



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

May 5, 2017

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**Subject: Request for Appeal – Fresno Unified School District
American Civil Liberties Union, Appellant**

Dear Abre' Conner and Ms. Torres-Guillen:

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal received on December 6, 2016. You are appealing the Fresno Unified School District's (District) Decision (Decision) dated November 18, 2016.

I. BACKGROUND

On September 21, 2016, the ACLU (Appellant) submitted a Uniform Complaint Procedure Complaint to the District regarding alleged failures of the District related to its 2015-2016 Local Control and Accountability Plan (LCAP). The District considered the Complaint, and on November 18, 2016, it issued a written decision in which it determined that the District had not violated applicable law and that the requested remedies would not be granted. The ACLU appealed this decision to the CDE on December 6, 2016. On December 7, 2016, the CDE sent a Notice of Appeal letter to the District per *California Code of Regulations*, Title 5 (5 CCR), Section 4633. On February 6, 2017, the CDE sent a letter to the Appellant and the District indicating it would require additional time to complete its investigation of the Complaint. Following receipt of the District's Investigation file, the CDE reviewed all material received related to the District's complaint investigation, applicable laws and the District's complaint procedures. The CDE finds that the District complied with its complaint procedures.

II. SUMMARY OF COMPLAINT AND DISTRICT DECISION

The Complaint

The Complaint contained the following allegations, summarized by the District in its Decision and restated by the Appellant in the Appeal:

Allegation 1: “The District’s LCAP fails to explain how S&C¹ funds will be ‘principally directed towards, and effective in, meeting the district’s goals for its high-need pupils.’”

The Complaint alleged the District’s description of districtwide and schoolwide actions and services provided in the LCAP are vague, summary statements and do not meet the requirements of the LCAP Template and 5 CCR 15496(b) because the statements do not explain how the expenditures are principally directed toward and effective in meeting the District’s goals for unduplicated pupils. (Attachment A, Complaint, p.3.) The Complaint focused on five actions and related expenditures for which it alleged the District fails to provide the required justification:

- \$14.7 million allocated to school sites
- \$5.6 million for middle school redesign
- \$3.8 million for employee supports
- \$5.6 million for bathroom renovations, additional custodians, and maintenance positions
- \$7.153 million for various special education programs

(Complaint, p.3-5.) Citing Section 3A of the LCAP Template, the Complaint stated that the District must revise its LCAP to identify and justify each schoolwide and district use of funds and explain how each such use is “principally directed towards, and effective in, meeting the needs of high-needs pupils.” (Complaint, p.5.)

Allegation 2: “The LCAP fails to include data that demonstrates specific outcomes for high-need students in the Annual Update.”

The Complaint alleged that the data in the annual update must be disaggregated by each high-need pupil group in order to help parents and students decipher which programs help high-need students. (Complaint, p.5.)

Allegation 3: “The District fails to offer any meaningful justification for use of S&C funds on police expenditures.”

The Complaint alleged that the District did not adequately describe how the expenditure of supplemental and concentration grant funding on School Site Security Enhancements, including Community and School Resource Officers, and the Fresno Police Department’s Chaplaincy and shot spotter programs, is principally directed toward and effective in meeting the District’s goals for unduplicated pupils. (Complaint p. 5-6.) In this regard, the

¹ “S&C” is an acronym used by Appellant to reference funding apportioned to the District on the basis of the number and concentration of unduplicated pupils (low income, foster youth and English learners), identified by Appellant as “high-need” pupils. (EC sections 44238.01, 44238.02, 44238.07.)

Complaint stated that the LCAP is unclear as to how the shot spotter program, which may allow better pinpointing of gunfire across the city, will help pupils, and unduplicated pupils in particular. The Complaint also stated the LCAP does not, and likely cannot, provide, the required justification for expenditures for additional police officers. According to the Complaint, in the District, black and Latino students, many of whom meet the unduplicated criteria, are more likely to be arrested or reported to police, with terrible consequences for their futures. (Complaint, p.7-8.)

