

**CALIFORNIA DEPARTMENT OF EDUCATION (CDE)
INVESTIGATION OF APPEAL AGAINST THE
LOS ANGELES UNIFIED SCHOOL DISTRICT
REYNA FRIAS, APPELLANT**

District: Los Angeles Unified School District (LAUSD)

County: Los Angeles

Date of Investigation: November 12, 2015 – May 25, 2016

Appellant: Reyna Frias
Community Coalition of South Los Angeles

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Date of Report May 27, 2016

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**INVESTIGATION OF APPEAL
Los Angeles Unified School District
Reyna Frias, Appellant**

DEPARTMENT INVESTIGATIVE REPORT

I. BACKGROUND

On November 12, 2015, the Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) received an appeal, pursuant to California *Education Code (EC)* Section 52075, of the Los Angeles Unified School District's decision dated November 9, 2015. The complaint alleged that Los Angeles Unified School District (LAUSD) violated statute by including special education spending as part of its estimate of prior year expenditures for services for foster youth, low income students, and English learners in its 2014-15 and 2015-16 local control and accountability plans (LCAP).

The initial complaint (Complaint) was filed by Ms. Reyna Frias and the Community Coalition of South Los Angeles (Complainants), with representation, on September 9, 2015 with LAUSD. Complainants requested that LAUSD revise its 2015-16 LCAP to remove special education funding as part of its prior year spending for unduplicated pupils and revise its proportionality calculation and its LCAP to ensure that it spends the appropriate amount of money on increased and improved services for unduplicated pupils in fiscal year 2015-16 and future years.

The District's Decision in response to the initial complaint was presented in a letter from Julie Hall-Panameno, Director of Educational Equity Compliance Office, dated November 9, 2015 (District Report). Complainants, with representation, submitted an appeal to the CDE. In response to the appeal, the CDE notified LAUSD, by letter dated November 13, 2015, that the CDE had received an appeal of its Decision dated November 9, 2015, and requested that LAUSD provide the required documents pursuant to *California Code of Regulations*, Title 5 (5 CCR) Section 4633(a). LAUSD responded to the CDE with an email dated November 20, 2015. All required documents were included as attachments to this email. In a letter dated January 13, 2016, the CDE notified LAUSD and the appellant that the CDE would conduct a further investigation of the allegations and, due to the complexity and state-wide nature of the issues, had found good cause to extend the investigation timeline pursuant to 5 CCR Section 4662(b).

II. SUMMARY OF ALLEGATIONS, DISTRICT RESPONSE AND APPEAL

The Complaint

The Complaint alleges LAUSD failed to comply with legal requirements related to its 2014–15 and 2015–16 LCAPs. In particular, the complaint alleges LAUSD violated *EC* Section 42238.07 and 5 CCR Section 15496 by including a portion of the district's special education spending as part of its estimate of prior year expenditures for services for foster youth, low income students, and English learners (unduplicated pupils) in its 2014–15 and 2015–16 LCAPs.

The Local Control Funding Formula (LCFF) includes a seven-step proportionality calculation to determine the minimal proportionality percentage (MPP) by which a local educational agency (LEA) must increase or improve services for unduplicated pupils above services provided to all pupils in the fiscal year. (See below, p. 8) Step two of this calculation requires an LEA to estimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on services provided for all pupils (“prior year expenditures”).

According to the Complaint, when calculating the MPP for the 2014–15 LCAP and 2015–16 LCAP, LAUSD includes \$450 million of special education expenditures as part of its \$700 million estimate of “prior year expenditures.” The complaint asserts that special education expenditures may not be counted as such “prior year expenditures” because special education services are available to all students. In support of this assertion, the complaint states that all pupils may request an Individual Education Plan for special education services, and an LEA must provide these services to all students who qualify, regardless of whether or not they are counted as an unduplicated pupil. The Complaint therefore concludes that special education expenditures are not services targeted for unduplicated pupils and may not be counted as prior year expenditures for unduplicated pupils.

The Complaint alleges that as a result of the inclusion of the \$450 million of special education expenditures in the estimation of prior year expenditures, LAUSD shortchanged unduplicated pupils \$126 million in increased or improved services in 2014–15, and \$288 million in such services in 2015–16. The Complaint further alleges the “deficit” in expenditures on programs for unduplicated pupils will continue to build each year until it grows to \$450 million annually at full implementation of LCFF (estimated to be in 2020–21). Finally, the Complaint alleges that inclusion of special education as prior year expenditures will cost unduplicated pupils “\$2 billion in increased or improved services between now and FY 2020–21” (Original Complaint, p. 5).

The Complaint requests LAUSD revise its 2015–16 LCAP to remove special education funding as part of its prior year spending for foster youth, low income pupils, and English learners, and also revise its MPP calculation and its 2015–16 LCAP to ensure it spends the appropriate amount of money on increased and improved services for such pupils in 2015–16 and in future years.

LAUSD Response to the Complaint

LAUSD investigated the Complaint, pursuant to its Uniform Complaint Procedures. It concluded the complainants’ legal contentions were without merit. The district’s view is summarized as follows:

The plain language of the 5 CCR Section 15496 directs LEAs to estimate the amount of LCFF funds expended by the LEAs on services for unduplicated pupils in the prior year that is in addition to what was expended on services provided for all pupils. (Emphasis in District Report, p. 14.) According to LAUSD, special education services are not services provided to all pupils, but are instead services provided only to a small percentage of pupils who meet specific eligibility requirements prescribed by federal and state special education laws. (Individuals with Disabilities Act [20 U.S.C. 1400 et seq.]; EC 56000 et seq.) Therefore, special education services may be included in the estimate of prior year expenditures on services for unduplicated pupils under 5 CCR Section 15496(a)(2).

LAUSD further argues the regulations broadly define “services.” (District Report, p. 14.) LAUSD determined it was within its “discretion to interpret subdivision (a) of Section 15496 according to its plain meaning.” (District Report, p. 18.)

LAUSD further described how it determined the “prior year expenditure” figure to be \$450 million in 2013–14 and 2014–15. LAUSD utilized its estimate of District General Fund contribution to special education (net of revenue limit and affiliated charters),¹ which was \$653.4 million for 2013–14 and \$633.9 million for 2014–15.² It further calculated the percentage of unduplicated pupils who receive special education services, excluding those attending affiliated charter schools, utilizing 2012–13 CALPADS and CASEMIS student enrollment data.³ That percentage was determined to be 79.38%. LAUSD reports it identified the subset of special education programs that benefit unduplicated pupils and applied the 79% to the expenditures for those programs, yielding \$449.88 million in expenditures for 2013–14 and 2014–15. (District Report, p. 10.)

The district response to the complaint included general descriptions of some of the expenditures included in the \$450 million. These included: initiatives addressing integration of student with disabilities into general education settings, and reducing disproportionality among subgroups identified for special education; increased support services to advance academic achievement of English learners with disabilities; aligning IEPs with the district’s English Learner Master Plan, inclusion of IEP goals for English proficiency in each IEP, and identification of the ELD present level of performance in each student. (District Report, p. 10.)

LAUSD’s response further states that certain expenditures were excluded from its calculation of prior year expenditures for unduplicated pupils, even though it believes that the regulations would permit inclusion of a wide array of expenditures in the calculation. Special education expenditures excluded were described as: \$33 million on spending for pre-school and adult populations; \$6.5 million for SPED Career & Transition Program, which serves pupils from both K-12 and adult student populations. LAUSD reports it took a conservative approach in making its calculation and excluded an

¹ CDE understands net of revenue limit to mean the amount of contributions to special education excluding an amount equal to revenue limit funding for certain special education pupils. CDE understands net of affiliated charters to mean that LAUSD excluded charter school expenditures that are included in its general ledger.

² Special education services are funded by a combination of three funding sources: federal, state, and local. Federal funds and state funds are provided through special education categorical grants. The contribution of local funds to special education typically comes from a school district’s unrestricted general funds, and this contribution is sometimes referred to as “encroachment” - based on the idea a contribution of local funds for special education “encroaches” on general education program. However, the label can be a misnomer when it is used to describe *any* local expenditure for special education, as “regular” education costs for pupils receiving special education are intended to be funded from other local sources, including LCFF. However, it is the case that Federal and state special education categorical funds do not fund the full excess costs of educating pupils with disabilities.

³ CALPADS and CASEMIS are student information systems, CASEMIS including data specific to Special Education.

additional \$34.5 million, “to ensure that its proportionality calculations were based upon services geared directly to unduplicated pupils.” The exclusions included:

- SPED Central Office (\$11.15 million)
- SPED IMA Equipment-Materials (\$4.56 million)
- SPED Reimbursement Due Process (\$4.26 million)
- SPED Allocation to Schools for Compliance (3.25 million)
- SPED Program Specialists Certificated (\$2.94 million)
- SPED IMA Allocation to Schools (\$1.05 million)
- SPED Least Restrict Environment Counselors (\$0.65 million), and
- SPED Temporary Personnel Account (\$0.13 million).

LAUSD also reports it excluded some amount in expenditures for services that may involve minimal contact between special education personnel and the general education population, including some amount for salaries and health benefits for therapists and specialist who participate in assessments to determine pupil eligibility for special education. (District Report, p. 13.)

The LAUSD response concludes the district’s actions as described above are appropriate under 5 CCR Section 15496(a). It states that the regulation setting forth the requirements for estimates of prior year expenditures for unduplicated pupils does not exclude expenditures for services that are “available to all students...who are eligible”, or services that are not “targeted for” unduplicated pupils. (District Report, p. 14, citing allegations of the Complaint.) It concludes that 5 CCR Section 15496 directs LEAs to exclude only “services provided to all pupils,” and accordingly poses the question to be answered as:

“Are special education services ‘services provided to all pupils’ under Section 15496 of title 5 of the *California Code of Regulations*?” (District Report, p. 14.)

LAUSD states its view that, factually, special education services are services provided only to those eligible to receive them according to statute, and the expenditures included in its estimate are only for those students who have an IEP. It further asserts that no authority in the LCFF or implementing regulations, or legislative or regulatory history, support a conclusion that services for special education are “services provided to all students” despite that phrase’s “plain meaning.” (District Report, p.15.) LAUSD asserts that Complainants’ construction of the regulations is inconsistent with the Legislature’s lack of inclusion of a “do not supplant” restriction in the LCFF. (District Report, p.17.)

In addition, LAUSD argues that the legislative direction to authorize expenditure of supplemental and concentration funds on a “district-wide” or “school-wide” basis support its methods for determining “prior year expenditures.” (District Report, p. 17.) According to LAUSD, the fact that 84% of its pupils are unduplicated pupils, means the “district-wide core educational program is itself “principally directed towards....meeting the district’s goals for its unduplicated pupils.” (District Report, p.18.) Based on the above, LAUSD’s response concludes \$450 million in special education expenditures described above may be included in its estimate of prior year expenditures on services for unduplicated pupils.

The Appeal

In their appeal, Complainants state that there are no material facts in dispute. (Appeal, p. 2.) Complainants point out that LAUSD derived its estimate of “prior year expenditures” by application of a formula:

79% (representing unduplicated pupils), multiplied by expenses associated with a subset of special education programs that would benefit these pupils, yielding \$449.8 million in prior year expenditures.

This figure, notes Complainants, is nearly all of the special education general fund encroachment. Complainants describe the key issue as the legal interpretation to be given 5 CCR Section 15496(a)(2)’s requirement to “[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expending on services provided for all pupils.” (Appeal, p. 2, emphasis in Appeal.)

Complainants allege that LAUSD essentially interprets “services provided for all pupils” to mean only those services provided to “precisely 100% of pupils,” and such interpretation is not supported by law. According to Complainants, such an interpretation would lead to absurd results, allowing a district to apply its unduplicated percentage to any program that is available to all pupils but serves only a portion of pupils, such as summer school, after-school programs, extracurricular activities and such. (Appeal, p. 2.)

Complainants further assert LAUSD failed to address Complainants’ argument that 5 CCR Section 15496(a)(2) recognizes only two types of spending for services: (1) expenditures on services for unduplicated pupils and (2) expenditures on services for all pupils. According to Complainants, expenditures for services that serve pupils without regard to students’ low-income, English learner, or foster youth status are not “expenditures for unduplicated pupils,” and, therefore, do not meet the regulatory standard for inclusion as part of “prior year expenditures.” (Appeal, p. 2.)

Complainants also restate their assertion that because special education expenditures are incurred pursuant to preexisting federal and state mandates, LAUSD’s action violates the mandate to “increase or improve services for unduplicated pupils as compared to services provided to all pupils” as required by the statute and regulations. (Appeal, p. 3.)

