



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TONY THURMOND
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

March 29, 2019

Linnea Nelson, Education Equity Staff Attorney
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111

Theodora Simon, Investigator
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111

Sylvia Torres-Guillén, Director of Education Equity/Senior Legal Counsel
ACLU Foundations of California
1313 West Eighth Street, Suite 200
Los Angeles, CA 90017

Dear Ms. Nelson, Ms. Simon, and Ms. Torres-Guillén:

Subject: Request for Appeal – Del Norte County Unified School District
American Civil Liberties Union, Appellant

Case Number 2019-0068

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal received on January 30, 2019. You are appealing the Del Norte County Unified School District's (District's) Decision dated January 15, 2019.

I. Background

The Local Control Funding Formula (LCFF) statute authorizes the filing of an administrative complaint pursuant to the Uniform Complaint Procedures (UCP) to resolve allegations that a local educational agency (LEA)¹, such as a school district, failed to meet the requirements of Article 4.5. [Local Control and Accountability Plans and the Statewide System of Support [52059.5 – 52077] (*California Education Code [EC] Section 52075; California Code of Regulations, Title 5 (5 CCR) Section 4600 et seq.*). On November 16, 2018, the American Civil Liberties Union (Appellants) submitted a UCP Complaint (Complaint) to the District, alleging that the District's 2018-19 Local Control and Accountability Plan (LCAP) violates the LCFF statute.

¹ LEA means a school district, county office of education, or charter school (5 CCR 15495(d)).

The District issued its Decision in this matter on January 15, 2019. The Appellants submitted an Appeal to the CDE of the District's Decision on January 30, 2019. The CDE sent a notice of appeal letter, dated February 12, 2019, to the District requesting the investigation file and other applicable documentation as required by 5 CCR Section 4633. The CDE received the District's documentation on March 1, 2019.

Following receipt of this documentation from the District, the CDE reviewed all material received related to the Complaint, applicable laws, and the District's complaint procedures. Title 5 CCR 4633(d)(1) requires the CDE to include a finding that the LEA complied or did not comply with its complaint procedures. The CDE has reviewed the complaint procedures for the District and finds that the District fully complied with its complaint procedures in this matter.

II. Summary of Complaint and District Decisions

The Complaint

The Complaint alleges the following:

Allegation 1: "The District fails to adequately justify districtwide S&C expenditures for 'maintenance,' 'class size reduction,' 'and transportation'." (Complaint, p. 5).

According to the Complaint, the District has allocated \$1,244,542 of supplemental and concentration grant funds over the three LCAP years 2017-18, 2018-19, and 2019-20 to facility maintenance (Goal 4, Action 1). In the 2018-19 LCAP year for Goal 4, Action 1, the District has allocated \$336,124 in supplemental and concentration grant funds for "[c]ontinued Assessment of site cleanliness and implementation of maintenance plan with continued funding of additional staff and deferred maintenance funding to ensure safe, clean, and welcoming facilities" (Complaint, p. 5). \$100,000 of this amount is for deferred maintenance. The Complaint states, "the District offers no justification for spending hundreds of thousands of S&C dollars on 'site cleanliness' and no meaningful description of what 'deferred maintenance' entails or how [this] could increase or improve services for high-need students in particular" (Complaint, p. 6).

The second action included in Allegation 1 is the action to reduce class size (Goal 1, Action 8), for which the District budgeted \$1,702,800 in supplemental and concentration grant funds for the 2018-19 LCAP year. The Complaint alleges that the District failed to adequately justify this action as principally directed towards, and effective in, meeting the District's goals for its unduplicated students. "[T]he District's LCAP does not explain how the S&C funds will be used to reduce class sizes and does not define 'intervention services,' which further obscures how this districtwide spending of S&C funds is intended to increase and improve services for high-need students *in particular*, above and beyond what all students receive" (Complaint, p. 6).²

² The Complaint defines the term "high-need student" as synonymous with unduplicated student (Complaint, p. 1).