Requested Remedy: The Complaint requested that the District amend its 2016-2017 LCAP to provide the required justifications for “all districtwide and schoolwide spending of S&C funds and to disaggregate Annual Update data to meaningfully evaluate last year’s use of S&C funds to increase or improve services for high-needs students...”. In addition, the Complaint requested the District “reallocate its proposed S&C funds to enhance school safety and school climate rather than on police expenditures.” (Complaint, p. 8.)

The District’s Decision

Allegation 1: The District determined that its LCAP includes adequate justification for each districtwide use of supplemental and concentration funding. According to the District, statements are included within the actions and services in the goals section of the LCAP. In addition, the District notes that its unduplicated count of English learners, foster youth and students living in poverty exceeds 86%. The District states “86% of students live below the Federal Poverty level” and “[e]ach action taken by the District, regardless of the funding source, must take into account the challenging economic environment of our community.” (Attachment B, Decision, p. 3.) According to the Decision, planned expenditures for 2016-2017, as described in its LCAP, reflect increases over 2015-2016 in the area of services for English learners and foster youth. (Decision, p. 3.) Also, the District notes that “supplemental programs for students with disabilities, outlined in the UCP and funded by supplemental and concentration funds, were not possible prior to this availability of this funding.” The District stated that “[t]hese programs, including specialized preschool programs and early autism screening, provide increased benefits to students living in extreme poverty.” (Decision, p. 3-4.)

Allegation 2: The District concluded that disaggregating data in the Annual Update by high-need pupil group is not required by statute or regulation. However, the Decision points out that the District’s LCAP provides data on 49 different indicators of student success, most of which include information disaggregated into 13 student subgroups. In addition to the data incorporated into the Annual Update portion of its LCAP, the District included all the data in an Appendix A to the LCAP, as a matter of “best practice.” (Decision, p. 4.)

Allegation 3: In its Decision, the District described the shot spotter program in the context of a broader approach to support school site security. In addition to the shot spotter program, the District provided additional crossing guards, additional school community

resource officers, and police chaplain volunteers. According to the Decision, “violent crime in Fresno is significantly higher than the state and national average.” Also, District engagement efforts identified additional security investments as a request of certificated staff. With respect to the “Shot Spotter” device, the District decision stated it is intended to reduce school time disruption at 24 schools with a high propensity for gunfire. (Decision, p. 4.)

Based on its findings, the District determined that the allegations of the Complaint were not substantiated, and that there was no violation of *EC* Section 42238.07 or 5 *CCR* 15496 with respect to the District’s 2016-2017 LCAP. (Decision, p. 5.)

III. APPEAL

The Appeal reiterates the allegations of the Complaint. Appellant rejects the Decision’s finding that the LCAP sufficiently justified services provided on a districtwide and schoolwide basis as “principally directed towards, and effective in, meeting the district’s goals for its high-needs students.” (Attachment C, Appeal, p. 2.) The Appeal again focuses on particular services identified in the Complaint. (described above at p. 2.) The Appeal also asserts that the Decision failed to explain why its LCAP Annual Update does not disaggregate data by high-need pupil group. (Appeal, p. 4.) Finally, the Appeal states that the District failed to identify sufficiently how police expenditures are principally directed towards, and effective in, meeting its goals for high-need students. (Appeal, p. 4.) Appellants continue to seek remedies for the alleged violations of law as set forth in their Complaint. (described above at p. 3.)

IV. LEGAL AUTHORITIES

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52060 – 52077
California Code of Regulations sections 15494 – 15497.5

V. ANALYSIS OF APPEAL

Allegations 1 and 3: The CDE considers and responds to Allegations 1 and 3 together. Both allege that the District LCAP does not justify how supplemental and concentration grant funding for schoolwide or districtwide actions and/or services (services) are principally directed to and effective in meeting the District’s goals for unduplicated students.

