



**CALIFORNIA DEPARTMENT
OF EDUCATION**

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STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

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October 5, 2018

Cynthia L. Rice, Director of Litigation, Advocacy, and Training
California Rural Legal Assistance, Inc.
1430 Franklin Street, Suite 103
Oakland, CA 94612

Dear Cynthia L. Rice:

Subject: Request for Appeal – Mojave Unified School District
California City Parallel School Advocates, Appellants

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal received on May 8, 2018. You are appealing the Mojave Unified School District's (District) Decision dated April 23, 2018.

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 December 21, 2017, the California City Parallel School Advocates (Appellants), as represented by California Rural Legal Assistance, Inc. and Greater Bakersfield Legal Assistance, submitted a UCP Complaint (Complaint) to the District alleging that the District's 2017-18 Local Control and Accountability Plan (LCAP) violates the LCFF statute. Appellants submitted a request for direct state intervention (DSI) to the CDE, dated April 19, 2018, on the basis that the District failed to respond to the Complaint within 60 days as required by 5 *CCR* Section 4631(e).

In response to a request for DSI alleging lack of district response, 5 *CCR* Section 4650(a)(5) requires the CDE to attempt to work with the LEA to allow it to complete the investigation and issue a Decision prior to the CDE directly intervening. On April 23, 2018, the District issued a Decision in this matter. The Appellants submitted an Appeal of the District's Decision on May 8, 2018. The CDE sent a notice of appeal letter, dated May 16, 2018, to the District requesting the

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

investigation file and other applicable documentation as required by 5 CCR Section 4633. The CDE received the District's documentation on June 6, 2018.

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. 5 CCR 4633(i)(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 Mojave USD (Mojave Board Policy 1312.3 and Administrative Regulation 1312.3) and finds that Mojave USD did not fully comply with its complaint procedures in this matter, as follows:

Mojave USD Board Policy 1312.3 includes the requirement that "the complaint will be investigated and a written report with a Decision will be issued to the complainant by us within 60 days from the date of the receipt of the complaint, unless the complainant agrees in writing to an extension of time." The initial Complaint was submitted to the District on December 21, 2017. The District's Decision in this matter was issued on April 23, 2018, more than 60 days after receipt of the initial Complaint. Otherwise, the District complied with its UCP procedures.

II. Summary of Complaint and District Decision

The Complaint

The Complaint alleges the following:

Allegation 1: The "MUSD LCAP indicates significant shortfalls and overspending in budgeted vs. estimated actual spending in several actions supported by S&C funding in 2016-17" and does not include an explanation or accounting of how the amounts of shortfall and overages of expenditures of S&C funds² were or will be used to increase or improve services for unduplicated students or reallocated for their legislatively mandated purpose. (Complaint, pp. 1-2).

The Complaint identifies a \$287,013 "shortfall" between budgeted expenditures and estimated actual expenditures of supplemental and concentration funds for which the District does not provide information about how the funds in question were reallocated or how the funds in question increased or improved services for unduplicated students.

The Complaint also identifies a \$767,173 increase in estimated actual expenditures of supplemental and concentration funds over budgeted expenditures of supplemental and concentration funds. The Complaint alleges that the additional expenditures were made in support of basic services that should be paid for using other funds.

² The term "S&C funds" references funds apportioned to the District on the basis of the LEA's number and concentration of unduplicated pupils (English learners, socioeconomically disadvantaged and foster youth) (EC Section 42238.02, 42238.07; 5 CCR 15495(m), 15496).

Allegation 2: “MUSD fails to articulate any goals for unduplicated pupils and numerically significant pupil subgroups as required by Educ. Code § 52060.” The Complaint further alleges that the District failed “to identify goals specifically for pupil subgroups required by Educ. Code § 52060 that would measure any improvement by those students expected to result from allocations of LCAP funds” (Complaint, pp. 3-4).

Allegation 3: “MUSD continually fails to describe how allocations of S&C funding are principally directed towards, and effective in meeting the goals for, unduplicated pupils in violation of 5 CCR § 15496” (Complaint, p. 4).

Allegation 4: “The MUSD LCAP lacks transparency regarding the use of S&C funding” (Complaint, p. 5). The Complaint states that there is insufficient information about the use of supplemental and concentration funds to support meaningful stakeholder engagement. More specifically, the Complaint states that there is insufficient information regarding how supplemental and concentration funds are being used to increase and improve services for unduplicated pupils and how these funds are principally directed towards, and effective in, meeting the needs of unduplicated students.

District’s Decision

Allegation 1: The District conceded the facts of Allegation 1 as described in the Complaint regarding identified shortfalls and overages in the amount of expenditures attributed to supplemental and concentration funds as set forth in the annual update to the 2016-17 LCAP. The District appears to state that by conceding to the facts, they have adequately responded to the Allegation:

“This concession obviates the need for any further accounting as to the \$200,000.00 about which the Complainants are concerned” (Decision, p. 19).

“This concession obviates that need for any further accounting as to the \$767,173.00 which the Complainant is concerned” (Decision, p. 21).

Nevertheless, the District response goes on to make various arguments in defense of the annual update’s explanation of the shortfalls and overages. With respect to shortfalls, it rejects Appellants’ allegation that because the annual update does not explain how the shortfalls were ultimately spent, it is not possible to determine that the funds were used to increase or improve services for unduplicated pupils. The District asserts that because the District percentage of unduplicated students is 82%, practically all LCFF funding, including S&C funds benefit and target unduplicated students, even if the LCAP statement does not adequately articulate how and why (Decision, pp. 19, 22, 23). The District further states that the annual update is legally sufficient because the overages were spent for the goals, actions, services and expenditures reviewed and approved by the Kern County Superintendent of Schools, explanations were duly drafted, and necessarily spent for their legislative mandated purpose (Decision, p. 22).

Finally, the District concludes that the shortfalls and overspending by the District, as captured in the annual update to the 2016-17 LCAP, are allowed because the LCAP Template expressly

allows for differences between budgeted and estimated actual expenditures. The requirement is to describe in the annual update any material differences between budgeted and estimated actual expenditures. The District states that it has provided the required descriptions of material differences and references the page numbers of its LCAP that correspond to the Analysis part for each goal of the Annual Update section (Decision, p. 23).

