation in the way the 2019-20 LCAP classifies its actions. However, to make the LCAP as transparent as possible in light of the limitations placed upon the District and the LCAP, the District has decided to take the following actions in the interest of clarity, continuity, and transparency.

- (1) The District will list and specify the amounts for all of the individual expenditures for Goal 1, Action 5 (School Autonomy) in the Amended LCAP.
- (2) The District will move the services associated with Goal 2, Action 11 and Goal 4, Action 1 out of Goal 1, Action 5 (School Autonomy) into their own actions in the Amended LCAP.
- (3) The District will confer with parents and other stakeholders about restructuring its actions for its next three-year LCAP, starting with the 2020-21 LCAP in the Amended LCAP.
- (4) The District will relocate the “Central Office/Local District Supports for school-site school for school climate program implementation” to Goal 5, Action 1’s School Climate and Restorative Justice Program in the Amended LCAP.

Allegation 3. The District violated LCFF’s transparency and accountability requirements when allocating unspecified amounts to unspecified school sites for unspecified actions.

The Complaint alleges that the District must list individual school sites, “specific actions” being taken at each school site, and amounts allocated to each school site in several different actions.²¹ In support of this position, Complainants rely on the LCAP Template Instructions²² and two CDE opinions.²³

District Findings and Analysis as to Allegation 3.

The LCAP Template Instructions require districts to identify specific schools or subsets of schools if the services are provided to specific schools within the District. The District disagrees with the Complainant’s reading of the two CDE opinions they cite in support of a position that goes beyond the requirements of the Template Instructions.

In the *Klamath-Trinity Joint Unified School District* CDE opinion included as Exhibit 20 to the Complaint, the LCAP’s shortcoming was not a failure to identify specific schools for a particular action or to identify school sites, but that the descriptions of goals did not identify any action or services at

²¹ This allegation states that it applies to seven actions, but it cites to Exhibit 12, which identifies eight different actions impacted by the claim. The District’s investigation examined all eight actions identified in Exhibit 12.

²² Complaint at pp. 21-22. These Instructions state, “If the services are provided to specific schools within the LEA or specific grade spans only, the LEA must mark ‘Specific Schools’ or ‘Specific Grade Spans’. Identify the individual school or a subset of schools or grade spans (e.g., all high schools or grades K-5), as appropriate.” (LCAP Template Instructions, Cal. Dep’t of Educ., available at <https://www.cde.ca.gov/re/lc/templateinstructions.asp>.)

²³ Complaint, Exh. 20, p. 16.

all.²⁴ “Rather, it identifies a school plan without identifying the actions or strategies being referred to as included in that plan.”²⁵ That is a different situation from the one at issue here, where there is no dispute that the District has developed actions under its goals. Moreover, the Klamath-Trinity School District has seven schools total and only two high schools,²⁶ so it is far more likely that actions will impact only one school, and far easier to describe how each school is impacted for every action, even if all seven schools (or, for example, both high schools) are impacted by an action.

In the *Fresno Unified School District* CDE opinion attached to the Complaint as Exhibit 18, the problem was that the description for a goal stated that school sites were to direct plans “focused on the needs of low income, English learner and foster youth student populations, *as well as other subgroups*,” and because of the inclusion of unspecified “other subgroups,” it was “not possible to definitely conclude that the action is ‘principally directed towards’ unduplicated pupils.”²⁷ The district there was not required to list specific school sites, but instead to clarify that funds would be principally directed towards unduplicated pupils.²⁸ The claim here, on the other hand, is that the District must identify schools even for actions that are districtwide, which is unsupported by the CDE opinions.

Thus, the standard that applies is whether the District has identified individual schools or a subset of schools for services that are provided only to specific schools. Applying this standard to the seven actions identified, the District makes the following findings:

- **Goal 1, Action 5. School Autonomy.** This action is a District-wide action that impacts all schools, and is not a service “provided to specific schools within the LEA.” The action has been properly identified as impacting “All Schools,” and there is therefore no requirement under the LCAP Template Instructions to identify any individual schools. To the extent the Complaint argues that this action should be divided into smaller actions, that argument is addressed in the section above relating to Allegation 2.

The action allocates funds using the District’s Student Equity Needs Index (SENI). The Amended LCAP will contain new, additional information about, and a link to, the current list of SENI schools and their SENI scores to provide additional information.