The Local Control Funding Formula (LCFF) apportions additional funds to Local Education Agencies (LEAs) on the basis of the number and concentration of unduplicated pupils (low-income, English learner, and foster youth). (*EC* sections 442238.01, 42238.02.) LEAs are

required to increase or improve services for unduplicated pupils as compared to the services provided to all pupils in the fiscal year in proportion to the additional funding provided. (EC Section 42238.07; 5 CCR 15496.) “To improve services” means to “grow services in quality,” and “to increase services” means to “grow services in quantity.” (5 CCR 15495(k) and (l).) As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students over services provided for all pupils in the LCAP year.² The regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated pupils above services provided to all pupils in the fiscal year.³ (5 CCR 15496(a)(1)–(8).)

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

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

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charterwide) service. The LCAP Template applicable to the 2016-2017 year addresses supplemental and concentration grant funding in Section 3.⁴ An LEA is required to follow the LCAP Template approved by the State Board of Education (SBE). (EC sections 52064, 52070.) Section 3A of the LCAP Template required the District to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated pupils, and to describe how it was expending these funds in the LCAP year, including a description of, and justification for, the use of any funds in a districtwide or schoolwide manner. (5 CCR 15496.) Because the District’s unduplicated pupil enrollment was 88%, the District was required to describe in its LCAP how services provided on a districtwide basis are “*principally directed towards*” and “*effective in*” meeting its goals for unduplicated pupils.⁵ (EC Section 42238.07, 5 CCR 15496(b).)

² As the District has done in its LCAP, an LEA may choose to refer to LCFF funds as “Base”, “Supplemental” or “Concentration” grant funds at the local level. However, they are not required to do so. An LEA may choose to simply identify the fund source to implement an action or service as LCFF.

³ Note the requirement is to increase or improve services for unduplicated pupils over services for all pupils *in the fiscal year for which the LCAP is adopted*. (5 CCR 15496(a).) It is not a requirement to increase or improve services from year to year.

⁴ This LCAP Template was adopted as 5 CCR 15497.5. In November 2016, the SBE adopted a new LCAP Template, applicable beginning with the 2017-2018 school year.

⁵ Schoolwide services at a school district school with enrollment of unduplicated pupils that is 40 percent or more of its total enrollment must be supported by the same description.

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In order to provide the required justification for services provided on a “wide” basis, an LEA must distinguish between services directed toward unduplicated pupils based on that status, and services available to all pupils without regard to their status as unduplicated pupils or not. An LEA describes how a service is principally directed to meeting the LEA’s goals for unduplicated pupils when it explains in its LCAP how it considered factors such as the needs, conditions or circumstances of its unduplicated pupils, and how the service takes these factors into consideration (such as, for example, by the service’s design, content, methods, or location). In addition, the description must explain how the LEA expects the service to support the LEA’s conclusion that the service will be *effective* to meet the LCAP goals for its unduplicated pupils. When properly explained in the LCAP, it will be apparent how the LEA is acting to increase or improve services for unduplicated pupils, and why it has determined the services identified will be effective to achieve its goals for unduplicated pupils.

CDE reviewed the District’s 2016-2017 LCAP to determine whether it provided the required description of, and justification for, use of supplemental and concentration grant funding on a districtwide or schoolwide basis, focusing on the services challenged in the Complaint and Appeal:

The District’s 2016-17 LCAP Section 3A identifies \$154.3 million as the amount of funds calculated on the basis of the number and concentration of unduplicated pupils. (Attachment D, District 2016-2017 LCAP.) It further states that “Supplemental and Concentration fund expenditures are itemized in Section 2” of the LCAP, and that “[a]ll actions and expenditures were developed based on an analysis of data, input from our stakeholders, and the needs of our unduplicated population in mind, and that “[d]ue to this high risk population, the actions below, and described in section 2, are being implemented school wide or district wide.” (2016-2017 LCAP Section 3A, p. 181 of 185.) Section 3A lists 49 actions, identified numerically to correspond to their respective locations in Section 2 of the LCAP.

