



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TOM TORLAKSON
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

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October 19, 2018

Cynthia L. Rice, Director of Litigation, Advocacy, and Training
California Rural Legal Assistance, Inc.
1430 Franklin Street, Suite 103
Oakland, CA 94612

Dear Cynthia L. Rice:

Subject: Request for Appeal – San Joaquin County Office of Education
California Rural Legal Assistance, Inc. and Lawyers' Committee for Civil Rights,
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 April 12, 2018. You are appealing the San Joaquin County Office of Education's (SJCOE's) Decision dated March 29, 2018.

I. Background

On January 29, 2018, the Lawyers' Committee for Civil Rights and California Rural Legal Assistance, Inc. (collectively, Appellants) submitted a Uniform Complaint Procedure Complaint (Complaint) to the SJCOE alleging that the SJCOE's 2017-18 Local Control and Accountability Plan (LCAP) violates Local Control Funding Formula (LCFF) statute. After considering the Complaint, the SJCOE issued a written Decision, dated March 29, 2018, in which it determined that the SJCOE had not violated applicable law. The Appellants appealed this Decision to the CDE in a letter dated April 12, 2018 (Appeal). CDE sent a notice of appeal letter, dated April 20, 2018, to SJCOE requesting the investigation file and other applicable documentation as required by *California Code of Regulations*, Title 5 (5 CCR), Section 4633. Following receipt of this documentation from the SJCOE, the CDE reviewed all material received related to the complaint, applicable laws, and the SJCOE's complaint procedures.

Title 5 CCR 4633(i)(1) requires the CDE to include a finding that the local educational agency (LEA) complied or did not comply with its complaint procedures. The CDE has reviewed the complaint procedures for the SJCOE and finds that the SJCOE did comply with its complaint procedures.

II. Summary of Complaint and District Decision

The Complaint

The Complaint alleges the following:

Allegation 1: “The 2017-18 LCAP failed to include subgroup goals for any priority area” (Complaint, p. 2).

Allegation 2: “The Annual Update for 2016-17 included in the 2017-18 LCAP failed to clearly identify how much of the S&C grant funds were truly spent” (Complaint, p. 2). Specifically, the LCAP fails to explain material differences between budgeted and actual expenditures of supplemental and concentration funds and fails to provide exact amounts of supplemental and concentration funds expended.

Allegation 3: “The LCAP fails to justify each districtwide use of S&C funding in the 2017-18 LCAP by failing to explain how the use of S&C funds is principally directed towards, and are effective in, meeting the district’s goals for its unduplicated pupils in the state and any local priority areas” (Complaint, p. 2).

Requested Remedy: The Complaint requests as remedy the following (Complaint, pp 14-15):

1. “SJCOE must establish sub group goals with respect to each of the 3 Goals identified in the LCAP, consistent with *Education Code* Section 52066(c)(1).”
2. “For each identified action SJCOE must provide a breakdown of the amount of S&C funds allocated and expended and provide an explanation for any significant shortfalls or overages in spending of allocated funds.”
3. “For each identified action SJCOE must provide an indication of what schools the action item is applicable to and the amount of expenditure attributed to those schools.”
4. “For each identified action SJCOE must provide information demonstrating that the expenditures are for services that are principally directed towards and effective in increasing or improving services to unduplicated students.”

SJCOE’s Decision

Allegation 1: The SJCOE asserts that the three goals of its 2017-18 LCAP collectively address all state priorities and includes specific actions and services that meet the needs of all students, including unduplicated students. The 2017-18 LCAP includes expected annual measurable outcomes to determine whether the planned actions or services will be effective in achieving the goals in the LCAP. By including goals, actions, and services that meet the needs of all students, SJCOE claims that its LCAP necessarily included goals, actions, and services for each of the applicable student groups. The SJCOE maintains that there is no specific requirement to create unique goals, actions, and services for each student group.

Allegation 2: The SJCOE asserts that there is no specific requirement to distinguish between LCFF base grant funds and supplemental and concentration grant funds in the LCAP. According to the SJCOE, the directions provided in the LCAP template require that expenditures in the LCAP be classified in accordance with the California Schools Accounting Manual (CSAM). The CSAM does not provide or require a unique resource or other code for tracking supplemental and concentration grant funds separately from LCFF base funds.

