

APPENDIX B - Excerpts



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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

Dear Abre' Conner and Ms. Torres-Guillen:

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

I. BACKGROUND

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

[Insert paragraph referencing excerpts]

V. ANALYSIS OF APPEAL

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

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

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

In Section 3B, the District identified 29.57% as the percentage by which it was required to increase or improve services for unduplicated pupils in the LCAP year as compared to services for all pupils. As noted above, Section 3B required the District to demonstrate how it met this requirement to proportionately increase or improve the services for unduplicated pupils. Section 3B states "the proportionality percentage is met by expending Supplemental and Concentration funds allocated to the district on services for the unduplicated student populations as demonstrated and detailed in section 2 of the LCAP plan." (2016-2017 LCAP Section 3B, p. 183 of 185.)

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

statement that the District “had the needs of our unduplicated population in mind” is a conclusory statement that fails to provide the required description.

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

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

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

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

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

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

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

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

No statement describing how the security investments are directed towards meeting the needs of unduplicated pupils, as opposed to all pupils, is provided. Based on the description provided, the requirements of 5 CCR 15496(b) and Section 3A of the LCAP Template are not met with respect to Action #47.