The third action included in Allegation 1 is Goal 2, Action 8 for “transportation beyond state allocation for all students.” The District has budgeted \$922,337 in supplemental and concentration grant funds for this action in the 2018-19 LCAP year. The Complaint alleges that the District failed to adequately justify this action as principally directed towards, and effective in, meeting the District’s goals for its unduplicated students. The Complaint states that the only mention of this action in the Demonstration section is cursory: “Parent, community and student input concur that a more engaging curriculum, incentives, transportation, and improved school climate will increase student motivation to attend more regularly” (Complaint, p. 7, quoting 2018-19 LCAP p. 70).

Allegation 2: “The District fails to adequately justify districtwide actions and services in its Annual Update.” (Complaint, p. 7).

Specifically, Allegation 2 alleges the following:

“[T]he District’s Annual Update does not explain how its previous actions and services were effective in meeting its goals for high-need students, either by assessing relevant factors in its educational program for high-need students or by evaluating the relationship between its educational services and progress made (or not) in its annual measurable outcomes for high-need students *in particular*” (Complaint, p. 7).

The Complaint further expounds this allegation in two parts. The first part attempts to demonstrate that the District failed to adequately justify districtwide actions and services in the Annual Update section of the LCAP because it failed to provide an adequate description of needs for unduplicated students in the prior year. The second part attempts to demonstrate that the District failed to adequately justify districtwide actions and services in the Annual Update section of the LCAP because it did not associate expected outcomes with specific actions. As a result, according to the Complaint, the District fails to adequately describe how the actions in the LCAP *were* effective in meeting the LCAP goals in the prior year for its high-need students. These two parts are further described as follows.

First, according to the Complaint, the Demonstration section for the 2017-18 LCAP year, which is included in the 2018-19 LCAP, identifies three broad needs for unduplicated students “that do not appear to be tethered to their status as high-need students, because all students need and benefit from these things” (Complaint, p. 7). According to the Complaint, the three broad areas of need identified by the District in the 2017-18 Demonstration section are additional learning time and intensity, increased home-school connections and family engagement, and attendance support. The Complaint alleges that because the needs of unduplicated students are described by the District “at such a broad level of generality that virtually every service the District offers would address them, then the District is violating the key requirement of LCFF to provide increased or improved services to high-need students *as compared to all students*” (Complaint, p. 7).

Second, the Complaint alleges that the Annual Update section of the 2018-19 LCAP “fails to assess how effective (or not) the District’s actions were in reaching its goals for high-need students” (Complaint, p. 8). The Complaint cites part of the District’s response to the second prompt of the Analysis part for Goals 1 and 2 in the Annual Update. These responses provided by the District, according to the Complaint, simply restate measurable outcomes

for the goal without linking them to specific actions for the goal. As a result, the District fails to evaluate any of the actions in relation to the expected outcomes the District failed to meet. “Without an explanation of how its actions and services relate to measurable outcomes, the Annual Update fails to explain how the District’s actions were (or were not) effective in meeting the LCAP goals for its high-need students” (Complaint, p. 8).

Additionally, as part of Allegation 2, the Complaint alleges that the District’s Annual Update section of the 2018-19 LCAP fails to include any discussion of relevant challenges and success experienced with the implementation process.

District’s Decision

Allegation 1

In its Decision, the District provided additional justifications for the three LEA-wide actions in question (i.e. Goal 4, Action 1; Goal 1, Action 8; Goal 2, Action 8). Regarding Goal 4, Action 1 for maintenance, the District states that the schools most in need of maintenance are smaller, outlying schools serving a high number of unduplicated students. The District states it received comments from stakeholders indicating a need for additional staff at these schools and the comprehensive high school. The impact of dirty and deteriorating facilities is especially negative for low-income students, “who rely on schools for warmth, stability, cleanliness, food security, etc.” (Decision, p. 8).

Regarding Goal 1, Action 8 for class size reduction, the District states that the District English Learner Advisory Committee (DELAC) and the District Educational Leadership Team and Associates (DELTA) both expressed a need for smaller class sizes and the elimination of grade-level combination classes in order to provide English learners and low-income students with additional one-on-one and small group support.

Regarding Goal 2, Action 8 for transportation, the District describes the issue of transportation as a matter of access and equity. The District states that 97% of all District students who ride the bus are identified as unduplicated students. The District describes its provision of transportation services as essential given a high chronic absenteeism rate. According to the District, transportation services are also important for unduplicated students to access after school and extra-curricular activities.

