



**CALIFORNIA DEPARTMENT  
OF EDUCATION**

**TONY THURMOND**  
STATE SUPERINTENDENT OF  
PUBLIC INSTRUCTION

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July 30, 2020

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Subject: **Appeal of District Decision – LAUSD  
Public Advocates, Inc. and Covington & Burling LLP, Appellants**

Case #: 2019-0333

Dear Mr. Affeldt and Ms. Muschamp:

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal dated October 4, 2019. You are appealing the Los Angeles Unified School District's (LAUSD's) Decision dated September 20, 2019.

### **I. Background**

The Local Control Funding Formula (LCFF) statute authorizes the filing of an administrative complaint pursuant to the Uniform Complaint Procedures (UCP) to resolve allegations that a local educational agency (LEA), such as a school district, failed to meet the requirements of Article 4.5. Local Control and Accountability Plans and the Statewide System of Support (California *Education Code* [EC] sections 52059.5 – 52077, *California Code of Regulations*, Title 5 [5 CCR] Section 4600 et seq.).<sup>1</sup>

On July 11, 2019, Appellants submitted a UCP Complaint (Complaint) directly to the CDE requesting Direct State Intervention (DSI). The Complaint alleged that LAUSD and Los Angeles County Office of Education (LACOE) failed to comply with requirements related to the Local Control and Accountability Plan (LCAP) provided in EC sections

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

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52059.5 through 52077. The request for DSI was submitted on the basis of 5 CCR Section 4650(a)(6), which stated at the time:

“The complainant alleges and the CDE verifies that he or she would suffer immediate and irreparable harm as a result of an application of 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.”

The CDE was unable to verify that Appellants would suffer immediate and irreparable harm or that filing the Complaint with LAUSD and LACOE would be futile. As such, the CDE determined it did not have jurisdiction, at that time, over the Complaint. In accordance with 5 CCR Section 4640, the CDE forwarded the Complaint to LAUSD and LACOE by way of a letter dated July 22, 2019, requesting that each LEA process and investigate the allegations in the complaint per their respective uniform complaint procedures.

LAUSD issued a Decision responding to the Complaint on September 20, 2019. Appellants submitted an Appeal of the Decision on October 4, 2019. The CDE then promptly notified LAUSD of the appeal in a letter dated October 7, 2019. LAUSD responded to the notice of appeal on October 10, 2019. The CDE sent a letter to Appellants and LACOE, dated January 10, 2020, notifying both parties to the matter that the CDE determined that exceptional circumstances warranted an extension of the 60-day timeline for issuing an appeal decision.

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

## **II. Summary of Complaint and District Decision**

### **The Complaint**

The Complaint alleges the following:

#### **Allegation 1**

*“The Amended June 28th 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”* (Complaint, p. 4).

The District initially adopted its 2019–2020 LCAP on June 18, 2019 (6/18 LCAP), along with its budget for 2019–2020. On June 28, 2019, the District posted a revised 2019–2020 LCAP (6/28 LCAP) on its website that, according to the Complaint, included substantial changes in program and budgeted expenditures and was not adopted by the

District. The Complaint alleges that this violates statute because the revised 6/28 LCAP did not adhere to the stakeholder requirements pursuant to *EC* Section 52062.

## **Allegation 2**

*“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”* (Complaint p. 7).

Allegation 2 alleges both that (i) the District impermissibly bundled actions and that (ii) this bundling made it difficult or even impossible to assess the increased or improved services provided to unduplicated students.

The Complaint states that the LCAP Template requires, “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” (Complaint, p. 9). The Complaint further states that, “the level of specificity required...must align to the statutory and regulatory purposes and their required framework for achieving those goals” (Complaint, p. 9). As a result, a district “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” (Complaint, p. 10).

Allegation 2 is comprised of the following 4 specific sub-allegations, which are summarized below:

“A. LAUSD Improperly Bundles Specific Actions in Goal 1 Action 9 (A-G Immediate Intervention Plan)” (Complaint, p. 11).

“B. 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,” Goal 1 Action 5 (Complaint, p. 14).

“C. LAUSD Improperly Bundles Several Specific Actions in Goal 3 Action 2 (Targeted Supports to Increase Student Engagement at Campuses of Highest Need)” (Complaint, p. 19).

“D. LAUSD Improperly Bundles Several Specific Actions in Goal 2 Action 9 (English Learner Supports)” (Complaint, p. 19).

The Complaint describes Goal 1, Action 9 as a “typical example of LAUSD’s impermissible bundling” (Complaint, p.11). According to the Complaint, Goal 1, Action 9 bundles at least 19 specific actions for which the scope of service, grade spans, locations, purposes, and metrics are not the same. According to the Complaint, the District spent approximately \$15.6 million on this action.

The Complaint describes Goal 1, Action 5 as the “most egregious bundling” (Complaint, p. 14). According to the Complaint, the District plans to spend \$880.4 million on this one action, which is included as contributing to meeting the increased or improved services requirement. In its LCAP, the District estimates its supplemental and concentration grant funds for 2019–2020 to be \$1.137 billion. The Complaint states,

“...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” (Complaint, p. 14).

As with Goal 1, Action 9, Complainants allege that Goal 1, Action 5 bundles discrete actions that “provide students with very different types of services that have distinctive purposes requiring separate justifications and metrics for measuring effectiveness” (Complaint, p.16). Additionally, the Complaint alleges that only a fraction of the expenditures associated with Goal 1, Action 5 are provided in a manner for schools to use at their discretion, and despite the action being titled “School Autonomy,” a majority of the expenditures for this action are districtwide programs and mandates.

The Complaint further describes Goal 3, Action 2 and Goal 2, Action 9 as additional examples of improperly bundling more specific actions. According to the Complaint, the bundling of more specific actions makes it difficult or even impossible to provide adequate justification for actions included as contributing to meeting the increased or improved services requirement. Additionally, the Complaint alleges that some services included in the so-called “mega actions” do not increase or improve services for students although the action itself is indicated in the LCAP as contributing to the increased or improved services requirement.

### **Allegation 3**

*“LAUSD Also Repeatedly Violates LCFF’s Transparency and Accountability Requirements When Allocating Unspecified Amounts to Unspecified School sites for Unspecified Actions” (p. 21).*

According to the Complaint, the District plans to allocate over \$460 million to individual school sites in 2019–2020 (Goal 1, Actions 5, 8, 9, 10; Goal 2, Action 12; Goal 3, Action 2; Goal 5, Action 1; Goal 6, Action 4). (Complaint, Exhibit 12, Table 5). Specifically, Allegation 3 is made in four parts:

- i. “The LCAPs do not identify what specific actions are being undertaken and with what amount of LCFF budgeted expenditures”
- ii. “The schoolwide uses of S&C funds are not justified as principally directed and effective in serving high need pupil goals”
- iii. “The Annual Updates cannot and do not undertake any analysis of whether the expected school-level actions were implemented, materially changed, and effective”
- iv. “Each specific school should be identified” (Complaint, p. 21).

In further support of this allegation, the Complaint references the CDE's Decision in the second matter of Klamath Trinity Unified School District, dated February 13, 2019 (Klamath II). The CDE's Decision in Klamath II included the finding that a simple reference to a School Plan for Student Achievement (SPSA) in place of a description of an action does not meet the requirement to identify the actual action implemented in the Annual Update section of the LCAP.

