



June 25, 2018

Sent via Email and U.S. Mail

Superintendent Jon Ray
Klamath-Trinity Joint Unified School District
11800 State Highway 96
Hoopa, CA 95546

RE: Klamath Trinity Joint Unified School District's 2018-2019 LCAP

Dear Superintendent Ray,

The American Civil Liberties Union Foundations of California ("ACLU"), the Yurok Tribal Council, and the Hoopa Valley Tribal Council are committed to fostering an inclusive school climate and access to education for all students in California, especially the most vulnerable, including American Indian students, low-income youth, and homeless and foster youth. We write to raise concerns regarding Klamath Trinity Joint Unified School District's ("KTJUSD" or "District") compliance with the Local Control Funding Formula ("LCFF") and specifically its use of Supplemental and Concentration ("S&C") funds as set forth in its Local Control Accountability Plan ("LCAP").

The 2017-18 KTJUSD LCAP failed to adequately identify and justify districtwide expenditures of S&C funds intended to benefit low-income, English Learner, or foster youth and homeless students (collectively, "high-need students"), including allocations to maintenance, operations and transportation, teacher salaries, other personnel expenditures, and extracurricular activities. In addition, the District does not account for discrepancies in budgeted versus actual expenditures of S&C funds. Additionally, the District fails to include a meaningful assessment of outcomes for high-need students in its Annual Update. Lastly, the District does not describe how it engaged stakeholders in the LCAP planning process nor explain how community input was incorporated into the LCAP.¹

We particularly urge the District to perform stakeholder engagement with Tribal communities and to properly support their students. Tribes deeply value the education of their members and understand that it leads to the mutual improvement of the community and its individuals. The District's actions have tremendous impacts on the communities' children and it is critical for the Tribes to participate in the process to ensure that their students receive the highest quality education as possible. Accordingly, as

¹ Because the District has not yet released a draft of its proposed 2018-19 LCAP, these analyses are based on the 2016-17 Annual Update and 2017-18 Approved LCAP. However, because the 2017-18 LCAP was the start of a three-year plan and includes many of the same actions and services, and uses of S&C funds, unless the District takes action to modify its 2018-19 LCAP, we are concerned that the as-yet unreleased LCAP will similarly not meet legal requirements under the LCFF.

sovereign nations, the Tribes appreciate future opportunities to consult with the District to develop and collaborate on strategies that impact their community and future.

We understand that the school closures, construction and the many related challenges have placed significant burden on the District in recent years. We also recognize that rebuilding eight schools in this remote, under-resourced region is a significant undertaking. This cannot, however, be a pretext for the District to negate its legal requirements under the LCFF to use S&C funds specifically for high-need students and to obtain and incorporate the significant input of community stakeholders in the planning process.

We are committed to supporting the District in continuing to improve school climate and outcomes for unduplicated pupils and offer our recommendations for how to improve the LCAP to ensure it is in line with LCFF. We ask that the District share the most recent draft of the 2018-19 proposed LCAP immediately, and make the necessary responsive changes to their 2018-19 LCAP prior to its approval.

1. The District fails to justify each schoolwide and districtwide S&C expenditure as “principally directed towards” and “effective in meeting” its goals for high-needs students.

Under 5 CCR Section 15496(a), all districts receiving LCFF funds are required to demonstrate how they will use S&C funds to increase and improve services for high-need students by including an explanation of how expenditure of these funds will meet the district’s goals for its high-need students in the state priority areas. If a district, like DNUSD, serves 55% or more than high-need students, it must identify the services that will be funded and provided on a districtwide or schoolwide basis and “describe in the LCAP how such services are *principally directed* toward and are *effective* in meeting the district’s goals for its unduplicated pupils in the state and local priority areas.”

In a May 2017 decision, the California Department of Education (“CDE”) made clear that a district’s LCAP “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.”² 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. ***When properly explained in the LCAP, it will be apparent how***

² Specifically, see CDE’s 2017 determination in response to an appeal by the ACLU of a UCP complaint against Fresno Unified School District (FUSD), based on deficiencies in its LCAP, available here: https://www.aclunc.org/docs/20170505-cde_response_to_aclu.pdf.