Complainants requested remedy is that the Superintendent of Public Instruction (SPI) overturn LAUSD’s decision, and require LAUSD to revise its 2015–16 LCAP to remove special education funding as part of its prior year spending for unduplicated pupils, and also to revise its proportionality calculation and 2015–16 LCAP to ensure it spends the appropriate of money on increased and improved services for such pupils in 2015–16 and future years.

III. GENERAL PROCEDURES OF INVESTIGATION

Upon receipt of the appeal, CDE requested LAUSD provide the following documents in accordance with 5 CCR Section 4633(a):

- A copy of the original complaint

- A copy of the Decision
- A summary of the nature and extent of the investigation conducted by the local educational agency, if not covered in the Decision
- A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator
- A report of any action taken to resolve the complaint
- A copy of the local educational agency complaint procedures
- Such other relevant information as the Department may request

CDE reviewed these documents. In addition, CDE reviewed the LAUSD 2014–15 LCAP and 2015–16 LCAP. CDE conducted a telephone conference with Complainants’ representatives on February 24, 2016, to discuss the complaint. Complainants’ representatives explained the basis for the complaint consistent with the written appeal submission. CDE conducted a telephone conference with representatives of LAUSD on April 6, 2016. In that conference CDE requested LAUSD provide information identifying the program expenditures which it included in its calculation of the \$450 million prior year expenditures. In response, LAUSD provided a list of special education programs included in SACS Resource Code 6500, specifying which programs were included and which were excluded, as well as further argument in support of its determination. (Exhibit F.)

IV. APPLICABLE STATUTES AND REGULATIONS

- *California Education Code (EC)* sections 42238.02, 42238.07, 52060-52075
- *California Code of Regulations*, Title 5 (5 CCR) 15494-15497.5

V. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

LCFF Overview

An overview of the Local Control Funding Formula (LCFF) legislation is helpful to understanding the allegations of this Complaint. The LCFF was enacted by Assembly Bill No. 97 (Chapter 47, Statutes of 2013)⁴, and was effective on July 1, 2013. The LCFF establishes a new funding formula for school districts (as well county offices of education, and charter schools (LEA’s)). It replaces the long-standing “revenue limit” system of funding. Under revenue limits, districts received funds based on a unique revenue limit amount multiplied by their average daily attendance (ADA). This statutory formula provided school districts most of their general purpose funding.

Under the old system, revenue limit funding was coupled with “categorical” programs. These programs provided funding for specific, restricted purposes, typically funded either by program-specific formula grants, or pursuant to an application submitted by a school district. Often, categorical programs were designed to provide targeted services

⁴ Senate Bill No. 91 (Chapter 70, Statutes of 2013) and Senate Bill No. 97 (Chapter 357, Statutes of 2013), made minor changes to the LCFF as adopted by AB 97)

based on demographics and needs of the pupils in a district. The LCFF replaced the approximately three-quarters of categorical programs.

The LCFF establishes a “base” level of funding for school districts, which is a specified amount for each unit of ADA based on grade spans: \$6,845 for K-3; \$6,947 for grades 4-6, \$7,154 for grades 7 and 8, and \$8,239 for grades 9-12. (EC Section 42238.02(d).) These base rates may then be subject to additional adjustments as described below.

Implementation of the LCFF requirements began in 2013–2014, but full funding of the formula is being phased in over several years. The LCFF is anticipated to be fully funded by 2020–21. The Legislative Analyst reports that at the time of the LCFF’s adoption, the base LCFF funding rate was estimated to be about \$500 per pupil higher than the 2012–13 revenue limit rates, and the state has provided approximately \$12.8 billion in additional K-12 funds over the past three years under the LCFF.⁵ When fully implemented, the LCFF will result in significantly more funding than was provided by the previous system of revenue limits coupled with categorical programs.

Grade-Span Adjustments and Adjustments for “Unduplicated Pupils”

The LCFF provides for two adjustments to the base funding level described above. The first adjustment is based upon the grade level of the pupils. A Kindergarten through grade 3 adjustment increases the base rate by 10.4 percent tied to a reduction in class-size to a schoolsite-average of no more than 24 pupils, upon full implementation, unless collectively bargained otherwise. (EC Section 42238.02(d)(3).) In addition, the formula provides for an increase in the base amount by 2.6 percent for pupils in grades 9-12 to reflect higher operating costs and a focus on college and career readiness. (EC Section 42238.02(d)(4).)

The second adjustment to the LCFF formula is based on pupil demographics. The formula provides additional funding in the form of supplemental and concentration amounts based on the number and concentration of low income, English learners and foster youth pupils (“unduplicated pupils”) as defined by EC Section 42238.02(b). The LCFF formula provides an additional 20 percent of the base amount for each unduplicated pupil. (EC Section 42238.02(e).) When the number of unduplicated pupils exceeds 55 percent of a school district’s enrollment, the LCFF formula provides an additional 50 percent of the base amount for each unduplicated pupil that exceeds the 55 percent enrollment. (EC Section 42238.02(f).)

Expenditure Requirements for Supplemental and Concentration Funds

EC Section 42238.07 governs the expenditure of supplemental and concentration funds). It provides:

“a) On or before January 31, 2014, the state board shall adopt regulations that govern the expenditure of funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to sections 2574, 2575, 42238.02, and 42238.03. The regulations shall include, but are not limited to, provisions that do all of the following:

⁵ Legislative Analyst’s Office, Overview of Local Control Funding Formula and New State Accountability System; presentation to Assembly Budget Subcommittee No. 2 on Education Finance, March 8, 2016.

(1) Require a school district, county office of education, or charter school to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils in the school district, county office of education, or charter school.

(2) Authorize a school district, county office of education, or charter school to use funds apportioned on the basis of the number of unduplicated pupils for schoolwide purposes, or, for school districts, districtwide purposes, for county offices of education, countywide purposes, or for charter schools, charterwide purposes, in a manner that is no more restrictive than the restrictions provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.).

(b) The state board may adopt emergency regulations for purposes of this section.”

Consistent with the provisions of *EC* Section 42238.07, the State Board of Education (SBE) adopted regulations governing the expenditure of supplemental and concentration funds in January 2015. These regulations are at 5 *CCR* sections 15495 through 15497.5.

5 *CCR* Section 15496 addresses the requirement that schools districts “increase or improve” services for unduplicated pupils in proportion to the increase in supplemental and concentration funds (*EC* Section 42238.07(a).) ⁶

Calculating the Minimum Proportionality Percentage (MPP)

As noted above, funding increases provided for by LCFF are being phased in over several years, with the funding target expected to be reached by 2020–21. Prior to the implementation of LCFF, districts varied in the extent to which they participated in various categorical programs and in the level of services provided for low-income pupils, English learners, and foster youth. Thus, in 2012–13, the year immediately preceding the year of LCFF’s initial implementation, there was variation across districts in the level of expenditures for services provided to pupils who met the criteria for low-income, English learner, and foster youth. During the phase-in of funding, districts will receive LCFF funding based upon the difference (gap) between their prior year funding and the amount they will receive when the LCFF is fully funded (the target LCFF base funding level [LCFF target]). Because of the phase in of LCFF funding, the base funding level and supplemental and concentration grant funding level must be estimated until full funding is reached.

In consideration of the phase-in of LCFF funding and the varying “starting” points for school districts, 5 *CCR* Section 15496 provides a seven-step process for determining the amount of funding attributable to supplemental and concentration grants in the LCAP year and the minimum proportion by which a district must “increase or improve” services for unduplicated pupils (MPP). (5 *CCR* Section 15496(b)(1)-(7).) During the transition to full funding, these amounts will depend, in part, on a district’s estimate of LCFF funds

⁶ The process for adoption of permanent regulations proceeded in parallel with adoption of emergency regulation, which were adopted in January 2014 and went into immediate effect. The emergency and permanent regulations were the same with respect to determination of prior year expenditures and calculating the minimum proportionality percentage.

expended on services for unduplicated pupils in the prior year that is in addition to what was expended on services for all pupils. (5 CCR Section 15496(b)(2)[Step two].) Pursuant to the formula, districts make incremental progress toward the supplemental and concentration grant expenditures levels required at full implementation to proportionally increase or improve services for unduplicated pupils.

At full funding, a district's supplemental and concentration grant funding level will be identifiable, and the regulations at that point require the MPP to be calculated by dividing that grant amount by the remainder of the district's LCFF funds (with exclusion of certain funds as identified in the regulation). (5 CCR Section 15496(a)(8).)

Schoolwide and Districtwide Expenditures of Supplemental and Concentration Funds

EC Section 42238.07(b) required the SBE to adopt regulations to authorize a school district to use funds apportioned on the basis of the number and concentration of unduplicated pupils for "districtwide" or "schoolwide" purposes, in a manner no more restrictive than provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.). Title I provides federal financial assistance distributed through state education agencies to LEAs with a high number or percentage of children from low-income families to assist them in ensuring that all pupils meet the state's academic standards. LEAs are required to allocate funding to schools with the highest percentages of children from low-income families. Unless the receiving school is operating a schoolwide program, it is required to focus Title I services on children who are identified as failing, or most at risk of failing, to meet state academic standards.

A school operating a schoolwide program is authorized to provide services to upgrade the entire educational program of a school. A school serving an attendance area in which least 40% of the pupils are from low income families may operate a schoolwide program. Educational programs may be designed to serve all students, provided requirements such as conducting a needs assessment, developing a comprehensive plan, and conducting an annual evaluation of the plan are met. (20 U.S.C. 6313, 6314.)⁷ Title I does not include a provision for districtwide programs.

Consistent with EC Section 42238.07(b), the expenditure regulations identify the circumstances in which LEAs may use supplemental and concentration funds on a districtwide or schoolwide basis. (5 CCR Section 15486(b).) The conditions imposed on LEAs for such use vary depending on the type of LEA and the percentage of unduplicated pupils. For a district such as LAUSD, with an enrollment of unduplicated pupils of 84%, the requirements for districtwide use of supplemental and concentration grant funding are as follows:

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

(1) A school district that has an enrollment of unduplicated pupils of 55 percent or more of the district's total enrollment in the fiscal year for which an LCAP is adopted or in the prior year may expend supplemental and concentration grant

⁷ NCLB was recently amended by the Every Student Succeeds Act ("ESSA", Pub. Law No. 114-95). ESSA contains provisions for schoolwide Title I programs.

funds on a districtwide basis. A school district expending funds on a districtwide basis shall do all of the following:

- (A) Identify in the LCAP those services that are being funded and provided on a districtwide basis.
- (B) Describe in the LCAP how such services are principally directed towards, and are effective in, meeting the district's goals for its unduplicated pupils in the state and any local priority areas.”

The Local Control and Accountability Plan (LCAP)

LCFF requires the governing board of each school district to adopt an LCAP, on or before July 1, 2014, using a template adopted by the SBE. (EC Section 52060.) The LCAP is required to be updated on or before July 1 of each year. According to statute, the LCAP is required to include, for the school district and each school within the district:

- a description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to EC Section 52052,⁸ to be achieved for each of the eight state priorities identified in EC Section 52060(d), as well as for any additional local priorities identified by the district governing board, and
- a description of the specific actions the school district will take during each year of the local control and accountability plan to achieve the goals identified in its plan.

EC Section 52064 required the SBE to adopt a template by March 31, 2014, for LEAs to use for their LCAPs and annual updates to the plan. The SBE-adopted template for the LCAP and Annual Update is at 5 CCR Section 15497.5.

Stakeholder Input on Development and Approval of the LCAP

The LCAP must be developed with stakeholder input, as prescribed by EC sections 52060, 52062 and 52063. There must be consultation with teachers, principals, administrators, other school personnel, local bargaining units of the school district, parents, and pupils. (EC Section 52060(g).) A district also must have a parent advisory committee to advise on the LCAP. Before a governing board adopts the LCAP, the district superintendent must present it to the parent advisory committee, and respond in writing to advisory committee comments. (EC sections 52062(a)(1); 52063(a)(1).)

Districts, such as LAUSD, that have enrollment of English learners of at least 15 percent and at least 50 English learners, also must have an English learner parent advisory committee. (EC Section 52063(b).) Prior to adoption, the district superintendent must present it to the English learner parent advisory committee for review and comment, and respond, in writing, to comments received from the committee. (EC Section 52062(a)(2).)

