



**CALIFORNIA DEPARTMENT  
OF EDUCATION**

**TOM TORLAKSON**  
STATE SUPERINTENDENT OF  
PUBLIC INSTRUCTION

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Dear Ms. Torres-Guillén, Mr. McQuillen, Ms. Tracy:

Subject: Request for Appeal – Klamath-Trinity Joint Unified School District  
Yurok Tribe, Hoopa Tribal Education Association, and American Civil Liberties  
Union, Appellants

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal received on September 21, 2018. You are appealing the Klamath-Trinity Joint Unified School District's (District's) Decision dated September 7, 2018.

## **I. Background**

The Local Control Funding Formula (LCFF) statute authorizes the filing of an administrative complaint pursuant to the Uniform Complaint Procedures (UCP) to resolve allegations that a

local educational agency (LEA)<sup>1</sup>, such as a school district, failed to meet the requirements of Article 4.5. [Local Control and Accountability Plans and the Statewide System of Support [52059.5 – 52077.] (California *Education Code (EC)* Section 52075; *California Code of Regulations*, Title 5 (5 *CCR*) Section 4600 et seq.). On June 25, 2018, the Yurok Tribe, Hoopa Tribal Education Association, and American Civil Liberties Union (Appellants) submitted a UCP Complaint (Complaint) to the District, alleging that the District's 2017-18 Local Control and Accountability Plan (LCAP) violates the LCFF statute.

The District issued its Decision in this matter on September 7, 2018. The Appellants submitted an Appeal to the CDE of the District's Decision on September 21, 2018. The CDE sent a notice of appeal letter, dated September 29, 2018, to the District requesting the investigation file and other applicable documentation as required by 5 *CCR* Section 4633. The CDE received the District's documentation on October 12, 2018.

After an initial review of the Complaint, the District's Decision, and the Appeal, the CDE determined that Allegation 4 in the Appeal raised a new allegation not contained in the Complaint. In the Complaint, Allegation 4 states that "the District Must Strengthen Its LCAP Stakeholder Engagement Process" (Complaint, p. 10). As presented and further described in the Complaint, this does not rise to the level of an allegation that the District violated statute. In the Appeal, Allegation 4 was expanded to include the allegation that the District failed to meet basic legal requirements for the LCAP stakeholder engagement process. Specifically, the Appeal alleges that the District failed to consult a Parent Advisory Committee in the LCAP development process as required by *EC* sections 52062-52063.

In a letter dated October 1, 2018, and consistent with 5 *CCR* Section 4632(d), the CDE referred Allegation 4 in the Appeal back to the District for resolution as a new complaint under 5 *CCR* sections 4630 and 4631. The District is required to complete an investigation of this allegation per its uniform complaint procedures and issue a decision to the Appellants within 60 days. The CDE addresses the remaining three allegations of the Complaint below.

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

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

### **The Complaint**

The Complaint alleges the following:

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

**Allegation 1:** “The District fails to justify each schoolwide and districtwide S&C expenditure as ‘principally directed towards’ and ‘effective in meeting’ its goals for high-needs students” (Complaint, p. 2). Furthermore, the Complaint alleges that the District does not identify all schoolwide or districtwide uses of supplemental and concentration funds in the “Demonstration of Increased or Improved Services for Unduplicated Pupils” (Demonstration) section of the LCAP.

**Allegation 2:** “The District fails to provide in its Annual Update adequate description[s] of the actions/services implemented and how these are effective in meeting the District’s goals” (Complaint, p. 7). Specifically, the Complaint alleges that the Annual Update fails to meet the requirements of law in the following four ways:

(2a) First, the descriptions of the *actual* actions and services are deficient. For example, some descriptions of the *actual* actions and services provided in the Annual Update simply state “Implemented” without any additional information. Examples provided in the Complaint include Annual Update Goal 2, Actions 3 and 4.

