



June 17, 2016

Dear County and District Superintendents:

As organizations committed to strengthening our public school system to provide all children a meaningful opportunity to learn, we have been working to ensure that the foundational principles of the Local Control Funding Formula (LCFF) are reflected in the Local Control Accountability Plans (LCAPs) that local educational agencies (LEAs) are developing.

We know that everyone has worked hard to implement the significant changes that LCFF made to our system of school finance and governance. We remain committed to supporting this historic effort and to being a resource to assist LEAs and stakeholders in taking advantage of this opportunity to improve educational outcomes and community engagement in our schools.

We write to emphasize important legal requirements related to LCAP development, particularly several requirements that we believe merit closer attention based on our review of LCAPs from the past two years and various drafts from this year. We also write, as we did in June 2015, to advise you of reports and resources that we and our partners have created to assist parents, students, community members, and LEA staff and boards in developing their LCAPs to conform to minimum legal standards and best practices. Those resources can be accessed [here](#) and [here](#).

**Legal Requirements that LEAs Should Review As They Finalize Their Annual Updates and Revised LCAPs for 2016-17**

We understand that LCAPs released in 2014-2015 evolved in real-time as the State Board of Education finalized both the emergency regulations and the LCAP template that govern application of the new law. LEAs have now been through the process twice and have had nearly two calendar years to familiarize themselves with LCFF's requirements. With more than two years of experience with the statute and greater familiarity with the permanent regulations and template, we expect some issues that we observed in prior LCAPs to be corrected this year.

We hope that this letter will serve as a tool for your LEA to ensure that it meets the legal requirements discussed below as you finalize the annual update and update last year's LCAP to align with the LCAP template.

- **Legal requirements for stakeholder engagement apply each year.** LCFF's minimum legal requirements for community and stakeholder engagement apply each year. Thus, every year LEAs *must* "consult with teachers, principals, administrators, other school personnel, local bargaining units of the school district, parents, and pupils" in developing their LCAP. Educ. Code § 52060(g). In addition, LEAs *must* provide an opportunity for members of the public to provide written comments regarding the specific actions and expenditures proposed by the district in the LCAP or annual update, Educ. Code § 52062(a)(3), and hold both a public hearing on the LCAP and Annual Update as well as a separate meeting for adoption. Educ. Code § 52062(b).

As we've seen in prior years, many LEAs again failed to provide community stakeholders sufficient time to review the draft LCAP and Annual Update. Too often, LEAs are releasing the draft LCAP and Annual Update merely days before public hearing, which provides minimal time to make meaningful assessments of and recommendations on actions and spending.

We also continue to see districts that do not have a distinct Parent Advisory Committee that includes parents as a majority of the members, as required under the LCFF regulations. 5 CCR § 15495(f).

We also observed that LEAs struggled to provide appropriate language interpretation and translation throughout the LCAP development process. Many did not translate their final adopted LCAPs from last year or offer a translated summary of the LCAP, which limits the ability of non-English speaking parents to meaningfully participate in the LCAP process.<sup>1</sup>

Finally, despite the clear legal requirement, some districts are not engaging students in LCAP development. The requirement to “consult” with pupils “means a process to enable pupils, including unduplicated pupils and other numerically significant pupil subgroups, to review and comment on the development of the LCAP.” This process may include surveys of pupils, forums with pupils, pupil advisory committees, or meetings with pupil government bodies or other groups representing pupils.” 5 CCR § 15495(a). We especially commend those districts that have supported student voice by instituting and supporting formal LCAP student advisory committees.

- **LCAP Annual Updates should serve as a meaningful tool for local accountability and continuous improvement.** Although the LCAP Annual Update is still relatively new, thus far it has been a missed opportunity in most districts. The Annual Update is intended to encourage districts to monitor progress towards expected outcomes and measure what progress remains. It should also include an assessment of specific actions and be data driven. It not only helps districts monitor and assess progress, but it serves as a communication tool to help stakeholders assess effectiveness of chosen strategies and hold LEAs accountable to continuous improvement. Educ. Code § 52061.

We have seen a broad range in how LEAs approach the Annual Update process: some simply cut and paste from their LCAP without further analysis, while others focus on only one or two specific outcomes. The majority of Annual Updates we examined failed to include any specific data to show the progress towards expected outcomes and many did not include meaningful assessments on progress at all.

We urge LEAs to pay careful attention to the Annual Update instructions, which state that the LEA’s “review must include an assessment of the effectiveness of the specific actions” and “[d]escribe any changes to the actions or goals the LEA will take as a result of the review and assessment.” LCAP Template, Annual Update Instructions, at p. 10; *see also* Educ. Code § 52061.