Allegation 2 included the allegation that SJCOE's 2017-18 LCAP failed to explain material differences between 2016-17 planned and estimated actual expenditures in the Annual Update. The SJCOE maintains that there is currently no definition of materiality in this context. What constitutes a material difference is determined at the local level. The SJCOE indicates that it did identify those differences that they believed to be material, including explanations, for Goal 1, Actions 9 and 12; Goal 2, Action 3; and Goal 3, Action 1.

Allegation 3: The SJCOE asserts that its 2017-18 LCAP identifies each action that is included as contributing to meeting the increased or improved services requirement both in the "Goals, Actions, and Services" section as well as the last section of the template titled "Demonstration of Increased or Improved Services for Unduplicated Pupils." The SJCOE maintains that each of the countywide actions identified as contributing to the increased or improved requirement are justified as principally directed toward, and effective in, meeting the SJCOE's goals for its unduplicated students in the state and any local priorities.

The SJCOE concludes that the allegations in the Complaint are without merit.

III. Appeal

Allegation 1: The Appellants disagree with the SJCOE's conclusion of law that there is no specific requirement to include unique goals in an LCAP for each student group. The Appellants cite *Education Code (EC) Section 52066(c)(1)* which states that an LCAP shall include "a description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052." The Appellants claim that the SJCOE's interpretation of this statute renders the language "and each subgroup of pupils" superfluous.

The Appellants continue by stating,

"While COEs may establish common goals for multiple subgroups and describe them together, that is not what SJCOE has done here" (Appeal, p. 3).

The Appellants stated acceptance of "common goals for multiple subgroups" seems contrary to its allegation that the SJCOE violated applicable law by not establishing "unique" goals for student groups.

The Appellants also allege that the 2017-18 LCAP has failed to identify student groups anywhere in the plan. This is required, according to the Appellants, by the CDE's guidance provided in the form of responses to frequently asked questions as posted on the CDE's

website and dated December 9, 2015. The Appellants read this guidance as requiring LEAs to identify which “subgroups have the same goals.”¹

Allegation 2: The Appellants disagree with the SJCOE’s conclusion of law that COEs do not have any obligation to designate supplemental and concentration expenditures in the LCAP. The Appellants claim that the CSAM is not the only relevant criteria. They argue that by adhering only to the specific requirements in the CSAM, the SJCOE is ignoring a larger legislative mandate to incorporate parent feedback and participation in making decisions regarding unduplicated students.

The Appellants also disagree with the SJCOE’s conclusion regarding materiality of differences between planned and estimated actual expenditures. They assert that the SJCOE only provides explanations for two of the four differences the SJCOE deemed to be material (i.e. \$42,253 in Goal 1, Action 9 and \$101,917 in Goal 1, Action 12). Furthermore, other differences larger than those the SJCOE deemed to be material are not included by the SJCOE as being a material difference. The Appellants describe differences ranging from \$2,981 to \$704,275 that the SJCOE does not address as material differences.

Allegation 3: The Appellants maintain that the SJCOE does not provide the required justification for countywide actions included as contributing towards meeting the increased or improved services requirement. The Appellants state that the SJCOE describes its unduplicated students as “highly transient” as a justification for truancy prevention actions but provides no data to support the claim that the SJCOE’s unduplicated students are highly transient. The Appellants assert that the SJCOE’s claim that unduplicated students inherently require differentiated instruction does not contribute toward a justification because “it is a given that all students enrolled in a COE school are facing some educational challenge requiring differentiated instruction” (Appeal, p. 6). Furthermore, the Appellants claim that there is no indication of how these services principally address the challenges faced by unduplicated students.