Members of the public must be informed by the district of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the plan. (EC Section 52062(a)(3).) A school district governing board is required to adopt its LCAP and annual update using a two-meeting process. It must first

⁸ These subgroups of pupils are: ethnic subgroups, socioeconomically disadvantaged pupils, English Learners, pupils with disabilities, foster youth, and homeless youth (homeless youth added effective June 24, 2015).

hold a public hearing at which it receives public comment; this hearing must be held at the same meeting as its first public hearing on adoption of its proposed budget. The district may then adopt its LCAP or annual update at a public meeting held at least one-day after the initial public hearing, and that meeting must be the same meeting at which the district adopts its budget. (*EC* Section 52062(b).)

A school district may adopt revisions to its LCAP during the time it is in effect, if it follows the above process for adopting an LCAP, including adopting the revisions in a public meeting.

County Superintendent Review and Approval

Within five days of adoption of the LCAP or annual update by the governing board, a school district is required to submit it to the county superintendent of schools for review and approval. (*EC* Section 52070.) The statute establishes a procedure by which a county superintendent may seek clarification from the district regarding the LCAP or annual update. Any recommendations of a county superintendent for amendments to the LCAP or annual update must be considered by the governing board of the school district in a public meeting. By October 8 of each year the county superintendent must approve the district's LCAP or annual update if he or she determines:

- The LCAP or annual update adheres to the SBE-adopted template (*EC* Section 52070(d)(1))
- The school district's budget for the applicable fiscal year includes expenditures sufficient to implement the specific actions and strategies include in the LCAP based upon projections of the costs included in the plan (*EC* Section 52070(d)(2)), and
- The LCAP or annual update adheres to the expenditure requirements adopted pursuant to *EC* 42238.07 for funds apportioned on the basis of the number and concentration of unduplicated pupils. (*EC* Section 52070(d)(3))

The expenditure regulations adopted by the SBE address county superintendents' responsibilities in reviewing LCAPs for adherence to the requirements of *EC* Section 52070(d)(3). (5 *CCR* Section 15497.) The county superintendent is required to review any descriptions in the LCAP of districtwide or schoolwide services to determine whether the district has "fully demonstrated that it will increase or improve services for unduplicated pupils pursuant to Section 15496(a)." If a county superintendent determines a district has failed to increase or improve services for unduplicated pupils as described in 5 *CCR* Section 15497, the county superintendent must provide technical assistance to the district, as specified in the statute.

Analysis

Special Education Expenditures in Determining MPP

The central issue in this complaint is the meaning of the "second step" in the calculation required by 5 *CCR* Section 15496(a) to determine the "percentage by which services for unduplicated pupils must be increased or improved above services for all pupils [the MPP]. Step two requires a district to:

"Estimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on

services provided for all pupils. The estimated amount of funds expended shall be no less than the amount of Economic Impact Aid expended in the 2012–2013 fiscal year.”

In this case, LAUSD asserts special education services are clearly not “services for all pupils” because such services are provided only to those pupils who meet the eligibility criteria specified in statute. Building on its view that special education services are not provided to all pupils, LAUSD performs a straightforward calculation applying 79% (the percentage of pupils receiving special education who are also unduplicated pupils) to the bulk of its general fund expenditures for special education, resulting in \$450 million in special education expenditures being included as part of its estimate of “prior year expenditures” in the MPP calculation.⁹

LAUSD does exclude from its calculation some of its expenditures for special education. (See exclusions identified at p. 3-4 above.) However, based on the information provided by LAUSD in response to the Complaint, those exclusions are not based on any distinctions between expenditures on special education services for unduplicated pupils, and expenditures on special education services for all pupils receiving special education, including unduplicated pupils. Rather than making such a distinction, the district derives a proportional expenditure amount and identifies that amount as expenditures for unduplicated pupils “in addition” to expenditures for all pupils. As was noted previously, the bulk of expenditures coded to Resource Code 6500 were included in the proportional calculation. The programs identified to Resource Code 6500 reflect a broad array of program services available to special education pupils generally. (Exhibit F.)¹⁰

LAUSD’s approach does, as Complainants argue, give a strained construction to the meaning of the regulation. It focuses on the plain meaning of “all,” as is evident from its framing the question: “Are special education ‘services provided to all pupils’ under section 15496 of the *California Code of Regulations*?” (District Report, p. 14.) It construes the regulation to permit inclusion of any expenditures for services in programs that serve both unduplicated and duplicated pupils as expenditures on services for unduplicated pupils, even when the services are provided without regard to pupils’ unduplicated status.

The above approach is not consistent with the LCFF statute and regulations. *EC* Section 42238.07(a) requires that funds apportioned on the basis of the number and concentration of unduplicated pupils be expended to “increase or improve” services for unduplicated pupils in proportion to the increase in funds apportioned. (*EC* Section 42238.07; 5 *CCR* Section 15496.) The regulation at issue directs the manner in which districts are to calculate the MPP during the transition period to full funding of the LCFF. At step 2 in the calculation, the regulation directs the district to make a comparison between expenditures on services provided for unduplicated pupils “in addition” to

⁹ Note the same figure is derived for 2013–14 and 2014–15, despite a difference to general fund expenditures for special education services in the two years. (District Report, p 10.)

¹⁰ Schools districts utilize a standard chart of accounts to record and report financial information. A “resource code” is used in schools’ accounting systems to track activities funded with revenues that have special accounting or reporting requirements or are legally restricted. Resource Code 6500 is for special education. Districts often contribute unrestricted general fund resources to this Resource Code 6500 when expenditures for special education exceed federal and state categorical funding (see footnote 2).

expenditures on services for “all” pupils. To be consistent with the statutory purposes, the comparison must distinguish between services directed to unduplicated pupils based on that status, and services available for all pupils, without regard to their status as unduplicated pupils or not.

Not only is the above approach the directive of the statutory language, the regulations demonstrate that legislative purpose, in part, by specifying a floor for “prior year expenditures” in the first year in which the formula was operative consisting of a district’s 2012–13 expenditures of Economic Impact Aid (the pre-LCFF categorical program providing supplemental funds to serve pupils who were low-income or English learners).

Thus, in calculating the MPP under 5 CCR Section 15496, the regulation requires that expenditures on services for unduplicated pupils made without regard to pupils’ unduplicated status be excluded from the estimate of prior year expenditures (5 CCR Section 15496(a)(2)). With regard to expenditures for special education, prior year expenditures on special education services directed to unduplicated pupils based on their status as unduplicated may be included when estimating prior year expenditures under 5 CCR Section 15496(a)(2). But, in addition, expenditures for special education services that are for duplicated and unduplicated pupils generally, without regard to pupils’ unduplicated status, may not be included in estimating such prior year expenditures.

The Significance of Districtwide Expenditure

In support of its position that it acted consistent with 5 CCR Section 15496(a)(2) and in arguing rejection of Complainants’ demand to remove \$450 million of special education expenditures from its estimate of prior year expenditures, LAUSD argues that the regulations grant districts, such as it, with high enrollments of unduplicated pupils the highest level of flexibility. (District Response, p. 17.) The district further states “[b]ecause the overwhelming majority of LAUSD’s pupils (84%) are unduplicated, the district-wide core program is itself ‘principally directed towards...meeting the district’s goals for its unduplicated pupils,’” citing, in part 5 CCR Section 15496(b)(1)(B). (District Response, p. 18.) While it is the case that LAUSD has flexibility to the extent afforded by the regulations, we do not find its argument persuasive on the issues raised by this appeal.

First, LAUSD’s argument appears to conflate the threshold that permits districtwide use of funds apportioned on the basis and numbers of unduplicated pupils with the justification required when a district decides to proceed districtwide. The 55 percent or more qualifies a district to use funds on a districtwide basis, but it must then identify in its LCAP those services provided on such basis and describe how they are “principally directed towards and are effective in “meeting the district’s goals for its unduplicated pupils in the state and any local priority areas. (5 CCR Section 1549(b)(1)(B).)

In accordance with the regulation, LAUSD has flexibility to expend supplemental and concentration grant funds on a districtwide basis, as circumscribed by the actions necessary to justify such expenditure. The required articulation of reasons supporting districtwide use is critical to meeting the statutory requirement that such funds be used to “increase or improve” services for unduplicated pupils in proportion to the amount of the increase in funding. (EC Section 42238.07(b).) In addition, the requirement to articulate in the LCAP how districtwide expenditures are “...principally directed towards, and effective in...” meeting goals for unduplicated pupils is a critical step that should

reflect the culmination of the significant stakeholder engagement called for by the LCFF, and is essential to transparency.

In addition, the authority to expend supplemental and concentration grant funds for services provided on a districtwide basis under *EC* Section 42238.07(b) and 5 *CCR* Section 15496(b) is an alternative to expenditure of such for services for unduplicated pupils on a targeted basis (*EC* Section 42238.07(a).)¹¹ Accordingly, districtwide expenditure is not, necessarily, determinative of whether such expenditure qualifies as a “prior year expenditure” under 5 *CCR* Section 15496(a)(2), though it may qualify as such (see below).

MPP is a “Proportional” Spending Requirement

We must also note a point of disagreement with the position asserted by Complainants as expressed in their requested remedy. Complainants request that LAUSD be directed to revise its proportionality calculation and its LCAP to insure that it spends the appropriate amount of money on increased and improved services for High Needs Students in FY 2015–16, and in future years.” The expenditure requirement for supplemental and concentration grant funding is a requirement to increase or improve services for unduplicated pupils in proportion to the increase in funding received based on the number and concentration of unduplicated pupils with the proportional increase determined by the MPP calculation set forth in the regulations. Thus, it is a “proportional” spending requirement, and not a requirement for a “dollar-for-dollar” spending, such as might exist with a restricted, categorically funded program. Accordingly, it is inconsistent with the regulatory framework to state that LAUSD’s calculation of its MPP deprived unduplicated pupils of a specific dollar amount of increased or improved services, as alleged in the Complaint. (Complaint, p. 2.)

Some Special Education Expenditures for Unduplicated Pupils May Count as Prior Year Expenditures

In addition, we do not conclude that any and all expenditures of a district’s general fund for special education purposes must be excluded from its estimate of “prior year expenditures” under 5 *CCR* Section 15496(a)(2). A district may, in fact, make expenditures for special education services that are for unduplicated pupils that are “in addition” to special education services that are provided to unduplicated pupils and all other pupils receiving special education services. As noted above, prior year expenditures on special education services provided to pupils based on their status as unduplicated pupils may be included when estimating prior year expenditures under 5 *CCR* Section 15496(a)(2). In that case, such expenditures could be considered “prior year expenditures” and included in the required calculation of the MPP.

But, in addition, expenditures for special education services that are made available to duplicated and unduplicated pupils generally, without regard to pupils’ unduplicated status, may not be included in estimating such prior year expenditures under 5 *CCR* Section 15496(a)(2). These expenditures must be excluded when calculating the MPP for the LCAP year.

¹¹ The LCFF does not, however, include a “do not supplant” mandate, as noted by LAUSD. (District Report, p. 17.)

In this case, some of the expenditures identified as being included in the \$450 million LAUSD identifies as being spent for special education services may, in fact, be special education services provided on the basis of pupils' unduplicated status. However, based on the information provided and the legal theory articulated by LAUSD in connection with the complaint and appeal, it is not possible to make that determination.

VI. REQUIRED CORRECTIVE ACTIONS

In this case, based on the information provided, LAUSD does not demonstrate that the \$450 million consists of expenditures on special education services provided to pupils based on their status as unduplicated pupils, in addition to special education services provided to all pupils, as required by 5 CCR Section 15496(b)(2). Based on the above analysis, beginning with the 2016–17 LCAP, LAUSD must revise its calculation practice of “prior year expenditures” as set forth in 5 CCR Section 15496(b)(2) to exclude any special education expenditures which are not for expenditures for special education services provided for unduplicated pupils that are in addition to expenditures on services for all special education pupils, and ensure its MPP is consistent with its estimate of “prior year expenditures”. In future years, LAUSD must calculate MPP consistent with the above analysis, and reflect that MPP in its LCAPs, for so long as 5 CCR Section 15496(b)(2) is applicable.

VII. CONCLUSION

The CDE has investigated the complaint initially filed on September 9, 2015, with the Los Angeles Unified District. This district is required to implement the Required Corrective Actions. The CDE will monitor LAUSD's compliance with the required actions of this report for two years from LAUSD's receipt of this report.

Pursuant to 5 CCR Section 4665, within 35 days of receipt of this investigation report, either party may request reconsideration.

