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August 9, 2016

Sent via e-mail

José L. Manzo
Superintendent
Oak Grove School District
6578 Santa Teresa Blvd.
San Jose, CA 95119

RE: UCP Complaint re: OGSD 2016-2019 LCAP

Dear Superintendent Manzo:

Public Advocates has sought to ensure that the implementation of the Local Control Funding Formula (LCFF) makes real the promises of increased and improved resources for high-need students, greater transparency, and meaningful engagement for the school community. In particular, we are working hard to ensure that districts spend the supplemental funds to proportionally increase and improve services for the high-needs students who generate those funds.

We examined Oak Grove School District's (OGSD) Local Control Accountability Plan ("LCAP") as part of a report issued in May 2016, "Keeping the Promise of LCFF in Districts Serving Less than 55% High-Need Students," which featured 15 non-concentrated districts where high-need students are unevenly distributed (segregated) across the district.¹ We reexamined OGSD this summer after it adopted its 2016-2019 LCAP, and now submit this UCP regarding three issues:

1. OGSD's adopted LCAP fails to justify any of its districtwide supplemental grant expenditures as "the most effective use of the funds to meet the district's goals for unduplicated pupils," as required in Section 3.A of the LCAP template, calling into question the propriety of the proposed uses.
2. On a related note, OGSD plans to spend \$2.6 of its \$7 million in supplemental funds on "bus safety" districtwide, without explaining how this expenditure will increase or improve services to high-need students as compared to all students.

¹ http://www.publicadvocates.org/wp-content/uploads/non-concentrated_district_report.pdf.

3. OGSD has several transparency and accountability issues that must be remedied to comply with LCFF's spirit of community engagement.

We urge the district to promptly revise its LCAP to comply with the LCFF regulations and to meet equity promise of the law. We have separately written to the County, urging it to work with the district to remedy this issue before it approves the OGSD LCAP.

A. Student Demographics and Achievement Disparities in OGSD

OGSD was chosen for our report in part because in March 2015, the Public Policy Institute of California found the district to have a higher school-to-district difference than the state average, meaning that high-need students are relatively segregated (as oppose to integrated) across the district.² This disparity is best illustrated through contrasting Ledesma Elementary with Edenvale Elementary.

According to CDE Enrollment Reports, Ledesma Elementary is ethnically diverse (21.4% White, 30.3% Asian, 28.8% Hispanic/Latino), and 25.7% of students are economically disadvantaged, according to the 2015-2016 CDE report on "Student Poverty FRPM." Student achievement in the above the state average, with 61% of students meeting or exceeding the standards in English Language Arts (ELA), and 62% of students meeting or exceeding the standards for Mathematics, based the California Assessment of Student Performance and Progress (CAASPP).

Contrastingly, at Edenvale Elementary, Latinos make up 84.7% of enrolled students and 89.4% of students are economically disadvantaged. School performance is alarmingly low with only 24% of students meeting or exceeding the ELA standards and only 15% of students meeting or exceeding the Math standards. In other words, compared to students at Edenvale, students at Ledesma are more than twice and four times as likely to meet the state standards for ELA and Math, respectively. This disparity between school achievement within the same district is exactly why district-wide spending of supplemental funds can be problematic, because it threatens to dilute the promised benefits of the funds which were generated by, and supposed to benefit, high-need students.

B. OGSD's Adopted LCAP Fails to Justify Any Of Its Supplemental Grant Expenditures As "Principally Directed" Towards High-Need Student Goals And "The Most Effective Use Of Funds" In Meeting The District's Goals For High-Need Students In Section 3.A Of The LCAP.

1. Legal Requirements of Supplemental Spending

Under LCFF, school districts receive a base grant per student and additional supplemental and concentration grants based on the percentage of high-need (i.e., low-income,

² Public Policy Institute of California, "Implementing California's School Funding Formula: Will High-Need Students Benefit?" (March 2015) at http://ppic.org/main/publication_quick.asp?i=1127, and the Technical Appendix, Tables A2 and A3, at http://www.ppic.org/content/pubs/other/315LHR_appendix.pdf.

English learner, and/or foster youth) students.³ The LCFF recognizes that local educators, parents, and students often understand their needs better than the state legislature and provides districts with the flexibility to spend their dollars on needs specific to their district.