Complainants in the current matter argue that LAUSD's allocation of funds to various school sites, as described in the Goals, Actions, and Services section, without identifying or describing the specific actions supported with the funds is a deficiency similar to providing a reference to a SPSA in place of a description of an actual action in the Annual Update of an LCAP.

#### **Allegation 4**

*"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"* (p. 24).

The District's Decision regarding Allegation 4 was not appealed. As such, this allegation is not considered further.

#### **Allegations 5 – 7**

Allegations 5 through 7 are provided in the Complaint under the general heading of "Failure to Demonstrate Increased and Improved Services" (Complaint, p. 25).

#### **Allegation 5**

*"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"* (Complaint, p. 25).

The Complaint alleges that the District has failed to provide either a quantitative or qualitative analysis to demonstrate how it plans to meet its increased or improved services requirement for both the 2018–19 and 2019–2020 LCAP years.

Furthermore, the Complaint alleges that the narrative provided in the Demonstration section for 2019–2020 describes services provided to all students, not to unduplicated students.

#### **Allegation 6**

*"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"* (Complaint, p. 28).

Allegation 6 is made in two parts, A and B, as described below:

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.”*

The Complaint alleges that the District fails to justify entity-wide actions in the 2019–2020 LCAP as required. As an example, the Complaint references Goal 1, Action 5 (“School Autonomy”). The Complaint states that 77% of the District’s \$1.14 billion in supplemental and concentration grant funds are associated with this action and that the District provides the following inadequate justification of how the action is principally directed towards and effective in meeting the District’s goals for unduplicated students:

“The Student Equity Needs Index [SENI] distributes funding based on a formula that includes indicators of student and community need. Schools have autonomy to 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” (Complaint, p. 29-30, citing the June 18 LCAP at p. 103).

According to the Complaint, not only is this description inadequate as a justification, the description only applies to funds distributed in accordance with the District’s SENI index, which accounts for about \$290 million. This leaves approximately \$600 million of unidentified, and therefore unjustified, actions associated with Goal 1, Action 5.

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.”*

The Complaint states that most actions from the 2018–19 LCAP are not adequately justified as principally directed towards and effective in meeting the District’s goals for its unduplicated students. As an example, the Complaint references Goal 1, Action 5 (“School Autonomy”). The Complaint states that this action includes 19 distinct actions that are associated with the expenditure of \$775 million of supplemental and concentration grant funds. Of the 19 distinct actions, the Complaint states that 7 are not discussed in the Demonstration section for the 2018-19 LCAP year and that the 12 that are discussed are not adequately justified.

The Complaint offers three reasons for why these 12 actions are not adequately justified: (1) the explanation provided in the LCAP is conclusory in nature; (2) the District justifies these actions on the basis of a high percentage of unduplicated student enrollment rather than a contextual analysis of needs, conditions, and circumstances; and (3) the District does not show that the actions in question benefit unduplicated students to a greater degree than all students. These deficiencies are not limited to Goal 1, Action 5 and the Complaint states that the District fails to adequately justify nearly every contributing action in the LCAP.

**Allegation 7**

*“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” (p. 33).*

The Complaint alleges that the District’s LCAPs, beginning with the 2017–18 LCAP, “conceal \$340 million of claimed effort” towards the requirement to increase or improve services for its unduplicated students, which rolls forward each year. The Complaint alleges that the District reclassified \$340 million in expenditures that had not previously been relied upon to meet the increased or improved services requirement. In developing the 2017–18 LCAP, the District reassessed actions from the 2016–17 LCAP year to determine that they provided an increase or improvement in services for unduplicated students. This increased the overall amount of expenditures and actions that the District included as contributing to the increased or improved services requirement moving forward. However, the Complaint claims, the District has never identified the actions associated with the \$340 million in expenditures of supplemental and concentration grant funds that are “rolling forward” each year.

“LAUSD has impermissibly inflated the effort it expends toward its proportionately obligation by slipping into past LCAPs and rolling forward some \$340 million of undisclosed S&C expenditures. [...] 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 uses as principally directed and effective toward high need student goals as state law requires.” (Complaint, pp. 33-34).

The Complaint makes the following three sub-allegations as part of Allegation 7 that, as a result of the alleged inflated effort in the amount of \$340 million, the District failed to meet the following requirements:

1. The 2016–17 Annual Update included in the 2017–18 LCAP “does not meet LCFF’s transparency requirements concerning identification of material changes to specific actions and services and their budgeted expenditures” (Complaint, p. 35).
2. As a result of 1, LAUSD failed to subject the actions in question to stakeholder engagement requirements.
3. Also as a result of 1, LAUSD failed to justify all districtwide and schoolwide actions as principally directed towards, and effective in, meeting goals for unduplicated students.

## **District’s Decision**

The District determined that all allegations in the Complaint lacked merit.

## **Allegation 1**

As to Allegation 1, the District states that the 6/28 LCAP “was simply an early working draft of revisions to the June 18, 2019 LCAP” (Decision, pp. 4-5). The District states that the 6/28 LCAP was never adopted by the board and was “posted online to increase transparency and public participation” (Decision, p. 5). In its Decision, the District maintains that the 6/18 LCAP was the only operative LCAP when the Complaint was submitted and that the 6/18 LCAP adhered to all of the stakeholder engagement requirements provided in *EC* Section 52062.

## **Allegation 2**

As to Allegation 2, the District relies on two points. First, the District states that the ambiguity of the two terms “action” and “specific action” caused the District to rely “heavily on precedent set by approvals of its own and other districts’ LCAPs” (Decision, p. 6). Second, the District states that it “reasonably believed it was not at liberty to substantially restructure the actions” in part because the LCAP is a three-year plan (Decision, p. 7). The District decided to make certain changes in the interest of clarity, continuity, and transparency, described in its Decision as follows:

“(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.” (Decision, p. 9).

The District also states that 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” (Decision, p. 7).

## **Allegation 3**

As to Allegation 3, the District disagrees with the Complaint’s interpretation of the CDE’s decision in the matter of Klamath-Trinity Joint Unified School District dated February 13, 2019 (Klamath II).

The District states that the standard relevant to Allegation 3 is “whether the District has identified individual schools or a subset of schools for services that are provided only to specific schools” (Decision, p. 10). Based on this standard, the District reviews eight actions in its LCAP and decides that additional detail will be provided for four of them

(Goal 1, Actions 5, 8, 10; Goal 2, Action 12). The District also states that it failed to identify the subset of schools for Goal 1, Actions 8 and 10 and requires itself to correct this in a revised LCAP.

### **Allegation 5**

As to Allegation 5, the District determined that the LCAP provided sufficient quantitative or qualitative analysis to demonstrate it is doing 32% more for unduplicated students. The District states that the LCAP “lists all of the actions principally directed towards unduplicated pupils” in the Demonstration section and “contains the budgeted expenditures for each of these actions” in the Goals, Actions, and Services section. The budgeted expenditures in question, according to the District, exceeds the \$1.14 billion in estimated supplemental and concentration funds for the relevant LCAP year. Based on this, the District concludes that it provides a quantitative description of how districtwide services are principally directed and effective in meeting the District’s goals for its unduplicated students. The District agreed to provide additional explanation in the Demonstration section for each action to demonstrate it is increasing or improving those services.