The complaint challenged the explanations provided by the District for the use of S&C funds for several districtwide actions and services. In its review of the FUSD’s LCAP, the CDE found FUSD’s conclusory statement that “the District is able to allocate services that are principally directed towards, and are effective in meeting the District’s goals for its unduplicated pupils...” based on its percentage of unduplicated pupils (above 55%) and “all districtwide and schoolwide actions and services have been developed based upon the needs of all students as well” inadequate. The CDE Fresno decision states that “in order to provide the required justification for services provided on a ‘wide’ basis, 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.” CDE FUSD Dec., pg. 6.

the LEA is acting to increase or improve services for unduplicated pupils, and why it has determined the services identified will be effective to achieve its goals for unduplicated pupils. (emphasis added).

In its 2018-19 LCAP, KTJUSD must make substantial revisions to ensure it adequately justifies *all* districtwide uses of S&C funds. Specifically, in the 2017-18 LCAP, the District failed to offer any meaningful explanation of how it has principally directed its districtwide actions towards high-need students or how these actions were effective in meeting the District's goals for these students.

In the "Demonstration of Increased or Improved Services for Unduplicated Pupils," the District does not identify all schoolwide or districtwide uses of S&C funds as directed by the LCAP template. KTJUSD only states that it will "offer a variety of programs and supports specifically for low income students and foster youth. These include: mental health support, added family support for engagement, literacy training, positive behavior support, positive attendance support and culturally inclusive training."³ While KTJUSD offered limited explanation for how districtwide use of S&C funds would target high-need students, such as "resource/Rtl specialists will identify and allocate resources to students targeting foster youth, students with disabilities, and/or students who are Native American, and/or Socio-Economically Disadvantaged" and "there will be a focus on increased attendance, Advanced Placement and A-G enrollment, CAASPP proficiency, parent involvement through Outreach Consultants, and graduation rates/promotion rates in the identified sub-groups" the District does not provide any evidence of the efficacy of these services nor does it relate these services to the specific needs of high-need students. This language is too broad and vague to allow the reader to understand *how* the District will "focus on" high-need students or what these services will entail.

Finally, the District uses a broad brush to explain districtwide uses of S&C funds: "the justification for district-wide implementation of these practices is the importance of making an impact on the learning environment and the climate of the schools as a whole which will have a positive impact on the targeted subgroups."⁴ Vague, summary statements that simply restate statutory language do not suffice as expenditure-specific explanations of how these uses are principally directed towards, and effective in, meeting the District's goals for its high-need students.

The following actions exemplify the District's failure to justify its districtwide or schoolwide S&C expenditures and is not exhaustive. In fact, the majority of the S&C funds the District attempts to allocate to districtwide activities lack the requisite justification:⁵

- **"Maintain Maintenance, Operations and Transportation Department, staff and supplies."** In 2016-17, KTJUSD allocated \$799,429 in S&C funds to this districtwide expenditure, and reported spending \$1,095,879 in the 2016-17 Annual Update.⁶
 - CDE has previously rejected general attempts to use S&C funds for general maintenance. In its May 2017 decision on a Request for Appeal evaluating Fresno

³ LCAP pg 126

⁴ CDE's decision in the FUSD complaint is clear: "While there is some description of how unduplicated students might benefit from each of these actions, there is no description of how the actions are "principally directed toward" unduplicated pupils. Each generally describes actions that are available to all pupils ... the descriptions are not a sufficient description and justification as principally directed towards and effective in meeting the district's goals for unduplicated pupils as specified in 5 CCR 15496(b)." (CDE FUSD Decision pg 12)

⁵ Additional actions/services include Maintain a full-time Nurse with a .5 Health Secretary (Goal 2.5) and Textbook adoption/Supplemental (Goal 1.8).

⁶ LCAP page 35.

