



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TOM TORLAKSON
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

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December 26, 2018

Leonie Terfort

[REDACTED]
[REDACTED]

Dear Leonie Terfort:

Subject: Request for Appeal – Mill Valley School District
Leonie Terfort, Appellant

The Local Agency Systems Support Office (LASSO) of the California Department of Education (CDE) is in receipt of your request for appeal of Mill Valley School District's (District's) Decision dated October 19, 2018. You submitted the appeal on November 2, 2018. Due to delays in mail delivery not caused by the appellant, the CDE received the appeal in full on November 26, 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 July 4, 2018, the Appellant submitted a UCP Complaint (Complaint) to the District, alleging that the District is in violation of the LCFF statute.

The District issued its Decision on this matter on October 19, 2018. The Appellants submitted an Appeal to the CDE of the District's Decision, which was received in full by the CDE on November 26, 2018. The CDE sent a notice of appeal letter, dated December 12, 2018, 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 December 20, 2018, which included an amended Decision issued by the District on November 26, 2018.

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

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* Section 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 the District and finds that the District fully complied with its complaint procedures in this matter.

II. Summary of Complaint and District Decision

The Complaint

As defined in 5 *CCR* Section 4600(d), a UCP Complaint is a written and signed statement "alleging a violation of federal or state laws or regulations . . ." The Complaint includes several allegations. Only two of the allegations made in the Complaint allege a violation of laws or regulations. The two allegations are as follows:

- **Allegation 1:** The District does not adhere to the Local Control and Accountability Plan (LCAP) template adopted by the State Board of Education, as required by *EC* Section 52070(d)(1) in the following two ways:
 - **1a.** The LCAP did not include the "expenditure summary";
 - **1b.** The District provides inadequate information for the budgeted expenditures in the Goals, Actions, and Services section.
- **Allegation 2:** The District failed to meet legal requirements pertaining to the Parent Advisory Committee (PAC) in the following two ways:
 - **2a.** The PAC meetings were not public meetings, as required by *EC* Section 35147(b);
 - **2b.** The District failed to present the LCAP to the PAC for review and comments as required by *EC* Section 52062(a)(1).

District's Initial Decision of October 19, 2018

Allegation 1a:

The District states in its Decision that it is in compliance regarding this allegation (Decision, p. 4).

Allegation 1b:

The District states in its Decision that the “laws governing the LCAP do not direct school districts to differentiate each and every expenditure by funding source and purpose” (Decision, p. 6). The District concludes that it is in compliance regarding this allegation.

Allegation 2a:

The District states in its Decision that “there is no law requiring that the PAC meetings be open to the public” (Decision, p. 2). The District concludes that it is in compliance regarding this allegation.

Allegation 2b:

The District states in its Decision that the “District is partially out of compliance” (Decision, p. 4). The District maintains that it gathered input from the PAC, discussed LCAP goals with the PAC, and integrated this input into the LCAP. The District found itself to be out of compliance in this regard because it “did not complete the 2018-19 LCAP draft until *after* the four LCAP PAC meetings were held” (Decision, pp. 4-5).

District’s Amended Decision of November 26, 2018

The District issued an amended Decision to correct its findings regarding **Allegation 2a** as described above. In its initial Decision, the District found itself to be in compliance with applicable requirements. The amended Decision found the District to be out compliance because the PAC meetings did not adhere to the applicable open meeting requirements as required by *EC* Section 35147(b) (aka “Greene Act”).

III. Appeal of Initial Decision

Allegation 1a:

Disagreeing with the District’s Decision on a matter of fact, the Appellant maintains that the “Expenditure Summary” is still missing from the 2018-19 LCAP.

Allegation 1b:

Disagreeing with the District’s interpretation of law, the Appellant maintains that the District failed to adhere to the LCAP template by not providing adequate information for budgeted expenditures in the Goals, Actions, and Services section of the 2018-19 LCAP.