Allegation 2: The Districts states:

“Presently, and for the past few years, the API has no longer been used by the State to measure the performance of its schools. Consequently, the status of the API related legislation, including the 1999 notion of a ‘numerically significant student subgroup’ from Education Code section 52052, is at least somewhat outdated and defunct and does not mesh well with the more recent LCFF/LCAP regulations” (Decision, p. 24).

The District interprets law as not requiring goals, actions, and services in an LCAP for ethnic student groups. The District asserts that the LCAP Template includes all of the demographic categories included in *EC* Section 52052 except ethnic student groups. “The LCAP adopted by the SBE and the template related instructions do not broach the use of ethnic groups as a demographic category of high needs students for the purpose of drafting LCAP statements” (Decision, p. 24).

The District contends that it correctly followed the mandatory LCAP Template which, according to the District, expressly identifies the demographic categories of unduplicated students to which goals, actions, services and expenditures are “already directed” (English learners, socioeconomically disadvantaged, pupils with disabilities, and foster youth), and does not include ethnic student groups. According to the District, adherence to the LCAP Template precludes the inclusion of ethnic student groups (Decision, p. 24).

Furthermore, the District asserts that the students comprising its numerically significant student groups as defined in *EC* Section 52052 also comprise the District’s unduplicated students. As an example, the District states that its African American students “are substantially (81%) in the “unduplicated” student demographic category of LI” (Decision, p. 7). The District is using “LI” as an abbreviation for low income. The District also states that 82% of its Hispanic students qualify for unduplicated status as low income students.

Allegation 3: The District states the way in which the services in the LCAP increase or improve services is addressed in the expected annual measurable outcomes section of each goal. The District also concludes that it is a “wide” district, which the District defines as any LEA in which more than 55% of students qualify as an unduplicated student. According to the District, this means that it can apportion supplemental and concentration funding for all pupils districtwide “so long as it is apparent how they [i.e. districtwide services] are principally directed towards the District’s unduplicated students and effective in helping the District’s unduplicated pupils in achieving the student achievement goals” (Decision, p. 25).

The District appears to also claim that, because its unduplicated student enrollment percentage is greater than 55%, it is not required to proportionally increase or improve services for its unduplicated students as compared to the services provided to all students. The District states,

“Per Education Code section 42238.07(a)(2) and Title 5 of the California Code of Regulations, section 15496(b), in justifying the Goals, Actions, Services and Expenditures of S&C funding, the "wide" districts do not incorporate statutory concept set out in Education Code section 42238.07(a)(1) and Title 5 of the California Code of Regulations, section 15496(a) of proportionally increasing or improving services for unduplicated pupils, per the MPP calculation, as compared to the services provided to all pupils” (Decision, p. 26).

Allegation 4: The District’s response to Allegation 4 asserts as findings of fact that the LCAP adheres to the LCAP Template, does not rely on summary references or conclusory statements, that the actions and services in the LCAP are described and include specific budgeted expenditures, and that it is “readily apparent that the actions and/or services are related to the needs, conditions and/or circumstances of the unduplicated pupils. Not much discussion is needed to see this nexus” (Decision, p. 27).

The District also reasserts its legal conclusion that, because of its high percentage of unduplicated students, actions and services are “...invariably ‘principally directed towards’ and ‘effective in’ meeting the goals for its unduplicated pupils – even if the corresponding LCAP statement does not fully articulate such” (Decision, p. 27).

III. Appeal

Allegation 1: The Appellants appeal the District’s Decision regarding Allegation 1 on the grounds that the District failed to adequately explain material differences in budgeted and estimated actual expenditures for 2016-17 in its LCAP Annual Update, including failing to explain how the funds were reallocated or how the funds benefited unduplicated students.

Allegation 2: The Appellants appeal the District’s Decision regarding Allegation 2 on the grounds that the District’s interpretation of law with respect to Allegation 2 (described above) is inaccurate. The Appellants show that the LCAP Template does include a reference to ethnic subgroups by citing the following LCAP Template instructions:

“For school districts, the LCAP must describe, for the school district and each school within the district, goals and specific actions to achieve those goals for all students and each student group identified by the Local Control Funding Formula (LCFF) (ethnic, socioeconomically disadvantaged, English learners, foster youth, pupils with disabilities, and homeless youth), for each of the state priorities and any locally identified priorities.”

Furthermore, the Appellants assert that student “subgroups are not one and the same” (Appeal, p. 3). For example, foster youth and homeless youth are separate student groups in their own right, and the District is incorrect, according to the Appellants, to lump “foster/homeless youth” together as if those categories are coextensive (see Decision, p. 24).

Allegation 3: The Appellants appeal the District's Decision regarding Allegation 3 on the grounds that the District's interpretation of law with respect to Allegation 3 is inaccurate. "A high unduplicated pupil percentage by itself does not provide a sufficient explanation of how such services are principally directed towards unduplicated students" (Appeal, p. 6).

Allegation 4: The Appellants appeal the District's Decision regarding Allegation 4 on the grounds that the District's finding of fact that it is "clearly apparent" that the expenditure of supplemental and concentration funds are principally directed towards unduplicated students is inaccurate. The Appellants also reiterate their disagreement with the District's legal conclusion that the District is not required to provide necessary descriptions because of its high unduplicated student percentage.

IV. Legal Authorities

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52060 – 52077
California *Code of Regulations* Title 5 sections 15494 – 15497.5

V. CDE Findings of Fact and Conclusions of Law

Allegation 1

Appellants claim that the District does not adequately explain differences between planned and estimated actual expenditures in the Annual Update, including failing to explain how the funds were reallocated or how the funds benefited unduplicated students.

The Annual Update includes a prompt for each goal that requires an LEA to "explain material differences between budgeted expenditures and estimated actual expenditures" (LCAP Template, Annual Update, Analysis section). In responding to this prompt, a school district should review the absolute amount by which expenditures projected when the LCAP was adopted differ from estimated actual expenditures, as well as any resulting impacts on implementation of the related actions or services. Applying the results of this review, an LEA must make a reasonable judgment regarding which of the differences are material, and explain, in the annual update, the reasons for the differences in these expenditures.