### **Allegation 6**

As to Allegation 6, the District determined that it had provided sufficient justification for actions included in the Goals, Actions, and Services section as contributing to the increased or improved services requirement. The District states that “the descriptions in the [Demonstration] 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 [unduplicated students]” (Decision, p. 16). The District also states that it will add substantially more detail to support the justification of actions as principally directed and effective in meeting District goals for unduplicated students.

### **Allegation 7**

As to Allegation 7, the District determined that the Complaint relied on an incomplete document that was not part of the LCAP to support this allegation. The District decided to amend the LCAP to enumerate all of the expenditures in the 2019–2020 action column of Goal 1, Action 5.

## **III. Appeal**

### **Allegation 1**

Appellants appeal the District’s Decision regarding Allegation 1 on the basis that the District is factually incorrect to state that the 6/28 LCAP for 2019–2020 is an earlier version of the 6/18 LCAP for 2019–2020 and that the 6/18 LCAP is the one that was submitted to LACOE as the District’s adopted LCAP.

Appellants provide a copy of an email, dated July 9, 2019, between LACOE staff members, which Appellants claim had the 6/28 LCAP attached. According to Appellants, the language in this email shows that LACOE was, at the time, processing the 6/28 LCAP as the District's official LCAP.

The Appeal also asserts the following:

- “The official, LACOE-approved 2018–19 LCAP was substituted on the District’s website with the prior version of the 2018–19 LCAP that the Board had approved but LACOE had rejected.” (Appeal, p. 5).
- “Staff unilaterally modified and substituted the 2017–18 LCAP with a new version at some point well after the conclusion of the 2017–18 school year, again without community review or board or county approval.” (Appeal, p. 5).

## **Allegation 2**

Appellants appeal the District’s Decision regarding Allegation 2 on the basis that the District misapplied the law. Appellants state that the District’s defense relies on the fact that the actions in the 2019–2020 LCAP are very similar to the actions in prior approved LCAPs. Appellants state that, “It is irrelevant that LACOE approved prior LCAPs with similar bundling problems” (Appeal, p. 6).

Appellants also disagree with the District’s assertion that its size would render a more detailed LCAP unnecessarily cumbersome on the grounds that there is no “large district exemption” to following the LCAP Template.

## **Allegation 3**

Appellants appeal the District’s Decision regarding Allegation 3 on the basis that the District misapplied the law by limiting the District’s obligation to the identification of specific schools. Appellants reiterate the broader scope of the allegation from the Complaint as including the failure to identify schools that receive school specific allocations, identify the specific actions associated with school specific allocations, justify school wide expenditures, and evaluate change and effectiveness in the Annual Update.

Appellants also claim that the District failed to require all necessary corrective actions. Based on the description provided in the Demonstration section, Goal 3, Action 2 and Goal 6, Action 4 are only provided to specific schools and are not provided districtwide. As such, according to Appellants, the District must also identify in the LCAP the school sites at which these two actions were implemented.

## **Allegation 5**

Appellants appeal the District’s Decision regarding Allegation 5 on the basis that the District misapplied the law by concluding that the analysis provided in the Demonstration section of the June 18 LCAP was sufficient to meet the required

standard. Appellants acknowledge that the September 20 LCAP (9/20 LCAP) contains more information. However, the description of increased or improved services is focused on the general education program and not on unduplicated students. Appellants state that the description provided continues to fail to explain or address how unduplicated students receive more or better services than all students.

### **Allegation 6**

Appellants appeal the District's Decision regarding Allegation 6 on the basis that the District misapplied the law by concluding that its 2019–2020 LCAP was legally sufficient because it was similar to prior approved LCAPs. Appellants acknowledge that the 9/20 LCAP is improved with respect to Allegation 6. However, the LCAP “still fails to identify millions of dollars in supplemental and concentration expenditures and does not sufficiently justify several large expenditures” (Appeal, p. 15). To further articulate the allegation, the Appeal describes in detail three categories of actions, each of which indicates an alleged inadequacy of the LCAP in relation to the increased or improved services requirement:

1. “Services that are not identified in the DIISUP” (Appeal, p. 15).
2. “Descriptions of services that do not increase or improve services for [unduplicated students]” (Appeal, p. 16).
3. “Expenditures that are not principally directed to meet state and local goals for [unduplicated students]” (Appeal, p.19).

The first category of actions references Goal 1, Actions 5, 9 and Goal 3, Action 2. According to the Appeal, the Demonstration section of the LCAP fails to identify or describe a number of actions or services included within each of these three actions. For example, according to the Appeal, Goal 1, Action 5 includes “Local District Allocations for Schools”, which is associated with a \$3.1 million expenditure. The Appeal states that this is not identified in the Demonstration section and, therefore, is not adequately described as an increase or improvement in services.

The second category of actions provide services that do not increase or improve services for unduplicated students because they are, as described by Appellants, part of the “base program” or “norm-based” services. “However, the 9/20 LCAP includes many services that are part of the basic educational program and are not provided to address the particular needs, conditions, and circumstances of [unduplicated students]” (Appeal, p. 16). “LAUSD attempts to obscure the fact that hundreds of millions of dollars in supplemental and concentration funds embedded in School Autonomy are actually funding general education expenses” (Appeal, p. 18). Within this category, Appellants describe across-the-board teacher salary increases, assistant principals, nurses and high school counselors, and class size reduction teachers and librarians. The Appeal states that the District “must explain how these norm-based allocations increase or improve services for high need students compared to all students, and if it cannot, then it must use base funds for these services” (Appeal, p. 19).

The third category of actions provide services that are not principally directed towards meeting goals for unduplicated students. According to the Complaint, the standard for describing an action as principally directed towards meeting goals for unduplicated students is to explain how the LEA considered factors such as the needs, conditions, or circumstances of its unduplicated students, and how the services takes these factors into consideration. As examples of the District's failure to meet this standard, the Complaint references Goal 2, Action 9 and Goal 1, Action 5.

In Goal 2, Action 9, the Complaint alleges that the District improperly bundles device carts, fiscal specialists, and other administrative support together with English learner supports. In the 9/20 LCAP, for Goal 1, Action 5, the Complaint alleges that the District added a \$25 million expenditure for local district salaries and benefits for administrative positions. "The fact that a position may impact a high need student does not justify funding the entire position (or class of positions) using supplemental and concentration funds" (Appeal, p. 20).

### **Allegation 7**

Appellants appeal the District's Decision regarding Allegation 7 on the basis that the District fails to address the full scope of the allegation due the focus of the District's Decision on a single document that lists actions associated with Goal 1, Action 5. Appellants claim that the allegation is based on the District's LCAP as well as the single document in question. The additional information provided in the District's 9/20 LCAP shows a teacher salary expenditure in the amount of \$238.1 million. The Appellants maintain that the District is not providing the necessary information about the actions supported with expenditures in the LCAP.

## **IV. Legal Authorities**

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

California *Code of Regulations* sections 15494 – 15497

## **V. CDE Findings of Fact and Conclusions of Law**

### **Allegation 1**

*"The Amended June 28th 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"* (Complaint, p. 4).

The Complaint alleges that the District submitted to LACOE for approval the 6/28 version of the 2019–2020 LCAP, which had not been subjected to the required stakeholder engagement process and adopted by the local governing board. The Complaint claims that the 6/18 LCAP was the one adopted by the District and the one that should have been submitted to LACOE. Thus, the issue is whether or not the

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District submitted for final approval to LACOE an LCAP document that had not been adopted by the local governing board.