IV. Legal Authorities

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52060 – 52077
California Code of Regulations, Title 5, sections 15494 – 15497.5

¹ The source of this guidance was retrieved from <https://www.cde.ca.gov/fg/aa/lc/lcfaq.asp#LCAP> prior to January 8, 2018, under the question “Must all state priorities be addressed in each year or over the three year period? (Revised 09-Dec-2015).” This question and its following answer were both updated on January 8, 2018. The question now reads “Must school districts and COEs address all state priorities in each year or over the three year period? (Revised January 8, 2018).” The language cited by the Appellants from the prior version is not included in the updated FAQ language.

V. CDE Findings of Fact and Conclusions of Law

Allegation 1

The Appellants are correct in their assertion that “COEs may establish common goals for multiple subgroups and describe them together” (Appeal, p. 3). EC Section 52066 states that an LCAP shall include “a description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052.” This is not a specific requirement to include separate and unique goals for each student group. The LCAP template requires an LEA to indicate whether an action/service will serve “all” students, or a particular student group identified in the LCAP. A designation of “all” necessarily includes students who are included in the student groups. If an LEA intends that an action/service will serve a particular student group, it must identify the student group with that action/service in its LCAP. For actions/services that contribute towards meeting an LEA’s obligation to increase or improve services for unduplicated students (English learners, foster youth and low income students), the LEA is required to specify in its LCAP which of the unduplicated student groups will be served.

EC sections 52060 and 52064 state in relevant part:

(c) A local control and accountability plan adopted by the governing board of a school district shall include, for the school district and each school within the school district:

- (1) A description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subdivision (d) and for any additional local priorities identified by the governing board of the school district. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in paragraphs (2) and (3) of subdivision (a) of Section 52052.” (EC Section 52060(c).)*
- (2) 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 paragraph (1),...*

EC Section 52052(a)(2) identifies the following pupil subgroups: ethnic subgroups, socioeconomically disadvantaged pupils, English learners, pupils with disabilities, foster youth, and homeless youth. The statute further defines “numerically significant” as 30 pupils for each of the subgroups other than homeless youth and foster youth. For those pupil groups, numerically significant is 15 pupils.

First, with respect to LCFF requirements related to unduplicated students: LEAs are apportioned additional funding based on the number and concentration of unduplicated students (EC Section 44238.02(e) and (f)). Statute and regulation require *any* LEA receiving such additional funding to increase or improve services for unduplicated students as compared to services provided to all students in proportion to the increase in funding received (EC Section 42238.07; 5 CCR 15496). The LCAP template requires an LEA to demonstrate it will meet this requirement to increase or improve services for unduplicated students. For each action/service associated with

a goal, the LCAP template requires the LEA to designate whether or not it is including the action as contributing towards meeting the requirement to proportionally increase or improve services for unduplicated students. For actions/services that contribute towards meeting an LEA's obligation to increase or improve services for unduplicated students, the LEA is required to specify in its LCAP which of the unduplicated student groups will be served (LCAP template, Goals, Actions, & Services section). Further information regarding an LEA's demonstration of increased or improved services is also required (addressed more fully below with the discussion of Allegation 3).

Second, as required by *EC* section 52060(c), the LCAP template addresses student groups identified in *EC* Section 52052, and requires inclusion of goals and related actions for all such numerically significant student groups. A district may address this requirement by writing a goal with actions that serve "all" students, in which case the district will indicate "all" for "students to be served." A designation of "all" necessarily includes pupils who are included in the student groups identified in *EC* Section 52052. Alternatively, an LEA may write a goal with actions that serve one or more designated student groups – such as students with disabilities or groups, including ethnic groups, consistent with *EC* Section 52052 (See, LCAP template, "Goals, Actions, & Services" section). However, if an LEA intends that an action/service will serve a particular student group, it must identify the student group with that action/service in its LCAP.

The CDE upholds the SJCOE's Decision with respect to Allegation 1 and denies the Appeal.

