



**VIA ELECTRONIC AND U.S. MAIL**

September 21, 2018

State Superintendent Tom Torlakson  
c/o Local Agency Systems Support Office  
California Department of Education  
1430 N Street  
Sacramento, CA 95814  
[lcff@cde.ca.gov](mailto:lcff@cde.ca.gov)

**RE: Uniform Complaint Procedure complaint re: Klamath Trinity Joint Unified School District's Failure to Comply with the LCAP Legal Requirements Pertaining to 2017-2018 LCAP and Annual Update**

Dear Superintendent Torlakson,

We submit this appeal of the Klamath Trinity Joint Unified School District's ("District") determination on the Uniform Complaint Procedure ("UCP") complaint ("Complaint") the Hoopa Valley Tribal Council, Yurok Tribal Council, and ACLU filed on June 25, 2018 regarding the District's 2017-2018 Local Control and Accountability Plan ("LCAP") and Annual Update. We appeal the District's failure to comply with the LCAP's legal requirements. On July 19, 2018, we sent a copy of the Complaint to the Humboldt County Office of Education ("HCOE").

As discussed more fully in the attached Complaint, Exhibit 1, in its 2017-2018 LCAP and Annual Update the District violated its legal obligations under 5 CCR Section 15496(a) by failing to adequately justify supplemental and concentration ("S&C") fund allocations to maintenance, operations and transportation department staff and supplies; teacher salaries; and "tech department" and library/media technicians, among other expenditures. Additionally, the District failed to account for \$651,077 – equaling 26% of its total S&C funds for the 2017-2018 year – and reallocated significant amounts of S&C funds from the 2016-2017 LCAP after the 2016-2017 LCAP was approved by the District Board of Trustees and HCOE while failing to engage stakeholders in the decision-making process, as required by 5 CCR § 52062(c).<sup>1</sup> Further, the Annual Update section fails to describe the previous years' goals or demonstrate improvements of specific outcomes for its unduplicated ("high-need") students. Finally, up to

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<sup>1</sup> See 5 CCR § 52062(c) (noting that a district may "adopt a revision to a local control and accountability plan if it follows the process to adopt a local control and accountability plan pursuant to this section and the revisions are adopted in a public meeting.").

the present time, the District has failed to convene a parent advisory committee or otherwise adequately obtain the significant input from its communities as required by California Education Code §§ 52062-52063.

On July 11, 2018, HCOE sent a letter to the District requesting that the District address a significant number of issues in its 2018-19 LCAP and Annual Update before HCOE could approve that LCAP. Petitioners received this letter from the District on July 30, 2018 and it is attached here as Exhibit 2. There is significant overlap between the issues identified by HCOE regarding the 2018-2019 LCAP and Annual Update and those detailed in Petitioners' Complaint regarding the 2017-2018 LCAP and Annual Update.

On July 27, 2018, Petitioners agreed to extend the District's UCP response deadline to September 7, 2018; and after multiple attempts on our part to schedule a meeting, we met with the District on August 20, 2018. At this meeting, Petitioners agreed to provide the District with any additional evidence for its investigation by August 31, 2018. On August 29, 2018, Petitioners sent a letter to the District (attached here as Exhibit 3) requesting that it consider information and documents in its possession as a part of its investigation. On September 7, 2018, Petitioners received Exhibit 4, the District's response to the Complaint ("Response"), where the District concluded that it complied with all relevant legal requirements in its 2017-2018 LCAP and Annual Update.

Petitioners will not duplicate here the extensive discussion in our Complaint of how the District's 2017-2018 LCAP and Annual Update falls short of legal requirements, but instead note – as is obvious from the exhibits – that the two parties are at a considerable distance with respect to our interpretations of the relevant law and regulations. The District's Response duplicates much of our Complaint and offers cursory dismissals of the serious legal concerns outlined in the Complaint with little or no analysis. Below is a summary of the issues presented in our Complaint and the District's Response.

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

In its 2017-2018 LCAP and Annual Update, the District uses an impermissibly broad brush to explain districtwide uses of S&C funds, stating summarily that “the justification for district-wide implementation of these practices is the importance of making an impact on the learning environment and the climate of the schools as a whole which will have a positive impact on the targeted subgroups.”<sup>2</sup> Moreover, in the section reserved for the District to demonstrate how it has or will increase or improve services for high-need students, the LCAP does not identify all schoolwide or districtwide uses of S&C funds as directed by the LCAP template. Instead, the District offers a peremptory statement that it will “offer a variety of programs and supports specifically for low income students and foster youth. These include: mental health support,

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<sup>2</sup> District 2017-2018 LCAP and Annual Update at 126.

added family support for engagement, literacy training, positive behavior support, positive attendance support and culturally inclusive training.”<sup>3</sup> The District does not explain in its LCAP how it considered factors such as the needs, conditions, or circumstances of its high-need students in districtwide allocations of S&C funds.