Section 3A of the District’s LCAP also states that district and school site leadership have access to current data using the “School Quality Improvement Index (SQII)”, and the SQII is used by district “leaders to identify schools with the most need and site leaders use SQII to identify school wide and individual student need. Using the SQII tool the District is able to allocate services that are principally directed towards, and are effective in meeting the District’s goals for its unduplicated pupils...” Finally, Section 3A states “[a]ll districtwide and schoolwide actions and services have been developed based upon the needs of unduplicated students, but will serve the needs of all students as well.”

In Section 3B, the District identified 29.57% as the percentage by which it was required to increase or improve services for unduplicated pupils in the LCAP year as compared to services for all pupils. As noted above, Section 3B required the District to demonstrate how it met this requirement to proportionately increase or improve the services for unduplicated

pupils. Section 3B states “the proportionality percentage is met by expending Supplemental and Concentration funds allocated to the district on services for the unduplicated student populations as demonstrated and detailed in section 2 of the LCAP plan.” (2016-2017 LCAP Section 3B, p. 183 of 185.)

With respect to Section 3A, the CDE finds the LCAP enumerates in summary fashion “Supplemental and Concentration fund expenditures” and indicates that actions enumerated are being provided on a districtwide or schoolwide basis due to its unduplicated student population of 88% (described as a high risk population.) There is no description of how the use of funds proposed are “principally directed towards” and “effective in” meeting its goals for unduplicated pupils. The LCAP statement that the District “had the needs of our unduplicated population in mind” is a conclusory statement that fails to provide the required description.

The reference to the use of SQII tool to “allocate services that are principally directed towards, and are effective in, meeting the District’s goals for its unduplicated as measured by the required metrics” is not associated with any particular action or service in the LCAP. The statement lacks sufficient information to constitute a description of and justification for how a districtwide or schoolwide service is “principally directed towards” and “effective in” meeting its goals for unduplicated pupils.

CDE also notes that the District references its 88% unduplicated pupil enrollment as a reason it provides actions on a districtwide or schoolwide basis. However, while a high unduplicated pupil percentage may be a reason to offer a majority of services directed toward increasing or improving services for unduplicated pupils on a “wide” basis, by itself it does not provide a sufficient explanation of how such services are principally directed towards unduplicated students. Thus, based on the above, Section 3A, standing alone, does not provide adequate description and justification of services provided on a districtwide and schoolwide basis.

CDE also reviewed the descriptions of the particular districtwide and schoolwide services in the 2016-2017 LCAP, Section 2, for which Appellant alleged the District failed to provide the required justification. (see the list above at p. 2.) The District response to the Complaint states that additional clarifying language was incorporated into the LCAP following meeting with Appellate to address concerns.

Appellant challenges the description associated with districtwide Action #48 (Goal 5), “School Site Allocations to be prioritized by each School’s Site Council.” (2016-2017 LCAP Section 2, p. 117.) Budgeted expenditures are \$19.8 million (\$14.7 million LCFF Sup and Con)⁶ and \$5.1 million Title 1 (there is also additional reference to these site allocations

⁶ The abbreviation “Sup and Con” is as it appears in the District’s LCAP, and CDE understands it to be a reference to funding apportioned on the basis of the number and the concentration of unduplicated pupils.

being combined with “EL investments” for a total of \$26 million.) The action is described as follows:

- “Supplemental materials and technology
- Academic interventions and supports
- Supplemental counseling services
- Staff for attendance support
- Parent involvement
- Psychological services
- Bilingual office staff
- Each school was required to evaluate data on low income, English learner and foster youth student populations, as well as other subgroups, to create plans focused on addressing the needs of those groups
- Site personnel worked with School Site Councils to incorporate feedback and revise plans
- Developing a site-based plan for English learners is a requirement of this process”