Allegation 2

In its response to Allegation 2, the District states that there is no obligation to distinguish between LCFF base, supplemental, and concentration funds in the LCAP. Appellants disagree with this conclusion of law. The CDE finds that there is no requirement to make such funding distinctions in the LCAP. Regulation states that funds apportioned on the basis of the number and concentration of unduplicated students shall be used to increase services (grow services in quantity) or improve services (grow services in quality) for unduplicated students compared to services provided to all students in proportion to the increase in funds apportioned on that basis. (5 CCR sections 15495(k) and (l); 15496(a).) As such, there is not a spending requirement. Although an LEA may choose to track LCFF funds as "Base," "Supplemental" or "Concentration" grant funds at the local level, they are not required to do so. An LEA may choose to simply identify a fund source for Budgeted Expenditures to implement an action/service as LCFF funded.

However, an LEA must demonstrate in its LCAP how it will meet the requirement to proportionally increase or improve services for its unduplicated students. Part of this requirement is to indicate in the Goals, Actions, and Services section of the LCAP those actions/services included as contributing to meeting the increased or improved services requirement. An action/service that is included as contributing to meeting the increased or improved services requirement must be associated with at least one expenditure of LCFF funds, whether base, supplemental, or concentration. Such actions/services may also be associated with expenditures of other fund sources as long as there is at least one expenditure of LCFF funds. The extent to which an action/service contributes to meeting the increased or improved

services requirement is based on the extent to which the action/service is supported by the expenditure of LCFF funds.

Also as part of Allegation 2, Appellants allege that the SJCOE failed to explain differences between planned and estimated actual expenditures in the Annual Update as it is required to do. The Appellants further state that the SJCOE failed to provide any information or criteria for determining what amount of difference in funding was considered minor or material, impeding meaningful stakeholder engagement.

When an LEA adopts an LCAP, it is required to identify its goals and related actions/services in the state priority areas, along with corresponding Budgeted Expenditures needed to implement the actions/services. Subsequently, as part of the annual LCAP adoption process, the LEA is required to review and report on the actual implementation of action/services implemented to meet the described goal in the Annual Update portion of the LCAP template. As part of this review, the LEA is required to identify the estimated actual annual expenditures made to implement the actions/services. An LEA must explain material differences between Budgeted Expenditures and Estimated Actual Expenditures. The LCAP template instructions further state that explanations of minor variances in expenditures or a dollar-for-dollar accounting is not required (LCAP template, Annual Update section and instructions).

What is considered a material difference is not only a function of either the absolute or relative size of the expenditure difference, but also would include 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 can 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 meaningful 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.

In response to this allegation, the SJCOE states that the LCAP template instructions do not provide a definition of what is material, thus materiality is “determined locally.” 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 and services should be eliminated or modified to enhance pupil achievement.

SJCOE’s Annual Update includes a general explanation regarding material differences between Budgeted Expenditures and Estimated Actual Expenditures for each of the three goals in the Annual Update. It states,

“The calculated salary and benefits for 16-17 during original budget were estimated until the final percentages were received. Estimates were also used for contracts and supplies which rarely end up matching the original budgeted amounts. Most of the differences are due to attrition and changing programmatic needs throughout the year.” (SJCOE’s 2017-18 LCAP, pp. 13, 22, 30)

Additionally, the Annual Update provides explanation with respect to four actions/services. SJCOE indicates four material differences and provides an explanation for each one. The material differences addressed by SJCOE in its Annual Update are associated with Goal 1, Actions 9 (\$42,253) and 12 (\$101,917); Goal 2, Action 3 (\$121,181); Goal 3, Action 1 (\$183,140). According to SJCOE, it did not explain variances for other actions/service because it did not regard them as material, and it did not receive comments from stakeholders expressing a different view.

Without challenging specific actions or expenditures in the Annual Update, Appellants reference other differences between planned and estimated actual expenditures greater than those SJCOE included as being material. The greatest absolute difference referenced by Appellants that SJCOE does not treat as being material is a \$704,275 (or 8.37%) decrease in a planned expenditure of \$8,412,508 (Goal 2, Action 9). Based on the expenditure figures set forth in the annual update, this decrease in expenditure is largely attributable to differences in salary and benefit expenditures, which the Annual Update explained were based on estimates at the time of adoption.

With respect to most of the other differences in planned and estimated actual expenditures reflected in the annual update, the differences are also largely attributable to salaries and benefits. Where that was not the case, explanations, although brief, were provided, as described above. In this case, overall, the SJCOE Annual Update substantially met its obligation to explain material differences between planned and estimated actual expenditures.

