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Comments re: Proposed Title V LCFF Regulations

We represent a coalition of civil rights, community-based, and other organizations that have worked in collaboration with the State Board of Education on the passage and implementation of the Local Control Funding Formula (LCFF). LCFF creates an historic opportunity to focus resources on helping California's neediest students overcome the barriers they face in closing the achievement gap and graduating college and career ready. It also promises a new level of transparency and local engagement for parents, students, and community members in the design of their local schools.

Although the State Board of Education has greatly improved the regulations and LCAP template since last fall, several issues need to be addressed as the State Board considers permanent regulations governing the expenditure of supplemental and concentration funds and the Local Control and Accountability Plan (LCAP). Specifically, the final regulations should:

- Address a significant potential loophole created by the provision governing districtwide and schoolwide use of supplemental and concentration funds that could undermine both the intent and the letter of the law.
- Ensure that county offices of education have meaningful oversight in reviewing and approving LCAP and budgetary oversight.
- Provide additional clarity about the requirement to seek student input in developing, reviewing and updating the LCAP.
- Improve assurances that districts are creating the conditions necessary for authentic partnership in development of the LCAP including:
  - Require transparency regarding LEA calculation of prior year "baseline" expenditures for supplemental and concentration funding.
  - Strengthen site council engagement: Strengthen the integration of site councils in the LCAP development process and ensure alignment between the LCAP and local school site planning.
  - Needs assessment and data: Provide an electronic needs-assessment connected to the LCAP, with fields pre-populated when available.
  - LCAP template format: Modify the LCAP template so that the metrics and goals are aligned, in a single section, with the specific action and expenditure information and so that LEAs identify the statutorily required elements of state priority areas addressed by each goal and specific action.
  - Parent Advisory Committees: Strengthen the guidance about the required parent committees to ensure greater transparency about the composition of and selection criteria for the committees.

We provide more details on these points below, beginning with items relevant to the expenditure regulations and then addressing the LCAP template.

## Expenditure Regulations (Sections 15495, 15496)

### 1. **Ensuring that Supplemental and Concentration Funds Principally Benefit the High-Need Students Who Generate Those Funds.**

We are concerned that the proposed rules governing schoolwide and districtwide use of supplemental and concentration funds in the proposed regulations are overly broad. Many of the undersigned organizations are submitting separate comments detailing that organization's concerns about the various standards governing the use of supplemental and concentration funds and/or the overall framework established by the proposed regulations (i.e., authorizing schoolwide and districtwide uses of supplemental funds but requiring differential showings depending on whether the district or school is above or below the specified threshold).

All of us, however, share the concern that the proposed above-threshold standard creates a significant potential loophole. Under the proposed regulations, LEAs with more than 55% unduplicated students (and schools with more than 40%) may use supplemental and concentration grant funds for any purpose, as long as they can describe how those services meet the LEA's goals for unduplicated students. The current template would allow such goals to be no different than those established by the LEA for all students. The proposed regulation therefore would allow a considerable portion of the dollars generated by unduplicated pupils to be spent on increasing or improving services for non-unduplicated pupils, without any demonstration that the distinct needs of the unduplicated pupils were considered.

We believe that this risks undermining the core premise of LCFF that the additional funds generated by unduplicated pupils should be directed, first and foremost, to improving the educational experience of those students. It is also essential to ensure that *all* supplemental and concentration funds are being used to advance initiatives which the LEA can plausibly demonstrate are (or will be) *effective* in serving unduplicated pupil goals. Accordingly, if the State Board retains the current framework, the State Board should strengthen the above-threshold showing by specifying that these funds should be principally intended to serve unduplicated pupil goals and that the strategies pursued are, at a minimum, effective.

**Recommendation:** Add eight bolded words to the following language: "Describe in the LCAP how such services are **principally** directed towards **servicing unduplicated pupils and are effective in** meeting the district's goals for its unduplicated pupils in the state priority areas."

### 2. **Clarify Standards for County Office of Education Review.**

The proposed regulations should be modified to ensure that county offices of education have meaningful oversight over all districts for purposes of reviewing and approving LCAP and budgetary compliance with the LCFF statute and the State Board's regulations and that such oversight occurs in a public hearing.

First, to ensure consistency and clarity across the State, the State Board should clarify the standards for the review and approval of LCAPs by County Superintendents consistent with the statutory requirements for such review set forth in Cal. Educ. Code § 52070(d). We also believe that, to advance transparency and public input, any such approval should be done in a public hearing.