Unified School District’s (“FUSD”) LCAP, CDE determined that FUSD failed to justify its use of S&C funds on custodial and maintenance staff and high school bathroom renovation, stating that while “the description of these actions states benefits for each ... neither provides any description of how the District considered the factors such as the needs, conditions or circumstances of its unduplicated pupils in particular, in connection with these actions.” CDE concluded: “the description **fails to explain how the actions are principally directed towards and effective** in meeting the District’s goals for unduplicated pupils. Accordingly, the requirements of 5 CCR 15496(b) and the LCAP Template **are not met** with regard to these actions” (emphasis added).

Here, KTJUSD similarly neither presents any justification or explanation of how this spending is principally directed towards its unduplicated pupils nor how this use of S&C funds will increase or improve services in meeting the District’s goals for these students.⁷ As such, KTJUSD’s attempt to use S&C funds for general maintenance must likewise fail because KTJUSD provides even less of a justification than the description CDE previously rejected.⁸ In fact, given that maintenance and operations are a service from which all students benefit, it is unclear how the District could possibly justify this broad and undirected use of S&C funds.

Actions/Services	PLANNED	ACTUAL
	Maintain Maintenance, Operations and Transportation Department, staff and supplies	Implemented
Expenditures	BUDGETED	ESTIMATED ACTUAL
	\$799,429 50, 320 RS 0210 Supplemental \$399,624 RS 8100	1,095,879 RS 0210 354,726 RS 8150

- **Highly Qualified Teachers in all classrooms maintaining a low student: teacher ratio.** Described as “Highly qualified teachers were in every classroom with low student: teacher ratios at all campuses.” In 2016-17, KTJUSD reported an estimated actual expenditure of \$814,188, over one-quarter of total S&C funds.⁹ It is unclear in the 2017-20 LCAP plan how many S&C funds will be allocated to this action.
 - While class size reduction remains an important priority, KTJUSD again fails to justify use S&C funds or demonstrate how this expenditure is principally directed at high-need students. In 2015, CDE issued guidance on a similar issue, clarifying whether S&C funds can be used for teacher compensation and making clear: “a district must demonstrate in its LCAP how this use of the grant funds will increase or improve services for

⁷ We understand that KTJUSD is currently in the midst of a multi-year, multi-million dollar project to replace schools throughout the District due to black mold. We do not disagree that maintenance is a serious issue that needs to be addressed throughout the District. However, base funds should be used; S&C Funds intended to benefit low income, foster and homeless youth, and English language learners should not be used for this purpose. Furthermore, all students in the district are entitled to clean and healthy facilities under *Williams*. It is unclear how maintenance expenditures or maintenance staff cited in the LCAP will provide anything above the basic conditions necessary for learning to which all students are entitled.

⁸ In fact, the District does not explicitly refer to maintenance at any other place in the LCAP, offering no description of what this maintenance, transportation and operations spending entails.

⁹ LCAP pg 7

unduplicated pupils **as compared to services provided all pupils**¹⁰ (emphasis added). Reiterating this principle, CDE found that FUSD’s attempt to justify a similar S&C expenditure to reduce class sizes and “introduce additional supports” did not meet the requirements of 5 CCR 15496(b) or the LCAP template, as it provided “no information as to how reducing large core classes in high schools is an action principally directed towards unduplicated pupils.”¹¹ KTJUSD’s description is similarly inadequate, as it offers no details about how S&C funds will be utilized to reduce class sizes, or any of the 14 seemingly unrelated services the District later cross-references (ranging from data analysis and student government to auto shop, math and music teachers) with this expenditure.¹² Further, the District provides no explanation or justification as to how this series of actions **increase or improve services** for high-need students in particular above and beyond what all students receive.¹³ See appendix for a list of all the actions included in this action.

¹⁰ CDE 2015 Letter.

¹¹ In that same decision, CDE found that a similarly broad action for which FUSD intended to use S&C funds, which included numerous components with similarly limited justification, was insufficient to meet the requirement to describe and justify actions:

“It is not possible to adequately understand what the “Middle School Redesign” consists of and how the various actions described are related, if at all, and how the budget expenditure is associated with the components... ideally, this description and justification would be more clearly stated, perhaps by a description and justification such as “Loss of instructional time results in significant decreases in the academic achievement of low income, English learner, and foster youth... as stated, the description is insufficient”

¹² See appendix for a list of all the actions included in this action.