However, there is a significant condition to the new flexibility: **supplemental and concentration grants must be used to provide increased or improved services to high-need students as compared to the services provided to all students in proportion to the additional funds high-needs students generate.**⁴ Under the regulations, an increase or improvement is defined as a *growth* in quantity or quality of service.⁵ Under 5 C.C.R. § 15496(b)(2), a school district with unduplicated enrollment under 55% must do three things:

- Identify the services being funded and provided on a districtwide basis;
- Describe how the services are principally directed toward and effective in meeting the district’s goals for high-need students; and
- Explain how the services are the most effective use of the funds to meet the goals, as well as provide a basis for this determination by listing any alternatives considered and any research, experience, or educational theory that supports the decision.

Oak Grove’s use of supplemental funds in its 2016-17 LCAP does not appear to meet these requirements.

2. The Oak Grove LCAP Fails to Justify Its 2016-17 Supplemental Grant Expenditures as “Principally Directed” and the “Most Effective” Use to Serve High-Need Student Goals and Fails to Show How Their Expenditures Proportionally Increase or Improve Services for High-Need Students

In 2016-17, OGSD will receive approximately \$7 million in supplemental funds as compared to the \$86.4 million in base funds. Unfortunately, the district fails to adequately justify a significant portion of its supplemental grant expenditures in its 2016-17 LCAP. The district does not explain how districtwide and schoolwide supplemental expenditures are “principally directed” towards unduplicated pupil goals or how such spending is the “most effective” use of these funds in meeting high-need student goals. Consequently, we have serious concerns that the district is failing to meet its obligations to increase and improve services for high-need students in proportion to the additional funding that they generate.

We acknowledge Oak Grove’s provided explanation in Section 3.A that identifies academic support for English learners as a systemic need and the justification for investment in professional development of teacher and staff to support those needs.⁶ Our concern, however, is that the explanations provided fail to demonstrate how each expenditure is “principally directed” toward the district’s goals for unduplicated pupils and the “most effective use” of funds, as required by law. The district must also provide a basis for the determination that a proposed use

³ The law defines high-need students, also referred to as unduplicated pupils under the regulations, as low-income students, foster youth, and English learner students. 5 C.C.R. § 15495(m) (2015).

⁴ 5 C.C.R. § 15496(a) (2015).

⁵ 5 C.C.R. §§ 15495(k) & (1) (2015).

⁶ Oak Grove LCAP (June 2016) at 101 (hereinafter “Oak Grove LCAP”).

of funds is the most effective use.⁷ These requirements are detailed in the CCSESA approval manual provided to all County Offices of Education.⁸ Oak Grove identifies some \$3.5 million of its \$7.3 million supplemental grant expenditures as “districtwide” spending but fails to provide the requisite justifications for this spending.⁹ The district further designates some \$3 million for school site spending, again without the requisite justification required by law. Because this does not explain how the designated services are designed to support high-need students, it cannot be said with confidence that the district is meeting its obligations under LCFF to increase and improve services for high-need students.

This matter, while plainly worrisome, is made even more concerning given that Oak Grove is a district with a lesser concentration of high-need students and a district where those students are unevenly distributed across schools. Thus, some schools have a number of high-need students that is well above the district average of approximately 53% high-need students, while others are well below the average.¹⁰ This uneven distribution strongly suggests that in many instances the “most effective” use of supplemental funds will be fashioned to target low-income, English learner, and foster youth students directly—as opposed to spending funds districtwide.

C. OGSD’s adopted LCAP Fails to Allocate A Significant Portion Of The Supplemental Grant Toward Actions That Principally Directed Towards And The Most Effective Use In Meeting The District’s Goals For Unduplicated Pupils, Thus Raising Concerns About Whether It Fully Understands In Proportionality Obligations

Oak Grove’s LCAP fails to justify how its supplemental funds are being used on programs and services that are *principally directed* towards, and *most effective in*, serving the district’s goals for its high-need students. As a non-concentrated district with widely varying distributions of high-need students, Oak Grove must be mindful in its consideration of how to ensure that supplemental funds reach the high-need students that generate them so that the equity promise of LCFF is realized.

1. Oak Grove Does Not Accurately Explain Its Obligations Under Section 3.B of The 2016-17 LCAP

Section 3B of the LCAP template requires the district describe how the supplemental funding will be used to *increase or improve services* for unduplicated pupils *by 9.77%* as

⁷ 5 C.C.R. § 15496(b)(2).