The Appeal provides a copy of an email, dated July 9, 2019, between LACOE staff members, which Appellants claim had the 6/28 LCAP attached. According to Appellants, this email shows that LACOE was, at the time, processing the 6/28 LCAP as the District's official LCAP. The email in question, to which the 6/28 LCAP was attached, states,

“Attached is an electronic copy of Los Angeles' formal review submission as well as the checklist and dashboard.”

A review of the 6/18 LCAP and 6/28 LCAP finds that substantive differences do exist between the two documents. The local governing board of a school district is required to adopt an LCAP on or before July 1 of each year and submit the adopted LCAP to the county office of education (COE) for approval within five days of local adoption (*EC* sections 52060 and 52070). Statute does not provide for the opportunity to submit an LCAP to the COE for approval that has been revised subsequent to adoption by the local governing board. Changes that do not constitute a revision, such as minor typographical corrections or the addition of clarifying language, may be made as part of the iterative approval process based on feedback from a COE. However, changes that amount to revisions to an adopted LCAP required by the COE for approval must be considered and responded to by the local governing board (*EC* Section 52070). As such, only an LCAP adopted by the local governing board can be approved by the COE.

The District's response to the notice of appeal included the following correspondence related to the LCAP approval process:

1. June 17, 2019, LACOE LCAP Review Checklist
2. July 29, 2019, Clarification Letter from LACOE to LAUSD
3. August 21, 2019, LCAP Feedback Letter from LACOE to LAUSD
4. September 20, 2019, LAUSD Interoffice Correspondence
5. October 2, 2019, LAUSD Interoffice Correspondence
6. October 9, 2019, LCAP Approval Letter

These documents demonstrate that the District was engaged with LACOE in a continuous improvement effort between June 17, 2019, and October 9, 2019, to approve the District's 2019–2020 LCAP. In its capacity as reviewer and approver of the District's LCAP, LACOE requested missing information and suggested revisions to which the District responded by completing several iterative drafts of the LCAP.

In response to a request for more information, consistent with 5 *CCR* Section 4633(c), LACOE confirmed that the 6/28 LCAP was not taken up for review and that the 6/18 LCAP was the initial LCAP reviewed as part of the approval process.

The District's currently operative 2019–2020 LCAP was adopted by the District's local governing board on October 1, 2019 and approved by LACOE in a letter dated October

9, 2019 (10/1 LCAP).<sup>2</sup> The District’s website provides a link titled “Draft Amended 2017-2020 LCAP (9/20/19 For Board Action)”, which is the most recent version of the LCAP available on its website.<sup>3</sup> School districts are required to prominently post on the homepage of the internet website of the school district any LCAP approved by the governing board of the school district, and any updates or revisions to an LCAP approved by the governing board of the school district (*EC* Section 52065).

As of July 30, 2020, the District’s website provides a link to the “Draft Amended 2017–2020 LCAP (9/20/19 For Board Action).” This appears to be the most recent version of the District’s LCAP available on its website. However, the District’s governing board approved its LCAP on October 1, 2019. As such, the website does not appear to provide a link to the most current LCAP document approved by its local governing board. As required by *EC* Section 52065, the District must prominently post any LCAP approved by the governing board of the school district, and any updates or revisions to an LCAP approved by the governing board of the school district on the homepage of the District’s website.

### ***Conclusion for Allegation 1***

With respect to Allegation 1, the appeal is denied. However, as a result of the CDE’s findings for Allegation 1, the District is required to ensure adherence to *EC* Section 52065, as described above. Specifically, the District must prominently post on the homepage of its website the most current LCAP document approved by its governing board.

### **Allegation 2**

*“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”* (Complaint, p. 7).

### **Background**

Meaningful engagement of parents, students, and other stakeholders, including those representing the student groups identified by LCFF, is critical to the development of the LCAP and the budget process. An LEA promotes meaningful stakeholder engagement in part by providing information about planned goals and actions in its LCAP. An LEA is required to adhere to the LCAP Template including the instructions for the LCAP Template approved by the State Board of Education (SBE) (*EC* sections 52064, 52070). For each action in the LCAP, an LEA must provide the required information. In addition

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<sup>2</sup> See LAUSD’s board meeting agenda for October 1, 2019 available here: <http://laschoolboard.org/sites/default/files/10-01-19RegBdOBpost.pdf>; retrieved from <https://boe.lausd.net/LAUSDBdMtgAgendas> on January 7, 2020.

<sup>3</sup> See <https://achieve.lausd.net/Page/10828> viewed on July 30, 2020.

to a description of the action, the 2017–2020 LCAP Template requires information about the students to be served by the action and the location(s) where the action will be provided.

The location of an action can be all schools, specific schools within the school district, and/or specific grade spans. The LCAP Template instructions require an LEA to identify the location where the action/services will be provided. If the services are provided to all schools within the LEA, the LEA must identify “All Schools.” If the services are provided to specific schools within the LEA or specific grade spans only, the LEA must enter “Specific Schools” or “Specific Grade Spans.” The LCAP Template instructions also state to identify the individual school or a subset of schools or grade spans (e.g., all high schools or grades K-5), as appropriate.

The LCAP Template also requires a school district to indicate whether or not the action contributes to the increased or improved services requirement and, if it does, to also indicate the scope of service for the action. The scope of service of a contributing action may be either districtwide, schoolwide, or limited to one or more unduplicated student group(s). If a contributing action is provided on either a districtwide or schoolwide basis, the school district must provide further justification for that action. Additionally, a school district must provide information about the expenditures budgeted for each action.

Neither statute nor regulation indicates the level of specificity required of an action’s description or otherwise define what constitutes an action. However, the LCAP Template does not provide for the opportunity to group together as a single action in an LCAP a set of activities for which the required information to be reported for an action does not consistently apply. For example, the LCAP Template does not provide the opportunity to group actions or activities offered only at a subset of schools within the district together with actions or activities that are offered at all school sites within the district. Actions that serve only a specific student group cannot be grouped together with actions that serve all students. Contributing actions that are districtwide in scope of service cannot be grouped together with actions that are limited to unduplicated students. All information reported for a specific action must apply to the full scope of the action’s description. Information provided for an action that is not applicable to the full scope of the action’s description compromises meaningful stakeholder engagement by rendering the LCAP less accessible to non-educators and the general public.

### ***Findings***

Allegation 2 alleges both that (i) the District impermissibly bundled actions and that (ii) this bundling made it difficult or even impossible to assess the increased or improved services provided to unduplicated students. Part (ii) of Allegation 2 is addressed below in the CDE’s responses to Allegation 5 and Allegation 6.

Regarding part (i) of Allegation 2, the Complaint alleges that the following four actions in the District’s LCAP impermissibly bundle together many different actions:

- Goal 1, Actions 5 and 9

- Goal 2, Action 9
- Goal 3, Action 2

*Goal 1, Action 5*

Goal 1, Action 5 is included as contributing to the increased or improved services requirement, serves all unduplicated student groups, and is provided on an LEA-wide basis at all schools. The description provided for Goal 1, Action 5 in the 10/1 LCAP distinguishes between actions included under the heading “District Initiatives” and actions included under the heading “Student Equity Needs Index.” Both headings appear to be of equal scope.