What is considered a material difference is not only a function of either the absolute or relative size of the expenditure difference, but is also determined in part by those differences that have a meaningful impact on the implementation of related actions or services that support a goal. Small amounts are more likely to be material when purchasing textbooks while larger amounts pertaining to personnel costs may not be material. For example, the cost of providing a full-time teacher may range in cost to an LEA from \$60,000 to \$110,000. On the other hand, in the context of textbook costs, a difference of \$1,000 could indicate that a substantial number of textbooks were not purchased. As a result, a determination of "materiality" based solely on the application of a blanket rule (for example, 20% variance) may not be sufficient, depending on the circumstances applicable to the particular goal, action, or service.

An LEA's judgment as to "materiality" and writing of related explanations as part of the LCAP annual update and development process should be carried out with awareness that determining material differences and explaining them in the LCAP is critically important to meaningful stakeholder engagement. This knowledge informs stakeholders how resources have been deployed (or not) in support of goals, and can assist both stakeholders and the LEA in deciding whether or not goals, actions, or services should be eliminated or modified to enhance student achievement.

In the District's 2017-18 LCAP, the Analysis part of each goal within the Annual Update Section includes specific descriptions for those differences between budgeted and estimated actual expenditures considered by the District to be material. The District's Decision identifies where in its annual update the descriptions are located (Decision, p. 23). For example, the following is provided as an explanation for the differences in expenditures for Goal 1, Action 1 (LCAP, p. 20):

"Hired an additional teacher and aide for the CARES program – plus negotiations settlement"

"Increase in legal expenses for activities associated with employee settlements"

Although brief, these statements do describe practical reasons for why costs associated with a particular action were different than what was initially budgeted.

Appellants specifically reference the explanation provided for expenditure differences associated with Goal 5, Action 2 as inadequate. Expenditures for this action were initially budgeted at \$220,509. Estimated actual expenditures as reported in the Annual Update totaled \$228,961, a net 3.8% increase of \$8,452. The District's breakdown of expenditures shows that the increase in expenditures is due to increased spending on salaries, and Title 1 funds were utilized in place of "S&C" funds. The District provided the following explanation for this difference:

"Under-estimated employee Health and Welfare benefits by 1 @ 70% eligible" (LCAP, p. 57).

While brief, this explanation does describe a practical reason for why costs associated with a particular action were different than what was initially budgeted.

Appellants also assert as part of Allegation 1 that "there is no explanation of where the unused funds were reallocated, or how they were ultimately used to benefit unduplicated pupils" (Appeal, p. 2). There is no requirement that the explanation of material differences provided in the LCAP specifically track any reallocations of shortfalls. The requirement is to provide an explanation for those differences between budgeted and estimated actual expenditures considered to be material.

The appeal of the District's Decision regarding Allegation 1 is not sustained.

Allegation 2

Appellants allege that the District's 2017-18 LCAP does not include goals for each of the student groups identified in EC Section 52052 (Complaint, p. 3-4; Appeal, p. 3).

EC sections 52060 and 52064 state in relevant part:

(c) A local control and accountability plan adopted by the governing board of a school district shall include, for the school district and each school within the school district... :

- (1) A description of the annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subdivision (d) and for any additional local priorities identified by the governing board of the school district. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in paragraphs (2) and (3) of subdivision (a) of Section 52052" (EC Section 52060(c)).*
- (2) A description of the specific actions the school district will take during each year of the local control and accountability plan to achieve the goals identified in paragraph (1),...*

EC Section 52052(a)(2) identifies the following student groups: Ethnic subgroups, socioeconomically disadvantaged pupils, English learners, pupils with disabilities, foster youth, and homeless youth.) The statute further defines "numerically significant" as 30 students for each of the student groups other than homeless youth and foster youth, for which numerically significant is 15 students.

The LCAP Template instructions, being consistent with the above, clearly provide for the inclusion of ethnic student groups:

*"For school districts, the LCAP must describe, for the school district and each school within the district, goals and specific actions to achieve those goals for all students and each student group identified by the Local Control Funding Formula (LCFF) (**ethnic, socioeconomically disadvantaged, English learners, foster youth, pupils with disabilities, and homeless youth**), for each of the state priorities and any locally identified priorities" (LCAP Template Instructions, LCAP Addendum [emphasis added]).*

In addition, the LCAP Plan Summary directs LEAs to refer to the LCFF Evaluation Rubrics to identify performance gaps. Specifically, LEAs are directed to identify any state indicator for which performance of any student group was two or more performance levels below the "all student" performance (LCAP Template, 2017-2020 Plan Summary "Performance Gaps" section). Identification of these performance levels can be made by referencing the California School Dashboard report for districts and schools, available at the CDE's website, <https://www.cde.ca.gov/ta/ac/cm>. The Dashboard reports provide data regarding the performance on several measures of success that align to LCFF, including six state indicators, (chronic absenteeism, suspension rate, English learner progress, graduation rate,

college/career readiness, and academic [English language arts/literacy and mathematics]). Results are provided for students overall, as well as by student groups identified in *EC* 52052, including ethnic groups. Thus, the District is incorrect to draw its conclusion that the student groups identified in *EC* Section 52052 are “defunct” and the LCAP template does not “broach the use of ethnic groups.”

The District’s response that ethnic groups are left out of the LCAP Template reflects, among other things, a degree of confusion regarding LCAP requirements related to unduplicated students and the student groups identified in *EC* Section 52052. While there is overlap in the identified student groups, there are two distinct statutory requirements to be met, one applicable to unduplicated students (English learners, socioeconomically disadvantaged pupils, and foster youth), and the other specific to all numerically significant student groups identified by *EC* Section 52052 (ethnic, socioeconomically disadvantaged, English learners, pupils with disabilities, foster youth, and homeless youth). The LCAP Template addresses each of the statutory requirements.

First, with respect to LCFF requirements related to unduplicated students, LEAs are apportioned additional funding based on the number and concentration of unduplicated students. (*EC* Section 44238.02(e) and (f)). Statute and regulation require *any* LEA receiving such additional funding to increase or improve services for unduplicated students as compared to services provided to all students in proportion to the increase in funding received (*EC* Section 42238.07; 5 *CCR* 15496). The LCAP Template requires an LEA to demonstrate it will meet this requirement to increase or improve services for unduplicated students. For each action/service associated with a goal, the LCAP Template requires the LEA to designate whether or not it is including the action as contributing towards meeting the requirement to proportionally increase or improve services for unduplicated students. For actions/services that contribute towards meeting an LEA’s obligation to increase or improve services for unduplicated students, the LEA is required to specify in its LCAP which of the unduplicated student groups will be served (LCAP Template, Goals, Actions & Services section). Further information regarding an LEA’s demonstration of increased or improved services is also required (discussed more fully below with the discussion of Allegation 3).