The CDE upholds SJCOE’s Decision with respect to Allegation 2 and denies the Appeal.

Allegation 3

Appellants allege SJCOE’s LCAP fails to adequately describe how services it provides on a county-wide basis are “*principally directed towards*” and “*effective in*” meeting its goals for unduplicated students in the state and any local priority areas.

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 school site(s).

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charter wide) service. An LEA is required to follow the LCAP template approved by the State Board of Education (SBE) (*EC* sections 52064, 52070). The section of the LCAP titled “Demonstration of Increased or Improved Services for Unduplicated Pupils” 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. Here, the LEA must also 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 template also requires an LEA to identify each action/service being funded and provided on a schoolwide or LEA-wide manner, and to include the required description supporting each schoolwide or LEA-wide action/service. A county office of education 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 (*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 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 describing how it expects an 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. An LEA must provide an explanation or description of *how* the LEA believes the action/service will help achieve one or more expected annual measurable outcomes for the goal.

When an LCAP contains the above descriptions for actions/services provided on an LEA-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.

The description of services provided in the “Demonstration of Increased or Improved Services for Unduplicated Pupils” (Demonstration) section of the SJCOE’s 2017-18 LCAP proceeds with a description for each LCAP goal explaining how the goal increases or improves services and then lists the specific actions/services for the goal that are included as contributing to the increased or improved services requirement.

Goal 1: The general description provided in the Demonstration section for LCAP Goal 1 is as follows:²

“GOAL 1 - These actions/services are principally directed and effective in meeting Goal 1 because our unduplicated student population is highly transient, often time not having attended school in months or even years. Therefore attending school is a key part of the rehabilitation process with the overall goal of returning to their home district or earning their diploma/GED” (SJCOE 2017-18 LCAP, p. 83).

Beneath the above description, the SJCOE lists each Goal 1 action/service that is included as contributing to meeting the increased or improved services requirement, all of which are provided on an LEA-wide basis, as follows (as quoted from the 2017-18 SJCOE LCAP, pp. 83-84):

- 1.2 Maintain the number of agencies participating in truancy task force meetings and truancy sweeps. Ensure translators are present for home visits.
- 1.4 Maintain one STOP Mental Health Clinicians by one who will collaborate with school site staff to integrate behavior support curriculum/strategies into daily lessons.
- 1.5 Maintain ongoing daily truancy intervention site services for transitioning students throughout the program.
- 1.6 Maintain an intervention services clerk and hire an additional classified staff to assist with truancy monitoring and documentation, transition between LEAs, coordination of support agency services, SARB and Truancy Task Force.
- 1.7 Connect targeted Foster Youth, Low Income, English Learners and redesignated English Learner students with community resources to assist with attendance

² Goal 1 is “Improve student attendance, by decreasing truancy” (SJCOE 2017-18 LCAP p. 34).

improvement.

- 1.8 Maintain Attendance Leadership Committee. Track attendance data specific to Foster Youth, Low Income, English Learners and redesignated English Learners.
- 1.9 Maintain the one.STOP mental health clinician staff to better meet the needs of Foster Youth, Low Income, English Learners and redesignated English Learner students.
- 1.10 Maintain ongoing Truancy Intervention Site services for Foster Youth, Low Income, English Learners, and redesignated English Learner students transitioning to our traditional school sites. Review sites.
- 1.11 Hire an additional Campus Security Technician to join the five current Techs for large daily attendance sites to improve site safety.
- 1.12 Maintain counselor and provide on-going services to meet the needs and to assist Foster Youth, Low Income, English Learners, and redesignated English Learners in meeting their needs in the area of daily attendance.

With respect to Goal 1, the SJCOE describes factors such as the needs, conditions, or circumstances of its unduplicated students by stating that its unduplicated students are highly transient, “often time not having attended school in months or even years” and associates the goal of improved attendance with a rehabilitative process of meeting the stated needs of its unduplicated students.