⁸ See *CCSESA LCAP Approval Manual* (2016-17 ed.) (rev. January 1, 2016), at Appendix B, “Process Review Checklist,” section 3.03, 3.04, 3.05, available at <http://ccsesa.org/wp-content/uploads/2016/04/CCSESA-LCAP-Approval-Manual-2016-17.pdf>.

⁹ Section 3.A of the Oak Grove LCAP addresses only the *schoolwide* spending initiatives that target professional development and the implementation of the SEAL model. The districtwide expenditures are left unjustified. See Oak Grove LCAP at 25, 101-102.

¹⁰ A March 2015 study shows that OGSD has a school-to-district average absolute difference of 17.0 between its overall high-need student percentage of approximately 53.7%. This data indicates that some schoolsites are well below or well above the district’s average, with a variation ranging from about 36.7% to 70.7%. See Public Policy Institute of California, *Implementing California’s School Funding Formula: Will High-Need Students Benefit* (March 2015) at http://ppic.org/main/publication_quick.asp?i=1127, and the Technical Appendix, Table A2, at http://www.ppic.org/content/pubs/other/315LHR_appendix.pdf.

compared to the services provided to all pupils, pursuant to 5 CCR 15496(a). Instead, OGSD describes its proportionality obligation in Section 3B thusly: “[t]he percent of the LCFF funding for Low Income Pupils, Foster Youth, and English Learners is 9.77%.”

We are concerned the district misunderstands its obligations with regards to the proportionality requirement and is thus not meeting its obligation to increase and improve services for high-need students as compared to all students in proportion to the supplemental funds they generate. Even if this is a typographical error, and the district understands its proportionality obligation in theory, our concern remains exigent given the inappropriate districtwide allocation of supplemental funds. Our next point on Bus Safety is evidence of this misunderstanding.

2. Oak Grove Cannot Justify Spending \$2,617,397 of Supplemental Funds to “Provide Student Safety On the Bus” For All Students

OGSD impermissibly spent over \$2.5 million of its 2015-16 supplemental grant on “bus safety,” and has allocated an additional \$2,617,397 of its 2016-17 grant for the same purpose, without the “most effective use” justification described above. Providing safe bus service is a preexisting obligation to all students. Maintaining existing transportation services fails to increase or improve services for low-income, English learners, or foster youth students as compared to services for all students.

Oak Grove proposes to spend over \$2.5 million to “[provide] student safety on the bus” (p. 47). The district clearly identifies this as a service for all students. Indeed, the district allocates \$1.3 million of LCFF base funds towards this same action. The district provides no explanation of the action beyond “Provide student safety on the bus,” and fails to explain how this spending is “principally directed” or the “most effective in meeting the district’s goals for low-income, English learner, and/or foster youth students in particular. More significant, however, is the district’s failure on a more fundamental threshold problem in that providing required bus services to unduplicated pupils does not meet LCFF’s threshold requirement of increasing or improving services to high-need students.

In general, spending on bus services fails to increase or improve services for high-need students **above** what is provided to all students because these services are provided to all students without regard to their unduplicated pupil status. All students—regardless of whether they are low-income, English learners, or foster youth—are eligible to take advantage of bus services offered by the district and the district is under legal obligation to ensure that this bus transportation is reasonably safe. Cal. Educ. Code § 44808; *Eric M. v. Cajon Valley Union Sch. Dist.*, 174 Cal.App.4th 285 (2009). Any effort to construe this spending as a sustained campaign to enhance or improve services is misplaced. We urge the district to reallocate these funds to serve the students who need it the most.

D. The Oak Grove 2016-17 LCAP & The 2015-16 Annual Update Lack Requisite Transparency and Accountability Regarding Supplemental Funds.

There are several issues regarding the district’s transparency of process, as well as accountability measures within the 2016-17 LCAP and the 2015-16 Annual Update. First, many of the actions have multiple funding sources but only list aggregated totals of the amount to fund

the action. Second, the labeling of funding sources within the LCAP is inconsistent and inaccurate. Third, significant amounts of supplemental funds are not accounted for in the annual update. And finally, we have concerns that OGSD practices severely limit opportunities for community engagement and involvement.

