

Summary of California Department of Education Investigative Reports on Appeals of Complaints Filed Based on the Requirements to Increase or Improvement Services for Unduplicated Students

The California Department of Education (CDE) has issued four investigative reports on appeals of complaints filed based on the failure to comply with one or more aspects of the statutes and regulations related to the Local Control & Accountability Plan (LCAP). Of these, three have dealt with the requirement to increase or improve services for unduplicated students:

- » An investigative report, published August 5, 2016, in a complaint against the Los Angeles Unified School District
- » An investigative report, published March 27, 2017, in a complaint against the Manteca Unified School District
- » An investigative report, published May 5, 2017, in a complaint against the Fresno Unified School District

This document provides a summary of each of these investigative reports. The original investigative reports are available by contacting CDE.

Please note that while this document provides a summary of each of these investigative reports, it does not purport to cover all of the details, nuances, or conclusions that may be legally and/or substantially relevant for a particular local educational agency (LEA) to determine when it has complied with the requirement to increase or improve services for unduplicated students. This determination – whether a particular LCAP is compliance with the requirement to increase or improve services for unduplicated students – is the sole prerogative of county offices of education (for districts) and CDE (for county offices of education).

Los Angeles Unified School District (Los Angeles County)

August 5, 2016

This complaint alleged, in relevant part, that the determinations by Los Angeles Unified School District (LAUSD) that certain special education costs (i) could be counted as services for unduplicated students in the prior year for purposes of determining the Minimum Proportionality Percentage (MPP)¹ and (ii) could be considered LEA-wide² actions and services that increased or improved services for unduplicated students were both improper.

At the time, 79% of LAUSD students with disabilities were also unduplicated students. Thus, LAUSD deemed that 79% of most of its general fund expenditures for special education constituted LEA-wide actions and services that increased or improved services for unduplicated students as compared with what was provided to all students. LAUSD argued that these special education costs were properly considered as LEA-wide actions and services because they were provided to unduplicated students and that special education services were not, by definition, provided to all students.

In its Investigative Report, CDE first discussed the difference between (i) services provided for unduplicated students and (ii) services provided to all students. CDE held that the distinction between these two types of services rests, respectively, on the distinction “between services directed to unduplicated pupils *based on that status*, and services available for all pupils, *without regard to their status as unduplicated pupils*” (both italics added).

Based on this conclusion, CDE disagreed with LAUSD’s conclusion that 79% of most of its general fund expenditures for special education constituted LEA-wide actions and services that increased or improved services for unduplicated students for the simple reason that 79% of students with disabilities in LAUSD were also unduplicated students. These special education LEA-wide actions and services were not being provided to unduplicated students because of their status as unduplicated students but exclusively because of their status as special education students.

In concluding that it was improper for LAUSD to count certain special education costs as services for unduplicated students in the prior year for purposes of determining the MPP, CDE did note that some special education costs for unduplicated students could count as services for unduplicated students in the prior year for purposes of determining the MPP. To do so, however, an LEA would need to show that the special education services were provided to students based on their status as unduplicated students.

Similarly, CDE disagreed with LAUSD’s conclusion that certain special education costs could be considered actions and services provided on an LEA-wide basis. It was not enough, CDE concluded, for LAUSD to simply note that its unduplicated student percentage permitted it to consider LEA-wide actions and services as increasing or improving services for unduplicated students. LAUSD must also demonstrate that such LEA-wide actions and services were “principally directed towards, and are effective in,” meeting LAUSD’s LCAP goals for its unduplicated students. LAUSD’s LCAP did not attempt to include such a demonstration.

¹ The MPP is the proportion by which an LEA may increase or improve services for unduplicated students as compared to what is provided to all students.

² This summary replaces the “districtwide” with “LEA-wide” to reflect the fact that this Investigative Report is applicable to all LEA-wide actions and services.

Manteca Unified School District (San Joaquin County)

March 27, 2017

This complaint alleged, in relevant part, that Manteca Unified School District (Manteca) failed to adequately justify its LEA-wide³ actions and services.

Manteca's unduplicated percentage was 67%, which meant that under section 15496 of the California Code of Regulations it was able to justify its districtwide actions and services by describing how such services were principally directed towards, and were effective in, meeting the district's goals for its unduplicated students in the state and any local priority areas. Under the applicable LCAP Template, Manteca had to "demonstrate how the services provided in the LCAP year for low income pupils, foster youth, and English learners provide for increased or improved services for these pupils An LEA shall describe how the proportionality percentage is met using a quantitative and/or qualitative description of the increased and/or improved services for unduplicated pupils as compared to the services provided to all pupils."⁴

CDE's Investigative Report starts by offering a broad summary of all of the information that Manteca provided in its LCAP that generally helped to justify its actions and service designated as increasing or improving services for unduplicated students. The Investigative Report then specifically addresses four actions and service designated as increasing or improving services for unduplicated students that the Complainant alleges are without justification or adequate justification: (i) the "Going Digital" technology project, (ii) more counselors, (iii) child welfare and attendance programs, and (iv) expenditures for special education programs.