VIII. APPENDIX 1: EXHIBITS

Exhibit A: Original Complaint

Exhibit B: District Report of Findings

Exhibit C: Appeal Letter

Exhibit D: LAUSD 2015-16 Local Control and Accountability Plan

Exhibit E: LAUSD Special Education Expenditures in SACS Resource 6500

Exhibit A: Original Complaint



September 9, 2015

Julie Hall-Panameno, Director
Educational Equity Compliance Office
Los Angeles Unified School District
333 South Beaudry Avenue, 20th Floor
Los Angeles, CA 90017
julie.hall@lausd.net

Superintendent Ramon Cortines
Office of the Superintendent
Los Angeles Unified School District
333 S. Beaudry Ave., 24th Floor
Los Angeles, CA 90017
ramon.cortines@lausd.net

Via E-Mail and U.S. Mail

Re: Uniform Complaint Procedure Complaint Re Superintendent Cortines and LAUSD's Failure to Comply with Legal Requirements Pertaining to LCAP

Dear Ms. Hall-Panameno,

We submit the following Uniform Complaint Procedure ("UCP") complaint on behalf of Ms. Reyna Frias and Community Coalition of South Los Angeles ("Community Coalition") regarding Los Angeles Unified School District and Superintendent Cortines's (collectively "LAUSD") failure to comply with the legal requirements pertaining to its Local Control and Accountability Plan ("LCAP"). Specifically, LAUSD has violated its legal obligations under Education Code § 42238.07 and 5 C.C.R. § 15496 by including special education spending as part of its estimate of prior year expenditures for services for foster youth, low income students, and English learners (collectively "High Need Students") in its 2014-15 and 2015-16 LCAPs.

We have brought the issues in this complaint to the district's attention through multiple letters and conferences and most recently in a legal complaint filed with the LA Superior Court on July 1, 2015. LAUSD filed a demurrer on the ground that Ms. Frias and Community Coalition cannot seek judicial relief until they exhaust the administrative remedies provided under section 52075 of the Education Code and file a complaint pursuant to the UCP. While we do not believe that filing a UCP complaint is a prerequisite to filing our lawsuit, out of an abundance of caution and because of the considerable delay before we expect the Court to reach a decision on

the district's demurrer motion, we now file this UCP complaint. Given our prior dealings with the district in attempts to resolve this matter, we maintain that the filing of this complaint is not mandatory and is futile, as we do not expect it to change the district's clear refusal to correct its erroneous calculations in its LCAP and ensure that it increases and improves services for High Need Students in accordance with LCFF regulations.

As a result of this error in LAUSD's LCAP, the district deprived High Need Students of roughly \$126 million in increased or improved services in Fiscal Year 2014-15 and roughly \$288 million in increased or improved services in FY 2015-16. Over the course of LCFF implementation, LAUSD's improper inflation of its baseline starting point of supplemental and concentration funding will deprive High Need Students of more than \$2 billion in increased or improved services between now and FY 2020-21, and \$450 million in services every year thereafter.

Accordingly, we request that LAUSD revise its 2015-16 LCAP to remove special education funding as part of its prior year spending for High Need Students and revise its proportionality calculation to ensure that the district spends the proper amount of money on increased and improved services for High Need Students.

We initially brought this error to LAUSD's attention in April 2014 when LAUSD released the first draft of its proposed 2014-15 LCAP. We subsequently engaged in negotiations for over a year with LAUSD personnel to attempt to resolve the dispute, but the district refused to amend its LCAP to comply with its obligations under the Education Code and relevant regulations. We also sent a letter to the District in December 2014 on behalf of Ms. Frias and Community Coalition raising these same issues. On July 1, 2015, we filed a Petition for Writ of Mandate in Los Angeles Superior Court (No. BS 156259) (the "Action"), which included the same claims we are asserting in this UCP complaint. A copy of the Petition is enclosed as Attachment 1 for your reference.

Because we have already discussed these issues at length with LAUSD and the district has made clear that it will not amend its LCAP, and because none of the underlying facts are in dispute, we trust that LAUSD will be able to conclude its investigation and render a decision in an expeditious manner.

I. Complainants

Ms. Reyna Frias is the mother of two children, both of whom attend public schools in LAUSD. Ms. Frias's youngest child is a third grade student and is classified as an English learner. He also receives special education services to address a speech or language impairment. Ms. Frias's oldest child is a seventh grade student. Both of Ms. Frias' children are eligible to receive a free or reduced-price meal and thus qualify as low-income students.¹

Community Coalition is a non-profit organization that works to transform the social and economic conditions in South Los Angeles that foster addiction, crime, violence and poverty.

¹ For more information regarding Ms. Frias or her children, please contact counsel listed on this letter.

For purposes of investigating this complaint and reporting any findings or decision, both complainants can be contacted through counsel listed on this letter.

II. Attempts to Resolve the Dispute with LAUSD Personnel

LAUSD released a proposed LCAP in early April 2014 that included in its calculation of prior year expenditures for High Need Students approximately \$450 million of expenditures for special education services. Attorneys from Public Advocates and the ACLU reached out to LAUSD staff within days of this release to discuss the improper inclusion of special education expenditures and informed LAUSD's chief operating officer that its proposal would violate the regulation.

On June 6, 2014, Public Advocates and the ACLU contacted LAUSD's then-Superintendent John Deasy by letter, copying staff at LACOE involved in reviewing LCAPs, and cautioned the District that its "improper inclusion of special education funding as part of its estimate of prior year (FY 2013-14) services for unduplicated pupils . . . resulted in a significant under-calculation of the funds allocated to 'increase or improve services for unduplicated pupils' in the district's LCAP." Public Advocates and the ACLU requested that the district remove the \$450 million in special education expenditures from its estimate of prior year services for High Need Students, and increase the proposed supplemental and concentration spending for FY 2014-15 accordingly.

In response, on June 13, 2014, counsel for LAUSD stated that the District "believes it is justified in its approach" but failed to explain the basis for this belief other than to state that the LCFF expenditure regulations "do not preclude the District from including special education expenditures as part of the prior year services for unduplicated pupils." Two weeks later, the LAUSD Board of Education adopted the draft LCAP, which included the inflated and incorrect figures. On September 5, 2014, LACOE approved LAUSD's LCAP without modification.

On December 19, 2014, on behalf of the complainants, Public Advocates and the ACLU sent a letter to LAUSD's new interim Superintendent, Ramon Cortines to "reiterate [their] serious concerns regarding LAUSD's Local Control and Accountability Plan (LCAP) and to advise you that we will pursue legal action" unless "LAUSD . . . agree[s] immediately to correct the decision to impermissibly include special education services as prior year spending on unduplicated students in LAUSD's initial LCAP."

Between January and July 2015, Public Advocates and the ACLU conducted various meetings and telephone calls with LAUSD personnel—including Gregory McNair, the district's Chief Business & Compliance Counsel, and Megan Reilly, the district's Chief Financial Officer—in a final attempt to convince LAUSD to revise its LCAP to comply with the Education Code and regulations. During these negotiations, LAUSD continued to refuse to amend its LCAP to allocate the correct amount of supplemental and concentration funds to increase and improve services for High Need Students. On June 23, 2015, LAUSD's Board of Education approved the 2015-16 LCAP, which again included the erroneous prior year expenditure calculation and deprived High Need Students of hundreds of millions of dollars in increased and improved services.

On July 1, 2015, Public Advocates, the ACLU, and Covington & Burling LLP filed the Action in Los Angeles Superior Court on behalf of Ms. Frias and Community Coalition alleging that LAUSD violated its mandatory duties to use appropriate supplemental and concentration funds to increase or improve services for High Need Students in accordance with Education Code § 42238.07 and 5 C.C.R. § 15496. On August 3, 2015, LAUSD filed a demurrer, arguing that the plaintiffs were required to exhaust administrative remedies by filing a UCP complaint with the relevant governmental entities before filing suit.²

III. Basis for the UCP Complaint

The Local Control Funding Formula (“LCFF”) requires school districts to “increase or improve services for [High Need Students] in proportion to the increase in funds apportioned on the basis of the number and concentration of [High Need Students] in the school district[.]” Educ. Code § 42238.07. In early February 2014, the emergency regulations for implementing LCFF went into effect and are set forth in 5 C.C.R. §§ 15494-97. To ensure the requisite proportional increase in services for High Need Students, the regulations set forth a duty for school districts to engage in a seven-step process to “determine the percentage by which services for [High Need Students] must be increased or improved above services provided to all pupils” in a fiscal year. 5 C.C.R. § 15496(a).

The proportionality calculation is at the heart of LCFF’s equity requirement that school districts must increase or improve services for High Need Students in proportion to the additional dollars those students generate. *See* Educ. Code § 42238.07; 5 C.C.R. § 15496(a). The second step requires school districts to estimate the expenditures of supplemental and concentration funding in the initial “prior year” (*i.e.*, FY 2013-14) and every prior year thereafter. Under the second step of the calculation, school districts may only count as prior year expenditures “funds expended by the LEA on services for [High Need Students] in the prior year that is in addition to what was expended on services provided for all pupils.” 5 C.C.R. § 15496(a)(2). The regulation thus distinguishes between two types of spending: (1) spending on services for High Need Students and (2) spending on services for all students.

The LCAP that LAUSD’s Board of Education approved for FY 2014-15 violates the Education Code and regulations because it includes \$450 million in special education spending as part of the \$700 million it claimed as prior year services for High Need Students. Special education services cannot be counted as spending on prior-year expenditures on services for High Need Students because these services are available to all students—regardless of whether

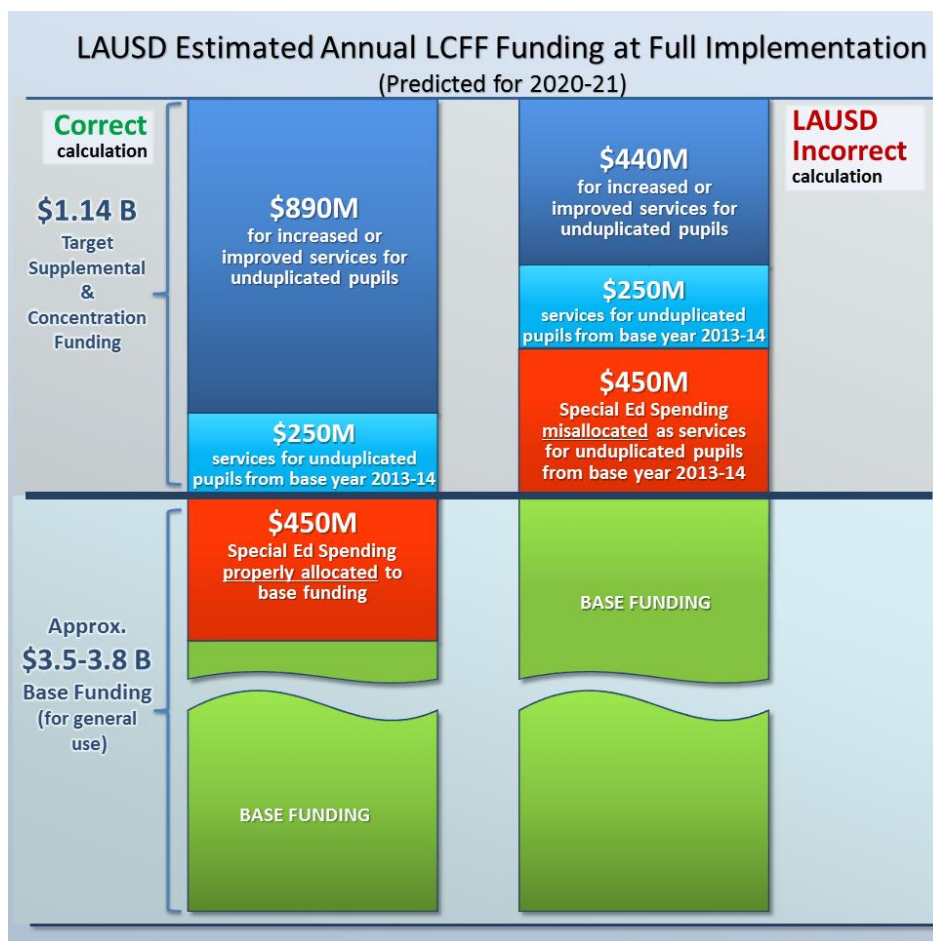
² To be clear, we do not agree that filing a UCP complaint is a prerequisite to challenging LAUSD’s LCAP through litigation. Neither the statute setting forth the LCFF UCP complaint procedure nor its legislative history evidences an intent by the legislature to make the regulatory process the exclusive recourse to vindicate rights. *See, e.g., Kemp v. Nissan Motor Corp.*, 57 Cal. App. 4th 1527, 1531 (1997). Further, it is unnecessary to file a UCP complaint to LAUSD or the State Superintendent of Public Instruction based on these claims because such a complaint would be both futile and inadequate. *See Huntington Beach Police Officers Ass’n v. City of Huntington Beach*, 58 Cal. App. 3d 492, 499 (1976); *Unfair Fire Tax Comm. v. Oakland*, 136 Cal. App. 4th 1424, 1430 (2006). We reserve all rights to continue to assert the non-applicability of exhaustion to the pending Petition for Writ of Mandate. Nonetheless, we are filing this UCP complaint to obviate the need to litigate the demurrer in the interest of judicial economy and to conserve the resources of all parties in this Action.

they are low-income, English Learners, or foster youth—who are eligible to take advantage of special education services under the Individuals with Disabilities Education Act, 20. U.S.C. § 1400 *et seq.* All pupils may request an Individual Education Plan to seek special education services, and the district must provide such services to all who qualify, regardless of whether they are High Need Students. Thus, dollars spent on special education services are not expenditures on services targeted for High Need Students and may not be counted as a prior year expenditure for High Need Students.