The associated identified need for Goal #5 is “each school needs a Single Plan for Student Achievement (SPSA) that is aligned with school goals for improving student achievement and is based on school site data (AR 0420).” By review of the materials submitted in connection with this appeal, it appears the District added further explanation to this action based on communications with Appellant (the last bullets above). The additional material assists to some extent in providing the required justification. However, because the description states that the sites were to direct plans focused on the needs of low income, English learner and foster youth student populations, *as well as other subgroups*, it is not possible to definitely conclude that the action is “principally directed towards” unduplicated pupils. In addition, the description lacks sufficient information describing how the actions are “effective in” meeting goals for unduplicated pupils, as required for districtwide actions. Thus, the requirements of 5 CCR 15496(b) and the LCAP Template are not met with regard to Action #48.

Action #5, “Maintain Middle School Redesign,” (LCAP Section 2 p. 24) is also challenged. This action is associated with Goal #1 (“All students will excel in reading, writing and math”), and is budgeted \$5.6 million (LCFF Sup and Con). It is schoolwide at district middle schools. The LCAP states:

- “Initiated in 2013-2014
- ensures all students have access to electives as well as core classes

- Allows teachers, teaching the same subjects, to have a common preparation time
- PLUS teams (Professional Learning Updraft System) added to ensure direct instruction to students when teachers attend professional learning or collaboration days.
- This action is principally directed towards, and is effective in, increasing or improving services for unduplicated students as teams allow for no loss of instructional time while teachers are attending profession learning or collaboration days. Loss of instruction time unfairly impacts high-need students.”

From the LCAP description of Action #5, it is not possible to adequately understand what the “Middle School Redesign” consists of and how the various actions described are related, if at all, and how the budget expenditure is associated with the components. One aspect appears to give all students access to electives. There is no explanation offered as to how this is “principally directed towards” unduplicated pupils. Other aspects are common preparation time and the addition of PLUS teams to ensure pupils direct instruction when teachers attend professional development or collaboration days. The LCAP description and justification for “this action” appear to apply only to *a portion* of the action; i.e., the common preparation time and PLUS teams, and is unclear. Ideally, this description and justification would be more clearly stated, perhaps by a description and justification such as “loss of instructional time results in significant decreases in the academic achievement of low income, English learner, and foster youth” and use of PLUS teams will reduce loss of instructional time and assist in maintaining these students’ academic progress. As stated, the description is insufficient to meet the requirement to describe and justify Action #48 in total as “principally directed towards and effective in meeting the goals for unduplicated pupils.”

The Complaint challenged Action #10 “Employee Supports.” (2016-2017 LCAP Section 2, p. 27.) This action is associated with Goal #1, and budgeted \$3.8 million (LCFF Sup and Con). The LCAP indicates this action is for high schools, and 2 specific middle schools. The description of this action is as follows:

- “Reduce large core classes in high schools (not an class enrollment cap)
- Additional middle school Vice Principals for Gaston and Fort Miller. Both have amongst the highest concentrations of English learners, foster youth and students living below the Federal poverty level in the District
- Since introducing additional supports, both Fort Miller and Gaston have seen an improvement in test scores and attendance as well as a reduction in suspensions and expulsions”

The above description of Action #10 provides no information as to how reducing large core classes in high schools is an action principally directed towards unduplicated pupils. Accordingly, the description does not meet the requirements of 5 CCR 15496(b) or the

LCAP Template. However, the action and accompanying description related to additional middle school vice principals does meet these requirements. The explanation provided shows the action is directed to two middle schools with among the “highest concentrations of unduplicated pupils” and also that the test scores and attendance have increased, and discipline incidences decreased. Thus, the LCAP describes how this portion of the action is principally directed towards and effective in meeting the district’s goals for unduplicated pupils. However, the stated description and justification is not sufficient to meet the requirements to describe and justify Action #10, in total, as “principally directed towards and effective in meeting the goals for unduplicated pupils.”