¹³ CDE offers the following as one example of how a District may justify use of S&C funds on districtwide salary increases:

“For example, a district may be able to document in its LCAP that its salaries result in difficulties in recruiting, hiring, or retaining qualified staff which adversely affects the quality of the district’s educational program, particularly for unduplicated pupils, and that the salary increase will address these adverse impacts. In this scenario, the district LCAP might specify a goal of increasing academic achievement of its unduplicated pupils and a related area of need for more teachers in the district with experience teaching the district’s curriculum... the district could then identify, as a corresponding service, a reduction of teacher turnover and the retention of experienced classroom teachers, supported by budgeted expenditures from supplemental and concentration grant funds, and describe in the LCAP how this service is principally directed toward and effective in meeting the district’s identified academic achievement goal for its unduplicated pupils. (5 CCR sections 15496, 15497, 15497.5 [LCAP Template sections 2 and 3].)”

“Targeted Salary Increases: Districts may use supplemental and concentration grant funds to provide more targeted salary increases to increase or improve services for unduplicated pupils provided these meet the same legal requirements describe above for expenditure of such funds and related documentation in the LCAP.”

“Districts could provide salary increases for employees serving predominantly unduplicated pupils or provide increased compensation for a longer instructional day, particularly at schools serving predominantly unduplicated pupils. The district must appropriately document in its LCAP its basis and strategies for use of supplemental and concentration grant funds... “

See also, a primer on LCFF Funding and Across-the-Board Salary Increases published by the ACLU of California and Public Advocates, for more detailed information on how a school district *may* be able to meet the high burden of justifying S&C funds for general salary increases, available here: <http://www.publicadvocates.org/wp-content/uploads/2016/04/salary-increase.pdf>

- **Tech Department, \$394,150 and Library/Media Technicians, \$207,875.**¹⁴ Described as: “Technology Department maintained 1 IT Director and 5-site leads” and “Each of the 5 Elementary school sites maintained a Library/Media Technician,” respectively.¹⁵
 - KTJUSD offers no detail of how, specifically, these funds will be utilized nor where these funds will be directed.¹⁶ Further, there is no justification as to how these expenditures will increase or improve services for high-need students or how these funds are principally directed towards meeting the District’s goals for these students.¹⁷
- **Outreach Consultants, \$235,601, Instructional Aides/Monitors, \$224,265. and After school activities, \$164,061.** Described as: “HES, TVES, HHS, Implemented,” “Instructional Aides and Monitors were maintained at the 5 Elementary sites,” and “Increase After School Activity opportunities, including transportation, for students,” respectively.¹⁸
 - While we may encourage sending S&C funds to school communities for local decision making, such site-based spending must be properly justified. Any student may benefit from after school activities and instructional aides; KTJUSD provides little explanation as to how these programs and services reach or target high-need students when offered at the District, or even school site, level. While unduplicated pupils *may* benefit from these programs or courses, this does constitute programming being created *for* or targeting unduplicated pupils.¹⁹

¹⁴ Estimated actual as reported in 2016-17 Annual Update, \$380,940 and \$95,757. This level of S&C expenditure is projected to continue through 2019-2020.

¹⁵ LCAP pg 9 and 10.

¹⁶ In fact, outside of reporting on estimated actual expenditures, this activity is not mentioned at any other place in the LCAP, including the “Demonstration of Increased or Improved Services for Unduplicated Pupils” section, in which the LCAP Template instructs the District to “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.”