**Recommendation:** Add the following language to Section 15496 as a new provision (c) (with the current provision (c) becoming a new 15496(d)):

“The county superintendent of schools shall, at a properly noticed public hearing, approve a local control accountability plan only if it satisfies all of the following conditions:

(a) the LEA has in good faith addressed all required components of the LCAP;

(b) the budget for the applicable fiscal year adopted by the governing board of the school district includes expenditures sufficient to implement the specific actions and strategies included in the LCAP adopted by the governing board of the school district, based on the projections of the costs included in the plan; and

(c) the LEA has accurately computed the funds and percentage it must expend to increase or improve services on unduplicated pupils pursuant to Section 15496(a) and, where applicable, has met the standards for districtwide or schoolwide use of those funds pursuant to Section 15496(b).”

Second, the current language in Section 15496(c) (which we propose become a new “(d)”) concerning county superintendent review potentially creates confusion and should be fixed with a technical amendment. The language could be mistakenly read by some to authorize COE review of only districts that are below the districtwide or schoolwide thresholds as the first sentence in the subparagraph references only those subdivisions. Limiting review to anything less than *all* LCAPs would conflict with Cal. Educ. Code § 52070(d) which applies COE review to all LCAPs without limitation.

**Recommendation:** We recommend inserting the word “particularly” between “shall” and “review” in the first sentence.

Third, the state accounting system – Standardized Account Code Structure (SACS) – needs to be amended to track supplemental and concentration funding. In the first year of the LCAPs, COEs will need to ensure that a district’s plans meet the statute and the regulations’ proportional expenditure requirements. In the second year and beyond, the COEs will need to do the same as well as verify that the proposed plan was actually implemented.. To date, however, CDE is proposing adjustments to SACS that do not allow tracking of how supplemental and concentration funds are expended as distinct from base funds.

**Recommendation:** To ensure COEs and the public can properly track LCFF funds in accord with the regulations, **the regulations should specifically direct CDE to create and districts to use distinct SACS codes so that districts differentially track LCFF Base funding and LCFF supplemental and concentration funding.**

### **3. Ensure Meaningful Student Input in Developing LCAPs.**

LCFF implementation will only be successful with the input of the students served, and the statute requires no less. The proposed regulation and LCAP template should be modified to provide

greater clarity about how LEAs seek meaningful student input in developing, reviewing and updating the LCAP, as the statute requires;

The LCFF statute, section 52060(g), calls for consultation of school employees, parents, and students in the development of LCAPs. Currently, there are formal structures for school employees and parents to be consulted (collective bargaining units, PACs, DELACs, ELACs, etc.); **however, there is no clear parallel process for students.** The State Board should provide critical guidance to assist districts in complying with LCFF by issuing clarifying provisions that identify a range of formal actions which would satisfy the statutory requirement to consult with students in developing and implementing the LCAP..

**Recommendation:** The proposed regulations should be amended as follows:

- a. **Insert** a provision **in the regulations** requiring districts to create a formal process for consulting students to get their input on the LCAP that is modeled on similar processes of collecting input, such as creating Student Advisory Councils (similar to Parent Advisory Committee), ensuring that there is representation of unduplicated students on the Committee, and ensuring that the selection criteria and composition of the committee (including membership of unduplicated pupils) is reflected in Section 1 of the LCAP.
- b. **At a minimum, insert** a definition in the regulation that defines “student consultation” **with respect to** the LCAP as meeting at least one of the following actions:
  - (1) An annual survey of students that assesses needs and obtains student input with respect to development and implementation of the LCAP and the annual updates and that includes meaningful samples of the LEA’s low-income, English learner, and foster youth populations;
  - (2) An annual forum with the LEA’s low-income, English learner, and foster youth students to assess their needs and obtain student input with respect to development and implementation of the LCAP and the annual updates;
  - (3) Annual focus groups with the LEA’s low-income, English learner, and foster youth populations that assess needs and obtain student input with respect to development and implementation of the LCAP and the annual updates; or
  - (4) Representation of students on all high school and middle school site councils, ensuring that such representation includes low-income students, English learners or foster youth on each site council where such students attend the school, and preparation of those students so as to support their ability to provide input on the development and implementation of the LCAP and the annual updates at a site-level.
- c. Update the guiding questions in Section 1 of the LCAP template to:
  - (1) Add a question following #5 that says “What specific actions were taken to meet statutory requirements for stakeholder engagement pursuant to Education Code sections 52062, 52068, and 47606.5, including **engagement with pupils identified by Education Code section 42238.01?**”

- (2) Update question #1 to include “low-income youth” and “English learners” in the examples listed.

