



January 10, 2014

Dr. Michael Kirst, State Board President
State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

Via email only (sbe@cde.ca.gov)

Re: State Board of Education January 2014 Agenda Items 20 & 21

Dear President Kirst,

On behalf of Public Advocates and the ACLU of California, we would like to commend the State Board of Education for the significant progress reflected in the proposed regulations and LCAP template. With the changes from earlier drafts, we believe the regulations and LCAP template establish a workable overall framework for implementing LCFF that we support, although there remain areas that we believe should be improved.

We also appreciated the State Board's responsiveness to concerns and recommendations from stakeholders throughout this process. Even though some of the changes reflected in the most current documents did not go as far as we would have liked, many did, and others reflect attempts, at least in part, to respond to our input. We believe that several areas in particular represent significant improvements from the materials presented to the State Board in November and the interim materials made public by State Board staff and WestEd in November and December:

- There is now a standard calculation for LEAs to determine the percentage by which services for unduplicated students must be increased or improved above services provided to all students, rather than multiple options for LEAs or allowing LEAs to devise their own standards. Having a uniform standard guiding LEA decision-making is consistent with the State's role within our K-12 system as the ultimate guarantor of students' fundamental right to equal educational opportunity. We also believe that having a single standard will assist LEAs in complying with the statutory requirement and ensure greater transparency and accessibility for parents and other stakeholders as LEAs develop their LCAPs.
- The proportionality percentage represents a single-year snapshot of how much of an LEA's funding is attributable to supplemental and concentration funds versus base funds, rather than a year-over-year comparison of supplemental and concentration funding. We believe this approach more closely aligns with the statutory framework and overarching premise of LCFF that funds generated to serve high needs students should, in fact, be used to serve those students' unique needs beyond the general program.

- The LCAP template included new language in Section 3.A clarifying that this description of baseline services does not include services targeted to unduplicated pupils and clarified that the listing of services provided to each unduplicated pupil subgroup in Section 3.B must not include services described in Section 3.A. We believe that this change will make it easier for parents and other stakeholders to see whether, and to what extent, an LEA is increasing or improving services to unduplicated pupils through targeted services, which will improve transparency and accessibility.
- The LCAP instructions include new language (and bolded, underlined text) emphasizing that the goals, actions and expenditures must address all 8 priority areas and statutory elements, as the statute requires. Additionally, although the LCAP template does not include separate rows in which LEAs describe goals, specific actions, and expenditures for distinct subgroups as we recommended, the LCAP instructions more clearly state that LEAs must include goals for all pupil subgroups, as the statute requires, and a new column was added to Section 2 in which LEAs must specify whether a goal (and the accompanying metrics) apply to all pupils or to particular subgroups.
- Although the template does not include space for goals, specific actions, and expenditures at every school as we recommended, a new column was included in Sections 2 and 3 in which LEAs must list which schools are covered by a goal or specific action, and new instructions seek to facilitate alignment between school-specific goals in Single Plans for Student Achievement and LCAPs and also to encourage LEAs to seek input from schoolsite councils, ELACs, and DELACs in the LCAP planning process.
- There is much improved guidance and instructions for LEAs on how they must engage parents, students, and other stakeholders in the LCAP process.
- The new regulatory language affirming the authority of county offices of education to review whether the LEA has met the proportionality standard established in the regulations is a significant improvement over prior drafts. We believe that county office of education review must be meaningful and, with this change, could provide an important venue for parents and other stakeholders to hold LEAs accountable to the statutory and regulatory standards.¹

We remain concerned, however, that the provisions governing districtwide uses of supplemental and concentration grants above the regulatory threshold of 55% create a significant potential loophole. Because districts above that threshold need only describe how the districtwide program is directed to unduplicated pupils goals and those goals need not differ from the goals for all pupils, this could allow a considerable portion of the dollars generated by unduplicated pupils to be spent on increasing or improving services for non-unduplicated pupils. As a general matter, improving services for *all* students using supplemental and concentration funds is not consistent with LCFF's premise that the additional funds LEAs receive to meet the greater needs of unduplicated pupils should, in fact, be directed toward improving the educational experience of unduplicated pupils. There may be justification for relaxing this premise in districts where unduplicated students are intensely concentrated (*e.g.*, at a threshold of 65% or greater) because improving the standard program will overwhelmingly benefit unduplicated pupils. That justification does not lie, however, in districts where almost half of the students are not unduplicated.