Second, as required by *EC* section 52060(c), the LCAP Template addresses student groups identified in *EC* Section 52052, and requires inclusion of goals and related actions for all such numerically significant student groups. A district may address this requirement by writing a goal with actions that serve “all” pupils, in which case the district will indicate “all” for “students to be served.” A designation of “all” necessarily includes pupils who are included in the student groups identified in *EC* Section 52052. Alternatively, an LEA may write a goal with actions that serve a designated student group – such as students with disabilities or groups, including ethnic groups, consistent with *EC* Section 52052. (See, LCAP Template, “Goals, Actions, & Services” section.) However, if an LEA intends that an action/service will serve a particular student group, it must identify the group with that action/service in its LCAP.

In this case, the District’s 2017-18 LCAP addresses *EC* Section 52052 student groups, including unduplicated students. There are goals and actions for which the LCAP designates the “students to be served” as “All” students, which includes all student groups. In addition, the

2017-2020 Plan Summary section reflects a review of the District's Dashboard. District narratives note variances in student achievement across student groups, and describes goals and actions included in the LCAP to address low achievement and performance gaps.

Based on these factors and the analysis above, the appeal of the District Decision regarding Allegation 2 is not sustained.

In reaching the above conclusion, the CDE does not rely on, and in fact rejects, additional rationale put forth in the District's Decision. The District argues that by addressing the needs of unduplicated student groups, it necessarily addresses the needs of all numerically significant student groups, as though the group of the District's unduplicated students is coextensive with the group of all numerically significant student groups.

“Additionally, in the District, the individual high needs pupils which make up the various demographic categories that comprise the District's “numerically significant student subgroups” also, virtually man-for-man and woman-for-woman, make up the high needs demographic categories which comprise the District's “unduplicated” pupils” (Decision, p. 6).

The District further elaborates by stating that its African American students “are substantially (81%) in the “unduplicated” pupil demographic category of LI” (Decision, p. 7). The District also states that 82% of its Hispanic students qualify for unduplicated status as low income students.

The District's argument appears to assume an equivalency between being low-income and being African American or Hispanic. Yet, approximately 20% of the District's African American and Hispanic students *are not* low income. It is incorrect to assume that the needs of African American or Hispanic students are simply the same as low income students generally. For example, research shows that African American students in some circumstances continue to suffer achievement gaps even when socioeconomic status is controlled for (National Assessment of Educational Progress, 2015, “School Composition and the Black-White Achievement Gap,” pp. 1-2, 12-23). Assuming such equivalency is to engage in deleterious stereotyping that can lead to ignoring educational needs of these historically underserved student populations, and it risks foreclosing opportunities to develop goals, actions, and services to better address those needs. Thus, the CDE rejects this rationale put forth by the District.

Allegation 3

Appellants allege that the District fails to provide the required justification for each of its LEA-wide actions/services in the LCAP. The District concludes that such justifications are not required because the District's unduplicated student percentage of enrollment is greater than 55%. The CDE finds that the District's conclusion grossly misinterprets applicable California *Education Code* and *California Code of Regulations*.

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(a)(1)–(8)).

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 section of the LCAP titled “Demonstration of Increased or Improved Services for Unduplicated Pupils” 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. Here the LEA must also 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).

The template also requires an LEA to identify each action/service being funded and provided on a schoolwide or LEA-wide manner, and to include the required description supporting each schoolwide or LEA-wide action/service. An LEA such as MUSD, 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)).

³ Schoolwide services at a school 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.

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 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 further explanation as to how, are not sufficient

When an LCAP contains the above descriptions for actions/services provided on an LEA-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.

The District includes two goals in its 2017-18 LCAP. Approximately two-thirds of the actions/services included under these two goals are marked as contributing to the increased or improved services requirement on an LEA-wide basis. Goal 1, Action 24 and Goal 2, Action 1 are incorrectly included as contributing to the increased or improved services requirement because these actions are funded with only Title I funds. Consistent with *EC* Section 42238.07 and 5 *CCR* 15496(a), any action that is included as contributing to meeting the increased or improved services requirement must be supported by at least one expenditure of LCFF funds.

The District provides a summary of some of the actions/services for Goal 1 and Goal 2 in the Demonstration of Increased or Improved Services for Unduplicated Pupils (Demonstration) section of the LCAP. As described more fully below, the District’s descriptions of Goals 1 and 2 in this section do not adequately distinguish between the needs of its unduplicated students, how the actions/services took these needs into consideration, or how the LEA-wide actions/services in Goals 1 and 2 will help achieve one or more expected measurable outcomes of the relevant goal. Furthermore, the summaries of actions/services provided in the Demonstration section do not align with the actions/services included as contributing to the increased or improved services requirement in the Goals, Actions, and Services section of the LCAP.

Goal 1: The description of Goal 1 actions/services provided in the Demonstration section is as follows⁴:

⁴ Goal 1 is: “Increase the number of students working at grade level in all core content areas, and who are on track to graduate college and career ready” (MUSD 2017-18 LCAP, p. 61).

“We believe that certain foundational elements are absolutely crucial when it comes to school improvement, or in this case the improvement of services for a particular group. These include pacing out and prioritizing critical concepts and content, implementing curriculum and materials that are aligned to CCSS, ELD standards, and NGSS, offering professional development for educators and staff, and increasing access to 21st century technology as guided by our newly adopted technology plan. These elements are explicitly defined in Goal 1, within actions 1 and 22-25. Building up from the foundation, we intend to bolster the Response to Intervention Process to set meaningful goals, provide improved first instruction with an emphasis on literacy, and constantly monitor student progress to offer appropriate intervention and enrichment. This will be facilitated in the context of collaborative groups (PLCS), with a heavy emphasis on data analysis and action studies. With the foundational elements in place, and improved instructional components (as outlined in Goal 1, actions 2-7 & 9), we hope to leverage unduplicated student achievement up to 80% mastery. Some students, such as English Learners, still may need more intensive and increased supports, which is where ELD instruction, SDAIE, and other intervention pieces come in to play. Goal 1, Actions 8, and 10-14 create the framework for these intensive supports. Finally, the pieces discussed thus far would culminate in unduplicated students being on grade level and eventually graduating our system being ready for college or careers. This will require an improved focus on credit monitoring, credit retrieval/ blended learning opportunities, attendance monitoring, and student acclimation” (see Goal 1, actions 15-20) (MUSD 2017-18 LCAP, p. 157).