1. The Oak Grove 2016-17 LCAP and 2015-16 Annual Update Fail to Disaggregate Funding Sources.

Instead of listing the actual amount allocated to each action from its specific funding sources, the district lists aggregated sums of money and simply lists the multiple sources beneath. Failure to list each funding source separately obscures transparency with regard to how the district is allocating funds and prevents an accurate understanding of how the supplemental funds in particular are being spent.

- \$1,161,660 from **Supplemental and Educator Effectiveness** to be spent districtwide to “Provide professional development on Culturally Responsive Teaching, engagement, rigor, and relevance with site leadership” (p. 26).
- \$186,451 from **LCFF Base & Lottery** to be spent districtwide to “Purchase and provide curriculum Materials” (p. 63).
- \$937,501 from **LCFF Base & ASES** to “Provide students physical fitness and healthy choices” (p. 67).
- \$714,696 from **LCFF Base & Title II** to “Provide Professional Development for Staff on CCSS and ELD implementation” (p. 69).

2. OGSD LCAP Fails to accurately label funding sources

The 2016-17 Oak Grove LCAP lists funding sources that are not recognizable and otherwise do not exist. LCFF Funds, for example, are either Base or Supplemental funds. The following are examples of inaccurately labeled funding sources within the 2016-17 LCAP and 2015-16 Annual Update:

- \$132,421 LCFF Special Education (p. 31).
- \$30,000 *LCFF Budget* (p. 39).
- \$161,660 *Resc 6264* (p. 76).
- \$829.50 [*No funding source listed*] (p. 91).
- \$6,316 *LCFF Base Cinco de Mayo* (p. 96).

3. Significant funds that were previously unaccounted for in the 2015-16 LCAP were retroactively allocated within the 2015-16 Annual Update, bypassing significant procedure and process.

The adoption of the 2015-16 Oak Grove LCAP is problematic, because the document failed to account for nearly \$2 million of OGSD’s supplemental grant. The 2015-16 Annual Update shows an overspending of about \$2 million, thus indicating that the money was allocated after the LCAP was adopted by the district and approved by the county. Pursuant to the statute, mid-year appropriations are required by law to be presented through an amended LCAP, after meaningful stakeholder engagement. Cal. Educ. Code § 52062(c).

4. Concerns About Meaningful Community Engagement

While not strictly illegal issues, we feel obligated to name several practices at OGSD that threaten to limit the stakeholder engagement that LCFF intended be central to LCAP development. Next year, we urge the district to avoid such practices and to engage in the following best practices: publish the LCAP draft on the website homepage prior to adoption; provide translations of the draft and final version of LCAP and Annual Update; and encourage public comment/discourse by allowing for public comment prior to the final adoption.

Upon reviewing the Board's agenda for the final adoption meeting, we learned the LCAP was adopted via consent agenda. Since the minutes from that meeting have yet to be released as of this letter's drafting date, we lack the particular details surrounding the procedure of the meeting. However, the LCAP is meant to be a tool of community engagement. This aspect of LCAP implementation is foundational to its successful execution. Thus, even if it does not expressly violate any laws or regulations, adopting the LCAP via consent agenda clearly contravenes the purpose of the document. This procedural choice requires the community to take affirmative steps in order to entitle itself to public comment on the LCAP prior to its adoption, which functions to deter stakeholder contribution to the district's plan.

E. Conclusion and Request for Action

We are concerned OGSD has not properly justified its allocation of supplemental funds to support districtwide services. OGSD's LCAP fails to justify how its supplemental funds are being used on programs and services that are principally directed toward, and most effective in, serving the district's goals for its high-need students. As a non-concentrated district with widely varying distributions of high-need students among its schools, OGSD must be vigilant to ensure that its supplemental funds reach the high-need students that generate them in order to fulfill the purpose of LCFF.

For the reasons described in this UCP complaint, we urge the district to amend its LCAP. Given the real and significant impact on the future opportunities of high-need students, the district must comply with the LCFF statute and expenditure regulations to keep the equity promise of LCFF alive for OGSD students.

Please contact us if with any questions regarding our analysis, or for any assistance in making OGSD's 2016-19 LCAP consistent with legal and statutory requirements.

Respectfully,



Rigel S. Massaro
Staff Attorney

CC: Members of the OGSD Board of Education, *via email*