Each of the LEA-wide actions/services in Goal 1 explicitly refer to either attendance or truancy except for three actions (1.4, 1.9, and 1.11). Actions 1.4 and 1.9 both provide for additional mental health services to unduplicated students. The SJCOE describes its unduplicated students as needing additional support to improve attendance rates. Accordingly, descriptions of these actions that explicitly address attendance, or issues closely related to attendance (e.g. truancy, mental health), meet the requirement to describe how they are principally directed to unduplicated students as the descriptions evidence how the actions/services takes the stated needs, conditions, or circumstances of unduplicated students into consideration. However, Action 1.11 appears to be an action/service aimed at improving site safety generally, and based on the information provided in the LCAP, it is not possible to determine that it is principally directed at unduplicated students.

The descriptions of the actions provided in the Goals, Actions, and Services section explicitly refer to improvements on the metrics for which expected annual measurable outcomes have been included in Goal 1. For example, Goal 1, Action 5 describes “on-going daily truancy intervention site services” and one of the expected annual measurable outcomes for Goal 1 is to reduce truancy rates. For this reason, the CDE finds the SJCOE meets the requirement to describe how the actions will be effective in meeting Goal 1 for its unduplicated students.

Finding for Goal 1

The CDE finds that the SJCOE has provided an adequate description of how the LEA-wide actions in Goal 1 are principally directed to and effective in meeting the SJCOE's goals for its unduplicated students in any state or local priorities, with the exception of Action 1.11.

Goal 2: The general description provided in the Demonstration section for LCAP Goal 2 is as follows:³

“GOAL 2 - These actions/services are principally directed and effective in meeting Goal 2 because our unduplicated students inherently require differentiated instruction to be successful in accessing rigorous curriculum. Because unduplicated students are enrolled throughout all sites, all teachers and administrators should be trained to effectively serve the individual needs of each student” (SJCOE 2017-18 LCAP, p. 84).

Beneath the above description, the SJCOE lists each Goal 2 action/service that is included as contributing to meeting the increased or improved services requirement, all of which are provided on an LEA-wide basis except Action 2.2 which is provided on a limited basis.⁴ The LEA-wide actions/services in Goal 2 are as follows (as quoted from the 2017-18 SJCOE LCAP, p. 84):

- 2.3 Continue professional development for administrators regarding observation and evaluation of teachers with the goal of common language and instructional norms.
- 2.5 Maintain number of tutoring locations and review outcomes of current tutoring program to determine a plan for improvement.
- 2.7 Continue English Language Learner curriculum support to best meet the needs of EL and redesignated EL students.
- 2.8 Continue to monitor the appropriate placement of instructional staff.
- 2.9 Review and maintain standards based instructional materials and curriculum.
- 2.10 Core services provided to support student education in a safe learning environment.

Goal 2, Action 2 (2.2) is provided on a limited basis and is also included by SJCOE in this list:

- 2.2 Work with school sites on monitoring the implementation of English Learner programs.

³ Goal 2 is “To improve academic rigor and consistency across student programs” (SJCOE 2017-18 LCAP p. 51).

⁴ When an action/service is provided on a “limited” basis, it does not upgrade the entire educational program of the LEA or school and does not directly benefit all students.

In the justification provided, the SJCOE considers factors such as the needs, conditions, or circumstances of its unduplicated students by stating that they “require differentiated instruction to be successful in accessing rigorous curriculum”. A need is also expressed in the description for all teachers and administrators to “be trained to effectively serve the individual needs of each student” and is based on the condition of unduplicated students being enrolled “throughout all sites.” The SJCOE has therefore stated the considered needs, conditions, or circumstances of unduplicated students addressed by Goal 2.

However, the SJCOE has not described how the LEA-wide actions/services in Goal 2, as described in the LCAP, take these factors into consideration. Such a description is important because it is not necessarily the case that the LEA-wide actions in Goal 2 will result in or address the stated need for differentiated instruction for unduplicated students or result in all teachers and administrators being trained to serve the individual needs of each student. For example, it is not necessarily the case that monitoring “the appropriate placement of instructional staff” (2.8) will meet these needs. Reviewing and maintaining standards based instructional materials and curriculum (2.9) does not necessarily support differentiated instruction or serve the individual needs of each student.