Moreover, LAUSD was already required to provide special education under federal and state law. Continuing to provide what LAUSD was already obligated to provide to each eligible student cannot plausibly be viewed as an “increase or improvement” in services.

This error has already had, and will continue to have, a significant detrimental impact on the amount of services High Need Students in LAUSD receive. As a result of the error in LAUSD’s 2014-15 LCAP, the district shortchanged High Need Students \$126 million in increased or improved services in FY 2014-15. On June 23, 2015, LAUSD’s Board of Education approved the district’s 2015-16 LCAP, which included the same erroneous prior year expenditure calculation. During FY 2015-16, this miscalculation will deprive High Need Students of \$288 million on programs counting towards its goal for increasing and improving services for High Need Students. This deficit to High Need Students will continue to build year after year until it grows to \$450 million annually at full implementation (projected for FY 2020-21). Altogether, LAUSD’s inclusion of special education expenditures as a prior year expenditure will cost High Need Students—including Ms. Frias’s children and the constituents Community Coalition serves—over \$2 billion in increased or improved services between now and FY 2020-21.

(continued on next page)



IV. Remedy Requested

For the reasons described in this UCP complaint, we request that LAUSD revise its 2015-16 LCAP to remove special education funding as part of its prior year spending for High Need Students and revise its proportionality calculation and its LCAP to ensure that it spends the appropriate amount of money on increased and improved services for High Need Students in FY 2015-16 and in future years. For any questions related to this complaint or to contact the complainants, please contact the attorneys listed below.

Sincerely,

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(858) 678-1803
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Enclosure

Exhibit B: District Report of Findings



Los Angeles Unified School District
OFFICE OF THE GENERAL COUNSEL
 EDUCATIONAL EQUITY COMPLIANCE OFFICE
 333 S. Beaudry Avenue, 20th Floor, Los Angeles, CA 90017
 TELEPHONE (213) 241-7682; FACSIMILE (213) 241-3312

RAMON C. CORTINES
Superintendent of Schools

DAVID R. HOLMQUIST
General Counsel

BELINDA STITH
Interim Chief Education & Litigation Counsel

JULIE HALL-PANAMEÑO
Director
Educational Equity Compliance Office

November 9, 2015

Mr. Victor Leung
 Staff Attorney
 ACLU of Southern California
 1313 West 8th Street, Suite 200
 Los Angeles, CA 90017

Re: Uniform Complaint Procedures (UCP) Case # UCP-029-15/16
Parent and Non-Profit Organization

Dear Mr. Leung,

The Los Angeles Unified School District (the District) has completed its investigation of the above-referenced complaint alleging that LAUSD violated its legal obligations under Education Code § 42238.07 and 5 C.C.R. § 15496 by including special education spending on foster youth, low income students, and English learners (collectively "High Need Students") as part of its estimate of prior year expenditures for services for High Need Students in its 2014-15 and 2015-16 LCAPs. Enclosed is a copy of the final report that includes details of the investigation, conclusions, and, if necessary, corrective actions.

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

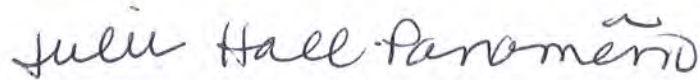
Appeal Information

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

**California Department of Education
1430 N Street
Sacramento, CA 95814**

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

Sincerely,



Julie Hall-Panameno, Director
Educational Equity Compliance Office

C: Sharyn Howell, Associate Superintendent, Division of Special Education
Megan Reilly, Chief Financial Officer, Los Angeles Unified School District
John Walsh, Deputy Chief Financial Officer
Nargis Merchant, Deputy Budget Director, Budget Services & Financial Planning Division
Tony Atienza, Director, Finance Policy
Cheryl Simpson, Director, Budget Services & Financial Planning Division
Nirupama Jayaraman, Asst. Budget Director, Budget Services & Financial Planning Division
Pedro Salcido, Accountability Advisor, Office of Government Relations
Edgar Zazueta, Chief of External Affairs
Vibiana Andrade, General Counsel, Los Angeles County of Education
Gregory McNair, Chief Business & Compliance Counsel
Mary Kellogg, Assistant General Counsel
Sungyon Lee, Assistant General Counsel
Gregory Luke, Attorney, Strumwasser & Woocher LLP

**Los Angeles Unified School District
Uniform Complaint Procedure Case #UCP-029-15/16
Parent and Non-Profit Organization**

Background:

In 2013, the Legislature adopted a comprehensive reform of the rules governing the financing of schools in California, known as the Local Control Funding Formula (“LCFF”). The LCFF directs state funding to schools under three new “grants” (base, supplemental, and concentration) and delegates broad discretion over the spending of those funds to local educational agencies. The Legislature set a long-term target for the increased funding of public education throughout California and provided for yearly incremental increases in spending over the course of five fiscal years to reach the ultimate LCFF funding goal.

The LCFF provides that schools districts, charter schools, and county offices of education must generate Local Control Accountability Plans (“LCAPs”) for each fiscal year during the period leading up to the full funding of the LCFF. The Legislature did not itself enact rules governing the contents of LCAPs, but instead delegated authority to the State Board of Education to adopt appropriate regulations to ensure that local educational agencies would increase and improve services for unduplicated pupils — i.e., foster youth, English learners, and low-income pupils — in proportion to the supplemental and concentration dollars those students generate during the intervening years leading up to the full funding of LCFF. To that end, the regulations governing LCAPs, codified at Cal. Code Regs, tit., 5, §§ 15494-15497.5, require local educational agencies to “[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on *services provided for all pupils*” as part of the calculation of “the percentage by which services for unduplicated pupils must be increased or improved above services provided to all pupils” in each fiscal year. (Cal. Code Regs., tit. 5, § 15496, subd. (a) [emphasis added].)

The LCAP regulations grant schools that serve high concentrations of unduplicated pupils the highest level of flexibility in demonstrating compliance with these “proportionality” requirements, in recognition of the special expertise those schools have acquired in the provision of education to high needs students. (Cal. Code Regs., tit. 5, § 15496, subd. (b).) The Los Angeles Unified School District (“LAUSD” or “the District”) serves, by far, the largest aggregation of pupils of any school in the state, over 84% of whom are unduplicated. After consultation with the counsel and staff of the State Board of Education, LAUSD issued its initial LCAP in June of 2014, identifying over \$700 million of varied LCFF expenditures on services for unduplicated pupils, which figure included \$450 million of District general fund expenditures on Individualized Education Programs for the many thousands of unduplicated pupils who also meet the eligibility criteria to receive Special Education services under federal and state law. On

September 5, 2014, the Los Angeles County Office of Education (“LACOE”) approved the initial LAUSD LCAP.

On or about July 1, 2015, Complainants filed a lawsuit against LAUSD and LACOE (the “Petition”) seeking a writ of mandate and declaratory relief to remedy alleged District violations of the LCFF and the LCAP regulations arising from the inclusion of Special Education expenditures in the calculation of prior-year expenditures under section 15496. LAUSD demurred to the Petition on the ground that Complainants had failed to exhaust the administrative remedies provided in the LCFF for stakeholders aggrieved by any aspect of an LCAP, which include appeal to the State Superintendent of Public Instruction. (Educ. Code, § 52075.) In response, the Complainants filed the subject Complaint, reserving their argument that exhaustion was not required. The Complaint attaches and incorporates the Petition.

Policy/Authority:

- Title 5, Code Cal. Regs., §§ 15494-15497.5
- Education Code §§ 2574, 2575, 42238.01, 42238.02, 42238.03, 42238.07, 47605, 47605.5, 47606.5, 48926, 52052, 52060-52077, and 64001.

Method of Investigation:

- The investigation was conducted at the direction of Julie Hall-Panameño, Director of the Educational Equity Compliance Office. Information was gathered from interviews to investigate the allegations made in the complaint. Additionally, the correspondence between the counsel for Complainants and counsel for the District that preceded the filing of the Petition and the instant Complaint was reviewed.
- Persons interviewed:
 - Megan Reilly, Chief Financial Officer, LAUSD
 - John Walsh, Deputy Chief Financial Officer
 - Tony Atienza, Director, Finance Policy
 - Cheryl Simpson, Director, Budget Services & Financial Planning Division
 - Nargis Merchant, Deputy Budget Director, Budget Services & Financial Planning Division
 - Nirupama Jayaraman, Assistant Budget Director, Budget Services & Financial Planning Division
 - Pedro Salcido, Accountability Advisor, Office of Government Relations
 - Sharyn Howell, Associate Superintendent, Division of Special Education
 - Edgar Zazueta, Chief of External Affairs

Allegation(s):

The Complainant alleges that LAUSD has violated its legal obligations under Education Code section 42238.07 and title 5, section 15496 of the California Code of Regulations by including special education spending on foster youth, low income students and English learners in its estimate of prior year expenditures on services for unduplicated pupils in its 2014-15 and 2015-2016 LCAPs. There does not appear to be any difference between the allegations of the Complaint and the allegations of the antecedent Petition filed by Complainants in the Superior Court of Los Angeles County.

Legal Framework:

The relevant provision of the Code of Regulations on which Complainants rely directs local agencies to do the following when preparing an LCAP each fiscal year:

“[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on services provided for all pupils. The estimated amount of funds expended in 2013-14 shall be no less than the amount of Economic Impact Aid funds the LEA expended in the 2012-13 fiscal year.” (Cal. Code Regs., tit. 5, §15496, subd. (a)(2).)

Notably, this regulation does not require local agencies determine the actual expenditures on services for unduplicated pupils in any given fiscal year, but rather to “estimate the amount” of such expenditures. Complainants contend that LAUSD violated this regulation by including that portion of LCFF funding budgeted for the Individualized Education Programs provided to unduplicated pupils in its LCAP estimate of prior year spending.

Complainants also claim that the District has violated Education Code section 42238.07. However, that statute does not impose any duties upon local educational agencies, but rather comprises a directive to the State Board of Education. In its entirety, it reads:

(a) On or before January 31, 2014, the state board shall adopt regulations that govern the expenditure of funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Sections 2574, 2575, 42238.02, and 42238.03. The regulations shall include, but are not limited to, provisions that do all of the following:

(1) Require a school district, county office of education, or charter school to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and

concentration of unduplicated pupils in the school district, county office of education, or charter school.

(2) Authorize a school district, county office of education, or charter school to use funds apportioned on the basis of the number of unduplicated pupils for schoolwide purposes, or, for school districts, districtwide purposes, for county offices of education, countywide purposes, or for charter schools, charterwide purposes, in a manner that is no more restrictive than the restrictions provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.).

(b) The state board may adopt emergency regulations for purposes of this section.

The Complaint does not identify any specific element of this statute that LAUSD is alleged to have violated, or any clear, present ministerial duty imposed by this statute on LAUSD. Complainants reference this statute solely as authority for the proposition that “school districts must increase or improve services for High Need Students in proportion to the additional dollars those students generate.” (Complaint, at p. 4.) Because a statute expressly and solely directed at the State Board of Education does not impose duties upon local educational agencies, this statute does not provide authority for the issuance of a writ or declaratory relief against LAUSD, but, at most, may provide an interpretive aide if the regulations adopted by the State Board of Education are determined to be ambiguous.

Findings:

(1) SPECIAL EDUCATION IS NOT A SERVICE PROVIDED TO ALL STUDENTS.