Actions #43 and #44 of Goal 4 are challenged by the Appellant. (2016-2017 LCAP Section 2, p. 108.) Goal #4 is stated as “All students will stay in school, on track to graduate”, and the identified need 4B is stated as “Fresno USD needs to provide a safe, clean and orderly learning and working environment.” Action #43 is to maintain 40 additional custodians, 3 custodial supervisors and 4 grounds maintenance positions. Action #44 is to renovate high school bathrooms. The LCAP identifies budgeted expenditures of \$5.6 million (LCFF Sup and Con) with these two actions. The description for Action #43 is:

- “To ensure facilities are clean and in good repair
- Custodians were requested during the engagement for the 2014/15 LCAP and are above former base staffing levels to ensure school sites are positive and clean centers for each of the Fresno neighborhoods served
- Custodians are located in schools with older facilities
- According to the National Education Association, clean schools reduce the spread of infectious illness, reduce triggers for asthma and allergies and reduce absenteeism for both students and staff”

The description for Action #44 is:

- “Replace damaged fixtures, incorporate standardization of facilities, and increase accessibility for high school bathrooms
- Focus on partitions, hand dryers and soap dispensers
- Campus Culture team will work with student representatives to create a campaign to keep bathrooms clean
- Invitations were sent for student input to 75 foster and English learner students.
- Properly maintained bathrooms was the single most consistent request made during the 17 meetings the district conducted with students

- According to the National Education Association, clean schools reduce the spread of infectious illness, reduce triggers for asthma and allergies and reduce absenteeism for both students and staff”

The description of these actions states benefits for each. However, neither provides any description of how the District considered the factors such as the needs, conditions or circumstances of its unduplicated pupils in particular, in connection with these actions. The description fails to explain how the actions are principally directed towards and effective in meeting the District’s goals for unduplicated pupils. Accordingly, the requirements of 5 CCR 15496(b) and the LCAP Template are not met with regard to these actions.

Appellant also specifically challenged some of the District’s districtwide special education programs, alleging the District fails to sufficiently describe and justify how they are “principally directed towards, and effective in, meeting the District’s goals for high-need students.” Included in the challenge are Actions #13, #14 and #25. (2016-2017 LCAP Section 2, p. 41, 54-55.) Actions #13 and #14 are associated with the District Goal #1, “All students will excel in reading, writing and math” and the Identified Need 1B: “Every student can and must read at grade level.” The District’s LCAP describes these actions as follows:

Action #13 is “Maintain Elementary Augmentation for Students with Disabilities.” It is identified as “districtwide” and students served are “ALL.” Budgeted expenditures are \$2.3 million (LCFF Sup and Con). The action is described as:

- “Expanding inclusive educational opportunities for preschool students with disabilities
- Providing specialized classes for preschool students with moderate to severe disabilities
- Early intervention and continuum of services for students with Autistic-like behaviors
- Starting school and identifying disabilities early will assist unduplicated students to achieve higher levels of academic achievement”

Action #14 is “Additional Special Education Director.” The action is Districtwide for “students with disabilities”; budgeted expenditures are identified as \$153,000 (LCFF Sup and Con). The action is described as:

- “Close monitoring and oversight of programs for students with disabilities
- Improving continuum of service for students with disabilities up to age 22
- Experience has shown additional oversight of Special Education programs allow high-need students the best access to the least restrictive environment”

Action #25 is “Investments for Secondary Students with Disabilities.” It is also associated with District Goal #1, and the associated Identified Need is 1C: “Fresno Unified School

District needs to ensure students have the greatest number of postsecondary choices from the widest array of options.” The action is identified as being districtwide for pupils with disabilities; budgeted expenditures are identified as \$3.4 million (LCFF Sup and Con).