(2b) Second, the response provided for the first prompt of the Analysis part for each goal in the Annual Update is not sufficient. This prompt requires an LEA to describe the overall implementation of the actions/services to achieve the goal. For each of the four goals in the Annual Update, the District provides the following response to this prompt:

“Although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages.”

(2c) Third, the Complaint argues that it is impossible to determine if the actions had a positive impact on student outcomes because the District does not link its actions with its measures of effectiveness. The response to the second prompt in the Analysis part of the Annual Update, which requires an LEA to describe the overall effectiveness of the actions/services to achieve the goal, is inadequate and fails to address the needs of unduplicated students.

(2d) Fourth, the Complaint claims that, “although the District repeatedly fell short of its own goals, when asked to ‘describe any changes made to this goal, expected outcomes, metrics, or actions and services to achieve this goal as a result of this analysis,’ the only response the District offered was ‘instead of seeking part-time positions, extra efforts were made to make as many positions full-time, with benefits to encourage more applicants and fill more vacancies’” (Complaint, p. 9). The Complaint thereby alleges that the District’s response to the fourth prompt of the Analysis part for each goal in the Annual Update, which requires an LEA to describe changes made to an LCAP goal, is inadequate.

**Allegation 3:** “The District fails to account for all S&C funds in its estimated actual spending and reallocated significant amounts of S&C funds after the LCAP approval process” (Complaint, p. 9). According to the Complaint, the District allocated an additional \$296,450 in supplemental and concentration funds for the maintenance, operations, and transportation departments without providing an adequate explanation in the Annual Update of this material difference in expenditures. The Complaint also states that the District does not provide a description of how

stakeholders were engaged in a significant reallocation of 2016-17 funds away from services for high-need students to districtwide uses. Furthermore, given a total of \$2,446,550 supplemental and concentration funds received by the District for 2017-18, the District fails to include \$651,077 of these funds in the 2017-18 LCAP.

### **District's Decision**

**Allegation 1:** The District claims that it adequately justifies districtwide actions and services in the Demonstration section for the 2017-18 LCAP year. The District states,

“The District adequately justified the District-wide use of such funds based on impacting the learning environment at the school, which would in turn positively impact unduplicated pupils, especially considering the District’s nearly 90% unduplicated pupil count” (Decision, p. 10).

Also in the Decision, the District references language in the 2017-18 LCAP as evidence for its claim that districtwide actions and services are adequately justified. The District claims that the districtwide use of supplemental and concentration funds are justified by “the importance of making an impact on the learning environment and the climate of the schools as [a] whole which will have a positive impact on the targeted subgroups” (KTJUSD 2017-18 LCAP, p. 126 as quoted in Decision, p. 6). The District intends to use supplemental and concentration funds to “offer a variety of programs and supports specifically for low income students and foster youth” (KTJUSD 2017-18 LCAP, p. 126 as quoted in Decision, p. 6). The Response to Instruction and Intervention specialists are “targeting foster youth, students with disabilities, and/or students who are Native America[n], and/or Socio-Economically Disadvantaged” and staff training “that will be especially targeted for Foster Youth and Low Socio-Economic students” (KTJUSD 2017-18 LCAP, p. 126 as quoted in Decision, p.6).

**Allegation 2:** The District claims that the Annual Update of 2016-17 goals provided in the 2017-18 LCAP provides adequate descriptions of the implemented actions and services as well as descriptions of how the implemented actions and services were effective in meeting the District’s goals and included the overall analysis of each goal. To support this claim, the District makes reference to the data provided on the expected annual measurable outcomes for each goal in the Annual Update as well as the descriptions of *actual* actions and services, which report “whether the action was implemented as written or otherwise” (Decision, p. 4).

**Allegation 3:** The District claims that it adequately accounted for supplemental and concentration funds and did not inappropriately reallocate such funds after LCAP approval. The District acknowledges the \$296,450 difference between budgeted and estimated actual expenditures of supplemental and concentration funds for maintenance, operations, and transportation departments. The District states that the LCAP template requires “the District to explain only material differences between” budgeted and actual estimated expenditures (Decision, p. 12). The District asserts it has provided the required explanation of material differences in the Annual Update.