Of the 25 actions in Goal 1, this description references each one except for Action 21. Not all Goal 1 actions referenced in the Demonstration section are included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement. Goal 1, Actions 1, 4, 6, 8, 15, and 19 are not included as contributing to meeting the increased or improved services requirement although they are referenced in the District’s description in the Demonstration section of how the District is increasing or improving services for its unduplicated students. This information is displayed in Table 1 below.

Table 1: Goal 1 alignment of Demonstration section with Goals, Actions, and Services section

	Is Not-Included within the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirements	Is Included within the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirements
Is not addressed within the Demonstration section	21	None
Is addressed within the Demonstration section	1, 4, 6, 8, 15, 19	2, 3, 5, 7, 9, 10-14, 16-18, 20, 22-25

Of those actions that are included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement, Goal 1, Actions 10-14, 16-18 and 20 are associated by the District with meeting certain needs of unduplicated students.

Goal 1, Actions 10-14

Regarding Goal 1, LEA-wide Actions 10-14, the description of Goal 1 in the Demonstration section includes consideration of the needs of English learners who “still may need more intensive and increased supports” including English language development (ELD) instruction and specially designed academic instruction in English (SDAIE). These additional supports are associated by the District with Goal 1, Actions 8⁵ and 10-14. This is consistent with the Identified Need provided for Goal 1, which states that the District has a “yellow” status on the California School Dashboard for English learner progress. The Expected Annual Measurable Outcomes for Goal 1 also include in the Baseline column descriptions of English learner performance on statewide assessments indicating further consideration of unduplicated students (i.e. 92.1 points below level 3 on ELA and 116.5 points below level 3 on Mathematics) (MUSD 2017-18 LCAP, p.64). The descriptions of these actions in the Goals, Actions, and Services section of the LCAP makes clear how the actions take into consideration the stated needs, conditions, or circumstances of unduplicated students. As such, the District has adequately described how these actions are principally directed to meeting goals for its unduplicated students in the state and any local priorities.

The District also meets the requirement to describe in the LCAP how these actions will be effective in meeting goals for unduplicated students. Goal 1, Actions 10-14 provide services that are consistent with the expected annual measurable outcomes of Goal 1, including expected outcomes for the English learner reclassification rate and the percentage of English learners making progress toward English proficiency. As a result, the District is substantially compliant with the requirement to describe how it expects these LEA-wide actions/services will help achieve one or more of the expected annual measurable outcomes for Goal 1.

Goal 1, Actions 16-18, 20

Regarding Goal 1, LEA-wide Actions 16-18 and 20, the District indicates consideration of the needs, conditions, or circumstances of the District’s unduplicated students, specifically low income students, by including in the Baseline column for the Expected Annual Measurable Outcomes for Goal 1 a description of socioeconomically disadvantaged students’ performance on statewide assessments (i.e. 88 points below level 3 on ELA and 113.1 points below level 3 on Mathematics) (MUSD 2017-18 LCAP, p. 64). This is consistent with the District’s claim, made in the description of Goal 1 in the Demonstration section, that additional supports will result in unduplicated students being “on grade level and eventually graduating our system being ready for college or careers” (MUSD 2017-18 LCAP, p. 157). The additional supports needed for being on grade level are associated by the District with Goal 1, Actions 15-20 (Actions 15 and 19 are not included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement). The descriptions of Goal 1, Actions 16-18 and 20 provided in the Goals, Actions, and Services section of the LCAP makes clear how the actions take into consideration the stated needs, conditions, or circumstances of unduplicated students.

⁵ However, as noted above, Action 8 is not included as contributing to meeting the increased or improved services requirement.

The District also meets the requirement to describe in the LCAP how these actions will be effective in meeting goals for unduplicated students. Goal 1, Actions 16-18 and 20 are associated by the District, in the description of Goal 1 in the Demonstration section, with the outcome of unduplicated students being “on grade level and eventually graduating our system being ready for college or careers” (MUSD 2017-18 LCAP, p. 157). This is consistent with the expected annual measurable outcomes for Goal 1 including expected outcomes for the percentage of students completing a-g courses or CTE programs, the percentage of students passing AP exams with a score of 3 or higher, the percentage of pupils who participate in and demonstrate college preparedness on the Early Assessment Program, and the high school graduation rate. As a result, the District is substantially compliant with the requirement to describe how it expects these LEA-wide actions/services will help achieve one or more of the expected annual measurable outcomes for Goal 1.

Goal 1, Actions 2, 3, 5, 7, 9, 22-25

However, regarding the remaining actions included as contributing to meeting the increased or improved services requirement for Goal 1 (i.e. Actions 2, 3, 5, 7, 9, 22-25), the District does not describe factors such as the needs, conditions, or circumstances of its unduplicated students being addressed by these actions.

Actions 2, 3, 5, 7, and 9: The District groups and describes Actions 2-7 and 9 in the description of Goal 1 in the Demonstration section as “improved instructional components” (MUSD 2017-18 LCAP, p. 157).⁶ These improved instructional components appear to be further described in the Demonstration section as such:

“Building up from the foundation, we intend to bolster the Response to Intervention Process to set meaningful goals, provide improved first instruction with an emphasis on literacy, and constantly monitor student progress to offer appropriate intervention and enrichment. This will be facilitated in the context of collaborative groups (PLCS), with a heavy emphasis on data analysis and action studies” (MUSD 2017-18 LCAP, p. 157).

This description is consistent with the descriptions of these actions in the Goals, Actions, and Services section of the LCAP. There is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed through the implementation of these actions. Furthermore, the descriptions of these actions in the Goals, Actions, and Services section of the LCAP apply equally to all students.

Goal 1, Action 2 is to implement and monitor the district’s early literacy plan. Sub-action 7 of Action 2 is stated as follows:

“District-wide first grade meetings will be held monthly” (MUSD 2017-18 LCAP, p. 70).