- **Goal 1, Action 8. A-G Diploma Program.** The June 18, 2019 LCAP notes that this action applies to “Specific Schools: Middle Schools.” Specifically, the action applies to 20 middle schools, but the LCAP does not identify the schools. The District shall be required to identify these specific schools in the “Actual Actions/Services” column of the Amended LCAP’s Annual Update.
- **Goal 1, Action 10. School Innovation Funds.** The June 18, 2019 LCAP notes that this action applies to “Specific Schools: 30 High Schools, 20 Middle Schools” but does not

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Schools*, Klamath-Trinity Joint Unified School District, available at <http://www.ktjUSD.k12.ca.us/Schools/>.

²⁷ *Id.*, Exh. 18, p. 6.

²⁸ See *id.* at p. 8.

identify the schools. The District shall be required to identify these specific schools in the “Actual Actions/Services” column of the Amended LCAP’s Annual Update.

- **Goal 1, Action 9. English Learner Supports.** This action applies to grades 9-12 throughout the District and is not a service “provided to specific schools within the LEA.” There is therefore no requirement under the LCAP Template Instructions to identify any individual schools.
- **Goal 2, Action 12. Arts Program.** This action is a District-wide action that impacts all schools, and is not a service “provided to specific schools within the LEA.” The action has been properly identified as impacting “All Schools,” and there is therefore no requirement under the LCAP Template Instructions to identify any individual schools.

The action allocates funds using the District’s Arts Equity Index (AEI). The Amended LCAP will contain new, additional information about, and a link to, the current list of AEI schools and their AEI scores to provide additional information.

- **Goal 3, Action 2. Targeted Supports to Increase Student Engagement at Campuses of High Need.** This action is a District-wide action that impacts all schools, and is not a service “provided to specific schools within the LEA.” The action has been properly identified as impacting “All Schools,” and there is therefore no requirement under the LCAP Template Instructions to identify any individual schools.
- **Goal 5, Action 1. School Climate and Restorative Justice Program.** This action is a District-wide action that impacts all schools, and is not a service “provided to specific schools within the LEA.” The majority of the funds that were allocated in this action are now a part of Goal 1, Action 5, and the remaining funds are used to support District-wide services. The action has been properly identified as impacting “All Schools,” and there is therefore no requirement under the LCAP Template Instructions to identify any individual schools.
- **Goal 6, Action 4. Ongoing Major Maintenance.** This action is a District-wide action that impacts all schools, and is not a service “provided to specific schools within the LEA.” The action has been properly identified as impacting “All Schools,” and there is therefore no requirement under the LCAP Template Instructions to identify any individual schools.

Conclusion as to Allegation 3.

The June 18, 2019 LCAP failed to identify the subset of schools for the two actions above that impact only a subset of schools. These actions are Goal 1, Action 8, “A-G Diploma Program,” and Goal 1, Action 10, “School Innovation Funds.” The remainder of the actions identified in the Complaint were properly identified as applying to “All Schools,” and therefore were not required to identify individual schools.

Required Corrective Action. The Amended LCAP shall identify the individual schools at issue in Goal 1, Action 8 and Goal 1, Action 10.

Allegation 4. The District’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.

The Complaint alleges that the District’s June 18, 2019 LCAP fails to report material changes to specific actions and related expenditures.²⁹ The Complaint does not identify specific examples of this alleged shortcoming, but instead critiques the “bundling practices” discussed in Allegation 2 and all instances in which the LCAP states, “Material difference between the planned expenditures and estimated actual expenditures are a result of changes in salary/benefit costs, change in staffing availability for particular programs and delayed implementation of particular programs at the school-wide level.” (*Ibid.*)

District Findings and Analysis as to Allegation 4.

Education Code section 52064, subdivision (b)(7), requires “a description of changes to the specific actions and related expenditures the school district . . . will make as a result of the review and assessment, and an update on progress implementing the specific actions in the current fiscal year.” The LCAP Template Instructions state that a district should “[e]xplain material differences between Budgeted Expenditures and Estimated Actual Expenditures.”³⁰ The requirement applies to actions, and not to material differences in line items below the level of actions. The CDE has ruled “materiality” in this context has no clear definition or standard, and that a local district must make a reasonable judgment regarding which of the differences are material.³¹

The CDE has ruled that brief explanations about staffing changes are sufficient to explain material changes in expenditures. In the *Klamath II* opinion, the school district explained material changes in one action simply by writing, ““The District experienced several vacancies throughout the entire year,” and in another wrote that it “did not fill the position . . . as the School Site Council determined the position was not needed” and the CDE held this was sufficient.³²

Here, the District’s explanation that “Material difference between the planned expenditures and estimated actual expenditures are a result of changes in salary/benefit costs, change in staffing availability for particular programs and delayed implementation of particular programs at the school-wide level” is more detailed than those deemed sufficient in *Klamath II*. As such, there is no violation when relying on that sufficient explanation.