Allegation 2

The District provides the following response to Allegation 2 in its Decision:

“The District acknowledges that the Annual Update and metrics are vague and need to be revised in future LCAP planning and iterations and to be tied directly to actions items” (Decision, p. 11).

III. Appeal

Allegation 1

Appellants disagree with the District's Decision with respect to Allegation 1. The Appeal states that the additional justification provided in the Decision for the LEA-wide actions in question does not adequately justify those actions as being principally directed towards, and effective in, meeting the District's goals for its unduplicated students. Even if the additional language was sufficient, the Appeal states that it would not remedy the legal issues in question because the additional language is not in the LCAP.

With respect to Goal 4, Action 1 for maintenance, the Appeal states that the additional language provided in the District's Decision fails to consider factors such as the needs, conditions, or circumstances of its unduplicated students. "A warm and stable school environment is a need shared by all students" (Appeal, p. 2). The Appeal states, "In the Petitioners' view, it is difficult to summon a legally sufficient justification for spending S&C funds on a districtwide building maintenance program that equally benefits all students in the district" (Appeal, p. 3).

With respect to Goal 1, Action 8 for class size reduction and Goal 2, Action 8 for transportation, the Appeal states that the additional justification provided in the District's Decision similarly fails to meet the standard. Regarding class size reduction, the Appeal states, "the expenditure at issue is for overall class size reduction, not for a program that provides one-on-one, small group, and additional supports for English learner or low-income students" (Appeal, p. 3). Regarding transportation, the Appeal points out that the District's description of this action specifically notes that it is for all students.

Allegation 2

The Appeal supports the District's Decision with respect to Allegation 2. However, Appellants explain that they remain unclear what corrective actions the District has taken or plans to take on this issue.

IV. Legal Authorities

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52059.5 – 52077
California *Code of Regulations* sections 15494 – 15497

V. CDE Findings of Fact and Conclusions of Law

Allegation 1

Appellants allege that the District fails to provide the required justification for its LEA-wide actions/services for maintenance, class size reduction, and transportation.

The LCFF apportions additional funds to LEAs on the basis of the number and concentration of unduplicated students (low-income, English learner, and foster youth) (*EC* sections 42238.02, 42238.07). These funds are commonly referred to as "supplemental and concentration grant funds." LEAs are required to increase or improve services for unduplicated students as compared to the services provided to all students in the fiscal year in proportion to the additional funding provided (*EC* Section 42238.07; 5 *CCR* 15496). "To

improve services” means to “grow services in quality,” and “to increase services” means to “grow services in quantity” (5 CCR Section 15495(k) and (l)).

As such, there is no spending requirement; rather, an LEA must demonstrate in its LCAP how the services provided will meet the requirement to increase or improve services for unduplicated students over services provided for all students in the LCAP year. Regulations provide the formula for calculating the percentage by which services must be proportionally increased or improved for unduplicated students above services provided to all students in the fiscal year (5 CCR 15496).

The collective set of services described by an LEA that will contribute to meeting the required proportional increase or improvement in services for unduplicated students over services provided to all students include two categories of services:

- Services that are limited to serving one or more unduplicated student group, and
- Services that upgrade the entire educational program of an LEA or a school site(s).

Services of the latter category are referred to as either a schoolwide or an LEA-wide (i.e., districtwide, countywide, or charterwide) service.

An LEA is required to follow the LCAP Template approved by the State Board of Education (SBE) (EC sections 52064, 52070). The Demonstration section requires an LEA to identify the amount of its LCFF funds in the LCAP year calculated on the basis of the number and concentration of unduplicated students, and to identify the percentage by which it must increase or improve services for unduplicated students over all students.

Also in this section, the LEA must describe how the services provided for unduplicated students are increased or improved by at least this percentage, either quantitatively or qualitatively, as compared to services provided for all students in the LCAP year (EC Section 42238.07; 5 CCR 15496). For those actions/services contributing to the increased or improved services requirement that are funded and provided on a schoolwide or LEA-wide manner, the LEA must include the required description supporting each schoolwide or LEA-wide action/service. An LEA such as Del Norte County Unified School District, which has an unduplicated student enrollment greater than 55%, must describe in its LCAP how the actions/services are “*principally directed towards*” and “*effective in*” meeting its goals for unduplicated students in the state and any local priority areas³ (EC Section 42238.07, 5 CCR 15496(b)).