¹ We recommend a technical amendment switching the order of the two sentences in subparagraph (c) so that the current second sentence—which authorizes county superintendents not to approve an LCAP if the LEA has failed to meet the proportionality requirement required by § 15496, *i.e.*, regardless of whether the LEA is above or below any given threshold—becomes the first sentence and inserting the word "particularly" between "shall" and "review" in what is currently the first sentence. Otherwise, because the first sentence of the current version references only those subdivisions that apply to LEAs that are below the districtwide or schoolwide thresholds, some could mistakenly read the current language to authorize COE review of only below-threshold districts and schools.

To protect against potential abuses if the threshold will remain at 55%, we recommend that the State Board modify § 15496(b)(1)(B) to read: “Describe in the LCAP how such services are principally directed towards serving unduplicated pupils and are effective in meeting the district’s goals for its unduplicated pupils in the state priority areas.” This proposed above-threshold standard would require materially less of a showing than the “most effective use” standard for below-threshold districts, while providing some assurance that districts have the needs of students who generate supplemental and concentration funds particularly in mind when deciding whether to expend those funds on a districtwide program. Indeed, as long as the LEA could demonstrate that it had the needs of unduplicated students principally in mind in pursuing the districtwide service, it could still increase or improve services to all students with supplemental and concentration funds. We hope that the State Board will consider incorporating this recommendation into the emergency regulations before they are adopted.

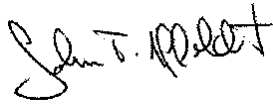
Finally, we wanted to note additional areas where the current proposal can be improved, and we will continue to work with the State Board and relevant stakeholders to ensure that they are addressed through the permanent regulatory process and/or guidance that the State Board will issue:

- LCAP Format & Data: The LCAP is the vehicle for local conversations and debates about priorities, and LCFF’s success is premised on meaningful and informed debate within the local community. Although the LCAP template has been improved from earlier versions, we believe that the format still impedes transparency in ways that can be easily fixed. It is possible to craft a template that integrates goals with the related specific actions and is structured around the eight state priority areas, without being overly complex, as demonstrated by a sample LCAP template that we submitted in mid-December (attached). We also recommend that the State Board provide clearer direction to LEAs in either the LCAP instructions or guidance on complying with the requirements to include in Section 2 of the LCAP template actual data for the metrics explicitly referenced in statute (*e.g.*, suspension rates).
- Accessibility of school-level information and alignment with other site plans: We previously recommended requiring comprehensive school-level information for every school in an LEA’s LCAP to ensure that communities can see how the LCAP (including goals, actions, and expenditures that are not differentiated at their school) will play out at their school to facilitate meaningful school-level conversations around spending and education priorities. We believe that the goal of providing such school-level information (possibly as part of the electronic LCAP format or an automated web interface) should continue to be explored. In the meantime, we appreciate the recent changes made around the Single Plan for Student Achievement and LCAP interaction with school-level advisory bodies. We think further language should be adopted to strengthen assurances that such plans are truly developed in partnership with school communities.²
- Specific guidance for state priority areas: We joined other organizations in submitting recommendations for information that we believed should be included in the LCAP template specific to certain state priority areas (*e.g.*, Williams, School Climate). We understand that State Board staff will include such information on best practices and suggested approaches in non-binding guidance and look forward to working with State Board staff in the coming weeks to assist them in developing those materials.

² Additionally, statutory changes to state laws governing site councils, ELACs and DELACs, should be explored by stakeholders and the State Board to update the role of those bodies in the LCFF era and further align LCAP development with that of site and LEA plans.

We recognize the challenge of accommodating the views of such a diverse range of stakeholders in implementing such a monumental change. The tremendous positive movement in these documents reflects the hard work by the State Board and State Board staff, CDE, DOF, and advocates. We look forward to working with the State Board and all stakeholders to further improve the regulatory framework and to craft necessary fixes to address issues that emerge in implementation over the coming years.

Sincerely,



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