- a. Special Education is provided only to pupils who satisfy detailed criteria regarding recognized disabilities and who are not subject to specific exclusionary factors.**

The Individuals with Disabilities Education Improvement Act (“IDEA”), codified at 20 U.S.C. § 1400 et seq., imposes duties on states and local educational agencies to provide an Individualized Education Program (“IEP”) to students who meet the specific eligibility requirements.¹ Accordingly, Special Education services are by definition not services provided

¹ The IDEA contains multiple parts. Direct services to children are codified in Parts B and C of the IDEA. Part B of the IDEA covers school aged children (ages 3-22). Part C of the IDEA covers infants and toddlers (ages birth to 3). In California, Part B IDEA services are carried out primarily by local educational agencies, such as the District; Part C IDEA services are carried out primarily by regional centers. (Educ. Code, § 56001; Gov. Code § 95004; *see also*, Educ. Code, §§ 56000 et seq. and Gov. Code, §§ 95000 et seq.) While California school districts may

to all students, but rather specialized services provided to individual students who have qualifying disability and satisfy the related test for eligibility. In 2013-2014, only 12 percent of LAUSD's student population qualified to receive some form of specialized instruction or assistance under an IEP.

Only children of certain ages, with qualifying disabilities who, by reason thereof, require special education intervention are eligible for and entitled to services under the IDEA. (*See*, 20 U.S.C. § 1400 (3) [definition of "child with a disability"].) Special education eligibility is limited in many ways, including by (1) qualifying disability, (2) need for special education, and (3) age.

The first limiting criterion is qualifying disability. In order to qualify as a "child with a disability" under IDEA the student must first meet the definition of one or more of the categories of disability eligibility. These include: intellectual disability, hearing impairment (including deafness), speech or language impairment, visual impairment (including blindness), serious emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairment, specific learning disability, and (for certain age groups) developmental delay. (20 U.S.C. § 1400 (3)(A)(i); *see also*, Educ. Code, § 56026 (a).)

It is important to note that some children may have a qualifying disability but, regardless, may still be ineligible for special education under the IDEA. This second exclusionary factor dictates that disability, or even diagnosis of a disability², is insufficient in and of itself to qualify a child for special education services under the IDEA. Rather, a child must demonstrate a need for special education and related services.³ (20 U.S.C. § 1400 (3)(A)(ii).) California law further explains this standard as a child whose disability (or impairment) "requires instruction and services which cannot be provided with modification of the regular school program." (Educ.

have some limited involvement in Part C IDEA services, this response addresses only Part B IDEA services.

² A diagnosis of a potentially disabling condition is "neither required nor sufficient" to establish eligibility under the IDEA. (*Lakeside Joint School District*, (OAH 2010), Case No. 2009090504.)

³ "Special education" itself is narrowly defined by California law as something above and beyond what is available in the regular school program. Education Code section 56031 defines "special education" as "specially designed instruction . . . to meet the unique needs of individuals with exceptional needs." In addition, certain related services are specifically defined as special education, including: speech and language pathology services, travel training, and vocational education. (Educ. Code, § 56031, subd. (b); *see also* 34 C.F.R. § 300.39(2).) A child who needs only a related service which is not otherwise classified as "special education" will not meet IDEA eligibility criteria. (34 C.F.R. § 300.8 (2).)

Code, § 56026, subd. (b).) As the Ninth Circuit has confirmed, a child will not be eligible for special education, even with a qualifying disability, if the impact of the disability can be addressed through regular education programming. (*Hood v. Encinitas Union Sch. Dist.*, 486 F.3d 1099 (9th Cir. Cal. 2007).)

Even where a need for specialized services is indicated, exclusionary factors may still prevent special education eligibility under the IDEA. To wit, a child will not be eligible for services under the IDEA if the need for special services is due to either of the following: (a) limited English proficiency; (b) lack of appropriate instruction in reading or math; (c) temporary physical disability; (d) social maladjustment; or, (e) environmental, cultural, or economic factors. (34 C.F.R. § 300.306 (b)(1); *see also* Educ. Code § 56026, subd. (e).) For example, a student with ADHD was found not to be eligible for special education during a period of time when it was reasonable to conclude that his school issues were caused primarily by his unstable home life, rather than a qualifying disability and/or the impact of his ADHD. (*Oceanside Unified School District*, (OAH 2010) Case No. 2010071003.) The exclusionary factor related to limited English proficiency is quite significant in the context of the instant Complaint. If Special Education services were indeed a “service provided to all pupils” then all English learner unduplicated pupils would necessarily qualify for Special Education. The fact that the IDEA expressly *prohibits* any such conclusion amply demonstrates that Special Education services are not “services provided to all pupils.”

Finally, the third broad factor which could limit a disabled child’s eligibility for special education under the IDEA is age. Part B of the IDEA narrowly defines qualifying students as those “between the ages of 3 and 21.” (20 U.S.C. § 1412 (a)(1)(A); Educ. Code, § 56026 subd. (c).) Further, even within this age span, other limitations apply, as follows:

- Children incarcerated in an adult correctional facility who were not identified as a “child with a disability” or did not have an individualized education program (the plan implementing special education) prior to incarceration will be ineligible for services under the IDEA. (20 U.S.C. § 1412 (a)(1)(B); Educ. Code, § 56040.)
- Children who have received a regular high school diploma will be ineligible for services under the IDEA. (20 U.S.C. § 1414 (c)(5)(B)(i); 34 C.F.R. § 300.102 (a)(3)(i); *see also* Educ. Code, § 56026.1.)

- Children who did not receive special education prior to their 18th birthday will not be eligible for services under the IDEA. (20 U.S.C. § 1412 (a)(1)(B)(i); Educ. Code, § 56026.)

Special education eligibility is not conferred lightly. In order to qualify, a child must first undergo an extensive formal assessment of his/her abilities and needs. (20 U.S.C. § 1414 (b).) With that information, a team of qualified professionals, along with the child's parents, then determine whether the assessment and other data warrant a finding of IDEA eligibility. (20 U.S.C. § 1414 (d)(1)(B).)

b. Special Education personnel are not permitted to provide services to the general student population.

Both federal and state law prohibit the instructors, assistants, and therapists that provide Special Education services to LAUSD pupils from providing services to general education students. Special Education service providers are not certified to operate as teachers in LAUSD classrooms, as recognized in the collective bargaining agreement between LAUSD and the United Teachers of Los Angeles ("UTLA").

Special Education teachers, including Resource Specialists ("RSP") and Special Day Program providers ("SDP") are funded and allocated to provide services according to stated caseloads and norms, in accordance with the services listed on a students' Individualized Education Program. Certificated assignments for RSP teachers are based on caseload allocations and guidelines referenced in Education Code section 56362. SDP teacher allocations are determined based upon norms negotiated with UTLA. These teachers are assigned solely for the purpose of improving performance outcomes for students with disabilities.

Special Education teachers, trainees, and assistants may not be allocated for teaching non-disabled students, nor may they be re-allocated during the school day for non-special education responsibilities. They may not serve as coordinators, coaches, athletic directors or other non-special education instructional assignments during the school day. They are required to directly support the instructional program for students with disabilities during the entire school day.

If a school wishes to assign a Special Education teacher to act as a coordinator, coach, or perform any other such duties not related to Special Education, the school must budget for this position through grants or other funding sources. It is a misuse of Special Education resources to assign personnel funded to support the instructional program for students with disabilities to any other duties.

(2) LAUSD PROPERLY ESTIMATED ITS PRIOR-YEAR SPECIAL EDUCATION SPENDING ON UNDUPLICATED PUPILS

a. The LCFF Calculation

The District's General Fund contribution to Special Education (net of the Revenue Limit and affiliated charters) was estimated at \$653.4 million for 2013-14 and \$633.9 million for 2014-15. Seventy nine percent (79%) of the District's students with disabilities are identified as low income, English learners, or foster youth. The District identified the subset of Special Education programs that benefit these targeted student populations and applied 79 percent to the expenditures of those programs to estimate the share that would benefit these high needs students. This calculation totals to \$449.88 million for 2013-14 and 2014-15, thereby reflecting the estimated share of General Fund expenditures for services that benefit low income, English learners, or foster youth with an Individualized Education Program. In addition to this amount, \$22.2 million was allocated in supplemental funds for Special Education teachers and assistants in 2014-15, and an additional \$3 million for anticipated cost increases.

These expenditures include initiatives addressing integration of students with disabilities into general education settings, and reducing disproportionality among subgroups identified for special education. Furthermore, the District has increased support services to advance the academic achievement of every English Learner with Disabilities (ELD). The District aligns IEPs with the English Learner Master Plan for each English learner with disabilities. Each IEP is required to include goals for English proficiency, and the ELD present level of performance for each student.

b. Budget and Expenditures used in the Initial Prior Year for 2013-2014

Table 1 shows that the District's Maintenance of Effort (MOE) for Special Education was \$1.5 billion in 13-14. This includes \$178 million in unassigned support costs, known as PCRA. In addition, expenditures in General Fund programs that support Special Education, including administrative and transportation costs, amounted to \$25 million for that year. This reflects a grand total of \$1.6 billion in expenditures. The LCFF supplemental amount of \$449.88 million reflects only 28.9 percent of these expenditures.

Table 1: MOE and Support to Special Ed Expenditures	Amount, 13-14
PCRA*	\$177,894,430
Special Ed Portion of MOE	\$1,354,331,202
Total MOE	\$1,532,225,632
Expenditures in Programs that Support Special Ed**	\$25,401,341
Grand Total, MOE and Support to Special Ed Prog	\$1,557,626,973

*The MOE calculation includes an amount for the Program Cost Report Allocation. Procedure 910 of the California School Accounting Manual provides a method of

distributing unassigned support costs to different user programs such as special education. The calculation is performed in state provided SACS software.

****These are expenditures in Programs 13232 and 13233. They are part of the General Fund and are not included in the MOE.**

Note: Special Ed Portion of MOE also includes Specially Funded Programs. The MOE is calculated using all expenditures in SACS Goal 5000.

Table 2 shows that the District's Special Education program had an authorized budget of \$1.36 billion and expenditures of \$1.34 billion. This excludes amount for Specially-Funded Programs and General Fund programs that support Special Ed.

Table 2: Special Education Budget and Expenditures	Amount, 13-14
Authorized CM0 Budget	\$1,361,780,338
Expenditures	\$1,335,666,481
Difference, Budget Less Expenditures	\$26,113,857

Note: Excludes Specially-Funded Programs and General Fund programs that support Special Education.

Table 3 shows Special Education revenues for 2013-14.

Table 3: Special Education Revenues	Amount in Millions, 2013-14
Federal Revenues	\$110.9
State Revenues	\$353.2
Local Revenues	\$0.1
SELPA Charter Schools Revenue	\$59.7
Contribution-Unrestricted Programs	\$727.6
Contribution-Fair Share	\$11.4
<i>Total Revenue</i>	\$1,262.9

Note: Excludes Specially-Funded Programs and General Fund programs that support Special Education.

The District's General Fund contribution to Special Education (net of the Revenue Limit and of affiliated charters) was estimated at \$653.4 million for 2013-14. Of this amount, supplemental and concentration funds was estimated at \$449.88 million and base funds was estimated at \$203.5 million.

c. Identifying Unduplicated Pupils who Receive Special Education Services

The table below shows how LAUSD determined that 79% of its students who receive Special Education services are unduplicated pupils. It first matched the 2012-13 CALPADS file, which was used for the District's overall unduplicated calculation, to the 2012-13 CASEMIS

file. There were 65,589 students with disabilities (SWD) identified on the 2012-13 CALPADS file. Of this count, 61,265 students were identified as not attending affiliated charter schools. (Affiliated charter students must be excluded from the unduplicated calculation as these schools receive their LCFF allocation independent from the District.) Of the 61,265 students with disabilities in CALPADS not attending affiliated charter schools, 48,633 students were identified as being either EL, Foster, or Low-Income. This computes to an unduplicated percentage of 79.38% for LAUSD's students with disabilities (48,633/61,265).

Table 4: SWD Identified as Unduplicated Pupils	
Count of SWD on CALPADS file, 12-13	65,589
Count of SWD on CALPADS file not attending charter schools, 12-13	61,265
Count of unduplicated SWD on CALPADS file not attending charter schools, 12-13	48,633
Percent unduplicated SWD, 12-13	79.38%

d. LAUSD excluded from its prior year calculation all categories of Special Education expenditures that did not provide direct services to pupils.

The LCAP regulations broadly define “services”, without limitation, to include “services associated with the delivery of instruction, administration, facilities, pupil support services, technology, and other general infrastructure necessary to operate and deliver educational instructions and related services.” (Cal. Code Regs., tit., 5, § 15495, subd. (d).) Though the regulations thus clearly permit school districts to include a wide array of expenditures in the calculation of prior-year expenditures on unduplicated pupils, LAUSD conservatively limited the calculation to the major spending groups within Special Education that provide direct services to pupils. As a result, the calculation of Special Education expenditures on unduplicated pupils is substantially smaller than permitted under the regulations.