Because there is no clear connection between the stated needs, conditions, or circumstances of unduplicated students addressed by Goal 2 and the LEA-wide actions/services that the SJCOE has indicated as meeting these needs, the SJCOE has failed to describe how all of the LEA-wide actions in Goal 2 are principally directed to meeting Goal 2 for its unduplicated students.

Finding for Goal 2

The CDE finds that the SJCOE has failed to adequately describe how the LEA-wide actions in Goal 2 are principally directed to, and effective in, meeting goals for its unduplicated students in the state and any local priorities.

Goal 3:

The general description provided in the Demonstration section for LCAP Goal 3 is as follows:⁵

“GOAL 3 - These actions/services are principally directed and effective in meeting Goal 3 because our unduplicated students typically have an unstable home life or are incarcerated. Partnering with community resources and involving parents provides additional support to create better learning environments enhancing the potential for student success” (SJCOE 2017-18 LCAP, p. 87).

Beneath the above description in the Demonstration section, the SJCOE lists each Goal 3 action/service that is included as contributing to meeting the increased or improved services requirement, all of which are provided on an LEA-wide basis. The LEA-wide actions/services in Goal 3 are as follows (as quoted from the 2017-18 SJCOE LCAP, p. 84):

⁵ Goal 3 is “To improve our capacity for building and growing relationships between our program, students, parents and the community” (SJCOE 2017-18 LCAP p. 68).

- 3.1 Examine data regarding student mental health needs to build upon and strengthen professional development collaboration with San Joaquin County Probation Department, Child Abuse Prevention Council and San Joaquin Behavioral Services.
- 3.5 Review community partners of service will be surveyed for input regarding improvement of services for Foster Youth, Low Income, English Learners and redesignated English Learner students.
- 3.6 Additional quest opportunities will be created for students otherwise restricted, by enrollment date or the residential placement of Foster Youth, from participating in program-wide quests.
- 3.7 Concept of one.activities will be integrated into program curriculum to build student capacity for maintaining relationships with others in the community.
- 3.8 Continue parent/guardian/caregiver and student participation in School Site Council and DELAC. Continue to increase participation with emphasis on having representation for Foster Youth, Low Income, English Learners and redesignated English Learner students.
- 3.9 Continue to invite resource agencies from the community to be present at school site council meetings so they are available to provide information and outreach. For example: El Concillio outreach.
- 3.10 Maintain Independent Learning Programs to meet the unique needs of Foster Youth and Homeless students.
- 3.11 Continue to expand collaboration opportunities with neighboring counties to raise awareness for Foster Youth and Homeless students.

In the justification provided, the SJCOE considers factors such as the needs, conditions, or circumstances of its unduplicated students by stating that “unduplicated students typically have an unstable home life or are incarcerated.” The justification also indicates the SJCOE’s reasonable assumption that “partnering with community resources and involving parents” is a prerequisite for better learning environments and student success. The SJCOE has therefore considered factors such as the needs, conditions, or circumstances of unduplicated students addressed by Goal 3 (i.e. unstable home life, incarceration, partnering with community resources, and involving parents).

Each Goal 3 LEA-wide action demonstrates a clear connection with one or more of these stated factors. For example, Goal 3, Action 5 provides for reviewing community partners of services, which at least addresses the stated need for “partnering with community resources.” Because the SJCOE describes its unduplicated students as needing additional support for issues related to incarceration, an unstable home life, partnering with community resources, and involving parents, descriptions of actions that directly address these stated factors meets the

requirement to describe how the actions/services takes the stated needs, conditions, or circumstances of unduplicated students into consideration.

In the above description provided for Goal 3 in the Demonstration section, the SJCOE associates Goal 3 with the desired outcomes of “better learning environments” and “student success” while indicating that partnering with community resources and involving parents help to bring about these desired outcomes. However, each of the three expected annual measurable outcomes for Goal 3 only address parental involvement.