While there is some description of how unduplicated students might benefit from each of these actions, there is no description of how the actions are “principally directed toward” unduplicated pupils. Each generally describes actions that are available to all pupils, and in some cases those actions are required to be available to all pupils who qualify under the Individuals with Disabilities Act (IDEA). The descriptions are not a sufficient description and justification as principally directed towards and effective in meeting the district’s goals for unduplicated pupils as specified in 5 CCR 15496(b).

Allegation 3 of the Complaint challenges districtwide and schoolwide Action #47 (Goal 4) “School Site Security Enhancements.” (2016-2017 LCAP Section 2, p. 109.) The budgeted expenditures are identified as \$440,000 (LCFF Sup and Con). As noted above, the Complaint and Appeal expressed concern that expenditures for the actions described may actually be detrimental to unduplicated pupils. In addition, the Complaint and Appeal also alleged the LCAP does not set out the required description and justification for this districtwide and schoolwide action. The action is accompanied by the following description in Section 2 of the LCAP:

- “School safety was a top request from teachers resulting from the District’s outreach to stakeholders
- Funds to support additional crossing guards
- District share of Police Department grant for additional Community and School Resource Officers at secondary schools
- Police Department Chaplaincy programs at Elementary schools. School Resource Chaplains volunteer at Elementary school campuses teaching a characters and integrity curriculum and assist in identifying and reducing crimes against children. School Resource Chaplains are trained to connect children and families to needed resource in the community.
- Continue expanded coverage for Shot Spotter to reduce school time disruptions in areas with high crime. Shot Spotter assists responding officers with identifying gunshots (versus fireworks, car backfires, or other loud noises) often within a few feet.
- This leads to school and community safety, as well as reduced downtime and classroom disruption that occurs from the stoppage of classroom instruction when safety protocols need to be implemented”

Addressing the issue of whether this schoolwide and districtwide action is supported by the required description of how the security-related actions are principally directed towards and

effective in meeting the goals for unduplicated pupils point, it is evident from the description contained above that the LCAP provides no such description. In the District Decision, the District stated that, as outlined in its LCAP, the \$440,000 expenditure for school site security is part of “a comprehensive approach to serving the unique needs of our large student population”. It also stated that “crime in Fresno is significantly higher than the state and national average.” (Decision, p. 4.) No statement describing how the security investments are directed towards meeting the needs of unduplicated pupils, as opposed to all pupils, is provided. Based on the description provided, the requirements of 5 CCR 15496(b) and Section 3A of the LCAP Template are not met with respect to Action #47.

Furthermore, Appellant suggested that the District “cannot justify that more police or the shot spotter program will help high-needs students in the District” (Appeal, p. 5.) In light of its determination that the District’s LCAP does not provide a sufficient description and justification for Action #47, the CDE does not make a determination on this additional issue raised by Appellant.

For the reasons set forth above, the CDE finds that the District’s 2016-2017 LCAP fails to describe how the districtwide and schoolwide services described in Actions #48, #5, #10, #43, #44, #13, #14, #25 and #47 are principally directed toward and effective in meeting the District’s goals for its unduplicated pupils as required by 5 CCR 15496(b) and Section 3A of the LCAP Template.

Allegation 2: “The LCAP fails to include data that demonstrates specific outcomes for high-need students in the Annual Update.”

The Appeal states that the District should disaggregate outcome data based on pupil groups, and high-need pupils in particular (Appeal, p. 4.) According to the Appeal, the data must be disaggregated in order to help parents and students decipher which programs help high-need students, and that the District never responded to why it refuses to disaggregate the data and “show clear and specific actions of how high-need students have improved.” (Appeal, p. 4.)