In fiscal year 2014-2015, the total authorized budget for Special Education services in LAUSD was in excess of \$ 1.4 billion. The District estimated that \$633.9 million (net of Revenue Limit and affiliated charters) would be contributed towards this budget from the District's LCFF general fund. However, the District only counted \$566 million of this general fund encroachment towards the estimate of proportionality spending. *In other words, despite the broad definition of services in the LCAP regulations, the District did not consider \$68 million in Special Education expenditures as potential sources of proportionality expenditures on unduplicated pupils.* Of this amount, \$ 33 million was excluded because it related to major group categories of Special Education spending on pre-school and adult student populations. An additional \$6.5 million budgeted for the “SPED Career & Transition Program” was excluded because it served pupils from both the K-12 and adult student populations. In other words, the District did not attempt to isolate how much of the expenditures in that major subgroup were

directed to the K-12 pupils that are targets of LCFF funding, but instead took the conservative approach of excluding the major subgroup from the proportionality calculation altogether.

The remainder of the foregone \$68 million excluded from proportionality — \$34.5 million — comprise major subgroup spending that clearly falls within the regulatory definition of “services” in the proportionality calculations, but that the District conservatively opted to exclude. Specifically, the District excluded from its proportionality calculations the following major group categories of Special Education spending that otherwise satisfy the broad regulatory definition of “services” that may be considered to demonstrate proportionality compliance:

- “SPED Central Office” (\$11.15 million);
- “SPED IMA Equipment-Materials” (\$4.56 million);
- “SPED Reimbursement Due Process” (\$4.26 million);
- “SPED Allocation to Schools for Compliance” (\$3.25 million);
- “SPED Program Specialists Certificated” (\$2.94 million);
- “SPED IMA Allocation to Schools” (\$1.05 million);
- “SPED Least Restrictive Environment Counselors” (\$0.65 million); and
- “SPED Temporary Personnel Account” (\$0.13 million).

Though all the subgroups comprise “services associated with the delivery of instruction, administration, facilities, pupil support services, technology, and other general infrastructure necessary to operate and deliver educational instructions and related services” to pupils that is permitted in the proportionality calculations under section 15495, the District opted not to rely on those expenditures to demonstrate proportionality in order to ensure that its proportionality calculations were based upon services geared directly to unduplicated pupils.

e. LAUSD excludes expenditures on services that may involve de minimis contact with general education students from its proportionality calculations.

Finally, the District excludes expenditures on services that may involve de minimis contact between Special Education personnel and the general education population from its proportionality calculations. Specifically, with respect to the five major budget subgroups that fund salaries and health benefits for therapists and specialists who participate in assessments to determine eligibility for Special Education, the District budgets the funding of those activities through other state and federal funding sources, and does not include expenditures on those services in its proportionality calculations.

Analysis:

The Complainants claim that the District's LCAP violates a statute — Education Code section 42238.07 — and a regulation adopted to implement that statute — Cal. Code Regs, tit. 5, § 15496, Subd. (a).) As discussed below, the statute in question does not purport to govern the actions of local educational agencies, but is instead a delegation of authority to the State Board of Education to adopt regulations governing LCAPs. The regulation adopted by the SBE pursuant to this delegation of authority addresses the issue raised in the Complaint by requiring local educational agencies to “[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on *services provided for all pupils*” as part of the calculation of “the percentage by which services for unduplicated pupils must be increased or improved above services provided to all pupils” in each fiscal year. (Cal. Code Regs., tit. 5, § 15496, subd. (a) [emphasis added].) The regulation does not provide any other guidance regarding this aspect of the proportionality requirement for LCAPs, except insofar as it defines “services” broadly, and without limitation, to include “services associated with the delivery of instruction, administration, facilities, pupil support services, technology, and other general infrastructure necessary to operate and deliver educational instructions and related services.” (Cal. Code Regs., tit., 5, § 15495, subd. (d).) Thus, the sole source of a potential violation of law referenced in the Complaint is the regulatory requirement that local educational agencies ““[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on *services provided for all pupils*.”

Complainants contend that “Special Education services cannot be counted as spending on prior year expenditures on services for High Needs Students because these services are *available* to all students . . . who are eligible to take advantage of special education services” and are not “targeted for High Needs Students.” (Complaint, at pp. 4-5 [emphasis added].) But, the LCAP regulations do not employ any of these locutions. The State Board of Education did not exclude services that are “available to all students . . . who are eligible” for those services from the prior-year estimate of unduplicated spending. Nor did it exclude services that are not “targeted for” unduplicated students. To the contrary, section 15496 directs local educational agencies to exclude from the prior year estimate of unduplicated spending only “services provided to all pupils.” Complainants do not address whether Special Education services constitute “services provided to all pupils” under section 15496, but instead introduce language into the regulation that does not exist.

Accordingly, the Complaint presents a single mixed question of fact and statutory interpretation: Are Special Education services “services provided to all pupils” under section 15496 of title 5 of the California Code of Regulations?

As a factual matter, Special Education services are not services provided to all pupils, but rather services provided to individual pupils who are eligible to receive those services. Complainants do not present or identify any evidence to support a factual conclusion that Special Education “services are services provided to all students” or to otherwise contradict the express import of the federal and state laws that set the exacting eligibility criteria for qualified students to receive an Individualized Educational Program. The facts further confirm that the Special Education expenditures counted by the District towards its prior-year estimates of spending are expenditures only on the individual students who have qualified to receive an IEP. Thus, the facts do not support a conclusion that Special Education services are services provided to all pupils.

The only remaining argument suggested in the Complaint is the contention that the Legislature or the State Board of Education intended Special Education services to be exempt from the plain meaning of the phrase “services provided to all students.” Despite numerous requests lodged by the District, Complainants have not identified any authority in the LCFF and its implementing regulations, nor any authority in the relevant legislative and regulatory histories, to support a conclusion that the Legislature or the State Board of Education intended Special Education to be deemed “services provided to all students” despite the plain meaning of that phrase.⁴

It bears noting that the LCFF, its implementing regulations, and the general law require that the District’s quasi-legislative decisions regarding the interpretation and implementation of section 15496 be accorded the most deferential level of judicial scrutiny. (*See, American Coatings Assn., Inc. v. South Coast Air Quality Dist.* (2012) 54 Cal.4th 446, 461-462; *Khan v. Los Angeles City Employees’ Retirement System* (2010) 187 Cal.App.4th 98, 106.) Mandate in this context will only “lie to correct abuses of discretion” and the courts ask whether the public agency’s action was arbitrary, capricious, or entirely lacking in evidentiary support.” (*County of Los Angeles v. City of Los Angeles* (2013) 214 Cal.App.4th 643, 653-654.).

⁴ Notably, the correspondence between counsel for LAUSD and counsel for Complainants contains numerous instances in which LAUSD counsel urged the Complainants to identify any statutory, regulatory, or other authority in the legislative history of the LCFF and its implementing regulations that reflects any legislative intent to deem Special Education services “services provided to all pupils” despite the plain meaning of that phrase. Complainants did not identify any such authority, but instead relied solely on arguments that the District’s proportionality calculations violated the “spirit of the LCFF” and arguments that interpolate language into the relevant statutes and regulations that was neither enacted by the Legislature nor adopted by the State Board of Education. LAUSD has not identified any authority to support the claim that the Legislature or the State Board of Education intended Special Education services to be deemed “services provided to all pupils.”

Alleged Violation of Education Code 42238.07

Complainants allege a violation of Education Code section 42238.07, a statute that by its plain language contains only directives addressed to the California State Board of Education, specifically, directives to “adopt regulations that govern the expenditure of funds apportioned on the basis of the number and concentration of unduplicated pupils.” Standing alone, this statute imposes no clear, present ministerial duties on local educational agencies and, accordingly, no writ of mandate will lie to compel local educational agencies to comply with its terms.

As noted above, the Complaint does not identify any specific term of Education Code section 42238.07 that LAUSD is alleged to have violated. Nor does it articulate how LAUSD could have violated a statute expressly and solely directed at the State Board of Education. Complainants reference this statute solely as authority for the proposition that “school districts must increase or improve services for High Need Students in proportion to the additional dollars those students generate.” (Complaint, at p. 4.) Because the regulations adopted by the Board of Education to govern the LCAP give express effect to this principle, and because Education Code section 42238.07 does not contain any directives regulating the conduct of local educational agencies, that provision does not provide any independent authority for the issuance of a writ of mandate or declaratory relief.

Education Code section 42238.07 may be relevant only to the extent that the regulations adopted by the State Board of Education are ambiguous and properly susceptible to the application of extrinsic aids in support of statutory interpretation. The regulations adopted by the State Board of Education, however, do not admit any ambiguity. Nor are those regulations inconsistent with the Legislative directives set forth in Education Code section 42238.07. In relevant part, the plain terms of the regulations direct local districts to perform two discreet tasks with respect to the calculation of funds expended on services for unduplicated pupils. First, subdivision (a)(2) of section 15496 requires local educational agencies to “[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on services provided for all pupils.” Second, that same provision mandates that “the estimated amount of funds expended in 2013-14 shall be no less than the amount of Economic Impact Aid funds the LEA expended in the 2012-13 fiscal year.”

With respect to the first directive, the evidence clearly shows that LAUSD has properly estimated the amount of funds expended on unduplicated pupils in addition to what was expended on services provided to all pupils. Because Special Education services are not services provided to all pupils, but rather services provided to a small subset of the LAUSD student population under conditions that prohibit the comingling of Special Education expenditures and activities with general education expenditures and activities, LAUSD has clearly acted well within its discretion in its implementation of section 15496.

With respect to the second directive, there is no allegation in the Complaint or Petition that the District's estimated amount of funds is less than the EIA funds expended in 2012-13. Indeed, the District expended \$125.2 from EIA funding in 2012-13, a number far below the estimated amounts expended in 2013-14. There is, accordingly, no factual basis to allege a violation of this directive.

Alleged Violation of Cal. Code Regs., tit. 5, § 15496

Neither the Complaint nor the Petition points to any express language in any provision of law that prohibits school districts from counting *any* category of expenditures made from their general fund on unduplicated pupils in the calculation of prior year spending other than "expenditures on services provided to all pupils," nor to any provision that prohibits school districts from including *any* category of expenditures in the account of increased and improved spending on unduplicated pupils. (Cal. Code Regs., § 15946, subd. (a)(2).) To the contrary, Complainants *infer* a prohibition from the allegedly "absurd results" that they claim would ensue if the LCAP is not implemented according to the strictures their legal counsel unsuccessfully advocated before the Legislature and the State Board of Education. In its correspondence with LAUSD's counsel, counsel to Complainants alternatively asserted that the District's actions violated the "spirit" of the LCFF.

The LCFF returned control over the decisions regarding school spending to local districts and their stakeholders, replacing the complex web of layered categorical funding programs that had formerly constrained the discretion of local school administrators. Complainants' contention that the "spirit" of the LCFF prohibits supplantation of the funds that were formerly devoted to spending on unduplicated pupils through categorical mandates appears to be contradicted in both the text and legislative history of the LCFF. The original version of the LCFF, set forth in Senate Bill 69, contained express "do not supplant" provisions in the form of a draft Education Code section 52062.5. The early committee reports on this bill expressly reflect such an intention. But none of this statutory and committee report language, and no similar mandate, survived through the ensuing legislative process. Instead, the Legislature ultimately directed the State Board of Education to adopt regulations that *explicitly authorize* school districts to use regarding the expenditure of supplemental and concentration funds for "school-wide" and "district-wide" purposes in a manner that "is no more restrictive" than Title 1. (Educ. Code, § 42238.07, subd. (a)(2).) Both the emergency and the final regulations adopted pursuant to this directive consequently outline a more flexible process for ensuring that supplemental and concentration grant funding will be used to benefit unduplicated pupils.

Notably, those regulations grant the highest level of flexibility to school districts, like LAUSD, that already serve high concentrations of unduplicated pupils. When those districts are required to justify demonstrate in the LCAP the proper expenditure of supplemental and concentration grant funds on a districtwide basis, they are not required to "[d]escribe how these

[district-wide] services are *the most effective use* of the [LCFF] funds to meet the district's goals for its unduplicated pupils in the state and local priority areas." (Cal. Code Regs., tit. 5, § 15496, subd. (b)(2)(C) [emphasis added].) Nor are they required to "provide the basis for this determination, including . . . any alternatives considered and any supporting research, experience, or educational theory in defense of their district-wide spending." (*Ibid.*) Rather, the regulations permit a school district like LAUSD to expend supplemental and concentration grant funds on a districtwide basis as long as the LCAP describes "how such services are *principally directed towards*, and are effective in, meeting the district's goals for its unduplicated pupils in the state and any local priority areas." (*Id.*, subd. (b)(1)(B) [emphasis added].)