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<sup>1</sup> LEA obligations regarding translation and interpretation are drawn from both state and federal law. Under the California Education Code, school districts have a duty to provide translation of notices, reports, statements and records in languages that 15% or more of their students speak at home. Educ. Code § 48985. In addition, Limited English Proficient (LEP) parents have the right to be informed and engaged by school districts in their home language, Educ. Code § 51101.1, and all parents, including guardians whose primary language is not English, “the opportunity to work together in a mutually supportive and respectful partnership with schools, and to help their children succeed in school,” Educ. Code § 51101(b). Finally, federal law—Title VI of the Civil Rights Act—guarantees that LEP parents be provided with “meaningful access” to the same communications and participation opportunities as similarly situated English-speaking parents.

- **LEAs must explain how they are meeting their minimum proportionality obligation to increase or improve services for high-need pupils each year.** We observed numerous LCAP Annual Updates in which planned implemented actions and estimated supplemental and concentration expenditures differed significantly from actual implemented actions and expenditures. Often these discrepancies went unexplained and in most cases LEAs did not remedy their failure to meet their minimum annual proportionality obligation by carrying forward the unexpended obligation to the following fiscal year. The regulations clearly state that “an LEA *shall* determine the percentage by which services for [high-need students] *must* be increased or improved above services provided to all pupils *in the fiscal year...*” 5 CCR § 15496(a) (emphasis added). In other words, LEAs cannot merely attempt to meet or postpone to a future date their proportionality obligations. The minimum proportionality obligation is one that must be met in each fiscal year.

We were especially concerned to observe several districts last year that did not appear to spend significant portions of the supplemental and concentration funds that had been allocated. This raises serious concerns about whether those districts are in fact meeting their minimum obligation to increase and improve services for high-need students in proportion to the dollars they generate.

- **LCAPs must list *all* actions to meet each goal for the eight state priority areas and should account for *nearly all* of the LCFF funds received, including base funding and supplemental and concentration funding.** As the first page of the LCAP template emphasizes, the LCAP is “intended to be a comprehensive planning tool” that reflects “the services and related expenses for [the] basic instructional program in relation to the state priorities.”<sup>2</sup> In other words, the majority of an LEA’s education program should be reflected in the LCAP. In particular, LEAs are legally obligated to include a description of annual goals under *each* of the state priority areas for all students and *each* subgroup of students. See LCAP Template, Sec. 2 Instructions; Educ. Code § 52060(c)(1). LEAs must further identify “*all* annual actions to be performed and services provided to meet the described goal” *and* the “budgeted expenditures” for *each* action. LCAP Template, Sec. 2 Instructions (emphases added). If a majority of an LEA’s education program, including supplemental and concentration funding, is not reflected in the LCAP, the document cannot serve as a comprehensive planning tool or enable meaningful stakeholder engagement.

Yet, a number of 2015-2016 LCAPs still only accounted for less than half of the district’s general fund spending, and in some cases less than 10%. Furthermore, in a review of fifteen districts with less than 55% unduplicated pupils, one third of the districts omitted tens of millions of dollars in supplemental funds from their LCAPs. Moreover, even when districts accounted for all of their supplemental funds, many LCAPs still lacked sufficient detail in the explanation of how that money is being spent. As a result, the majority of LCAPs reviewed provided only vague descriptions of services and actions.

- **LEAs must identify *each* LEA-wide and schoolwide use of supplemental and concentration funding in the LCAP.** The revised LCAP template specifies that districts must describe in Section 3.A “the use of any funds in a districtwide, schoolwide, countywide, or charterwide manner” and justify each such use “as specified in 5 CCR § 15496.” Each different use necessitates a different description. This required information is essential to ensure transparency

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<sup>2</sup> These clarifications codify State Board guidance from 2014 that “[t]he state priorities broadly cover an LEA’s work to support its students and achieve outcomes; therefore, almost all LEA expenditures will likely be listed and described [in the LCAP] as a consequence of being tied to the actions that support an LEA’s goals for each of the state priorities.” See [http://lcff.wested.org/wp-content/uploads/2014/04/Developing-a-Quality-LCAP-Chat-questions\\_Webinar-Part-II\\_final.pdf](http://lcff.wested.org/wp-content/uploads/2014/04/Developing-a-Quality-LCAP-Chat-questions_Webinar-Part-II_final.pdf).

and a meaningful opportunity for stakeholder input on critical decisions related to how LEAs expend funds they receive to increase or improve services for high-need students.