EC Section 52061 requires that an annual update to an LCAP be developed using the template adopted by the SBE. The annual update must include a review of any changes in the applicability of an action, a review of progress on the goals included in the LCAP, an assessment of the effectiveness of the specific actions included in the LCAP toward achieving the goals, and a description of any changes to the specific actions the school district plans to make as a result of the review. (*EC* Section 52061(a)(1) and (2).) Expenditures to implement actions in the LCAP, including those that serve unduplicated pupils, must be provided as well. (*EC* Section 52061(a)(3) and (4).)

The LCAP Template Annual Update Instructions specify: “For each goal in the prior year LCAP, review the progress toward the expected annual outcome(s) based on, at a

minimum, the required metrics pursuant to Education Code sections 52060 and 52066.⁷ The review must include an assessment of the effectiveness of the specific actions. Describe any changes to the actions or goals the LEA will take as a result of the review and assessment. In addition, review the applicability of each goal in the LCAP.”

Appellant appears to argue that the District is required to include disaggregated data as part of its Annual Update in the LCAP. However, neither the statute nor the LCAP Template instructions require this disaggregation. The District’s Annual Update in the LCAP does show that it reviewed progress on goals as required. In addition, in responding to the Complaint, the District made clear that it regularly monitors data tied to its LCAP goals. Further, it has made available an “Appendix A” to its LCAP which shows disaggregated outcome data on the LCAP priorities. For these reasons, the CDE finds that Allegation 2 is not sustained.

VI. CORRECTIVE ACTIONS

Before the District adopts its 2017-2018 LCAP and Annual Update, the District must review the descriptions and justification for the District’s 2016-2017 LCAP schoolwide and districtwide Actions #48, #5, #10, #43, #44, #13, #14, #25 and #47 and revise them to provide the required descriptions and justifications consistent with this report. Any revisions shall be presented to the District’s parent advisory committee, the English learner parent advisory committee, and members of the public in accordance with *EC* Section 52062. In the event there are such expenditures which cannot be so described and justified as set forth in this report, the District shall not include those expenditures in its estimate of prior year expenditures for unduplicated pupils that were in addition to what was expended for all pupils when its calculates the minimum proportion by which it must increase or improve services for unduplicated pupils in the 2017-2018 LCAP year. (5 *CCR* 15496(a)(2).) In addition, the District must exclude any such services included in its 2017-2018 LCAP from services that contribute to meeting the requirement to increase or improve services for unduplicated pupils over services provided to all pupils in the LCAP year. The CDE will monitor and support the District’s progress in this regard, and is prepared to work in consultation with the District and the Fresno County Office of Education to achieve this result.

VII. CONCLUSION

⁷ *EC* sections 52060 and 52066 set out the state priorities which must be addressed in the LCAP for school districts and county offices of education respectively.

Abre Conner, Staff Attorney
Sylvia Torres-Guillen, Director of Education
May 5, 2017
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The CDE has investigated the complaint initially filed with the Fresno Unified School District on September 21, 2016. The District is required to implement the Corrective Actions specified above.

Further questions about the uniform complaint process or this letter may be addressed to the CDE as follows:

**Local Agency Systems Support Office
California Department of Education
1430 N Street, Suite 5506
Sacramento, CA 95814
ATTN: Jeff Breshears, Director**

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

I may be reached in the Local Agency Systems Support Office by phone at 916-319-0809 or by e-mail at jbreshears@cde.ca.gov.

Sincerely,

Jeff Breshears, Director
Local Agency Systems Support Office

JB:jf

Attachment A: Complaint (September 2, 2016)
Attachment B: District Decision on Complaint (November 18, 2016)
Attachment C: Appeal to the CDE (December 6, 2016)
Attachment D: District 2016-2017 LCAP

cc: Bob Nelson, Interim Superintendent, Fresno Unified School District
Tammy Townsend, Executive Officer of State and Federal Programs, Fresno Unified School District
Jim Yovino, Fresno County Superintendent of Schools
Kathryn Catania, Deputy Superintendent, Fresno County Office of Education