To provide the required justification for services provided on a “wide” basis, an LEA must distinguish between services directed toward unduplicated students based on that status, and services available to all students without regard to their status as unduplicated students or not. An LEA describes how a service is principally directed to meeting the LEA’s goals for

³ Schoolwide services at a district school with enrollment of unduplicated pupils that is 40 percent or more of its total enrollment must be supported by the same description. Schoolwide services at a school district school with less than 40 percent unduplicated pupil enrollment must be supported by the additional description of how the schoolwide use of funds is the *most effective* use of the funds to meet the LEA’s goals for its unduplicated pupils. This tripartite explanation is also required for action/services provided on LEA-wide basis in an LEA with unduplicated pupil enrollment of less than 55%. (5 CCR 15496(b)).

unduplicated students in any state or local priorities when it explains in its LCAP how it considered factors such as the needs, conditions, or circumstances of its unduplicated students, and how the service takes these factors into consideration (such as, for example, by the service's design, content, methods, or location).

In addition, the description must explain how the service will be *effective* in meeting the LCAP goals for its unduplicated students. An LEA meets this requirement by providing in the LCAP an explanation of how it believes the action/service will help achieve one or more of the expected outcomes for the goal. Conclusory statements that an action/service will help achieve an expected outcome for the goal, without an evident connection or further explanation as to how, are not sufficient.

When an LCAP contains the necessary descriptions as described above for actions/services provided on a wide basis, it will be apparent how the LEA is acting to increase or improve services for unduplicated students, and why it has determined the services identified will be effective to achieve its goals for unduplicated students. Simply stating that an LEA has a high percentage of unduplicated student enrollment does not meet this standard because serving students is not the same as enrolling students.

Required Justification for LEA-Wide and Schoolwide Actions/Services

As stated above, Appellants allege that the District fails to adequately justify districtwide actions for maintenance (4.1), class size reduction (1.8), and transportation (2.8). Appellants are correct to state that the additional justification provided in the District's Decision, even if legally sufficient, would need to be included in the LCAP to satisfy the legal requirement at issue. Appellants are also correct to state that it would be difficult to provide a legally sufficient justification for districtwide services that *equally* benefits all students in the district. Not only would it be difficult, it would be impossible. However, whether or not the districtwide actions in this matter benefit all students equally is the very question at issue.

An action is not precluded from being included as contributing to meeting the increased or improved services requirement simply because it might benefit all students. As described above, the District must provide a description for such actions that justifies the actions as being principally directed towards, and effective in, meeting the district's goals for its unduplicated students. If the District describes how these actions are based on factors such as the needs, circumstances, or conditions of unduplicated students, how the actions take such factors into consideration, and how the actions will help meet one or more Expected Annual Measurable Outcomes for the relevant LCAP goal, then these actions may be included as contributing to meeting the increased or improved services requirement. Providing this justification for wide actions/services in the LCAP provides a reasonable basis to expect that such actions/services will increase or improve services for unduplicated students in the ensuing LCAP year.

In the Demonstration section of the 2018-19 LCAP, the District identifies three broad areas of needs of the District's unduplicated students to be addressed by the LEA-wide actions in the LCAP. These needs are described as follows:

1. A need for additional learning time and intensity;

March 29, 2019

Page 8

2. Increased home-school connections and family engagement;
3. Attendance support.

Goal 1, Action 8

Goal 1 is “Increase student achievement and close the achievement gap” (DNCUSD 2018-19 LCAP, p. 26 of 90). Goal 1, Action 8 is indicated as LEA-wide and described in the LCAP for the 2018-19 year as follows:

“K-12 Class Size Reduction/Combo Reduction/Intervention Services to decrease middle school and high school dropout rates.” (DNCUSD 2018-19 LCAP, p. 36 of 90).