### III. Appeal

**Allegation 1: “The District fails to explain how the majority of its S&C funds will be ‘principally directed towards, and effective in,’ meeting the District’s goals for its high-need students” (Appeal, p. 2).**

The Appellants appeal the District’s Decision regarding Allegation 1 on the grounds that the District’s Decision fails to adequately explain how its districtwide uses of supplemental and concentration funds will be principally directed towards, and effective in, meeting the District’s goals for its unduplicated students. The Appellants state that the District is incorrect to reason that a high percentage of unduplicated student enrollment means that the District is not required to provide adequate justification for districtwide uses of supplemental and concentration funds. Appellants also allege that the District fails to identify all schoolwide or districtwide uses of supplemental and concentration funds in the Demonstration of Increased or Improved Services for Unduplicated Pupils section of the LCAP.

**Allegation 2: “The District fails to provide in its Annual Update adequate description of the actions/services implemented and how these are effective in meeting the District’s goals” (Appeal, p. 3).**

The Appellants appeal the District’s Decision regarding Allegation 2 on the grounds that the District’s Decision is incorrect to state that the Annual Update provides adequate descriptions of *actual* actions and services. Stating only that an actions was “implemented” is deficient because it offers “little to no substantive information” (Appeal, p. 4).

The Appellants also appeal the District’s Decision regarding Allegation 2 on the grounds that the Decision is incorrect to conclude that the Annual Update “included the required overall analysis of each goal” (Decision, p. 12 as quoted in Appeal, p. 4). According to the Appellants, the District’s Decision is conclusory on this point.

**Allegation 3: “The District failed to account for all S&C funds in its estimated actual spending and, as reflected in the Annual Update, reallocated significant amounts of S&C funds after the LCAP approval process without undergoing the requisite stakeholder engagement process” (Appeal, p. 4).**

Appellants appeal the District’s Decision regarding Allegation 3 on the grounds that the District’s Decision fails to adequately address the lack of accounting for over \$650,000 of supplemental and concentration funds and is incorrect to treat the increase of \$296,450 for maintenance (Annual Update Goal 2, Action 2) as not being material. According to the Appellants, the District is incorrect to state in its Decision that the response to the third prompt of the Analysis part in the Annual Update, which requires an LEA to describe material differences between budgeted and estimated actual expenditures, is adequate. Appellants state that the response provided “is both inadequate and appears to be totally unrelated to spending on ‘maintenance’” (Appeal, p. 4).

#### **IV. Legal Authorities**

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52059.5 – 52077  
California *Code of Regulations* sections 15494 – 15497

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

##### **Allegation 1**

The Appellants allege that the District fails to provide the required justification for each of its LEA-wide actions/services in the LCAP and fails to identify all such actions/services in the “Demonstration of Increased or Improved Services for Unduplicated Pupils” (Demonstration) section. The Appellants state that the District is incorrect to reason that a high percentage of unduplicated student enrollment means that the District is not required to provide the necessary justification for districtwide or schoolwide actions/services.

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

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 students in the LCAP year. Regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated students above services provided to all students in the fiscal year (5 *CCR* 15496(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 students may include two categories of services:

- Services that are limited to serving one or more unduplicated student group, and
- 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. An LEA is required to follow the LCAP Template approved by the State Board of Education (SBE) (*EC* Sections 52064, 52070). The Demonstration section requires an LEA to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated students, and to identify the percentage by which it must increase or improve services for unduplicated students over all students. Also in this section, the LEA must describe how the services provided for

unduplicated students are increased or improved by at least this percentage, either quantitatively or qualitatively, as compared to services provided for all students in the LCAP year (EC Section 42238.07; 5 CCR 15496).