### **LCAP Template (Section 15497)**

The LCAP is the vehicle for local conversations and debates about priorities, and LCFF’s success is premised on meaningful and informed debate among the entire local community (*i.e.*, not just by LEA staff and board). We propose various adjustments to the LCAP template to ensure that districts are creating the conditions necessary for authentic partnership in development of the LCAP through improving transparency and standardization around dollars and data, strengthening site council engagement, and requiring greater alignment between state priorities, goals and specific expenditures at the district and school level. *We believe these modifications are necessary to ensure that the LCAP truly serves as a tool for creating authentic local engagement.*

#### **4. Ensure Transparency for Calculation of Prior Year Expenditures.**

The sole step in the calculation of proportionality over which LEAs have substantial discretion in this first year of the LCAP is the calculation of the amount of their LCFF funds spent in the prior year on services for unduplicated pupils. The proposed regulations require that any services to be included in the “prior year services” calculation for this initial LCAP year must be “in addition to what was expended on services provided for all pupils” (and thus, cannot include general program services even in highly-concentrated LEAs). To promote transparency and ensure that stakeholders understand how the LEA has exercised its discretion in establishing the baseline, the LCAP template should be amended to require LEAs to provide additional detail about this step of the proportionality requirement:

***Recommendation:*** Create a space within the LCAP template where LEAs must identify the dollar amount and methodology used to estimate “the amount of LCFF funds expended by the LEA on services for unduplicated pupils in the prior year that is in addition to what was expended on services provided for all pupils,” as described in step 2 of the 7-step “proportionality” calculation outlined in CCR § 15496(a). In addition, LEAs should be directed to identify the services or programs included in the estimate.

#### **5. Ensure Alignment with School Level Plans and Promote Site Council Engagement.**

The LCFF statute requires that the LCAP template be constructed so as to allow LEAs “to complete a single local control and accountability plan to meet the requirements of [LCFF] and the requirements of the federal No Child Left Behind Act of 2001 related to local educational agency plans pursuant to [the No Child Left Behind Act].” Federal law, in turn, requires that LEA Plans be developed in coordination with and based upon comprehensive school site instructional plans developed with parents, teachers, and other school staff, particularly where schoolwide programs are being undertaken with federal categorical dollars. *See* Section 1112(c)(1)(C) and Section 1114 of Subpart 1 of Part A of Title I of Public Law 107-110 (No Child Left Behind Act of 2001).

Under California law, School Site Councils (SSCs) and the Single Plan for Student Achievement (SPSA) that they are required to develop pursuant to Cal. Educ. Code § 64001 constitute the school site comprehensive instructional plans that satisfy the requirements of Sections 1112 and 1114 of the No Child Left Behind Act. *As such, the LCFF statute requires adoption of an LCAP template that allows*

*LCAPs to be developed in consultation with SSCs and consistent with the Single Plans for Student Achievement adopted by SSCs.*

Template revisions in the emergency regulations significantly improved on the previously non-existent alignment between SPSAs and the LCAP, but further language is needed to fulfill LCFF’s mandate. In particular, the LCAP should clarify that SSCs need not only be provided a draft LCAP and have their input requested, but more meaningfully, that SSCs should be key school-level partners who simultaneously help develop school site goals, actions, and expenditures that align with district priorities in the LCAP and with the SPSA.

**Recommendation:**     **The following changes should be made to the fifth line on Page 11 of the proposed regulations.** (Note: The bold-faced text highlights the proposed changes.)

Replace: *“Furthermore, the LCAP should be **shared with, and input requested from,** school site level advisory groups (e.g., school site councils, English Learner Advisory Councils, pupil advisory groups, etc.) to facilitate alignment between school-site and district-level goals and actions.”*

With: *“Furthermore the LCAP should be **developed in consultation with** school site level advisory groups (e.g., school site councils, English Learner Advisory Councils, pupil advisory groups, etc.) **and be consistent with and reflective of the school site priorities and plans** to facilitate alignment between school-site and district-level goals and actions.”*

## **6. Promote Engagement and Facilitate Needs Assessment and Data for Metrics.**

The LCFF statute included a number of indicators districts, charters and county offices of education must review and respond to under the state priority areas. The current LCAP template does not provide a vehicle to clearly and uniformly display this data. Uniformity and ease of access to the information is critical to:

- Ensure transparency and accountability;
- Provide a meaningful opportunity for stakeholder input; and
- Minimize the burden on and improving the capacity of: (a) school districts in developing and monitoring progress under LCAPs; (b) the county superintendents of schools who must review and approve each district LCAP; and on (c) the California Collaborative for Educational Excellence (*see* Cal. Educ. Code § 52074).