The description provided under the “District Initiatives” heading provides a list of “planned budgeted expenditures for 2019–20 across districtwide initiatives included in this Action” (10/1 LCAP, p. 146). The description provided under the “Student Equity Needs Index” provides a list of “examples of the types of actions/services to be provided” at various school sites (10/1 LCAP, p. 146). However, the “examples of types of actions” provided to school sites are examples. As a result, it is not clear what actions are actually planned for various school sites.

Additionally, the 10/1 LCAP states that this action will provide, among other services, college counselors, advanced placement exam expenses, library aide investments in elementary schools, and early education instructional interventions including Preschool for All Learners (PAL). Some of the specific sub-actions mentioned in the description of Goal 1, Action 5 refer to actions that are limited in scope and serve only unduplicated students (e.g. paying AP exam costs for low-income students) while other actions included are provided to all students.

Based on this information alone, it appears that the District has included districtwide actions together with schoolwide actions as well as actions that apply to high school grades together with actions that apply to elementary grades all together in Goal 1, Action 5. Regarding the location of an action, the LCAP Template instructions state:

“Identify the location where the action/services will be provided. If the services are provided to all schools within the LEA, the LEA must identify “All Schools”. If the services are provided to specific schools within the LEA or specific grade spans only, the LEA must enter “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.”

For location, the District indicates that Goal 1, Action 5 is provided to “All Schools.” This is not consistent with the description of the actions provided, which includes actions that apply to “Specific Grade Spans” (i.e. elementary or high school grades). As such, Goal 1, Action 5 groups together different actions that are not homogenous in all of the attributes of an action required to be reported in the LCAP Template.

The District's conclusion in its Decision that it was constrained from making changes to the LCAP due to precedent or any other reason is inconsistent with statute, regulations, and the LCAP Template. Also, prior approval of an unapprovable LCAP does not alter the requirements of an LCAP in any way. Statute explicitly provides for the opportunity to make changes to an LCAP when it is in effect (*EC* Section 52062). The LCAP Template explicitly provides for changes to an LCAP from one year to the next (Annual Update and Analysis sections).

### ***Conclusion for Allegation 2***

With respect to Allegation 2, the appeal has merit.

Required Corrective Actions: In consultation with LACOE and stakeholders pursuant to *EC* Section 52062, the District must ensure that actions in its 2021–22 LCAP adhere to the LCAP Template and do not include separate actions for which the information required by the LCAP Template for each action does not equally apply.<sup>4</sup>

### **Allegation 3**

*“LAUSD Also Repeatedly Violates LCFF’s Transparency and Accountability Requirements When Allocating Unspecified Amounts to Unspecified School sites for Unspecified Actions”* (p. 21).

According to the Complaint, the District plans to allocate over \$460 million to individual school sites in 2019–2020 (Goal 1, Actions 5, 8, 9, 10; Goal 2, Action 12; Goal 3, Action 2; Goal 5, Action 1; Goal 6, Action 4). (Complaint, Exhibit 12, Table 5). Specifically, Allegation 3 is made in four parts:

- i. “The LCAPs do not identify what specific actions are being undertaken and with what amount of LCFF budgeted expenditures”
- ii. “The schoolwide uses of S&C funds are not justified as principally directed and effective in serving high need pupil goals”
- iii. “The Annual Updates cannot and do not undertake any analysis of whether the expected school-level actions were implemented, materially changed, and effective”
- iv. “Each specific school should be identified” (Complaint, p. 21).

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<sup>4</sup> Senate Bill 98 provided that LEAs are not required to adopt an LCAP for the 2020–21 school year. As such, corrective actions noted in the report are being addressed within the 2021–24 three-year LCAP, provided that further delays do not occur due to any additional extenuating circumstances.

Allegation 3.ii is addressed further below in the CDE's responses to Allegation 5 and Allegation 6. Allegation 3.iv is addressed above in the CDE's response to Allegation 2. Allegation 3.i and Allegation 3.iii are addressed immediately below.

### ***Allegation 3.i and 3.iii***

An LEA is required to identify actions to achieve the goals in the LCAP. The 2017–2020 LCAP Template instructions provided for the Goals, Actions, and Services section states in relevant part:

*“For each LCAP year, identify the actions to be performed and services provided to meet the described goal. Actions and services that are implemented to achieve the identified goal may be grouped together. LEAs may number the action/service using the “Action #” box for ease of reference.”*

Per the LCAP Template instructions, the requirement is to identify the actions to be performed and services provided to meet the described LCAP goal. The LCAP Template also requires an LEA, in the Analysis part of the LCAP, to annually review and describe the overall implementation and effectiveness of actions identified in each LCAP goal. The LCAP Template instructions do not further specify what constitutes the identification of an action or service.

Consistent with the LCAP Template instructions and past guidance provided by the CDE (Klamath II), the underlying question being addressed by the identification of an action within an LCAP goal seeks to clarify what the LEA is planning to do in order to achieve the stated LCAP goal. An LEA is identifying what will be done to achieve the goal in order that the LEA and its stakeholders will be able to address the overall implementation and effectiveness of the actions as required through the annual update process.

To address the overall implementation of the actions in an LCAP goal, an LEA addresses whether or not the action was carried out as planned or not, whether in whole or in part. To address the effectiveness of the actions in an LCAP goal, the LEA addresses the extent to which the actions contributed to achieving the desired outcomes for the LCAP goal.

For any action in an LCAP goal, it must be possible for an LEA to ask at some point in time whether or not that action was implemented and effective. To make such a determination, it will be dependent upon the relative complexity of the action and the information available so that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

### ***Goal 1, Action 8***

With respect to the actions in question, Allegation 3.i alleges that the District does not adequately identify specific actions and corresponding expenditures. The Complaint

discusses Goal 1, Action 8 as an example. The 10/1 LCAP provides the following description for Goal 1, Action 8 (this description is identical to the one provided in the 6/18 LCAP):

***“A-G Diploma Program***

*“The purpose of the Diploma Program is to reduce the dropout rates in the selected schools by utilizing a three-tiered approach: Prevention, intervention and intensive intervention strategies. This is done through; early identification, intensive case management, enrollment in appropriate educational programs and zone of support, parent engagement, and support for transitions. Key strategies include identifying at-risk students which are students 3 to 5 classes off-track to culminate in 8th grade or graduate with A-G requirements in high school at high TSP school-sites. Specifically staff 1) identify students are provided academic and transitional interventions 2) focus on increasing 9th to 10th grade promotion rates 3) recover students who have dropped out of school by providing multiple pathways and assistance to a high school diploma. The tiered models concentrate resources on Tiers 2 and 3 which identify culmination status of students that need additional interventions. 20 middle schools are selected with a duplicated percentage of TSP population exceeding 75% TSP students.*

- *“Tier 2 reflects a student who is 3-4 classes off-track*
- *“Tier 3 reflects a student who is 5 or more classes off-track” (10/1 LCAP, pp. 157-158).*

The description of this action includes the identification of related outcomes (reduction in dropout rates and increasing 9<sup>th</sup> and 10<sup>th</sup> grade promotion rates), and states that the District will:

- Utilize “prevention, intervention and intensive intervention strategies” through “identification, intensive case management, enrollment in appropriate educational programs and zone of support, parent engagement, and support for transitions.”
- Identify students 3-5 classes off-track.
- Provide academic and transitional interventions.
- Focus on increasing promotion rates.
- Recover students who have dropped out of school.
- Provide multiple pathways and assistance.