District-wide meetings of first grade teachers do not necessarily provide an increase or improvement in services to its unduplicated students unless the meetings somehow take into

⁶ Actions 4 and 6 are not included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement.

consideration the needs, conditions, or circumstances of the District's unduplicated students. The LCAP does not provide any information to indicate that this is the case. This holds true for all 12 sub-actions in Action 2. As such, Goal 1, Action 2 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 1, Action 3 provides for weekly collaboration with an emphasis on data analysis and asking questions including, "What do we expect our students to learn?" (MUSD 2018-19 LCAP, p. 72). This action also states that the principals will maintain agendas and minutes of these meetings and review them with other principals. There is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed through the implementation of these actions. Furthermore, the descriptions of these actions in the Goals, Actions, and Services section of the LCAP apply equally to all students. As such, Goal 1, Action 3 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 1, Action 5 provides "high-quality first instruction" (MUSD 2017/18 LCAP, p. 76). Sub-action 5 provides for librarians and multimedia clerks to support the development of student literacy skills. There is no mention of the needs, conditions, or circumstances of unduplicated students intended to be met through the implementation of this action. As it is described in the LCAP, this action applies equally to all students. This holds true for all 5 sub-actions in Action 5. As such, Goal 1, Action 5 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 1, Action 7 provides intervention support to students who are below grade level. Sub-action 5 of Action 7 references foster youth:

"Student Study Teams (SSTs) will be frequently conducted to assist struggling students, and significant subgroups-such as Foster youth and homeless youth, will be monitored on an even more frequent basis" (MUSD 2017-18 LCAP, p. 82).

Even if this description made it clear that the action was being implemented primarily with foster youth in mind, one of three student groups that qualify as unduplicated, the District does not describe the needs, conditions, or circumstances of foster youth that this action takes into consideration. The description of this action states that foster youth "will be monitored on an even more frequent basis" but does not indicate that the District has considered more frequent monitoring of foster youth through SSTs to be a need or to address a need of its foster youth students. Has the District determined that foster youth are being insufficiently monitored through SSTs?

Regarding the other Action 7 sub-actions (i.e. 1, 2, 3, 4, 6), there is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed by

these sub-actions. Furthermore, the descriptions of these sub-actions do not clearly apply specifically to unduplicated students or they apply equally to all students. As such, Goal 1, Action 7 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 1, Action 9 provides for differentiated instruction for those students who have “mastered a class objective...to allow them to continue their advancement into future content standards” (MUSD 2017-18 LCAP, p. 86). Sub-action 2 provides for the separation of students who need intervention from other students “who should be given access to enrichment projects to deepen their learning”, effectively foreclosing opportunities for a group of students to access enrichment projects (MUSD 2017-18 LCAP, p. 86). There is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed through the implementation of these actions. Furthermore, the descriptions of these actions in the Goals, Actions, and Services section of the LCAP apply equally to all students. As such, Goal 1, Action 9 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Actions 22-25: The District groups and describes Actions 1 and 22-25 in the description of Goal 1 in the Demonstration section as such⁷:

“These include pacing out and prioritizing critical concepts and content, implementing curriculum and materials that are aligned to CCSS, ELD standards, and NGSS, offering professional development for educators and staff, and increasing access to 21st century technology as guided by our newly adopted technology plan” (MUSD 2017-18 LCAP, p. 157).

Goal 1, Action 22 provides site-based mentor and orientation programs for employees. Sub-action 1 states that, “each new teacher will attend the district orientation” (MUSD 2017-18 LCAP, p. 111). There is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed by every new teacher attending the district orientation. As a result, this sub-action appears to apply equally to all students. This holds true for all Goal 1, LEA-wide Action 22 sub-actions. As such, Goal 1, Action 22 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 1, Action 23 is as follows:

“Teacher lesson plans will incorporate board adopted curriculum, supplemental materials, and units of study to fully implement state mandated standards” (MUSD 2017-18 LCAP, p. 113).

⁷ Action 1 is not included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement.

Sub-action 1 of Action 23 provides for professional development for new teachers “on how to facilitate the newly adopted K-8 ELA curriculum” (*ibid*). There is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed by offering professional development to all new teachers. As a result, this sub-action appears to apply equally to all students. This holds true for all Goal 1, LEA-wide Action 23 sub-actions. As such, Goal 1, Action 23 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 1, Action 24, as previously remarked, is not supported by at least one expenditure of LCFF funds and, therefore, cannot be included as contributing to meeting the increased or improved services requirement.

Goal 1, Action 25 states that the district will “fully implement the district technology plan” (MUSD 2017-18 LCAP, p. 117). Sub-action 1 is stated as follows:

“Review and revise the district technology plan annually” (MUSD 2017-18 LCAP, p. 117).

Reviewing and revising the District’s technology plan on an annual basis does not necessarily provide an increase or improvement in services to its unduplicated students unless the revisions being made have taken into consideration the needs, conditions, or circumstances of the District’s unduplicated students. The LCAP does not provide any information to indicate that this is the case. This holds true for all Goal 1, LEA-wide Action 25 sub-actions. As such, Goal 1, Action 25 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Without further explanation or qualification, Goal 1, Actions 2, 3, 5, 7, 9, and 22-25 are all applicable to the education of all students and are not associated with particular needs, conditions, or circumstances of the District’s unduplicated students. Nor is it apparent that an added emphasis or focus on such areas would provide an increase or improvement in services to unduplicated students above what all students receive.

Because these actions appear to be directed to all students on an equal basis and the District fails to provide the required description of how they are principally directed, and effective in, meeting goals for unduplicated students, these actions (Goal 1, Actions 2, 3, 5, 7, 9, 22-25) cannot be included as contributing to meeting the District’s increased or improved services requirement without further explanation of how such actions are principally directed to and effective in meeting the District’s goals for its unduplicated students in the state and any local priorities.