Beyond that sufficient explanation, the LCAP contains additional descriptions of changes to actions and related expenditures where the differences in the actions, as opposed to individual expenditures within actions, are material. For example, Goal 1, Action 1 contains extensive discussion regarding the

²⁹ Complaint, pp. 24-25.

³⁰ LCAP Template Instructions, Cal. Dep’t of Educ., available at <https://www.cde.ca.gov/re/lc/templateinstructions.asp>.

³¹ *Klamath II* CDE Opinion, Complaint, Exh. 20, p. 14.

³² *Id.* at pp. 14-15.

material differences in the action.³³ Similarly, Goal 2, Action 3 contains similar explanations,³⁴ as does Goal 2, Action 5.³⁵

The investigation has revealed other actions for which either the differences between budgeted and estimated actual expenditures are less than material under the District’s reasonable judgment or where material differences are sufficiently explained, but where additional explanation could increase transparency. For these actions, the District has decided to add additional explanation in the Amended LCAP.

Conclusion as to Allegation 4.

The LCAP is in compliance because it, as previous, approved LCAPs, sufficiently describes changes to actions and related expenditures where the differences in the actions, as opposed to individual expenditures within actions, are material in the District’s reasonable judgment. Despite this, the District has decided to provide in the Amended LCAP additional descriptions and explanations as to changes in expenditures for several actions that were already in compliance.

Allegation 5. The District’s LCAP fails to demonstrate how the District is meeting its obligation to increase or improve services for high need students each year by 32% above the level of service provided to all pupils.

The Complaint alleges that the LCAP “offers no quantitative or qualitative analysis to demonstrate it is doing 32% more for high need students,” and instead “proffers a quantitative statement in a single sentence” “without any analysis” regarding the amount of budgeted Supplemental & Concentration funds.³⁶ The Complaint also alleges that the District has failed to commit to spending these funds, but instead has only budgeted for them, and has failed to show the expenditures that make up the budgeted \$1.14 billion in Supplemental and Concentration funds.³⁷

District Findings and Analysis as to Allegation 5.

Education Code section 42238.07, subdivision (a)(1) requires the State Board of Education to adopt regulations that “[r]equire a school district . . . to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils in the school district.” The resulting regulation states in part that a district

shall provide evidence in its LCAP to demonstrate how funding apportioned on the basis of the number and concentration of unduplicated pupils . . . is used to support such pupils. This funding shall be used to increase or improve services for unduplicated pupils as compared to the services provided to all pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of

³³ See June 18, 2019 LCAP, pp 6-8.

³⁴ *Id.* at p. 26.

³⁵ *Id.* at pp. 27-28.

³⁶ Complaint, pp. 25-26.

³⁷ *Id.* at p. 26.

unduplicated pupils An LEA shall determine the percentage by which services for unduplicated pupils must be increased or improved above services provided to all pupils in the fiscal year³⁸

The LCAP Template reads:

Describe how services provided for unduplicated pupils are increased or improved by at least the percentage identified above, either qualitatively or quantitatively, as compared to services provided for all students in the LCAP year.³⁹

Upon investigation, it is clear that the June 18, 2019 LCAP does, in fact, contain the information Complainants allege is missing. The Demonstration of Increased or Improved Services for Unduplicated Pupils (“DIISUP”) section of the LCAP lists all of the actions principally directed towards unduplicated pupils. The Goals, Actions, & Services section, in turn, contains the budgeted expenditures for each of these actions. Although the required template format does not make it easy to keep these together, the individual budgeted expenditures of the actions identified in the DIISUP section and these expenditures can be used to verify the District’s calculations. In fact, the budgeted expenditures for these actions exceed the \$1.14 billion in anticipated revenue for all Supplemental and Concentration Funds. Complainants have provided no authority that the District’s LCAP must contain additional expenditure information or mathematical calculations than that already provided in the LCAP. The Template Instructions require either a quantitative or qualitative analysis to demonstrate the District is doing 32% more for high need students. While the LCAP also contains a sufficient qualitative analysis as noted below, it certainly contains the quantitative information required.