The above list refers to desired results (e.g. increase in promotion rates) or general references to a complex set of actions (e.g. provide multiple pathways and assistance). Other than the identification of students who are 3 to 5 classes off-track, the description

provided for Goal 1, Action 8 fails to describe any specific action or service planned by the District to meet the goal. As such, the description provided for Goal 1, Action 8 fails to clarify what the District is planning to do in order to achieve the stated LCAP goal.

For example, consider the provision of “appropriate educational programs” included in goal 1, Action 8. In order to track implementation of an action, an LEA measures the extent to which the action was implemented and whether it is was implemented as planned or not. However, the District does not intend to allow the provision of educational programs that are *not* appropriate. Therefore, there is no meaningful way to address the implementation or effectiveness of this particular “action.”

As such, the description provided for Goal 1, Action 8 is over generalized and fails to provide the information sufficient to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

#### *Goal 1, Action 10*

The description for Goal 1, Action 10 states that funds will be provided to a subset of secondary schools and “must be expended on services that support one or more of the following areas:

- “Significant increases in investment in high need schools, including academic support and mental health, social and emotional support
- “Increasing A-G and AP access and completion for high need students, including A-G Intervention and Recovery
- “Linked Learning
- “School climate initiatives including Restorative Justice
- “High school graduation and student recovery from dropout prevention for high need students
- “Parent and community engagement, particularly for those from high need communities” (10/1 LCAP, p. 163).

Although the description for this action provides a list of areas in which schools will implement actions, there is no description or identification of the actual actions planned to meet the LCAP goal. According to this action, schools implement actions based on funding received. At the time of writing the LCAP, it is unknown what these specific actions will be and, as a result, they cannot be identified in the LCAP. Especially given the complexity of the included actions, the description fails to provide the information necessary for the District and its stakeholders to adequately address the overall implementation and effectiveness of the actions as required by the annual update process.

As such, the description provided for Goal 1, Action 10 is over generalized and fails to provide the information sufficient to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

*Goal 2, Action 12*

The description for Goal 2, Action 12 states that the District will establish an arts program directed towards foster youth, English learners, and low-income students. The description identifies an arts equity index used to determine areas of need, explains the intent of the action, which “is to increase the level of arts programming beyond the minimum statutory requirements,” and emphasizes the enhanced access to the arts provided by the action.

However, there is no information provided about the actual arts program that will be implemented. The description provided for Goal 2, Action 12 fails to clarify what the District is planning to do in order to achieve the stated LCAP goal. The description fails to identify what will be done to achieve the goal in order that the District and its stakeholders will be able to address the overall implementation and effectiveness of the action as required through the annual update process.

As such, the description provided for Goal 2, Action 12 is over generalized and fails to provide the information sufficient to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

*Goal 1, Actions 5, 9; Goal 3, Action 2; Goal 5, Action 1; Goal 6, Action 4*

The following actions provide the information sufficient to identify the actions in question in order that the District and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process:

- Goal 1, Actions 5 and 9
- Goal 3, Action 2
- Goal 5, Action 1
- Goal 6, Action 4

***Conclusion for Allegation 3***

The appeal regarding Allegations 3.i and 3.iii has merit, with respect to Goal 1, Actions 8 and 10 and Goal 2, Action 12.

Required Corrective Actions: In consultation with LACOE and stakeholders pursuant to EC Section 52062, the District must ensure that the descriptions of actions in its 2021–22 LCAP adhere to the LCAP Template and provide sufficient information to identify an action in order that the LEA and its stakeholders are able to track implementation and to

address the effectiveness of the action over time, as required by the annual update process.

### **Allegation 5**

*“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”* (Complaint, p. 25).

### **Background**

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

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

As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students as compared to services provided for all students in the LCAP year. An LEA does not meet its obligation to increase or improve services by describing planned expenditures. Likewise, the increase or improvement provided by an action/service (action) in the LCAP is not measured in terms of the expenditures that support it. Rather, the increase or improvement provided by an action is measured in terms of the increase or improvement in outcomes that an LEA expects to result from the action. It is not a spending requirement; it is an outcomes requirement.

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

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

Actions of the latter category are referred to as either schoolwide or LEA-wide (i.e., districtwide, countywide, or charterwide) actions.

The actions in the LCAP included as contributing to meeting the increased or improved services requirement must be indicated as such in the Goals section of the LCAP. The description in the Demonstration section of actions, and the services provided by those actions, must align with the actions that are included in the Goals section of the LCAP as contributing to meeting the increased or improves services requirement. An adequate description of how a District will meet its increased or improved services requirement must address in some manner the actions included in the Goals section as contributing to meeting this requirement.

### ***Findings***

The Complaint alleges that the District has failed to provide either a quantitative or qualitative analysis to demonstrate how it plans to meet its increased or improved services requirement for both the 2018–19 and 2019–2020 LCAP years. Furthermore, the Complaint alleges that the narrative provided in the Demonstration section for 2019–2020 describes services provided to all students, not to unduplicated students.

The District's Decision states that the District's LCAP includes a quantitative analysis of how the actions and services described in the Demonstration section will meet the increased or improved services requirement. In its Decision, the District states that it has provided this quantitative analysis because the sum of the budgeted expenditures in the LCAP for the actions in question total to an amount (\$1.14 billion) that exceeds the amount of anticipated supplemental and concentration grant funds for the relevant LCAP year.

The underlying assumption in the District's claim to have provided a quantitative analysis is that the increased or improved services requirement can be met by describing in summary fashion how an LEA plans to spend the amount of estimated supplemental and concentration grant funds it expects to receive for the relevant LCAP year. This approaches the increased or improved services requirement as a spending requirement. However, it is not a spending requirement; it is an outcomes requirement. This requirement is not met by spending a certain percentage of an LEA's LCFF apportionment of unrestricted funds. The requirement is met by describing how the LEA plans to increase or improve services for unduplicated students in terms of the outcomes an LEA expects to result from contributing actions. An LEA is apportioned a greater amount of LCFF unrestricted funds, based on the enrollment of unduplicated students, to support this requirement.

A review of the District's description provided in the Demonstration section of the 6/18 LCAP finds that the District's description in this version of the LCAP does not meet the standard. The District does not indicate in the response provided how or to what extent the District expects the referenced actions and services to provide an increase or improvement in services to unduplicated students. However, a review of the District's description provided in the Demonstration section of the 10/1 LCAP finds that the District's description in this version of the LCAP provides significantly more detail.

Also, the Expected Annual Measurable Outcomes provided in each of the goals in the LCAP provide expected outcomes for specific student groups, including English learners and low-income students. To provide expected outcomes for specific student groups, as the District has done, is a promising practice. This makes clear to stakeholders the increase or improvement in outcomes the District expects for the identified student groups as a result of the actions included in the relevant LCAP goal. In the 6/18 LCAP and the final board adopted and COE approved 10/1 LCAP, the District includes expected outcomes for specific student groups in Goals 1, 2, 3, and 5, including expected outcomes for each of the unduplicated student groups separately.

The CDE found above in regard to Allegation 2 that the District failed to distinguish actions as required by the LCAP Template (Goal 1, Actions 5, 9; Goal 2, Action 9; Goal 3, Action 2). The Complaint alleges that such a failure makes it impossible to assess the District's plan for meeting its increased or improved services requirement. To the extent that the District's identification of actions fails to adhere to the LCAP Template, the District has not adequately described how it plans to meet its increased or improved services requirement.