In the Demonstration section of the 2018-19 LCAP, the District associates this action with the stated need of unduplicated students for additional learning time and intensity. An identified need for Goal 1 is to address low reclassification rates and progress toward English proficiency for English learners. Expected Annual Measurable Outcomes for Goal 1 include outcomes for all students for increased academic achievement using the following metrics: scores on math and language assessments, reclassification rate, college preparedness, and Advanced Placement examination scores. Expected outcomes are also included for all students for increased student engagement using the following metrics: graduation rate and attrition rates (i.e. rates of students leaving district schools but remaining in the county).

The District has met the requirement to describe how it considered factors such as the needs, circumstances, or conditions of its unduplicated students. However, the District has not met the requirement to describe how the action takes such factors into consideration. It is not clear how the District believes that a reduction in class size and elimination of grade level combination classrooms will meet the stated need of its unduplicated students for “additional learning time and intensity.” Nor has the District met the requirement to describe, or otherwise make clear, how the action will help meet one or more of the expected annual measurable outcomes for the goal. While it is reasonable to assume that a reduction in class size will have positive implications for academic achievement and graduation rates, this connection has not been made clear nor is it otherwise obvious based on the language provided in the District’s LCAP.

The additional language provided by the District in its Decision does clarify its reasoning for this action. In its Decision, the District states that its District English Learner Advisory Committee (DELAC) expressed the need for smaller class sizes and elimination of grade level combinations classes. The District states that English learners and low-income students need additional one-on-one and small group supports, presumably made more possible by smaller class sizes. The District also explains that, as part of this action, a full time reading intervention teacher was provided to the lowest performing school in the District.

While this additional language provided in the District’s Decision clarifies how the action in question takes into consideration the stated needs, circumstances, and conditions of the District’s unduplicated students, as well as describes a connection between the action and

the expected outcomes for the goal, this language is not provided in the LCAP and, as such, cannot be relied upon by the District to meet the legal requirement at issue.

Goal 2, Action 8

Goal 2, Action 8 is indicated as LEA-wide and described in the LCAP for the 2018-19 year as follows:

“Continue funding transportation beyond state allocation for all students.” (DNCUSD 2018-19 LCAP, p. 53 of 90).

Goal 2 is “Increase student attendance” (DNCUSD 2018-19 LCAP p. 44 of 90). In the Demonstration section of the 2018-19 LCAP, the District associates this action with the stated need of unduplicated students for attendance support. The District states, “Parent, community, and student input concur that a more engaging curriculum, incentives, transportation, and improved school climate will increase student motivation to attend more regularly” (DNCUSD 2018-19 LCAP, p. 70 of 90). Expected Annual Measurable Outcomes for Goal 2 include outcomes for all students for increased attendance and decreased chronic absenteeism, which are measurements of student engagement.

Although the District’s justification for this action can be improved for clarity, the language provided in the LCAP does meet the minimum requirements. The District has met the requirement to describe how it considered factors such as the needs, circumstances, or conditions of its unduplicated students by stating that its unduplicated students have a need for attendance support. The District has also met the requirement to describe how the action in question takes these factors into consideration by explicitly associating the provision of transportation with increased student motivation to attend more regularly. This also meets the requirement to describe how the action will help achieve one or more of the expected outcomes for the Goal, which are an increase in the attendance rate and a decrease in the chronic absenteeism rate, two metrics directly affected by more regular attendance.

The additional language provided by the District in its Decision is helpful and would strengthen the justification provided in the LCAP. As noted above, the District describes the issue of transportation as a matter of access and equity. The District states that 97% of all District students who ride the bus are identified as unduplicated students. The District describes its provision of transportation services as essential given a high chronic absenteeism rate. According to the District, transportation services are also important for unduplicated students to access after school and extra-curricular activities.

Goal 4, Action 1

Goal 4, Action 1 is indicated as LEA-wide and described in the LCAP for the 2018-19 year as follows:

“Continued Assessment of site cleanliness and implementation of maintenance plan with continued funding of additional staff and deferred maintenance funding to ensure safe, clean, and welcoming facilities.” (DNCUSD 2018-19 LCAP, p. 64 of 90).