For the "Going Digital" technology project, CDE found that the LCAP had identified the lack of access to technology as an equity issue for low income students. For the counselors, CDE found that while the LCAP noted that they would serve all students, it also states that the reason for the additional counselors was to first provide services to unduplicated students, which was consistent with the LCAP's focus on providing support to improve outcomes for such students. For the child welfare and attendance programs, CDE found that they were related to school climate and were intended to reduce discipline incidents, which the LCAP noted were increasing for low income unduplicated students.

³ This summary replaces the "districtwide" with "LEA-wide" to reflect the fact that this Investigative Report is applicable to all LEA-wide actions and services.

⁴ The Demonstration of Increased or Improved Services for Unduplicated Pupils section of the current LCAP Template is different. It states: "Identify each action/service being funded and provided on a schoolwide or LEA-wide basis. Include the required descriptions supporting each schoolwide or LEA-wide use of funds" (italics added)." This is different than what was required in the LCAP Template that was relevant to this Investigative Report.

Fresno Unified School District (Fresno County)

May 5, 2017

The complaint alleged, in relevant part, that Fresno Unified School District (Fresno) failed to adequately justify its LEA-wide⁵ and school-wide actions and services. The complaint also challenges the appropriateness of specific LEA-wide or school-wide actions and services.

Fresno's unduplicated percentage was 88%, which meant that under section 15496 of the California Code of Regulations it was able to justify its districtwide actions and services by describing how such services were principally directed towards, and were effective in, meeting the district's goals for its unduplicated students in the state and any local priority areas. Under the applicable LCAP Template, Fresno had to "demonstrate how the services provided in the LCAP year for low income pupils, foster youth, and English learners provide for increased or improved services for these pupils An LEA shall describe how the proportionality percentage is met using a quantitative and/or qualitative description of the increased and/or improved services for unduplicated pupils as compared to the services provided to all pupils."⁶

With respect to justifying an LEA-wide service, CDE stated that "an LEA must distinguish between services directed toward unduplicated pupils based on that status, and services available to all pupils without regard to their status as unduplicated pupils or not. An LEA describes how a service is principally directed to meeting the LEA's goals for unduplicated pupils when it explains in its LCAP how it considered factors such as the needs, conditions or circumstances of its unduplicated pupils, 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 LEA expects the service to support the LEA's conclusion that the service will be effective to meet the LCAP goals for its unduplicated pupils."

In reviewing Fresno's LCAP, CDE reviewed the description of how the actions and services designated as increasing or improving services for unduplicated students were "principally directed towards" and "effective in" meeting its LCAP goals for unduplicated students. CDE found that the statement in the LCAP that Fresno "had the needs of our unduplicated population in mind" was "conclusory" and, thus, did not provide the required description. Similarly, CDE found that the reference in the LCAP to a tool that helped "allocate services that are principally directed towards, and are effective in, meeting [Fresno's] goals for its unduplicated as measured by the required metrics" was not specific to any particular action or service and, thus, did not provide the required description. Finally, CDE noted that unduplicated count alone is not sufficient: "while a high unduplicated pupil percentage may be a reason to offer a majority of services directed toward increasing or improving services for unduplicated pupils on a[n LEA-wide] basis, by itself it does not provide a sufficient explanation of how such services are principally directed towards unduplicated students."

⁵ This summary replaces the "districtwide" with "LEA-wide" to reflect the fact that this Investigative Report is applicable to all LEA-wide actions and services.

⁶ The Demonstration of Increased or Improved Services for Unduplicated Pupils section of the current LCAP Template is different. It states: "Identify each action/service being funded and provided on a schoolwide or LEA-wide basis. Include the required descriptions supporting each schoolwide or LEA-wide use of funds" (italics added)." This is different than what was required in the LCAP Template that was relevant to this Investigative Report.

In reviewing specific LEA-wide and school-wide actions and services, CDE found that Fresno had failed to include any description of how the following LEA-wide or school-wide actions or services was “principally directed towards” unduplicated students as opposed to all students.

- » Direct instruction to students when teachers attend professional learning or collaboration days
- » Common preparation time
- » Access to electives and core classes for all students
- » Reduce large core classes in high school
- » Additional custodians, custodial supervisors, and grounds maintenance positions
- » Certain school security enhancements

CDE also concluded that Fresno’s explanation of allocations to school site councils as an LEA-wide or school-wide action or service was insufficient as there was no description of how the actions and services funded by the allocation would be principally directed towards unduplicated students and the allocations were designated for “the needs of low income, English learner and foster youth student populations, *as well as other subgroups*” (italics in CDE Investigative Report). Finally, CDE found that Fresno’s explanation of certain special education positions and programs as LEA-wide actions or services was insufficient as there was no description of how the actions and services funded by the allocation would be principally directed towards unduplicated students and the actions were available to any student with disabilities and, in some cases, were required to be available under the Individuals with Disabilities Act.

CDE did find that the explanation for one LEA-wide or school-wide action and service did adequately demonstrate how it was “principally directed towards” unduplicated students: Fresno explained that it hired two additional middle school vice principals at schools with among the “highest concentrations of unduplicated pupils” and that, as a result, test scores and attendance had increased while discipline incidences have decreased.