The CDE found above in regard to Allegation 3 that the District failed to adequately identify actions (Goal 1, Actions 8 and 10 and Goal 2, Action 12). The Complaint alleges that the lack of identification of actions means that the schoolwide actions are not justified as principally directed towards, and effective in, meeting the District's goals for its unduplicated students. To the extent that the District fails to adequately identify actions in the LCAP that are included as contributing to meeting the increased or improved services requirement, the District has not adequately described how it plans to meet its increased or improved services requirement.

### ***Conclusion for Allegation 5***

The appeal has merit to the extent that Allegations 2 and 3 were determined to have merit.

Required Corrective Actions: In consultation with LACOE and stakeholders pursuant to EC Section 52062, the District must ensure that actions in its 2021–22 LCAP adhere to the LCAP Template and do not include separate actions for which the information required by the LCAP Template for each action does not equally apply. The District must ensure that the descriptions of actions in its 2021–22 LCAP adhere to the LCAP Template and provide sufficient information to identify an action in order that the LEA

and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

### **Allegation 6**

*“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”* (Complaint, p. 28).

Allegation 6 is made in two parts, A and B, as described below:

- 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.”*
- 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.”*

### **Background**

The LCAP Template requires an LEA to identify each action contributing to the increased or improved services requirement that is funded and provided on a schoolwide or LEA-wide basis, and to include the required description supporting each schoolwide or LEA-wide action. An LEA with an unduplicated student enrollment greater than 55% must describe in its LCAP how the actions/services are *“principally directed towards”* and *“effective in”* meeting goals for unduplicated students in the state and any local priority areas (EC Section 42238.07, 5 CCR 15496(b)).<sup>5</sup> Only low-income, English learners, and foster youth students qualify as unduplicated.

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

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

consideration (such as, for example, by the service's design, content, methods, or location).

In addition, the description must explain how the service will be *effective* in meeting the LCAP goals for its unduplicated students. An LEA meets this requirement by providing in the LCAP an explanation of how it believes the action will help achieve one or more of the expected outcomes for the goal. When an LCAP contains the necessary descriptions as described above for actions provided on a wide basis, it will be apparent how the LEA is acting to increase or improve services for unduplicated students, and why it has determined the services identified will be effective to achieve its goals for unduplicated students.

Conclusory statements that a service will help achieve an expected outcome for the goal, without an explicit connection or further explanation as to how, are not sufficient. Further, simply stating that an LEA has a high enrollment percentage of a specific student group or groups does not meet the increased or improved services standard because enrolling students is not the same as serving students.

## ***Findings***

### ***Allegation 6.A***

The Complaint alleges that the District fails to justify entity-wide actions in the 2019–2020 LCAP as required. A review of the description provided in the Demonstration section of the District's 6/18 LCAP finds that the criteria for the required justification has not been met for any action that is included as contributing to meeting the increased or improved services requirement and provided on a wide basis. As part of the review and approval process, LACOE worked with the District to make significant improvements towards meeting this requirement.

As a result, a review of the description provided in the Demonstration section of the 10/1 LCAP finds that the criteria for the required justification has been met for all entity-wide actions to the extent possible given the inadequacy of the description provided for actions in the LCAP, per the CDE's findings for Allegation 2 and Allegation 3. Because the District has failed to adequately distinguish and identify contributing actions in its LCAP, it is not possible to conclusively determine whether or not the District has adequately justified all entity-wide actions that are included as contributing to meeting the increased or improved services requirement.

For example, consider Goal 1, Action 5. The part of the description provided for this action under the heading of "Student Equity Needs Index" provides a list of "examples of the types of actions/services to be provided" at various school sites (10/1 LCAP, p. 146). However, the "examples of types of actions" provided to school sites are only examples. As a result, it is not clear what actions are actually planned for various school sites. Without an adequate identification of actions, it is not possible to meet the criteria for the required justification of entity-wide actions, which requires in part that the

justification make clear how the action takes into consideration the needs, conditions, or circumstances of one or more unduplicated student group.

*Allegation 6.B*

The Complaint alleges that actions in the District's 2018–19 LCAP that are included as contributing to meeting the increased or improved services requirement and provided on a wide basis are not principally directed towards, and effective in, meeting the District's goals for unduplicated students.

The District's explanation of actions contributing to meeting the increased or improved services requirement provided in the Demonstration section of the 2018–19 LCAP for the 2018–19 LCAP year clearly addresses expected outcomes of the actions and provides a comprehensive discussion of what the District plans to do in order to reach the described outcomes. However, specific needs, conditions, or circumstances attributed to unduplicated students are referenced for only a few actions.

The discussion provided for Goal 1, Action 4 in the 2018–19 Demonstration section refers to a lack of continuity in staffing as a circumstance of unduplicated students to be addressed by this action. In addition to increasing staff levels, this action also provided for teacher and leadership stipends to "establish staff stability and continuity for students that have historically had a disproportionate impact on unduplicated students" (2018–19 LCAP, p. 199). The claims that continuity in staffing results in an educational benefit and that unduplicated students have historically been subjected to a lack of continuity in staffing relative to all students are accurate.

However, there is no description of how the District considered factors such as the needs, conditions or circumstances of its unduplicated students *in particular*, in connection with this action. Continuity in staffing provides an educational benefit to all students, not just to unduplicated students. The inequitable access to this educational benefit suffered by specific student groups is not a circumstance that is due to their status as unduplicated.

The discussion provided for Goal 1, Action 5 in the 2018–19 Demonstration section references "Services for Elementary Schools". This part of Goal 1, Action 5 provides in part a redesigned arts program for schools "with a low offering of arts curriculum and courses" (2018–19 LCAP, p. 200). While a low offering of courses may be a circumstance of unduplicated students, it is not a circumstance that is due to their being a foster youth, English learner, or a low-income student.

When the descriptions of other actions reference needs, conditions, or circumstances being addressed by the action, the District discusses factors relevant to all students, not factors of unduplicated students. The descriptions of many of the actions in the Demonstration section do explicitly reference unduplicated students. However, there is no clear indication of the needs, conditions, or circumstances of those unduplicated students that are being addressed by the actions. Stating that a service is provided to a school with a high percentage of unduplicated students is not in itself an adequate

justification for how the action is principally directed towards, and effective in, meeting goals for unduplicated students.

### ***Conclusion as to Allegation 6***

With respect to Allegation 6.A, the appeal has merit to the extent that Allegations 2 and 3 were determined to have merit.

With respect to Allegation 6.B, the appeal has merit.

Required Corrective Actions: In consultation with LACOE and stakeholders pursuant to EC Section 52062, the District must ensure that actions in its 2021–22 LCAP adhere to the LCAP Template and do not include separate actions for which the information required by the LCAP Template for each action does not equally apply. Also, the District must ensure that the descriptions of actions in its 2021–22 LCAP provide sufficient information to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process. The District must ensure that the identification of actions included as contributing to meeting the increased or improved services requirement sufficiently supports the District’s explanation of how the actions are principally directed towards, and are effective in, meeting goals for the District’s unduplicated students.

### **Allegation 7**

*“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” (p. 33).*

#### *Background*

The LCFF apportions additional funds to LEAs on the basis of the number and concentration of unduplicated students (i.e. low-income students, English learners, and foster youth) by adjusting the amount of an LEA’s total LCFF apportionment of unrestricted funds based on a three-year rolling average of the percent of unduplicated students enrolled in the LEA (EC sections 42238.02, 42238.07).