Certain fields can be pre-populated with data that is necessary to establish goals and review annual progress in certain areas, as has been done by CDE with School Accountability Report Cards. For example, under the school climate priority area, the statute specifies that districts must establish annual goals with respect to pupil suspension rates, (Cal. Educ. Code § 52060(d)(6)(A)), and data on suspension rates is currently reported through CALPADS to CDE and pre-populated by CDE on SARCs for optional use by schools. Creating an electronic needs assessment connected to the LCAP and linking it to these data sources would avoid the necessity of districts manually inputting the data. Finally, an electronic needs assessment will advance the goal of assuring transparency and facilitate community input in developing LCAPs and monitoring annual updates through greater ease of access to the information.

**Recommendation:** Provide an electronic needs-assessment connected to the LCAP, with certain fields pre-populated with data that is already submitted to CDE.

## 7. Continue to Improve the LCAP Template Format.

We believe that two aspects of the current LCAP template’s format should be modified because they: (a) unnecessarily impede transparency and the ability of members of the public to access and understand the information contained in the LCAP; (b) may interfere with LEAs’ ability to comply with certain LCAP instructions; and/or (c) make it difficult, if not impossible, for the public and COEs to evaluate whether the LEA has, in fact, complied with certain LCAP instructions.

First, the structure of the LCAP template divorces the goals (and accompanying metrics) in Section 2 from the specific actions and expenditures in Section 3. This decision undermines simplicity and transparency. Simply reading the LCAP will require LEA staff, parents, community members, and other stakeholders to flip back and forth between Sections 2 and 3 and track cross-references across multiple rows of the template to make any sense of the LCAP.

For example, readers will have to identify a goal in Section 2, then flip to a different page and identify the corresponding specific action in Section 3, and repeat this exercise for each goal in the LCAP. (The rows should be numbered. Because they are not, it is unclear how readers will be able to determine which specific action in Section 3 corresponds to which goal in Section 2.) Tracking information that is differentiated for particular student subgroups or school sites will be especially difficult, as readers will have to keep track of the areas of differentiation throughout the multiple cross-references to get an understanding of how the LEA is addressing the particular issue overall. Trying to evaluate whether each specific action is appropriate to meet the stated goal, to track progress toward goals while identifying the actions and expenditures in annual update years, or to understand the proposal as a whole will also be more challenging due to the cross-references.

Rather than promoting transparency and encouraging meaningful participation by parents, students, and the public, this feature of the LCAP template creates a significant, inherent barrier to basic understanding of the critical information that will be presented in the LCAP. Simply making sense of the content will necessitate a significant investment of time that is likely to depress participation in the process and decrease meaningful input in the local discussion over how to prioritize local resources that the LCAP was intended to promote.

**Recommendation:** The LCAP template format should be modified so that the metrics and goals are aligned, in a single section, with the specific action and expenditure information.

Second, there is no space designated in the template for LEAs to demonstrate that they have set goals and specific actions that address each statutory element for each state priority area, as required by the statute and LCAP template instructions. The current template requires that LEAs identify the state priority area(s) implicated by each goal in the right-most column of section 2 (and similarly identify in Section 3 the state priority area implicated by each specific action). Although the current template instructions require that LEAs use “the specific metrics that [the] statute explicitly references as required elements for measuring progress within a particular state priority area,” the LCAP template does not specify where within Section 2 LEAs should include this information. The header for the right-most column in Section 2, which is where LEAs are prompted to identify the “Related State and Local Priorities,” does not specifically instruct LEAs to identify the relevant statutory element. And there is no other instruction or place in the LCAP template where such information must necessarily be provided.

Accordingly, the template does not ensure that it will be apparent when goals, specific actions, and expenditures address a particular statutorily element of a priority area (e.g., whether facilities are in good repair within Priority 1, graduation rates within Priority 5, suspension rates within Priority 6). In fact, the format makes it difficult, if not impossible, for a reader to see whether the LEA addressed each of the statutorily required elements within state priority areas, as both the statute and LCAP instructions require. In addition to undermining transparency and accessibility of information for stakeholders, this makes it more difficult for LEAs to ensure they have complied with the requirement in the statute and LCAP instructions to address each statutory element, and impedes COE review of the LCAP.<sup>1</sup> The instructions to Section 2 and/or header for the right-most column of Section 2 should be modified to require LEAs to specify any statutory element that a particular goal addresses, not just the relevant state priority.