The actions/services included as contributing to meeting the increased or improved services requirement must be indicated as such in the Goals, Actions, and Services section of the LCAP. The District's 2017-18 LCAP contains four goals and 18 districtwide or schoolwide actions included as contributing to meeting the increased or improved services requirement. Of the 18 "wide" actions, at most five of them are addressed in some manner by the description of increased or improved services provided in the Demonstration section. The remaining districtwide or schoolwide actions/services do not fall within the scope of the description of increased or improved services provided in the Demonstration section. An adequate description of how a District will meet its increased or improved services requirement must address in some manner all actions/services included in the Goals, Actions, and Services section as contributing to meeting this requirement. As a result, the description provided in the Demonstration section fails to sufficiently describe how the District plans to meet its increased or improved services requirement.

Furthermore, the description of increased or improved services provided in the Demonstration section must be consistent with an LEA's response to the "Increased or Improved Services" prompt in the Plan Summary section of the LCAP. In the 2017-18 LCAP, the District states in the Plan Summary section of the LCAP that one of the most significant ways it will increase or improve services is to "Maintain the implementation of one to one technology for all students" (2017-18 KTJUSD LCAP, p. 4). The description of increased or improved services provided in the Demonstration section does not address such an action/service nor is there any such action/service included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement.

The template also requires an LEA to identify each action/service contributing to the increased or improved services requirement that is funded and provided on a schoolwide or LEA-wide manner, and to include the required description supporting each schoolwide or LEA-wide action/service. An LEA such as KTJUSD, which has an unduplicated student enrollment greater than 55%, must describe in its LCAP how the actions/services are "*principally directed towards*" and "*effective in*" meeting its goals for unduplicated students in the state and any local priority areas<sup>2</sup> (EC Section 42238.07, 5 CCR 15496(b)).

To provide the required justification for services provided on a "wide" basis, an LEA must distinguish between services directed toward unduplicated students based on that status, and services available to all students without regard to their status as unduplicated students or not. An LEA describes how a service is principally directed to meeting the LEA's goals for

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<sup>2</sup> Schoolwide services at a district school with enrollment of unduplicated pupils that is 40 percent or more of its total enrollment must be supported by the same description. Schoolwide services at a school district school with less than 40 percent unduplicated pupil enrollment must be supported by the additional description of how the schoolwide use of funds is the *most effective* use of the funds to meet the LEA's goals for its unduplicated pupils. This tripartite explanation is also required for action/services provided on LEA-wide basis in an LEA with unduplicated pupil enrollment of less than 55%. (5 CCR 15496(b)).

unduplicated students in any state or local priorities when it explains in its LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated students, and how the service takes these factors into consideration (such as, for example, by the service's design, content, methods, or location).

In addition, the description must explain how the service will be *effective* in meeting the LCAP goals for its unduplicated students. An LEA meets this requirement by providing in the LCAP an explanation of how it believes the action/service will help achieve one or more of the expected outcomes for the goal. Conclusory statements that an action/service will help achieve an expected outcome for the goal, without further explanation as to how, are not sufficient.

When an LCAP contains the necessary descriptions as described above for actions/services provided on a wide basis, it will be apparent how the LEA is acting to increase or improve services for unduplicated students, and why it has determined the services identified will be effective to achieve its goals for unduplicated students. Simply stating that an LEA has a high percentage of unduplicated student enrollment does not meet this standard.

In the Demonstration section, the District references some of the actions/services being implemented to increase or improve services for unduplicated students. The District states that it will use the amount of supplemental and concentration funds to “offer a variety of programs and supports specifically for low income students and foster youth” (2017-18 KTJUSD LCAP, p. 126). According to the description provided in the Demonstration section, these programs and supports include support for mental health, family engagement, literacy training, positive behavior and attendance, and culturally inclusive training. The District also describes services such as Response to Intervention (RtI) training that will serve “all students including Native American students and students with disabilities” (2017-18 KTJUSD LCAP, p. 126). The District states the following in the Demonstration section as justification for the districtwide and schoolwide services:

“The justification for the district-wide implementation of these practices is the importance of making an impact on the learning environment and the climate of the schools as a whole which will have a positive impact on the targeted subgroups” (2017-18 KTJUSD LCAP, p. 126).