The SJCOE does not provide a description that directly addresses how it expects the LEA-wide actions/services in Goal 3 will help address the expected measurable outcomes for Goal 3, all of which address parental involvement. Of the eight LEA-wide actions/services in Goal 3, the description provided for Goal 3, Action 8 refers to increasing parent/guardian/caregiver participation. The descriptions provided for the remaining seven LEA-wide actions/services in Goal 3 do not make a clear connection with parental involvement. Goal 3, Actions 1, 5, 7, 9, and 11 are clearly related to “partnering with community resources,” a need referenced in the description of Goal 3 in the Demonstration section. However, there are no expected annual measurable outcomes for Goal 3 that address partnering with community resources. Goal 3, Actions 6 and 10 address enrollment and independent learning plans for foster youth and homeless students. However, there are no expected annual measurable outcomes for Goal 3 that address enrollment and independent learning plans for foster youth and homeless students.

Because the SJCOE has not met the requirement to describe how it expects Goal 3, Actions 1, 5, 6, 7, 9, 10, and 11 will help achieve one or more of the expected annual measurable outcomes for Goal 3, it has not provided an adequate description of how these actions will be effective in meeting Goal 3 for unduplicated students in the state and any local priorities.

Furthermore, as part of Allegation 3, the Appellants state that the SJCOE’s 2017-18 LCAP “states that 21.25% of its supplemental and concentration grant expenditures were used to increase or improve services for unduplicated students” (Appeal, p. 6). This statement is incorrect. The percentage provided on page 86 of the SJCOE’s 2017-18 LCAP, next to the prompt “Percentage to Increase or Improve Services,” is 21.25%. This percentage is calculated pursuant to 5 CCR 15496(a). This percentage represents the required increase or improvement in services an LEA must provide to its unduplicated students that is above what all students receive. This percentage is not an indication of how much is or needs to be expended to meet the required percentage by which an LEA must increase or improve services for its unduplicated students.

Finding for Goal 3

The SJCOE meets the requirement to describe how the LEA-wide Goal 3 actions/services are principally directed to meeting its goals for unduplicated students by considering factors such as the needs, conditions, or circumstances of its unduplicated students and making it clear how the actions/services take such factors into consideration.

The CDE finds that the SJCOE has failed to sufficiently describe how Actions 1, 5, 6, 7, 9, 10, and 11 of Goal 3 will be effective in meeting Goal 3 for its unduplicated students.

VI. Conclusions

The CDE upholds the SJCOE's Decision and denies the Appeal with respect to Allegations 1 and 2. The CDE finds merit in the Appeal with respect to Allegation 3. The SJCOE provides adequate justification for LEA-wide actions/services in Goal 1 that are included as contributing to meeting the increased or improved services requirement with the exception of Action 1.11. The SJCOE fails to provide adequate justification for all LEA-wide actions/services in Goal 2 that are included as contributing to meeting the increased or improved services requirement. The SJCOE has failed to sufficiently describe how Actions 1, 5, 6, 7, 9, 10, and 11 of Goal 3 will be effective in meeting Goal 3 for its unduplicated students.

VII. Corrective Actions

With respect to the 2017-20 LCAP adopted for the 2018-19 LCAP year considered in its entirety, the SJCOE is required to work with the California Department of Education to ensure that all actions marked as LEA-wide or schoolwide and included as contributing to meeting the District's increased or improved services requirement, for both the 2017-18 and 2018-19 LCAP years are adequately justified as principally directed and effective in meeting goals for unduplicated students in the state and any local priorities.

Any revisions to the 2017-20 LCAP adopted for the 2018-19 LCAP year, considered in its entirety, required as a result of this review must adhere to the stakeholder engagement requirements as described in *EC* Section 52062.

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.

Sincerely,

Jeff Breshears, Director
Local Agency Systems Support Office

JB:jf

Cynthia L. Rice, Director

October 19, 2018

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Franchesca S. Verdin, Director of Rural Education Equity Program, California Rural Legal Assistance, Inc.
Shannon Walker, Rural Education Equity Staff Attorney, California Rural Legal Assistance, Inc.
Deborah Escobedo, Senior Attorney, Lawyers' Committee for Civil Rights