The additional funds so apportioned are commonly referred to as “supplemental and concentration grant funds” and are part of an LEA’s LCFF apportionment of unrestricted funds. There is no distinction made in the LCFF apportionment between dollars marked as supplemental and concentration grant funds and the rest of the LCFF apportionment. Consequently, LEAs are not required to distinguish in the LCAP between supplemental and concentration grant funds and the rest of its LCFF apportionment.

The additional funds are provided to support LEAs with their efforts to increase or improve services for unduplicated students as compared to the services provided for all students in the fiscal year in proportion to the amount of additional funding provided (EC Section 42238.07, 5 CCR 15496). An LEA must demonstrate in its LCAP how the

actions in the LCAP will meet the requirement to increase or improve services for unduplicated students as compared to services provided for all students in the LCAP year.

As such, there is no spending requirement; rather, it is an “outcomes” requirement. An LEA is not free of its obligation to increase or improve services for its unduplicated students simply in virtue of spending an amount of its LCFF apportionment equal to the amount apportioned on the basis of the number and concentration of unduplicated students.

An LEA must budget expenditures sufficient to implement the specific actions included in the LCAP (*EC* Section 52070(d)(2)). While an LEA is required to provide information regarding the expenditures associated with those actions in the LCAP that contribute toward meeting the increased or improved services requirement, the expenditures themselves do not contribute to meeting the requirement. The actions – and not the expenditures – are included as contributing to meeting the increased or improved services requirement. More specifically, an LEA can only include actions explicitly referenced in the LCAP as contributing to meeting the increased or improved services requirement.

The LCAP is a planning document that each LEA updates and adopts on an annual basis. In its LCAP, an LEA describes planned actions and services to meet goals that address state and local priorities. In the Annual Update section of the LCAP, an LEA must describe differences between the planned and actual implementation of the preceding year’s goals, actions, and services. As such, an LEA is not required to implement each action in the LCAP exactly as described. Variances in implementation are expected. Should an LEA decide to change the funding source of a specific action during the year, such a change would be described in the Goal Analysis part included with each Goal in the LCAP Template. For the specific years in question, the 2017–2020 LCAP Template required LEAs to indicate the funding source for each action in the Annual Update section. Any change in the budgeted fund source would be indicated in the estimated actual expenditures column.

### *Findings*

Regarding sub-allegation 1, the Complaint does not specify the “LCFF’s transparency requirements concerning identification of material changes to specific actions and services and their budgeted expenditures” (Complaint, p. 35). Statute and regulations do not refer to any related requirements that are labeled as “transparency” requirements. The LCAP Template does not require the description or identification of “material changes to specific actions.” While the CDE has provided guidance regarding material differences in expenditures, the Complaint does not identify specific differences in expenditures that would constitute a material difference.

Regarding sub-allegation 2, the planning of actions not included in the LCAP is not required to be subjected to the LCAP development stakeholder engagement process. Differences in implementation are identified through the annual update process, which

must adhere to the stakeholder engagement requirements in question. The Complaint does not allege that actions explicitly referenced in the LCAP were not subjected to the relevant stakeholder engagement requirements. Rather, the allegation is that actions not included in the LCAP were not subjected to the relevant stakeholder requirements. Sub-allegation 3 has been addressed above in response to Allegations 5 and 6.

While the LCAP is considered a comprehensive planning document, there is no requirement that an LEA include everything an LEA plans to do in a given year. Such a requirement would be overly burdensome. An LEA is required to address the state priorities, as applicable, and to adequately describe how it plans to meet its increased or improved services requirement. Only actions, and not expenditures, explicitly included in the LCAP can be considered when determining the extent to which an LEA has met these requirements in the LCAP. In order to make an allegation regarding actions that an LEA includes towards meeting LCAP requirements, the actions in question must be included in the LCAP.

### ***Conclusion as to Allegation 7***

With respect to Allegation 7, the appeal is denied.

## **VI. Conclusions**

With respect to Allegation 1, the appeal is denied. However, the District must prominently post on the homepage of its website the most current LCAP document approved by its governing board.

With respect to Allegation 2, the appeal has merit.

With respect to Allegations 3.i and 3.iii, the appeal has merit, with respect to Goal 1, Actions 8 and 10 and Goal 2, Action 12.

With respect to Allegation 5, the appeal has merit to the extent it has been determined that Allegations 2 and 3 have merit.

With respect to Allegation 6.A, the appeal has merit to the extent it has been determined that Allegations 2 and 3 have merit.

With respect to Allegation 6.B, the appeal has merit.

With respect to Allegation 7, the appeal is denied.

## **VII. Corrective Actions**

Allegation 1: The District must prominently post on the homepage of its website the most current LCAP document approved by its governing board.

Allegation 2: In consultation with LACOE and stakeholders pursuant to *EC* Section 52062, the District must ensure that actions in its 2021–22 LCAP adhere to the LCAP Template and do not include separate actions for which the information required by the LCAP Template for each action does not equally apply.

Allegation 3: In consultation with LACOE and stakeholders pursuant to *EC* Section 52062, the District must ensure that the descriptions of actions in its 2021–22 LCAP adhere to the LCAP Template and provide sufficient information to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

Allegation 5: In consultation with LACOE and stakeholders pursuant to *EC* Section 52062, the District must ensure that actions in its 2021–22 LCAP adhere to the LCAP Template and do not include separate actions for which the information required by the LCAP Template for each action does not equally apply. The District must ensure that the descriptions of actions in its 2021–22 LCAP adhere to the LCAP Template and provide sufficient information to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process.

Allegation 6: In consultation with LACOE and stakeholders pursuant to *EC* Section 52062, the District must ensure that actions in its 2021–22 LCAP adhere to the LCAP Template and do not include separate actions for which the information required by the LCAP Template for each action does not equally apply. Also, the District must ensure that the descriptions of actions in its 2021–22 LCAP provide sufficient information to identify an action in order that the LEA and its stakeholders are able to track implementation and to address the effectiveness of the action over time, as required by the annual update process. The District must ensure that the identification of actions included as contributing to meeting the increased or improved services requirement sufficiently supports the District's explanation of how the actions are principally directed towards, and are effective in, meeting goals for the District's unduplicated students.

Allegation 7: No corrective actions are required.

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

- (1) Relative to the allegation(s), the Department Investigation Report lacks material findings of fact necessary to reach a conclusion of law on the subject of the complaint, and/or
- (2) The material findings of fact in the Department Investigation Report are not supported by substantial evidence, and/or
- (3) The legal conclusion in the Department Investigation Report is inconsistent with the law, and/or

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(4) In a case in which the CDE found noncompliance, the corrective actions fail to provide a proper remedy.

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

Sincerely,



Jeff Breshears, Administrator  
Local Agency Systems Support Office

JB:br

cc: Austin Beutner, Superintendent, Los Angeles Unified School District  
David Holmquist, General Counsel, Los Angeles Unified School District  
Joseph Green, UCP Coordinator, Los Angeles Unified School District  
Angelica Jongo, Deputy Managing Attorney, Public Advocates, Inc.  
Nicole Gon Ochi, Senior Staff Attorney, Public Advocates, Inc.  
Debra Duardo, Superintendent, Los Angeles County Office of Education  
Patricia Smith, Chief Financial Officer, Los Angeles County Office of Education  
Vibiana Andrade, General Counsel, Los Angeles County Office of Education