The District does not explain either in the Demonstration section or elsewhere in the LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated student, nor how the actions/services takes these factors into consideration. As a result, the District has failed to describe how districtwide and schoolwide actions/services included as contributing to meeting the increased or improved services requirement are principally directed to meeting the LEA's goals for unduplicated student in any state or local priorities.

The District describes how it believes its districtwide services are “the most effective use of our funds” by pointing out that Response to Instruction and Intervention will allocate resources to student groups, that all students will be enrolled in classes with a “lower teacher to student ratio” and will not be enrolled in “combination grade classes” and lists additional services for students such as restorative justice practices and college and career readiness programs (2017-18



KTJUSD LCAP, p. 126). The District concludes its description of how it will increase or improve services for unduplicated students by stating that training for emotional-social well-being, trauma informed care, and training for staff on issues of students living in poverty will meet the needs of all students, “but is especially targeted for Foster Youth and Low Socio-Economic students.” With the exception of college and career readiness programs, the actions/services described in the Demonstration section are not discussed in relation to one or more expected annual measurable outcomes. As a result, the District has failed to explain how the actions/services will be effective in meeting the LCAP goals for its unduplicated students.

While the District describes in its LCAP actions and services that are provided to all students and unduplicated students, the LCAP does not include any consideration of the needs, conditions, or circumstances of the District’s unduplicated students, whether in the Demonstration section specifically or in other sections of the LCAP. As a result, there is no possible way to describe how the districtwide or schoolwide actions/services included as contributing to meeting the increased or improved services requirement take into consideration such factors. Nor is there a description of how such actions/services will help meet one or more expected annual measurable outcomes for the goal. As a result, the District has failed to provide the necessary justification for districtwide and schoolwide actions/services included as contributing to meeting the increased or improved services requirement.

The CDE finds that the District failed to adequately describe how it plans to meet its increased or improved services requirement because its LCAP fails to provide a description in the Demonstration section that applies to all actions/services included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement. The CDE also finds that the District failed to adequately describe how it plans to meet its increased or improved services requirement because its LCAP fails to provide the necessary justification for all districtwide and schoolwide actions/services included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement.

The appeal of the District Decision regarding Allegation 1 is sustained.

## **Allegation 2**

The Appellants allege that the District fails to provide in its Annual Update adequate descriptions of the *actual* actions/services and how these actions/services were effective in meeting the District’s goals. The Complaint makes four separate claims, or sub-allegations (2a – 2d) that constitute Allegation 2. Specifically, the Complaint alleges that the use of the word “implemented” is an insufficient description of *actual* actions/services and the responses to the first, second, and fourth prompts of the Analysis part for each goal in the Annual Update are inadequate.

*2a: The District fails to provide adequate descriptions of the actual actions/services in the Annual Update.*

The LCAP directions state:

“Identify the planned Actions/Services and the budgeted expenditures to implement these actions toward achieving the described goal. Identify the actual actions/services implemented to meet the described goal and the estimated actual annual expenditures to implement the actions/services. As applicable, identify any changes to the students or student groups served, or to the planned location of the actions/services provided.”

Per the LCAP template directions, the requirement is to identify the *actual* actions/services implemented to meet the described goal and to identify any changes to the students or student groups served, or to the *planned* actions/services provided, as applicable. An LEA transposes the *planned* actions/services from the prior LCAP year into the Annual Update for the relevant LCAP year. *Planned* actions/services are entered into the left hand column. In the right hand column, next to each *planned* action/service, an LEA identifies the *actual* action/service that was implemented relative to what was planned. If all goes as planned for a *planned* action/service, the description of the *actual* action/service will be the same or very similar as that provided for the corresponding *planned* action/service. When not all goes as planned, the description of the *actual* action/service will be different than the description provided for the corresponding *planned* action/service.