The investigation revealed that the amount “\$1.18 billion” in the phrase, “For FY 2019-20, LA Unified will budget \$1.18 billion in supplemental and concentration funds” was intended to read “\$1.14 billion,” as the amount was intended to simply be a rounding of the precise amount of \$1,137,221,279 stated at the beginning of the DISSUP section. This typographical error should be corrected in the Amended LCAP.

The investigation also considered Complainant’s allegation that the DIISUP section does not adequately describe how these funds are being used to increase or improve services for high need students, and determined that the LCAP meets the statutory requirements in this regard. To increase transparency, however, the Amended LCAP will include additional explanation in the DIISUP section for each action listed.

Conclusion as to Allegation 5.

The LCAP provides a sufficient quantitative or qualitative analysis to demonstrate it is doing 32% more for high need students as is required by the Template Instructions. To increase transparency, the District has decided to revise the Amended LCAP in the following ways.

³⁸ Cal. Code Regs., tit. 5, § 15496, subd. (a).

³⁹ Approved LCAP Template with Instructions, Cal. Dep’t of Educ., available at <https://www.cde.ca.gov/re/lc/templateinstructions.asp>.

- (1) The District will in the Amended LCAP correct the typographical error stating “\$1.18 billion” on page 102 of the LCAP to read the correct amount, which is “\$1.14 billion.”
- (2) The District will provide in the Amended LCAP additional explanation in the DIISUP section for each action to demonstrate it is increasing or improving those services.

Allegation 6. The District failed to demonstrate that its specific uses of \$1.1 billion in annual supplemental and concentration funds increase or improve services for high need students.

The Complaint alleges that the LCAP insufficiently explains how its actions relying on supplemental and concentration funds are principally directed towards and effective in meeting the District’s goals for high-need students.⁴⁰ The vast majority of the arguments made in this allegation relate to the impacts of alleged “bundling” in the School Autonomy and other sections,⁴¹ or to aspects of the previously approved and unchallenged 2018-19 LCAP.⁴²

District Findings and Analysis as to Allegation 6.

Consistent with Education Code section 42238.07(b), the expenditure regulations identify the circumstances in which LEAs may use supplemental and concentration funds on a districtwide or schoolwide basis.⁴³ The conditions imposed on LEAs for such use vary depending on the type of LEA and the percentage of unduplicated pupils. For a district such as LAUSD, with an enrollment of unduplicated pupils of 84%, the requirements for districtwide use of supplemental and concentration grant funding are as follows:

“(b) ...an LEA may demonstrate it has increased or improved services for unduplicated pupils... by using funds to upgrade the entire educational program of ... a school district...as follows:

(1) A school district that has an enrollment of unduplicated pupils of 55 percent or more of the district’s total enrollment in the fiscal year for which an LCAP is adopted or in the prior year may expend supplemental and concentration grant funds on a districtwide basis. A school district expending funds on a districtwide basis shall do all of the following:

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

(B) Describe in the LCAP how such services are principally directed towards, and are effective in, meeting the district’s

⁴⁰ Complaint, p. 28.

⁴¹ See part A of this allegation at Complaint, pp. 29-31.

⁴² See part B of this allegation at Complaint, pp. 31-33.

⁴³ Cal. Code Regs., tit. 5, § 15496, subd. (b).

goals for its unduplicated pupils in the state and any local priority areas.”⁴⁴

The District finds that the descriptions in the DIISUP section of the LCAP are in line with those previously approved and sufficiently explain how the services are principally directed towards, and effective in, meeting the District’s goals for its high need students. Regarding allegations of improper bundling, this Report has already made findings as to Allegation 2, above. The District has decided, however, to provide even more transparency in the DIISUP section of the Amended LCAP by adding substantially more detail as to how the services are principally directed towards, and effective in, meeting the District’s goals for its high need students. This is in addition to providing a breakdown of expenditures in the School Autonomy action as described in response to Allegation 2 above.

Conclusion as to Allegation 6.

The District concludes that the LCAP’s DIISUP descriptions are in compliance, particularly in light of its previous, approved LCAPs. Despite this, the District will provide additional information in the DIISUP section of the Amended LCAP to explain in greater detail how each of the actions identified are principally directed towards, and effective in, meeting the District’s goals for high-need students.