¹⁷ In its FUSD decision, CDE is consistent and clear: school districts must do more to describe and justify districtwide S&C spending: “One aspect [of a specific FUSD Action] appears to give all students access to electives. There is no explanation offered as to how this is ‘principally directed towards’ unduplicated pupils ... as stated, the description is insufficient to meet the requirement to describe and justify Action #48 in total as “principally directed towards and effective in meeting the goals for unduplicated pupils.” (pg 9) “While there is some description of how unduplicated students might benefit from each of these actions, there is no description of how the actions are “principally directed toward” unduplicated pupils. Each generally describes actions that are available to all pupils ... the descriptions are not a sufficient description and justification as principally directed towards and effective in meeting the district’s goals for unduplicated pupils as specified in 5 CCR 15496(b). (pg 12)

¹⁸ These districtwide expenditures of S&C funds continue at the same level through 2019-2020, with the exception of “After School Activities,” Goal 2.4, which increases to \$174,912. LCAP pg 112. There are a series of additional, and similarly unjustified, S&C expenditures related to after school activities throughout the LCAP, including Goals 1.35, 1.42, 1.49, 2.11, 2.12, 2.31, 2.38, 2.45, 3.5, 3.23, and 4.3.

¹⁹ In its FUSD decision, CDE is consistent and clear: school districts must do more to describe and justify districtwide S&C spending: “One aspect [of a specific FUSD Action] appears to give all students access to electives. There is no explanation offered as to how this is ‘principally directed towards’ unduplicated pupils ... as stated, the description is insufficient to meet the requirement to describe and justify Action #48 in total as “principally directed towards and effective in meeting the goals for unduplicated pupils” (pg 9). “While there is some description of how unduplicated students might benefit from each of these actions, there is no description of how

The legal requirement to identify and justify districtwide uses of S&C funds is critical to LCFF's commitment to transparency and community engagement. While parents and community members, along with students and teachers, may support many of these services, the LCAP as presented does not provide sufficient information to meaningfully participate in the stakeholder engagement process. Stakeholders cannot provide input if they do not know how the District is spending its money and, specifically, how such expenditures support high-need student groups. Accordingly, the District must revise its LCAP to comply with the law by identifying each schoolwide and districtwide use of S&C funding in detail and by explaining how each proposed use is "principally directed towards, and effective in, meeting the district's goals for its high-need pupils in the state priority areas."

2. The District fails to provide in its Annual Update adequate description of the actions/services implemented and how these are effective in meeting the District's goals.

The LCAP's Annual Update is a critical tool to support the district's cycle of continuous improvement. Under LCFF, Districts must describe the previous years' goals and demonstrate improvements of specific outcomes for its high-need students in its LCAP's Annual Update section.²⁰ The District must also monitor progress towards expected outcomes and indicated areas requiring improvement.²¹ Finally, the LCAP template instructions state that the District must "include an assessment of the effectiveness of the specific actions."²² CDE has reiterated that the Annual Update portion of the LCAP "must include a review of any changes in the applicability of an action, a review of progress on the goals included in the LCAP, an assessment of the effectiveness of the specific actions included in the LCAP toward achieving the goals, and a description of any changes to the specific actions the school district plans to make as a result of the review."²³

We offer the following analysis of the ways in which KTJUSD's Annual Update fell short of LCFF requirements in hopes that the District will ensure that its 2017-18 Annual Update serves as this critical tool for transparency and accountability. The District's 2016-17 Annual Update does not include adequate descriptions of actions and services; meaningful analyses of the effectiveness of its actions; or adequate measurements of District progress towards its own goals.

the actions are 'principally directed toward' unduplicated pupils. Each generally describes actions that are available to all pupils ... the descriptions are not a sufficient description and justification as principally directed towards and effective in meeting the district's goals for unduplicated pupils as specified in 5 CCR 15496(b)" (pg 12).

²⁰ Educ. Code Sec. 52061.

²¹ See 5 CCR § 15497.5, LCAP Template, Annual Update Instructions.

²² Ibid

²³ CDE FUSD Decision pg 13.

First, the District’s descriptions of actions and services were deficient because, for the vast majority of “planned actions/services,” the District merely copied its planned action or written “Implemented” into the “actual actions/services,” and offered little to no additional information.