Goal 2: The description of Goal 2 actions/services provided in the Demonstration section is as follows⁸:

“In addition to the actions discussed in the area of achievement, we realize that true improvement and growth can only be achieved when students are highly engaged, connections with parents are made, and positive school climates are fostered. As with achievement, we recognize certain foundational elements to build upon, such as: safe, equitable and well-maintained facilities, efforts to maintain school safety, and compliance with state, federal and office of civil rights expectations (Goal 2, actions 2, 7 and 14). Parents of unduplicated students will be frequently invited to offer their input in decision making, participate in the education of their child, and volunteer at our school sites (Goal 2, actions 1, 3-5). Through improved cultural awareness training and the thorough implementation of Positive Behavior Intervention & supports (along with other restorative practices), we hope to create a welcoming climate conducive to the well-being of students (Goal 2, actions 6 and 8). With an increased emphasis on unduplicated student attendance, activities, and increased offerings of dynamic courses of study, we believe that engagement will improve dramatically” (MUSD 2017-18 LCAP, p. 158).

Of the 14 actions in Goal 2, eight of the actions are included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement on an LEA-wide basis (i.e. Actions 1, 3, 6, 7, 9, 10, 13, and 14). The description of Goal 2 actions/services provided in the Demonstration section references five of these actions (i.e. 1, 3, 6, 7, 14) while referencing four additional actions (i.e. 2, 4, 5, 8). Although Goal 1, Actions 2, 4, 5, and 8 are not included in the Goals, Actions, and Services section of the LCAP as contributing to meeting the increased or improved services requirement, they are referenced in the District’s description in the Demonstration section of how the District is increasing or improving services for its unduplicated students. This information is displayed in Table 2 below.

Table 2: Goal 2 alignment of Demonstration section with Goals, Actions, and Services section

	Is Not-Included within the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirements	Is Included within the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirements
Is not addressed within the Demonstration section	11, 12	None
Is addressed within the Demonstration section	2, 4, 5, 8	1, 3, 6, 7, 9, 10, 13, 14

⁸ Goal 2 is: “Increase the level of student engagement and the level of school connectedness among pupils, staff, and families” (MUSD 2017-18 LCAP, p. 120).

Goal 2, Actions 9, 10, and 13

These actions are included as LEA-wide actions in the Goals, Actions, and Services section that contributes to meeting the increased or improved services requirements. While these actions are not explicitly referenced within the description of Goal 2 provided in the Demonstration section as are the other LEA-wide Goal 2 actions, they do appear to be addressed in the Demonstration section by the following sentence:

With an increased emphasis on unduplicated student attendance, activities, and increased offerings of dynamic courses of study, we believe that engagement will improve dramatically (MUSD 2017-18 LCAP, p. 158).

This sentence does not describe how such actions will increase or improve services for unduplicated students above what all students receive. Nor are these actions accompanied in the LCAP with a description of factors such as the needs, conditions, or circumstances of the District's unduplicated students that these actions are intended to address.

For example, Goal 2, Action 10 provides for a "balanced" course of study that includes visual, performing, and industrial arts and technology. Sub-actions 2 and 7 of Action 10 are stated as follows:

"2. Expose all students to visual and performing arts through cross-curricular projects and events"

"7. Maintain and expand college dual enrollment offerings when possible"

These sub-actions are more likely to represent an increase or improvement in services to unduplicated students, who historically have had limited access to visual and performing arts classes and college dual enrollment opportunities. However, the District does not describe factors such as the needs, conditions, or circumstances of its unduplicated students that would indicate that these actions are intended to address such a disparity. Furthermore, the description applies equally to all students. This holds true for all 9 sub-actions in Action 10 as well as Actions 9 and 13. As such, Goal 2, LEA-wide Actions 9, 10, and 13 are not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 2, Actions 1, 3, and 14

These actions each have at least one sub-action that explicitly addresses unduplicated students. Action 1 includes sub-actions 3 and 5, which provide respectively for quarterly English Language Advisory Committee meetings and District English Language Advisory Committee meetings. To the extent that sub-actions 3 and 5 are limited in scope to serving unduplicated students and their families only, these sub-actions do not qualify as LEA-wide actions. An LEA-wide or schoolwide action is one that upgrades the entire educational program of the LEA or school. As such, these sub-actions do not require the same level of justification in the LCAP as do LEA and schoolwide actions.

The remaining sub-actions in Action 1 (i.e. sub-actions 1, 2, 4, and 6) are described as actions that are available to all students on an equal basis. These sub-actions are not accompanied in the LCAP with a description of factors such as the needs, conditions, or circumstances of the District's unduplicated students that these sub-actions are intended to address. As such, the Goal 2, LEA-wide Action 1 sub-actions 1, 2, 4, and 6 are not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Based on the descriptions of the ten sub-actions for Action 3, five of the sub-actions either reference unduplicated students or otherwise appear to directly address an unduplicated student group. Sub-action 1 is an action to "explore" an additional community resource coordinator for "parent outreach, training, connections with foster, homeless and other unduplicated pupils" (MUSD 2017-18 LCAP, pp. 128-129). Sub-action 3 states "add staff necessary to improve services offered to families of unduplicated students" (*ibid.*) Sub-action 5 provides for professional development for English learner parents. Sub-action 6 states that foster youth will be represented on advisory committees "to the fullest extent possible" (*ibid.*). Finally, sub-action 10 provides for the translation of all printed correspondence to be distributed to parents. To the extent that these sub-actions are limited in scope to serving unduplicated students only, these sub-actions do not qualify as LEA-wide actions. As such, these sub-actions do not require the same level of justification in the LCAP as do LEA and schoolwide actions.

The remaining sub-actions in Action 3 (i.e. sub-actions 2, 4, 7, 8, 9) are described as actions that are available to all students on an equal basis. Sub-action 2 provides professional development to staff. Sub-action 4 provides for programs that assist families with engaging their students. Sub-action 7 provides adult education programs. Sub-action 8 provides for alternative locations for parental access to technology. Sub-action 9 provides for promotion of district events through social media and other online outlets. These sub-actions are not accompanied in the LCAP with a description of factors such as the needs, conditions, or circumstances of the District's unduplicated students that these sub-actions are intended to address. As such, the Goal 2, LEA-wide Action 3 sub-actions 2, 4, 7, 8, and 9 are not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 2, Action 14 includes sub-action 2 that plans to "increase services where necessary to improve the learning environment for unduplicated pupils" (MUSD 2017-18 LCAP, p. 154). No other specific information is provided. The other six sub-actions for Goal 2, Action 14 are described as actions that are equally available to all students. For example, sub-action 1 provides for "ongoing routine repair and maintenance for all school sites and remote support facilities" (*ibid.*). These sub-actions are not accompanied in the LCAP with a description of factors such as the needs, conditions, or circumstances of the District's unduplicated students that these sub-actions are intended to address. As such, Goal 2, Action 14 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 2, Actions 6 and 7

Goal 2, LEA-wide Actions 6 and 7, including all sub-actions, appear to apply equally to all students.