Allegation 7. The District inappropriately rolled forward funds for high need students without accounting for how that carryover is being spent or where it comes from.

The Complaint alleges that the District has “impermissibly inflated the effort it expends towards its proportionality obligation by slipping into past LCAPs and rolling forward some \$340 million of undisclosed [Supplemental and Concentration] expenditures.”⁴⁵ Complainants rely on a single document, included as Exhibit 7 to the Complaint, called “Proposed Los Angeles Unified School District Investments to Support Targeted Youth,” to conclude that the District is unable to account for \$340 million in “phantom expenditures that have never been justified or evaluated for effectiveness.”⁴⁶

District Findings and Analysis as to Allegation 7.

Based on interviews with staff, it is clear that this single document on which Complainants rely was not a part of the District’s LCAP and is not a formal budget document. The District’s investigation has revealed that this document was a legacy document that provided a partial list of Supplemental and Concentration expenditures. The list of Supplemental and Concentration expenditures was not intended

⁴⁴ CDE Investigation of Appeal Against the Los Angeles Unified School District, Reyna Frias, Appellant, as Clarified on Reconsideration (Aug. 5, 2016) (“2016 CDE Opinion”), p. 12, quoting 5 Cal. Code Regs., § 15496, subd. (b).

⁴⁵ Complaint, p. 33.

⁴⁶ Complaint, p. 34.

to be exhaustive, but instead was intended to highlight certain expenditures for particular stakeholders interested only in those expenditures.

Although this document was not a part of the 2019-20 LCAP, the District understands how this document could cause confusion. As a result, the District will no longer update that partial list of expenditures in future years, and the Amended LCAP now enumerates all of the expenditures in the 2019-20 Modified Action column of the School Autonomy action—Goal 1, Action 5. As noted above, the LCAP contains total expenditures with all actions identified in the DIISUP section. There is no amount, \$340 million or otherwise, that is undisclosed or unaccounted for.

Conclusion as to Allegation 7

The District finds that there is no violation of law as to Allegation 7. The District has decided to no longer use the potentially confusing partial list of expenditures included as Exhibit 7 in the Complaint in future years, and the Amended LCAP now enumerates all of the expenditures in the 2019-20 Modified Action column of the School Autonomy action—Goal 1, Action 5.

VI. Conclusion.

The District finds a violation under Allegation 3 as to Goal 1, Action 8 and Goal 1, Action 10, warranting a required corrective action for the Amended LCAP. The District finds no other violations of the law under the remainder of Allegation 3, or under any of the other allegations, but it does plan to make several alterations to the Amended LCAP in the name of increasing transparency and clarity as summarized below.

Required Corrective Action.

- (1) The Amended LCAP shall identify the individual schools at issue in Goal 1, Action 8 and Goal 1, Action 10.

In addition to this required action, the District will make the following changes despite already being in compliance.

- (1) The District has decided to list and specify the amounts for all of the individual expenditures for Goal 1, Action 5 (School Autonomy) in the Amended LCAP.
- (2) The District has decided to move the services associated with Goal 2, Action 11 and Goal 4, Action 1 out of Goal 1, Action 5 (School Autonomy) into their own actions in the Amended LCAP.
- (3) The District has decided to confer with parents and other stakeholders about restructuring its actions for its next three-year LCAP, starting with the 2020-21 LCAP in the Amended LCAP.
- (4) The District has decided to relocate the “Central Office/Local District Supports for school-site school for school climate program implementation” to Goal 5, Action 1’s School Climate and Restorative Justice Program in the Amended LCAP.
- (5) The District has decided to provide in the Amended LCAP additional descriptions and explanations as to changes in expenditures for several actions.
- (6) The District has decided to in the Amended LCAP correct the typographical error stating “\$1.18 billion” on page 102 of the LCAP to read the correct amount, which is “\$1.14 billion.”

- (7) The District has decided to provide in the Amended LCAP additional explanation in the DIISUP section for each action to demonstrate it is increasing or improving those services.
- (8) The District has decided to provide additional information in the DIISUP section of the Amended LCAP to explain in greater detail how each of the actions identified are principally directed towards and effective in meeting the District's goals for high-need students.
- (9) The District has decided to no longer use the potentially confusing partial list of expenditures included as Exhibit 7 in the Complaint in future years.