Allegation 2a:

Disagreeing with the District's interpretation of law, the Appellant maintains that the meetings of the Parent Advisory Committee are required to be open to the public.

Allegation 2b:

This allegation was not raised in the appeal.

IV. Legal Authorities

California *Education Code* sections 44238.01, 42238.02, 42238.07, 52059.5 – 52077
California Code of Regulations, Title 5 sections 15494 – 15497

V. CDE Findings of Fact and Conclusions of Law

Allegation 1a:

The LCAP template adopted by the State Board of Education and required for the 2018-19 LCAP year includes a "Budget Summary" in the Plan Summary section of the template. The Budget Summary provides information about budgeted expenditures and LCFF revenues. After a review of the District's 2018-19 LCAP, the CDE finds that the Budget Summary is included as required.

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

Allegation 1b:

The LCAP template directions for completing the budgeted expenditures prompt in the Goals, Actions, and Services section states in part:

"For each action/service, list and describe budgeted expenditures for each school year to implement these actions, including where those expenditures can be found in the LEA's budget. The LEA must reference all fund sources for each proposed expenditure. Expenditures must be classified using the California School Accounting Manual as required by *EC* sections 52061, 52067, and 47606.5" (LCAP Template Directions).

The LCAP template requires LEAs to enter the amount, fund source, and budget reference for each budgeted expenditure associated with an action in the Goals, Actions, and Services section of the LCAP. While an LEA may utilize multiple fund sources to implement an action, expenditure amounts, including associated budget references, for each fund source must be provided consistent with the LCAP template

directions and the California School Accounting Manual. To associate, as the District did, a sum total of expenditures with more than one funding source or budget reference does not adhere to the LCAP template directions.

For example, the budgeted expenditures for Goal 1, Action 2 of the District's 2018-19 LCAP includes an amount of \$29,714,543 for the 2018-19 year. The fund source information provided states, "LCFF, Other State, Federal, and Local" (District's 2018-19 LCAP, p. 87). In the box provided for budget reference information, the amount above is broken out into two amounts (i.e. \$15,779,039 and \$13,795,504) and additional fund source information is provided. The amount of \$15,779,039 is associated with the fund sources of "LCFF, Other State, Federal." It must be clarified how much is associated with each individual fund source.

The appeal of the District Decision regarding Allegation 1b is sustained.

Allegation 2a:

Meetings of the PACs, formed in accordance with *EC* Section 52062, are required to adhere to the open meeting requirements as provided in *EC* Section 35147(b) (aka "Greene Act"). The Greene Act requirements applicable to the PAC include that any meeting held by the PAC shall be open to the public, any member of the public shall be able to address the committee during the meeting on any item within the subject matter jurisdiction of the committee, and that notice of any meeting shall be posted at least 72 hours in advance specifying the date, time, and location of the meeting and contain an agenda describing each item of business to be discussed or acted upon.

In its initial Decision, the District states that "there is no law requiring that the PAC meetings be open to the public" (Decision, p. 2) and maintains that it was not required to hold the PAC meetings open to the public. In its amended Decision, the District correctly finds that its initial conclusion on this allegation was inaccurate and states that PAC meetings are required to adhere to *EC* Section 35147.

The District states in its amended Decision,

"As the District prepared for the 2019-20 LCAP development the District has already allowed for the PAC meetings to be noticed and open to the public. Moving forward the District will ensure compliance with this regulation."
(Amended Decision, p. 1).

Based on the District's initial Decision, this allegation on appeal would be sustained. However, with the District's amended Decision, the requisite corrective action has been implemented.

VI. Conclusions

The CDE sustains the Appeal of Allegations 1b.

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 Marin County Office of Education, with the support of the CDE, to ensure that the 2018-19 LCAP meets the requirements of the LCAP template, specifically with respect to the findings regarding Allegation 1b included in this report. The local governing board of the District 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 Section 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), 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.

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: Raquel Rose, Interim Superintendent, Mill Valley School District