In its Response, the District recites similarly vague and conclusory justifications for its S&C funding allocations, stating on page 10 that, “[t]he District adequately justified the District-wide use of [S&C] funds based on impacting the learning environment at the school, which would in turn positively impact unduplicated pupils, especially considering the District’s nearly 90% unduplicated pupil count.” On page 11, the District purports to justify spending the prior year’s S&C funds on “maintenance, operations and transportation department, staff and supplies” as a general matter by stating that “in the requirement to increase or improve services for unduplicated pupils, ‘services’ specifically includes uses such as facilities and other general infrastructure. (See 5 C.C.R. § 15495(h)).” Throughout its LCAP and Response, the District’s rationale appears to be that because the District has a large population of high-need students, it is not required to explain how the actions are principally directed towards and effective in meeting the District’s goals for high-need students *as compared to the goals for all students*; instead, any allocation of S&C funding is automatically justified because it benefits all students, including high-need students. This reasoning would render the text of the statute and accompanying regulations meaningless and has already been rejected by your office in its May 2017 determination regarding the Fresno Unified School District’s LCAP.<sup>4</sup> That decision made clear that a district’s LCAP “must distinguish between services directed toward unduplicated pupils based on that status, and services available to all pupils without regard to their status as unduplicated pupils or not.”<sup>5</sup> In fact, it likely will be impossible for the District to characterize certain expenditures as principally directed towards high-need students because of the nature of the spending, including: general maintenance and operations, technology, and transportation. Although Petitioners provided the District with relevant text of the May 2017 CDE decision and other guidance, the District did not address this CDE guidance at all in its Response.

**2. The District fails to provide in its Annual Update adequate description of the actions/services implemented and how these are effective in meeting the District’s goals.**

Second, the District’s LCAP and Annual Update fails to explain how parents and students can meaningfully evaluate high-need student data and specific actions regarding the previous years’

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<sup>3</sup> District 2017-2018 LCAP and Annual Update at 126.

<sup>4</sup> May 5, 2017 Letter from California Department of Education re: Request for Appeal – Fresno Unified School District, American Civil Liberties Union, Appellant, available at [https://www.aclunc.org/docs/20170505-cde\\_response\\_to\\_aclu.pdf](https://www.aclunc.org/docs/20170505-cde_response_to_aclu.pdf).

<sup>5</sup> See also California Department of Education Investigation of Appeal Against the Los Angeles Unified School District, *As Clarified on Reconsideration August 5, 2016*, available at [https://aclusocal.org/sites/default/files/aclu\\_socal\\_coco\\_laUSD\\_reconsideration\\_ruling\\_cde\\_20160805.pdf](https://aclusocal.org/sites/default/files/aclu_socal_coco_laUSD_reconsideration_ruling_cde_20160805.pdf).

LCAP goals in its Annual Update.<sup>6</sup> First, the District’s descriptions of actions and services are deficient because, for the vast majority of “planned actions/services,” the District merely copied its planned action or wrote “Implemented” into the “actual actions/services,” and offered little to no substantive information. Further, the District described overall implementation for each of its four goals – including Goal 1, which contains 71 distinct actions and to which the District allocated over \$1.2 million S&C funds, or half of its total S&C grant for the 2016-2017 LCAP year – with the following identical sentence: “Although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages.” This is an insufficient description of the efforts purportedly undertaken across the District to serve its hundreds of high-need students.

The District’s Response is conclusory on this point, noting only that “the report on each goal included specific information and/or data regarding the applicable measurable outcomes, described whether each action item was implemented as written or otherwise; and included the required overall analysis of each goal” and summarily stating that “the District complied with the applicable legal requirements of section 52061 of the Education Code.”

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

As noted on page 10 of the Complaint, the District failed to account for over \$650,000 in its LCAP – 26% of its total S&C funds for the 2017-2018 LCAP year – and reported in its Annual Update that it spent nearly \$300,000 more in S&C funds on “maintenance” during the 2016-2017 LCAP year than had been approved in its 2016-2017 LCAP.

The District’s Response is similarly perfunctory and insufficient with regard to this point. The Response fails to address the lack of accounting for nearly \$650,000 in S&C funds. While the District admits it actually spent \$296,450 *more* in S&C funds on “maintenance” than budgeted in the 2016-2017 LCAP without explanation in the Annual Update, it claims that “the LCAP template required the District to explain only *material differences* between budgeted expenditures and actual estimated expenditures,” (emphasis added) thus implying if not outright stating that nearly \$300,000 is not a “material difference” in expenditure – an untenable statement that belies the flippant nature of the District’s Response. Particularly in a district that serves so many high-need students, nearly \$300,000 would fund services that make a significant contribution to the lives of hundreds of those students. The District’s purported justification in its LCAP that some positions were left unfilled “due to a lack of application or qualified personnel”<sup>7</sup> is both inadequate and appears to be totally unrelated to spending on “maintenance.” The legal requirement to identify and explain material differences between budgeted and actual

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<sup>6</sup> See 5 CCR § 15497.5, LCAP Template, Annual Update Instructions (noting that the District must “include an assessment of the effectiveness of the specific actions.”)