Action **3**

Actions/Services	PLANNED Maintain 4 Outreach Consultants	ACTUAL HES, TVES, HHS, Implemented
Expenditures	BUDGETED \$221,834 RS 0001 Supplemental OB 2909	ESTIMATED ACTUAL 128,478 OB 2909

Action **4**

Actions/Services	PLANNED Increase After School Activity opportunities, including transportation, for students	ACTUAL Implemented
Expenditures	BUDGETED \$164,061 RS 0200 Supplemental	ESTIMATED ACTUAL 172,000 OB 1XXX-58XX

Further, the District described overall implementation for each of its four goals – including Goal 1, which contains 71 distinct actions and to which the District allocated over \$1.2 million S&C funds, or half of its total S&C grant – with the following: “Although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages.” This is not a sufficient description of the many efforts undertaken across the District to serve KTJUSD’s hundreds of high-need students.

Complete a copy of the following table for each of the LEA’s goals from the prior year LCAP. Duplicate the table as needed.

Use actual annual measurable outcome data, including performance data from the LCFF Evaluation Rubrics, as applicable.

Describe the overall implementation of the actions/services to achieve the articulated goal.	Although faced with multiple challenges, the overall implementation was successful. The area that still needs to be addressed is staffing shortages.
Describe the overall effectiveness of the actions/services to achieve the articulated goal as measured by the LEA.	Goals were clear but individual school plans still lacked the clarity to accomplish the goals
Explain material differences between Budgeted Expenditures and Estimated Actual Expenditures.	Due to lack of applications or qualified personnel, some positions were left ‘unfilled’ for the year.
Describe any changes made to this goal, expected outcomes, metrics, or actions and services to achieve this goal as a result of this analysis and analysis of the LCFF Evaluation Rubrics, as applicable. Identify where those changes can be found in the LCAP.	Instead of seeking part-time positions, extra efforts were made to make as many positions full-time, with benefits to encourage more applicants and fill more vacancies.

KTJUSD also failed to assess the effectiveness of its actions towards reaching its goals. In the Annual Update, the District did not establish meaningful links between its actions and its measures of effectiveness, which makes it impossible to assess whether the District’s investments resulted in a positive impact on student outcomes. In describing the effectiveness of the actions and services to reach its goals, the most detailed response included in the District’s 2016-17 Annual Update was:

“goals were clear and schools (and their individual communities) were able to communicate a successfully obtain [sic] their goals.”²⁴ None of the descriptions discuss the needs, conditions, or circumstances of unduplicated pupils, nor do they describe how the District’s actions will address these needs.²⁵

A comprehensive analysis of how the District invests its limited dollars in services for high-need students is particularly critical given the need for the District to improve outcomes in many areas, including math, AP and A-G completion, and suspension rates as well as overall school climate.²⁶ Throughout the LCAP, although the District repeatedly fell short of its own goals,²⁷ when asked to “describe any changes made to this goal, expected outcomes, metrics, or actions and services to achieve this goal as a result of this analysis,” the only response the District offered was “instead of seeking part-time positions, extra efforts were made to make as many positions full-time, with benefits to encourage more applicants and fill more vacancies.”²⁸

The District’s failure to describe its actions with specificity and to assess whether its actions have helped it achieve its goals precludes its LCAP from serving as a tool for local accountability and continuous improvement. The District cannot improve services for unduplicated pupils or make steps to close significant performance gaps if it does not critically evaluate progress and interrogate its efforts to serve these students. Further, it undermines the stakeholder engagement process because stakeholders cannot determine whether the District’s actions are effective and thus have incomplete information with which to provide input on District spending. This 2017-18 Annual Update represents an opportunity for the District to rectify these past errors and make the LCAP a useful tool for the District and the community it serves.

3. The District fails to account for all S&C funds in its estimated actual spending and reallocated significant amounts of S&C funds after the LCAP approval process

Generally, KTJUSD’s LCAP lacks transparency and clarity regarding its use of S&C funds. The District reallocated a significant portion of S&C funds in its 2016-17 LCAP year from important services for high-need students to unjustified districtwide uses; failed to offer a meaningful description of the decision making process to reallocate these funds; and did not explain how it engaged any stakeholders in this significant reallocation of funds. For its 2017-18 LCAP, the District did not include all of the S&C funds it

²⁴ LCAP pg 74.