- **For each identified schoolwide and districtwide use of supplemental and concentration funding, LEAs must justify that use based on the appropriate regulatory standard.** The permanent regulations provide that the justification must explain how the proposed use is “principally directed towards, and effective in, meeting the district’s goals for its unduplicated pupils in the state priority areas.” 5 CCR § 15496(b)(1)(B). This legal requirement applies to all LEAs, including those with high concentrations of unduplicated pupils. For districts with 55% or less unduplicated pupil enrollment, the justification must also explain why the proposed use is the “most effective use of funds” to meet unduplicated pupil’s goals, including alternatives considered and the basis for that determination in theory, research or experience. Our review of LCAPs reveals that LEAs above and below the 55% concentration level routinely fail to justify their supplemental and concentration spending according to regulatory standards. Unfortunately, our recent review of non-concentrated districts below the 55% threshold also revealed that many are spending the majority of their supplemental funds districtwide and are failing to provide the required “most effective use of funds” rationale. Guiding questions on this issue can be found [here](#) and [here](#).<sup>3</sup>
- **Supplemental and concentration funding generally cannot be used for across-the-board salary increases.** Adequately compensating teachers for their critical work is important and the use of base funds for across-the-board salary increases is a statutorily acceptable way to provide additional compensation. However, the use of supplemental and concentration funds for this purpose is generally inappropriate. Across-the-board salary increases, by themselves do not “increase or improve” the services for students or otherwise “upgrade” the entire educational program in the district, as the LCFF statute and regulations require. Educ. Code § 42238.07; 5 CCR §§ 15495(k) & (l); 5 CCR § 15496(a). That is, paying more for the same level of service does not satisfy the statutory and regulatory standard for an increase or improvement in services. A detailed analysis of this issue, including a discussion of the exceedingly narrow set of circumstances in which an LEA above 55% concentration could theoretically make a sufficient showing in its LCAP to meet the relevant standard for district-wide uses of supplemental and concentration funding, can be found [here](#) and [here](#).<sup>4</sup>
- **Uses of supplemental and concentration funding set aside for schools to spend must be reflected in the LCAP and Annual Update.** A number of LEAs adopted LCAPs that “push down” a portion of supplemental and concentration funding to schools. Letting school sites decide how to spend supplemental and concentration funding is consistent with LCFF’s principles. But LEAs that use this strategy must ensure that schools use the funds appropriately either by targeting them to unduplicated pupils or by satisfying the “principally directed” and

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<sup>3</sup> In extensive reviews of LCAPs over the past two years, our organizations have found that many LEAs have been confused by Section 3 of the LCAP. Public Advocates teamed up with the Sacramento County Office of Education to provide training and best practices on the proper uses and reporting of supplemental and concentration funds at a joint gathering of more than 40 counties across the state, including the Los Angeles County Office of Education. For your information, those training materials are available at [http://bit.ly/PA\\_Sec3\\_Training](http://bit.ly/PA_Sec3_Training) and the Sacramento County Office of Education website at <https://www.scoe.net/lcap/training/Pages/default.aspx>. See also One-Page Checklist on Section 3 Requirements at [http://bit.ly/LCAP3A\\_3B\\_1-pager](http://bit.ly/LCAP3A_3B_1-pager).

<sup>4</sup> As described in the linked resources, LEAs have a burden to demonstrate they are suffering from a teacher quality problem that will be effectively addressed by a salary/benefit increase and must show over time that the increase has, in fact, resulted in an increase or improvement.

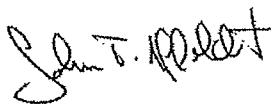
“effective”/“most effective” standards. 5 CCR § 15496(b). LEAs must also reflect the various school level uses of these funds in their LCAPs and annual updates.<sup>5</sup>

“Where applicable,” LEAs must also “include descriptions of specific expected measurable outcomes for schoolsites and specific subgroups, including pupils with disabilities, both at the LEA level and at the schoolsite level.” *Id.* However, we have observed numerous LEAs that omit expected measurable outcomes for schoolsites and subgroups. In LEAs that have stark disparities in metrics among student subgroups, adopting the same across-the-board target for all students will fail to result in the closure of such gaps between subgroups and therefore undermine equity within the LEA.

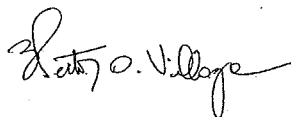
With the experience of another full year and COE support, every LEA should include these required metrics. The requirements ensure that LEAs, stakeholders, and state policymakers assess whether local choices about the educational program reflected in the LCAP are, in fact, closing equity gaps and improving outcomes across the state priority areas.

As annual updates and revised LCAPs are developed and presented to local boards for adoption this month and reviewed by county offices of education in the coming months, we encourage you to be particularly conscious of the issues that we have outlined. We will be assessing how the third year of LCFE implementation unfolds at the local level and whether the standards embodied in the regulations and LCAP template are being met. We look forward to working with LEAs and County Offices of Education to ensure that implementation of LCFE results in improved educational outcomes for all of our children. If you have any questions, please do not hesitate to contact us.

Sincerely,



John Affeldt  
Managing Attorney & Education Program Director  
Public Advocates, Inc.  
131 Steuart Street, Suite 300  
San Francisco, CA 94105-1241  
(415) 431-7430  
[jaffeldt@publicadvocates.org](mailto:jaffeldt@publicadvocates.org)



Hector Villagara  
Executive Director  
ACLU of Southern California



Nayna Gupta  
Staff Attorney  
[ngupta@aclunc.org](mailto:ngupta@aclunc.org)  
ACLU of California  
39 Drumm Street  
San Francisco, CA 94111

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<sup>5</sup> A best practice we have observed in selected districts is to include an appendix spreadsheet or table that lists supplemental and concentration expenditures by school site; however, most LEAs fail to provide the regulatory justification for schoolwide spending.