Goal 2, Action 6 provides support, training, and direction for Positive Behavior Intervention Supports (PBIS) at all schools. Sub-action 1 of Action 6 is to “share goals and strategies used in PBIS with parents and community members” (MUSD 2017-18 LCAP, p. 135). There is no mention in the LCAP of the needs, conditions, or circumstances of unduplicated students intended to be addressed by this sub-action. Furthermore, the description applies equally to all students. This holds true for all 9 sub-actions in Action 6. As such, Goal 2, Action 6 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

Goal 2, Action 7 provides for comprehensive school safety plans for each school site. Sub-action 2 of Action 7 is stated as follows:

“Each site will frequently practice safety-related procedures, as outlined in state and federal mandates (fire drills, lock down procedures, earth quake drills, bus evacuation drills, etc.). Crossing guards, health aides and – when appropriate – RNs – will coordinate with other school personnel to increase student safety” (MUSD 2017-18 LCAP, p. 158).

This action meets the need, referenced by the District, to foster a positive school climate. All students need and deserve a positive school climate. Without any additional qualification, it is not clear how this action/service provides an increase or improvement in services to unduplicated students. To claim that this action/service, as written, provides an increase or improvement in services to unduplicated students implies that the District is operating on the assumption that a student’s status as unduplicated makes them more susceptible to suffering harm in the event of a fire or earth quake while attending school, which is inaccurate. This holds true for all 3 sub-actions in Action 7. As such, Goal 2, Action 7 is not adequately justified as being principally directed, and effective in, meeting goals for its unduplicated students and cannot be included by the District as contributing to meeting the increased or improved services requirement without additional justification.

The LEA-wide actions in Goal 2 included by the District as contributing to meeting the increased or improved services requirement appear to apply equally to all students. Because the District’s decision to implement these actions/services is not based on a clear consideration of the needs, conditions, or circumstances of the District’s unduplicated students, the Goal 2 LEA-wide actions cannot be included as contributing to meeting the District’s increased or improved services requirement without further explanation of how such actions are principally directed to and effective in meeting the District’s goals for its unduplicated students in the state and any local priorities.

Based on the above analysis, the CDE finds that the District fails to provide the required justification for each of its LEA-wide actions/services in its LCAP. The CDE sustains the appeal of Allegation 3.

Allegation 4

The initial Complaint states that the lack of transparency regarding the use of supplemental and concentration funding does not support stakeholder engagement efforts. The District responds to this allegation by stating that it is “readily apparent that the actions and/or services are related to the needs, conditions and/or circumstances of the unduplicated pupils. Not much discussion is needed to see this nexus” (Decision, p. 27).

The District also reasserts its legal conclusion that, because of its high percentage of unduplicated students, actions and services are “...invariably ‘principally directed towards’ and ‘effective in’ meeting the goals for its unduplicated pupils – even if the corresponding LCAP statement does not fully articulate such” (Decision, p. 27).

The CDE finds that the District’s response to this allegation is inaccurate. The CDE’s findings for Allegation 3 demonstrates that it is not “readily apparent” how the LEA-wide actions/services are principally directed to, and effective in, meeting the goals for its unduplicated students. The District is also incorrect to state that a high percentage of unduplicated student enrollment renders actions/services “invariably” principally directed toward, and effective in, meeting goals for unduplicated students.

However, there is no statute that governs a threshold of information required to achieve transparency for the purposes of stakeholder engagement. While it is important that LEAs provide stakeholders with the information necessary to meaningfully engage in the development of the LCAP, the issue of transparency, *per se*, does not otherwise fall within the scope of the UCP process. Accordingly, the CDE does not sustain the appeal of Allegation 4.

VI. Conclusions

The CDE finds that the District failed to comply with Mojave Board Policy 1312.4 regarding the time for issuing its written report in response to the Complaint. The CDE does not sustain the Appeal as to Allegations 1, 2 and 4. The CDE sustains the Appeal as to Allegation 3.

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 Kern County Office of Education, with the support of the CDE, to ensure the following:

- That all actions and sub-actions marked as LEA-wide or schoolwide and included as contributing to meeting the District’s increased or improved services requirement, for both the 2017-18 and 2018-19 LCAP years are adequately justified as principally

directed and effective in meeting goals for unduplicated students in the state and any local priorities.

- That the District's description in the Demonstration section of how it will increase or improve services for its unduplicated students in the relevant LCAP year addresses the full scope of actions/services included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement.
- That each action/service included in the Goals, Actions, and Services section as contributing to meeting the increased or improved services requirement is associated with at least one expenditure of LCFF funds.

Any revisions to the 2017-20 LCAP adopted for the 2018-19 LCAP year, considered in its entirety, required as a result of this review must adhere to the stakeholder engagement requirements as described in *EC* Section 52062.

With respect to the finding regarding the District's failure to comply with its Board Policy 1312.3, the District is required to submit to the CDE a summary report of UCP complaints received by the District during the 2018-19 school year, identifying each complaint received (identified by short title or complaint number, as consistent with District procedures), date of District's receipt of each complaint, and date decision issued (or other disposition, if applicable), and indication of whether time to respond is extended. The District shall provide the first summary report on or before January 30, 2019, to include all complaints submitted to the District between July 1, 2018 and December 31, 2018. The District shall provide a second summary report on or before September 30, 2019, to include all complaints submitted to the District between January 1, 2019 and June 30, 2019.

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,

Jeff Breshears, Director
Local Agency Systems Support Office

JB:jf

cc: Aaron E. Haughton, Superintendent, Mojave Unified School District
Alan B. Harris, Attorney, Schools Legal Services
Franchesca Verdin, Director of Rural Education Equity Program, California Rural Legal Assistance, Inc.
Catherine Retana, Law Graduate, California Rural Legal Assistance, Inc.
Lyndsi Andreas, Staff Attorney, Greater Bakersfield Legal Assistance, Inc.
Pinky Ghuman, Law Graduate, Greater Bakersfield Legal Assistance, Inc.