***Recommendation:***      **The first sentence of the header for the right-most column in Section 2 should be modified to read: “Identify specific state priority and, as applicable, statutorily required element.”**

The LCAP introduction could also be modified so that the description of the state priorities includes numeric identifiers for each statutorily required sub-element (e.g., “degree to which teachers are appropriately assigned pursuant to Education Code section 44258.9” would be Priority 1a, etc.).

## **8. Promote Greater Transparency about the Composition and Selection Criteria for the Parents and Guardians Who Serve on Advisory Committees.**

LEAs must establish Parent Advisory Committees and, depending on enrollment numbers, an English learner parent advisory committee. (LEAs may use existing committees if they meet the statutory requirements for LCFF.) LCFF requires that PACs include “parents or legal guardians” of unduplicated pupils, and that the English learner parent advisory committee include parents or guardians of English learners. Moreover, the legislative intent in establishing the *Parent* Advisory Committee was clear: the strong majority of the people on the PAC should be parents or guardians of students, because establishing a committee in which parents and guardians are outnumbered or in which their voice is significantly diluted by other individuals would be inconsistent with the clear intent of the legislature. Additionally, other sections of the Education Code establishing committees that call for parent representation, including

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<sup>1</sup> We strongly recommend that the State Board ensure that the electronic template being developed include the capability to automatically convert information that LEAs enter into multiple formats, specifically with metrics, goals, specific actions, and expenditures grouped by applicable state priority areas. The current template’s structure does not track the priority areas; instead, it requires LEAs to list goals and then identify the relevant priority areas for each goal. Accordingly, parents, community members, and stakeholders cannot clearly see, within the structure of the LCAP itself, what goals and specific actions the LEA believes are responsive to each state priority area. Anyone who wishes to analyze seriously the completed LCAP (whether a stakeholder, the LEA itself, or the COE) will have to create one or more separate documents reformulating the information from the current LCAP template. For example, anyone who wishes to analyze the goals, specific actions, and expenditures of an LEA is proposing to address a particular state priority area (e.g., parental involvement) or statutory element of a particular priority area (e.g., whether facilities are in good repair, graduation rates, suspension rates) will have to create a separate document to capture, in one place, the collective goals and specific actions the LEA is proposing for that priority or element. Using the existing template, this must occur manually. The development of an electronic template could promote transparency and accessibility without increasing the burden on LEAs by automatically presenting the information entered by the LEA in multiple formats or standardized “reports,” including summary reports organized by state priority area and/or showing school-level information.

District Advisory Councils (EC 52852) and DELACs, require that parents or guardians make up at least a majority of the committee even though those committees are not specifically charged to serve as a *parent* advisory committee

Although the proposed LCAP template reflects progress over earlier drafts (particularly changes made to the guiding questions for Section 1 as the emergency regulations were being developed), there continues to be significant confusion over these minimum legal requirements and the composition of these committees. In some LEAs, it is unclear whether the LEA intends to use an existing committee as the PAC or English learner parent advisory committee, and in others, the committees being identified as the relevant parent committees do not include a majority of parents, and often have minimal representation from parents and guardians of unduplicated pupils.

How LEAs intend to meet the minimum requirements for parent/guardian committees should be transparent *during the process*, and the details about the composition of these committees and criteria for selecting members are critical aspects of the LEA's overall effort to engage parents and guardians, and those of unduplicated students in particular, in developing the LCAP.

***Recommendation:***     **Modify guiding question #5 of Section 1 in the LCAP Template (Page 10 of the proposed regulations) as follows:**

- (5) What specific actions were taken to meet statutory requirements for stakeholder engagement pursuant to Education Code sections 52062, 52068, and 47606.5, including *identifying clearly which committees are being used to meet the minimum requirements and the composition of the committees, with a focus on the representation of engagement with representative parents and guardians* of pupils identified in Education Code section 42238.01?

\* \* \*

Thank you for the opportunity to comment. We appreciate that implementation of LCFF will be an ongoing process of continuous improvement. Nonetheless, that process must begin from a starting point that is consistent with the statute's new promise of equity and engagement. To move us all there, we urge the State Board of Education to close the loophole, strengthen transparency and engagement, and provide for meaningful oversight in accord with these proposed changes.

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