The LCAP Template directions do not include specific requirements for what constitutes the identification of an *actual* action/service. The underlying question being addressed by a distinction between *planned* and *actual* actions/services seeks to clarify the extent to which a *planned* action/service was implemented. An LEA is addressing whether or not it carried out the action/service as planned or not, whether in whole or in part. As such, what constitutes a sufficient identification of an *actual* action/service will depend on the relative complexity of the action/service or the level of specificity provided by the description of the corresponding *planned* action/service.

The Appellants maintain that simply stating “implemented” as a description of an *actual* action/service is inadequate in all cases and so all *actual* actions/services described only as “implemented” do not meet the standard. Identifying an *actual* action/service as “implemented”, without any other information, may be sufficient to clarify the extent to which a relatively simple *planned* action/service was implemented. For example, it may be sufficient to identify the *actual* action/service corresponding to the *planned* action/service “hire music teacher” (Annual Update Goal 3, Action 16, p. 64) as “implemented”, as the District has done, if a music teacher was hired.

However, the *actual* action/service corresponding to the *planned* action/service “Dealing with students in crisis/trauma, brain development” (Annual Update Goal 2, Action 10, p. 37) needs additional clarification to be sufficiently identified. Due to the lack of specificity provided in the description of this *planned* action/service, a description of what was actually implemented will need to provide information beyond what the description of the *planned* action/service provides. Also, the *planned* action/service being described is relatively complex. Identifying the extent to which the needs of students in crisis or who have suffered traumatic events have been met is not as simple as identifying whether or not a music teacher has been hired. For these reasons, the description provided for the *actual* action/service for Annual Update Goal 2, Action 10, does

not meet the requirement provided in the LCAP template instructions to identify the *actual* action/service.

Annual Update Goal 1, Action 27 (p. 16) describes the *actual* action/service as “HES”. Such a description fails to identify the action/service implemented. It is not apparent in this case what action/service was implemented and so does not meet the standard. Other examples of descriptions for actual actions/services that are insufficient include Goal 1, Actions 13, 17; Goal 2, Action 3; Goal 3, Action 2 (left blank). The descriptions provided for these actions/services in the Annual Update do not meet the requirement provided in the LCAP template instructions to identify the *actual* action/service.

As a result, the CDE finds that the District fails to adhere to the LCAP template directions pertaining to the identification of the *actual* actions/services in the Annual Update.

*2b: The District’s response provided for the first prompt of the Analysis part for each goal in the Annual Update is not sufficient.*

The LCAP template directions provided for the Analysis part of the Annual Update state:

“Using actual annual measurable outcome data, including data from the LCFF Evaluation Rubrics, analyze whether the planned actions/services were effective in achieving the goal. Respond to the prompts as instructed” (LCAP Template Directions).

LCAP template directions specific to the first prompt state:

“Describe the overall implementation of the actions/services to achieve the articulated goal. Include a discussion of relevant challenges and successes experienced with the implementation process” (LCAP Template Directions).

For each of the four goals in the Annual Update, the District provides the following response to this prompt:

“...although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages” (2017-18 KTJUSD LCAP, pp. 33, 57, 74, 82).

The response provided by the District does not “include a discussion of relevant challenges and successes experienced with the implementation process” (LCAP Template Directions). As a result, the CDE finds that the District’s response to the first prompt does not adhere to the LCAP template directions for the first prompt of the Analysis part of the Annual Update for all four goals.

*2c: The response to the second prompt in the Analysis part of the Annual Update is inadequate and fails to address the needs of unduplicated students.*

The LCAP template directions specific to the second prompt state:

“Describe the overall effectiveness of the actions/services to achieve the articulated goal as measured by the LEA” (LCAP Template Directions).

The District’s responses to the second prompt in the Analysis part of the Annual Update are as follows:

Response provided for Annual Update Goal 1: “Goals were clear but individual school plans still lacked the clarity to accomplish goals.”