Goal 4 is “Ensure that students will attend schools that are safe, clean and welcoming” (DNCUSD 2018-19 LCAP, p. 63 of 90). In the Demonstration section of the 2018-19 LCAP, the District associates this action with the stated need of unduplicated students for attendance support. The District states, “Parent, community, and student input concur that a more engaging curriculum, incentives, transportation, and improved school climate will increase student motivation to attend more regularly” (DNCUSD 2018-19 LCAP, p. 70 of 90). The District references Goal 4, Action 1, among other actions, as an example of an action intended to provide “more engaging curriculum, incentives, transportation, and improved school climate” in order to increase attendance. Expected Annual Measurable Outcomes for Goal 4 include expected outcomes for all students as measured by the suspension rate, the Facilities Inspection Tool, and the California Healthy Kids Survey. Goal 4 also includes an Expected Annual Measurable Outcome for English learners and foster youth for an increase of school-home connections.

The justification provided for Goal 4, Action 1, is very close to that provided for Goal 2, Action 8. The District has met the requirement to describe how it considered factors such as the needs, circumstances, or conditions of its unduplicated students by stating that its unduplicated students have a need for attendance support. The District’s account for how the action takes the need for attendance support into consideration is that this action is included among several actions that “will increase student motivation to attend more regularly” (DNCUSD 2018-19 LCAP, p. 70 of 90). Presumably, the District intends to associate this action with an “improved school climate.” However, based on the language provided in the LCAP, this connection is not clear nor is it otherwise obvious. As such, the District has failed to describe how the action in question takes into consideration the stated need of its unduplicated students for attendance support.

The additional language provided by the District in its Decision does help to clarify its reasoning for this action. The District states in its Decision that the schools most in need of maintenance are smaller, outlying schools serving a high number of unduplicated students. The District states it received comments from stakeholders indicating a need for additional staff at these schools and the comprehensive high school. The impact of dirty and deteriorating facilities is especially negative for low-income students, “who rely on schools for warmth, stability, cleanliness, food security, etc.” (Decision, p. 8). However, this language is not provided in the LCAP and, as such, cannot be relied upon by the District to meet the legal requirement at issue.

Appellants challenge this action on the basis that all students have a right to school facilities that are safe and clean and that a “warm and stable school environment is a need shared by all students” (Appeal, p. 2). While this is true, the question at issue is whether or not unduplicated students in this particular situation could be reasonably expected to benefit from this action to a greater degree than all students.

Appellants cite the CDE’s UCP investigation report in the matter of ACLU v. Fresno Unified School District (FUSD), dated May 5, 2017, to support its challenge of Goal 4, Action 1, in the current matter. In the May 5, 2017 investigation report, the CDE found that FUSD had failed to adequately justify LEA-wide and schoolwide actions included as contributing to meeting the increased or improved services requirement. Specifically, Appellants appear to reference Goal 4, Actions 43 and 44 of FUSD’s 2016-17 LCAP (p. 108). The Complaint

asserts, "...CDE has squarely rejected attempts to use S&C funds for general maintenance..." (Complaint, p. 5).

In the Fresno matter, FUSD's Goal 4 was stated as "All students will stay in school, on track to graduate", and the identified need for this goal is stated as "Fresno USD needs to provide a safe, clean and orderly learning and working environment." Action 43 was to maintain 40 additional custodians, 3 custodial supervisors and 4 grounds maintenance positions. Action 44 was to renovate high school bathrooms. In the Demonstration section of FUSD's 2016-17 LCAP, FUSD failed to identify any factors such as the needs, circumstances, or conditions of its unduplicated students. FUSD indicated that it planned to use the School Quality Improvement Index (SQII) to identify schoolwide and individual student needs without any description of the index. FUSD's language was wholly conclusory stating only that "All 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" (FUSD 2016-17 LCAP, p. 183).