<sup>7</sup> District 2017-2018 LCAP and Annual Update at 33, 67, 74, and 82.

expenditures of S&C dollars would be rendered meaningless if school districts could withhold spending for a year and simply roll those dollars into their unrestricted “base” funds the following year, or if they could spend S&C dollars in other ways that circumvent the stakeholder engagement process. In fact, the District’s own “Demonstration of Increased or Improved Services for Unduplicated Pupils,” which the District claims throughout its Response provides sufficient justification for schoolwide and districtwide use of S&C funds, completely fails to mention spending on “maintenance” or the impact this spending had on unduplicated pupils.

**4. The District has failed to meet basic legal requirements for the LCAP stakeholder engagement process.**

In addition to the information presented on this issue in the Complaint, over the course of exchanging information with the District as described above, Petitioners have become aware that the District has never constituted an LCAP parent advisory committee, as required by statute.<sup>8</sup> Instead, the District convenes a series of school site council meetings – none of which grapple with the questions of districtwide decision-making but only with decisions regarding individual school sites – and claims that series of school site meetings are (in the aggregate) somehow transformed into an LCAP-specific districtwide parent advisory committee. Upon information received from community members, Petitioners believe the school site meetings are not advertised as LCAP input sessions, the attendees are not trained on the LCAP process, and these meetings are not open to all of the stakeholders required by law (including students). Furthermore, upon review of the District’s school site plans, Petitioners have become aware that some of these site plans are nearly identical, suggesting that they do not accurately reflect the specific needs of each individual school site as the District insists. For example, the 2017-2018 School Site Plans for Jack Norton, Weitchpec, and Orleans Elementary Schools (attached here as Exhibits 5, 6 and 7) are nearly identical. Petitioners understand that Jack Norton and Weitchpec Elementary Schools have a combined school site council, which may partly explain the duplication in those two plans. However, the Orleans Elementary School Site Plan is nearly identical, with only two minor differences: two sentences about the music program and the reported attendance rate, in which the attendance rate of 92.17% at Jack Norton and Weitchpec is crossed out in blue ink and replaced with a handwritten “70.33%.”<sup>9</sup> None of this evidence suggests the District has come close to engaging stakeholders in the LCAP process at the minimum level required by statute and accompanying regulations.

On this point, the District’s Response summarily states that the District “sought applicable committee input,” held required meetings, and notified the public of the opportunity to submit comments to the LCAP – without providing any evidence that any of these actions were actually taken. Petitioners reiterate their strong concerns laid out in the Complaint regarding the deficiencies of the District’s stakeholder engagement process, in addition to submitting newly

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<sup>8</sup> Cal. Educ. Code §§ 52062-52063.

<sup>9</sup> See Orleans Elementary School Site Plan at 9, 10.

uncovered information that the District does not have and never has had a parent advisory committee as envisioned in California Education Code §§52062-52063.

For the reasons stated above and in the Complaint, the District must revise its 2017-2018 LCAP and Annual Update to identify and properly justify all S&C funds allocated on a districtwide and schoolwide basis; fully report any reallocations of S&C funds from the prior year's LCAP and the process used to determine and approve those reallocations; and reallocate all S&C funds for classroom services for high-need students, rather than actions and services (including maintenance) that must be paid out of base funds. We request that CDE investigate and issue a ruling to require the District to revise its 2017-2018 LCAP as soon as possible. We look forward to CDE's initial response within 14 days of receipt. Please contact Linnea Nelson at [lnelson@aclunc.org](mailto:lnelson@aclunc.org) if you have any additional questions or require any additional information to adjudicate the appeal.

Sincerely,



Jim McQuillen, MFT, PPS  
Education Director  
Yurok Tribe



Erika Tracy  
Executive Director  
Hoopa Tribal Education Association



Sylvia Torres-Guillén, ACLU Foundations of California  
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Encl.: June 25, 2018 Letter from ACLU Foundations of California, Hoopa Valley Tribe, and Yurok Tribe to Superintendent Jon Ray

July 11, 2018 Letter from Humboldt County Office of Education Superintendent Chris Harley to KTJUSD Superintendent Jon Ray

August 29, 2018 Letter from ACLU Foundations of California, Hoopa Valley Tribe, and Yurok Tribe to KTJUSD Superintendent Jon Ray

September 7, 2018 Letter from KTJUSD Superintendent Jon Ray re: District’s Response to UCP Complaint from Hoopa Valley Tribe, Yurok Tribe, and ACLU Foundations of CA

Orleans Elementary School Title 1 Evaluation Tool School Plan 2017-2018

Jack Norton Elementary School Title 1 Evaluation Tool School Plan 2017-2018

Weitchpec Elementary School Title 1 Evaluation Tool School Plan 2017-2018