Response provided for Annual Update Goals 2, 3, 4: “Goals were clear and schools (and their individual communities) were able to communicate a successfully obtain their goals.”

The directions for this prompt do not require an LEA to specifically address the needs of unduplicated students. However, the directions do require that an LEA to relate the overall effectiveness of the actions/services, as measured by the LEA, with the relevant LCAP goal.

Goal 1 in the Annual Update included in the 2017-18 LCAP is stated as follows:

“All students will receive high quality instruction, aligned to Common Core Standards, which will engage them as 21<sup>st</sup> Century learners and prepare them for college and careers.” (2017-18 KTJUSD LCAP, p. 6).

The response provided to the second prompt in the Analysis part of the Annual Update for goal 1 does not reference anything of substance from the goal 1 statement. The response to the prompt states that the goals were clear but school plans lack clarity. The LCAP template directions for the relevant prompt require an LEA to relate overall effectiveness of the actions/services, as measured by the LEA, with the relevant LCAP goal. The District’s response to the second prompt of the Analysis part for goal 1 of the Annual Update does not adhere to these directions.

The same is true for the remaining three goals of the Annual Update. As a result, the CDE finds that the District does not adhere to the LCAP template directions provided for the second prompt of the Analysis part of the Annual Update for all four goals.

*2d: The District’s response to the fourth prompt of the Analysis part for each goal in the Annual Update is inadequate.*

The LCAP template directions specific to the fourth prompt state:

“Describe any changes made to this goal, expected outcomes, metrics, or actions and services to achieve this goal as a result of this analysis and analysis of the data provided in the LCFF Evaluation Rubrics, as applicable. Identify where those changes can be found in the LCAP” (LCAP Template Directions).

The District's response to the fourth prompt in the Analysis part of the Annual Update for each goal is as follows:

"Instead of seeking part-time positions, extra efforts were made to make as many positions full-time, with benefits to encourage more applicants and fill more vacancies" (2017-18 KTJUSD LCAP, pp. 33, 57, 74, 82).

Goals 1 – 4 in the Goals, Actions, and Services section of KTJUSD's 2017-18 LCAP do not contain any action that addresses a shift from hiring part-time employees to hiring full-time employees with benefits. Goal 2, Action 1 states that a 0.5 FTE health secretary will be employed. This is not consistent with the District's response to the fourth prompt of the Analysis part in the Annual Update. As the District's response to this prompt does not appear to address the goals, actions, or services planned for the 2017-18 LCAP year, the District fails to adequately respond to this prompt. As a result, the CDE finds that the District does not adhere to the LCAP template directions provided for the fourth prompt of the Analysis part of the Annual Update for all four goals.

The appeal of the District Decision regarding Allegation 2 is sustained.

### **Allegation 3**

The Appellants allege that the District's Decision fails to adequately address the lack of accounting for over \$650,000 of supplemental and concentration funds and is incorrect to treat the increase of \$296,450 for maintenance (Annual Update Goal 2, Action 2) as not being material. More generally, Appellants allege that the District is incorrect to claim that the explanation provided for material differences is adequate.

First, there is no requirement to distinguish between supplemental and concentration funds and other LCFF funds in the LCAP. However, an action or service included as contributing to meeting the increased or improved services requirement must be supported by at least one expenditure of LCFF funds. These LCFF funds may be identified by the LEA as either base or supplemental and concentration funds or simply as LCFF funds or otherwise indicated as unrestricted. Whether an LEA distinguishes between LCFF base and LCFF supplemental and concentration funds in an LCAP is a decision to be made at the local level in consultation with stakeholders.

Regarding material differences, the Annual Update includes a prompt for each goal that requires an LEA to "explain material differences between budgeted expenditures and estimated actual expenditures" (LCAP Template, Annual Update, Analysis section). In responding to this prompt, a school district should review the absolute amount by which expenditures projected when the LCAP was adopted differ from estimated actual expenditures, as well as any resulting impacts on implementation of the related actions or services. Applying the results of this review, an LEA must make a reasonable judgment regarding which of the differences are material, and explain, in the annual update, the reasons for the differences in these expenditures.