Likewise, on the input side of the equation, the LCFF funding formula itself recognizes that the education of *high concentrations* of unduplicated pupils necessarily comports additional expenditures by school districts, above and beyond the standard supplemental expenditures required for unduplicated pupils. Districts receive a supplemental grant based on the number of low-income students, English learners, and foster children they serve. But, districts in which these students make up at least 55 percent of enrollment will be entitled to an additional "concentration" grant, equaling an extra 50 percent of the base grant for each high-needs student above the 55 percent threshold. The purpose of providing an additional per-pupil bonus grant amount for districts with a greater the concentration of high-need students is clear: it is a legislative recognition that the cost of servicing large numbers of unduplicated pupils is not reflected in simply by increasing the additional per-student grant amount, but that the greater concentration of such students makes the costs of servicing those pupils even higher on a per-pupil basis. In other words, the Legislature clearly recognizes that school districts like LAUSD already incur substantial additional costs, and devote substantial additional resources, simply by providing core educational programs to high concentrations of unduplicated students. This express statutory formula, and the concomitant Legislative decision to reject "do not supplant" requirements to restrict the spending of LCFF supplemental and concentrated funds exclusively on unduplicated pupils, together reflect the manifest "spirit" of flexibility contained in the LCFF, particularly regarding school districts that already serve high concentrations of unduplicated pupils.

Because the overwhelming majority of LAUSD's pupils (84%) are unduplicated, the district-wide core educational program is itself "principally directed towards . . . meeting the district's goals for its unduplicated pupils." (Cal. Code Regs., tit. 5, § 15496, subd. (b)(1)(B).) Complainants have nonetheless demanded that \$450 million of expenditures on the provision of special education services to unduplicated pupils be removed from the estimate of funds expended on unduplicated pupils that is required in the LCAP subdivision (a)(2) of 5 Cal. Code Regs., § 15496. Complainants' demands are not supported in the law, nor are they consistent with the core purpose of the LCFF to grant local districts greater discretion over the expenditure of funds on unduplicated pupils.

Conclusions:

Complainants' legal contentions do not have any support in the law. The plain language of the LCAP regulations directs local educational agencies to "[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on *services provided for all pupils*." (Cal. Code Regs., tit. 5, § 15946, subd. (a)(2) [emphasis added].) Special Education are not "services provided for all pupils," but rather services provided to a small percentage of the student population that qualifies to receive an individualized education program under the requirements set forth in federal and state law. Complainants have not identified any authority in the legislative history of the LCFF or regulatory history of the LCAP regulations that suggests a legislative intent to deem Special Education a service provided to all pupils. Accordingly, LAUSD acted well within its considerable discretion to interpret subdivision (a) of section § 15496 according to its plain meaning.

Exhibit C: Appeal Letter



November 12, 2015

State Superintendent Tom Torlakson
c/o Local Agency Systems Support Office
California Department of Education
1430 N Street
Sacramento, CA 95814
lcff@cde.ca.gov

Via E-Mail and U.S.P.S. Priority Mail

Re: Appeal of Uniform Complaint Procedure Complaint Re Superintendent Cortines and LAUSD's Failure to Comply with Legal Requirements Pertaining to LCAP

Dear Superintendent Torlakson,

We submit this appeal of the determination of the Los Angeles Unified School District with respect to the Uniform Complaint Procedure ("UCP") complaint our firms filed on behalf of Ms. Reyna Frias and Community Coalition of South Los Angeles ("CoCoSouthLA"). This appeal is regarding Los Angeles Unified School District and Superintendent Cortines's (collectively "LAUSD" or the "District") failure to comply with the legal requirements pertaining to its Local Control and Accountability Plan ("LCAP").

As discussed more fully in the attached UCP complaint (the "Complaint"), LAUSD has violated its legal obligations under Education Code § 42238.07 and 5 C.C.R. § 15496 by including special education spending as part of its estimate of prior year expenditures for services for foster youth, low income students, and English learners (collectively "High Need Students") in its 2014-15 and 2015-16 LCAPs. Accordingly, we requested through a UCP complaint that LAUSD revise its 2015-16 LCAP to ensure that the district spends the proper amount of money on increased and improved services for High Need Students.¹

On November 9, 2015, we received the attached determination and report of findings from LAUSD in which the district concludes that the "[c]omplainants' legal contentions do not

¹ Please find the UCP complaint, dated September 9, 2015, as Exhibit 1 to this appeal. The document may be downloaded electronically at <https://www.dropbox.com/s/9pnqojfjbzk864k/Att%201%20-%202015-09-09%20LAUSD%20UCP%20Complaint%20re%20LAUSD%20LCAP.pdf?dl=0>.

have any support in the law” and thus fails to provide the relief requested by Ms. Frias and CoCoSouthLA in their Complaint.² We now appeal LAUSD’s erroneous legal determination to the Superintendent and request that the Superintendent correct this misapplication of the law for the reasons described in the attached Complaint. We incorporate all arguments in the attached Complaint into this appeal.

In addition to the bases set forth in the attached Complaint, LAUSD’s response acknowledges several points warranting a determination from the Superintendent in favor of Complainants:

- There are no material facts in dispute here. We assert in the Complaint that “[b]ased on its estimate that 79% of students who received special education services were unduplicated pupils in 2013-14, LAUSD counted approximately \$450 million of special education expenses as prior year spending on services for unduplicated pupils.”³ LAUSD concedes in its letter that “79%[] of the District’s students with disabilities are identified as low income, English learners or foster youth” and that the District “identified the subset of Special Education programs that benefit these targeted student populations and applied 79 percent to the expenditures of those programs to estimate the share that would benefit these high need students”—totaling \$449.8 million.⁴ In sum, LAUSD acknowledges it is crediting as baseline prior year supplemental and concentration spending a share of nearly all of its special education “encroachment,” *i.e.*, the general fund special education program costs not covered by federal and state categorical, proportional to the 79% representation of High Need Students in its special education population.
- The key question is purely one of legal interpretation. As the District emphasizes, at issue is the regulation requiring the district to “[e]stimate the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on *services provided for all pupils*.”⁵ Yet, LAUSD fails to respond substantively to the Complaint’s arguments that its reading of “services provided for all pupils” to mean only those services provided to precisely “100% of pupils” is unsupported by the regulatory and statutory language; nor does LAUSD respond to the assertion that its reading would lead to absurd results by allowing districts to apply its unduplicated pupil percentage to any program that, “like special education services—are available to all students, but serve only a portion of students, including summer school, after-school programs, sports and other extracurricular activities, counseling and health services, and class-size reduction initiatives . . . to name a few.”⁶ The District also fails to respond directly to the Complaint’s arguments as to why “special education services” constitute “services provided for all pupils” as opposed to “services for unduplicated pupils.”⁷
- In addition, LAUSD wholly fails to refute the Complaint’s argument that its practice violates the mandate to “increase or improves services for unduplicated pupils as compared to

² See LAUSD Report of Findings, Exhibit 2, at page 19, <https://www.dropbox.com/s/3cdgl9bto1e0kpp/Att%202%20-%20LAUSD%20UCP%20Determination.pdf?dl=0>.

³ Exhibit 1, Attachment 1 (Writ Petition) ¶58; *see also id.* at ¶73.

⁴ Exhibit 2 at p.10.

⁵ Exhibit 2 at p.14 (5 Cal. Code Regs. § 15496(a)).

⁶ Exhibit 1, Attachment 1 (Writ Petition) ¶¶74-76. *See in general*

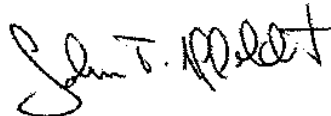
⁷ Exhibit 1, Attachment 1 (Writ Petition) ¶¶66-73.

services provided to all pupils,” as the statute and regulations require.⁸ To “increase” or “improve” means to grow services in “quantity” or “quality.”⁹ Because special education expenditures are incurred pursuant to preexisting legal mandates in federal and state law, “and are used to maintain, not increase, legally required services, they cannot be included as expenditures that ‘increase or improves services for unduplicated pupils as compared to services provided to all pupils.’”¹⁰ Accordingly, LEAs are not permitted to subsidize the pre-existing and ongoing costs of delivering Individualized Education Plans (IEPs) required by federal law with LCFF supplemental and concentration funds.

- Indeed, LAUSD concedes that special education services are not “services *for unduplicated pupils*”—which are the only type of services that may be supported with supplemental and concentration funds. As the District explains, a child will be excluded from special education services for such factors as “limited English proficiency . . . , social maladjustment; or . . . environmental, cultural or economic factors” that may include “unstable home life.”¹¹ Yet students who face such barriers are precisely the type of students who are targeted as “unduplicated students” under LCFF—English language learners, foster youth and low-income students. LAUSD thus acknowledges that students with disabilities who are receiving special education services do so not because of their unduplicated status, but in spite of that status.

For all the reasons stated here and in the attached Complaint, the District has misapplied the law to deny the Complaint and the Superintendent should overturn LAUSD’s determination. Accordingly, the Superintendent must require the District to revise its 2015-16 LCAP to remove special education funding as part of its prior year spending for High Need Students and revise its proportionality calculation and its LCAP to ensure that it spends the appropriate amount of money on increased and improved services for High Need Students in FY 2015-16 and in future years. For any questions related to this appeal or to contact the complainants, please contact the attorneys listed below.

Sincerely,



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⁸ 5 Cal. Code Regs. § 15496(a).

⁹ 5 Cal. Code Regs. §§ 15495(k) & (l).

¹⁰ Exhibit 1, Attachment 1 (Writ Petition) ¶¶86-90.

¹¹ Exhibit 2 at p.8.



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Enclosures

(For the electronic version of this appeal, click on the weblinks below to download attachments.)

[Attachment 1: September 9, 2015 UCP Complaint re: LAUSD LCAP](#)

[Attachment 2: November 9, 2015 LAUSD Report of Findings re: UCP Complaint](#)

Exhibit D: LAUSD 2015-16 Local Control and Accountability Plan

Click Here for:
LAUSD 2015-16 LCAP

Exhibit E: LAUSD Special Education Expenditures in SACS Resource 6500

LAUSD Special Education Programs in SACS Resource 6500

The below tables identify the programs in SACS Resource 6500 that were included in the LCFF supplemental calculation of \$450 million and those that were excluded.

Included in Supplemental Calculation
SPED-ADAPTED PHYSICAL EDUCATION
SPED-ADMINISTRATORS-SPED CENTERS
SPED-ASSISTANT OVERTIME-X & Z TIME/RENORMING
SPED-ASSISTANT PRINCIPAL ELEMENTARY INSTRUCTIONAL SPECIALIST
SPED-ASSISTANTS
SPED-ASSISTIVE TECHNOLOGY
SPED-CLERICAL SUPPORT-SPED CENTERS
SPED-DEAF AND HARD OF HEARING
SPED-EXTENDED SCHOOL YEAR
SPED-NON PUBLIC SERVICES
SPED-NURSING SERVICES
SPED-OCCUPATIONAL & PHYSICAL THERAPY
SPED-OPTIONS
SPED-PSYCHIATRIC SOCIAL WORKERS
SPED-PSYCHOLOGISTS
SPED-SPEECH & LANGUAGE
SPED-TEACHER-ITINERANTS
SPED-TEACHER-RESOURCE SPECIALIST PROGRAM
SPED-TEACHER-SPECIAL DAY PROGRAM
SPED-TEACHER-SUPPL & SUB TIME/RENORMING/PROF DEVELOPMENT
SPED-VISUALLY IMPAIRED

Excluded from Supplemental Calculation
SPED-ALLOCATION TO SCHOOLS FOR COMPLIANCE
SPED-ASSISTANTS-PRESCHOOL
SPED-CAREER & TRANSITION PROGRAM
SPED-DONATIONS
SPED-EDUCATIONALLY RELATED MENTAL HEALTH SERVICES
SPED-IMA ALLOCATION TO SCHOOLS
SPED-IMA-EQUIP-MATERIAL
SPED-LEAST RESTRICTIVE ENVIRONMENT COUNSELORS
SPED-PASS THROUGH FOR INDEPENDENT CHARTERS
SPED-PRESCHOOL PROGRAM SERVICES (INCLUDING ITINERANTS)

SPED-PROGRAM SPECIALISTS-CERTIFICATED
SPED-REIMBURSEMENT-DUE PROCESS
SPED-TEACHER-SPECIAL DAY PROGRAM-PRESCHOOL
SPED-TEMPORARY PERSONNEL ACCOUNT