In its May 5, 2017 investigation report, the CDE concluded that FUSD's LCAP failed to identify the needs, conditions, or circumstances of its unduplicated students in the LCAP. As a result, FUSD failed to provide a fundamental element of the required description for a wide action. Contrary to the Appellants' assertion in the current matter, the CDE has not "squarely rejected" the possibility that facility investments may contribute to meeting an LEA's increased or improved services requirement. The CDE recognizes many benefits of improved facilities including increased academic performance and an improved sense of community.⁴ According to *Getting Down to Facts II*, California's facility funding is "inequitable and regressive" (*Education Equity in California*, p. 20).⁵ Assuming it is LEA-wide or schoolwide, if an LEA provides an adequate justification for how such an investment can be principally directed towards, and effective in, meeting the LEA's goals for its unduplicated students, then such an investment may be included in the Goals, Actions, and Services section of the LCAP as contributing to meeting the increased or improved services requirement. However, language provided in the District's 2018-19 LCAP is insufficient in this regard.

Conclusion for Allegation 1

The CDE finds that the appeal of the District's Decision regarding Allegation 1 with respect to Goal 1, Action 8 and Goal 4, Action 1 has merit.

Allegation 2

Appellants support the District's Decision with respect to Allegation 2. However, Appellants explain that they remain unclear what corrective actions the District has taken or plans to take on this issue. In its Decision, the District states with respect to Allegation 2 that, "the Annual Update and metrics are vague and need to be revised in future LCAP planning and iterations and to be tied directly to action items" (Decision, p. 11). Further in its Decision, when describing corrective actions, the District states, "The new LCAP for 2019-20 will

⁴ More information on the benefits of improved school facilities may be found here:

<https://www.cde.ca.gov/ls/fa/re/>

⁵ https://gettingdowntofacts.com/sites/default/files/2018-09/GDTFII_Equity%20Review.pdf

explicitly explain and provide transparent narration of input sessions and opportunities, the impact of the input, the outcomes of the action items, the need based nature of each goal and action, justification of each action, and a clear accounting of the [required percentage to increased or improve services for unduplicated students]" (Decision, p. 11).

The underlying assumption of Allegation 2 is that an LEA is required to adequately justify prior year actions and services for its unduplicated students in the Annual Update. LEAs are required to provide such justification for any LEA-wide or schoolwide actions and services included as contributing to meeting the increased or improved services requirement in the ensuing LCAP year. There is no requirement that an LEA evaluate how effective its prior year actions and services were or were not in meeting its required percentage to increase or improve services for its unduplicated students. As a result, the CDE finds no merit in Allegation 2 and, as a result, does not find merit in the appeal of the District's Decision regarding the District's corrective actions under Allegation 2.

VI. Conclusions

The CDE finds the Appeal of Allegations 1, with respect to Goal 1, Action 8, and Goal 4, Action 1, to have merit.

The CDE finds the Appeal of the District's Decision regarding the District's corrective actions under Allegation 2 does not have merit.

VII. Corrective Actions

With respect to the 2017-20 LCAP adopted for the 2018-19 LCAP year considered in its entirety, the District is required to work with the CDE to ensure that all actions provided on an LEA-wide or schoolwide basis and included as contributing to meeting the District's increased or improved services requirement for the 2018-19 LCAP year is adequately justified as principally directed and effective in meeting goals for unduplicated students in the state and any local priorities.

Any revisions to the 2017-20 LCAP adopted for the 2018-19 LCAP year required as a result of this review must adhere to the stakeholder engagement requirements as described in *EC* Section 52062. The District shall present any such proposed revisions to its parent advisory committee and its English learner parent advisory committee in accordance with the requirements described in *EC* Section 52062 no later than May 15, 2019. Within 5 days of presenting such revisions to these committees, the District shall submit the revisions to the CDE. The District's board of education must adopt any revisions necessary to respond to the investigative report no later than the date on which it adopts the 2019-20 version of its 2017-20 LCAP.

As described in 5 *CCR* 4665, within 35 days of receipt of this report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s),

March 29, 2019

Page 13

conclusion(s), or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied.

If you have any questions regarding this subject, I may be reached in the Local Agency Systems Support Office by phone at 916-319-0809 or by email at jbreshears@cde.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeff Breshears', is written over a light blue circular stamp.

Jeff Breshears, Director
Local Agency Systems Support Office

JB:jf

cc: Jeff Harris, Superintendent, Del Norte County Unified School District
Steve Godla, Assistant Superintendent of Instruction and Educational Services,
Del Norte County Unified School District
Jim McQuillen, Education Director, Yurok Tribe
Michael Thornton, Organizer, True North Organizing Network