What is considered a material difference is not only a function of either the absolute or relative size of the expenditure difference, but is also determined in part by those differences that cause meaningful changes in the implementation of actions or services that support a goal. Small amounts are more likely to be material when purchasing textbooks while larger amounts pertaining to personnel costs may not be material. For example, the cost of providing a full-time teacher may range in cost to an LEA from \$60,000 to \$110,000. On the other hand, in the context of textbook costs, a difference of \$1,000 could indicate that a substantial number of textbooks were not purchased. As a result, a determination of “materiality” based solely on the application of a blanket rule (for example, 20% variance) may not be sufficient, depending on the circumstances applicable to the particular goal, action, or service.

An LEA’s judgment as to “materiality” and writing of related explanations as part of the LCAP annual update and development process should be carried out with awareness that determining material differences and explaining them in the LCAP is critically important to meaningful stakeholder engagement. This knowledge informs stakeholders how resources have been deployed (or not) in support of goals, and can assist both stakeholders and the LEA in deciding whether or not goals, actions, or services should be eliminated or modified to enhance student achievement.

The District’s response to the third prompt in the Analysis part of the Annual Update for each goal is as follows:

“Due to lack of applications or qualified personnel, some positions were left ‘unfilled’ for the year” (2017-18 KTJUSD LCAP, pp. 33, 57, 74, 82).

The requirement is to provide an explanation for those differences between budgeted and estimated actual expenditures considered to be material. There is no requirement that the explanation of material differences provided in the LCAP specifically track any reallocations of shortfalls. The difference of \$296,450 for Annual Update Goal 2, Action 2 is a 37% increase over the planned budgeted expenditure of \$799,429. The description of the *planned* action/service is as follows:

“Maintain Maintenance, Operations and Transportation Department, staff and supplies” (2017-18 KTJUSD LCAP, p. 35).

The explanation of material differences references a lack of applications from qualified personnel as a reason for why some positions were not filled. If the estimated actual expenditures had been less than the expenditure amount initially budgeted, this explanation might account for such a difference. However, in this particular case, the estimated actual expenditure is 37% greater than the budgeted expenditure. No explanation is provided that would reasonably account for such an increase.

While there is no blanket rule that serves to identify a difference as material, an increase of \$296,450 likely results from a meaningful change in the implementation of the action/service. In its Decision, the District explicitly excludes this expenditure difference from consideration as being material with no explanation provided.

The appeal of the District Decision regarding Allegation 3 is sustained.

## **VI. Conclusions**

The CDE sustains the Appeal of Allegations 1, 2, and 3. The CDE has referred Allegation 4 in the Appeal back to the District for resolution as a new complaint under 5 CCR sections 4630 and 4631.

## **VII. Corrective Actions**

With respect to the 2017-20 LCAP adopted for the 2018-19 LCAP year considered in its entirety, the District is required to work with the Humboldt County Office of Education, with the support of the California Department of Education, to ensure that the 2018-19 LCAP meets the requirements of the LCAP template, specifically with respect to the findings included in this report. Should conforming revisions to the 2018-19 LCAP be necessary in order to comply with these corrective actions, the District must adhere to the LCAP and annual update adoption process, including the stakeholder engagement requirements as described in *EC* Section 52062 and be adopted in a public meeting no later than February 15, 2019.

As described in 5 CCR 4665, within 35 days of receipt of this report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s), or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied.

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

Sincerely,

Jeff Breshears, Director  
Local Agency Systems Support Office

JB:jf

cc: Jon Ray, Superintendent, Klamath-Trinity Joint Unified School District  
Linnea Nelson, Education Equity Staff Attorney, ACLU of Northern California  
Theodora Simon, Investigator, ACLU of Northern California  
Jennifer Fairbanks, LCAP Coordinator, Humboldt County Office of Education