²⁵ The LCAP Template suggests “identifying any specific examples of how past increases or improvements in services for low-income students, English learners, and foster youth have led to improved performance for these students.”

²⁶ The District references these challenges in the Plan Summary for its 2017-18 LCAP, listing a number of its greatest needs: “Math test scores indicate an “Orange” performance level overall and in all subgroups except the white subgroup. AP exam passing rates, A-G completion and EAP passing levels at the high school also need improvement. Finally, understated suspension rates on the Dashboard do not accurately reflect the high suspension rates across the district. According to the CA Healthy Kids Survey, students are feeling significantly less safe at school than in the previous year.”

²⁷ For example, under goal 1, three targets were unmet by large margins: the District set a goal of 45% of students meeting or exceeding ELA CAASPP standards, but only 16% of students met or exceeded grade level standards. For math, KTJUSD’s goal of 50% of students meeting or exceeding standards was unmet, with only 11% of students having met or exceeded CAASPP standards. Finally, only 6% of students complete A-G requirements, while the District’s goal was 85% of students. (pg 6-7)

²⁸ LCAP pg 33.

reported receiving in its budget. We are concerned that these discrepancies will be replicated in the 2017-18 Annual Update and 2018-19 LCAP.

In 2016-17, the District reported significant variation in spending that it failed to adequately explain. The District reported that it allocated an additional \$296,450 - over the \$799,429 it budgeted for - in S&C funds on "Maintenance, Operations and Transportation Departments," and failed to spend significant amounts on services critical for high-need students.²⁹ Despite this significant shift in spending, the District's only explanation was that "due to lack of applications or qualified personnel, some positions were left 'unfilled' for the year."³⁰ This inadequate explanation is copied in response to all four of the District's goals.³¹ As previously detailed, the District is likely unable to justify districtwide use of S&C funds on maintenance and operations.

Moreover, the District provides no explanation as to how it engaged stakeholders, like parents of high-need students, in the decision-making process to reallocate these funds. Districts cannot circumvent the stakeholder engagement process by shifting its limited resources for high-need students *after* the LCAP approval process without informing and receiving input from the community.

Lastly, in the 2017-18 LCAP, the District included a total of \$1,795,473 in S&C funds in its LCAP. But the District reported receiving an estimated \$2,446,550 in S&C funds, representing a **\$651,077 shortfall** in received versus budgeted S&C funds. The District must clearly report on its use of all its S&C funds in the 2017-18 Annual Report. If the District did not spend all its S&C funds, the District must clearly account for these funds in its budget documents and engage in a process with community stakeholders to prioritize use of these remaining S&C funds in the coming year.

4. The District Must Strengthen Its LCAP Stakeholder Engagement Process

Authentic community input and transparency are cornerstones of the LCFF. However, KTJUSD is falling short of its obligation to obtain the "significant input from their communities" required³² by failing to provide sufficient time for public comment, to notify stakeholders of opportunities for input, and to take contributions of the community seriously in reviewing and updating the LCAP.

²⁹ For example, the District failed to spend a combined total of \$441,786 in S&C funds budgeted on what the District identified as critical services to reach its goals for high-need students including instructional aides at elementary sites, school psychologist/counselors, and outreach consultants.

³⁰ LCAP pgs 33, 57, 74, and 82.

³¹ The District does not explain what measures it took to recruit for the positions, nor what alternative actions the District considered or made to provide the academic supports, instructional aids, or counseling services it identified as priorities in the LCAP.

³² CDE Guidance Memo 2015. In an October 2017 letter to District and County Superintendents, entitled "California's New Accountability System and System of Support," CDE again emphasizes the importance of community engagement and stakeholder input in this process:

"Rather than top-down, transactional exchanges between districts and support providers, the new system expects support providers to work collaboratively with districts to identify key challenges and opportunities. And rather than packaged interventions, the new system favors teams of local educators engaging with their communities to tailor approaches to specific needs ... To create change that is supported at the grassroots level, stakeholders must be authentically engaged and transparency must be a top priority. Ensuring that each student has the support they need to succeed is a collective responsibility we all share. As such, we urge you to redouble your efforts to increase awareness and use of the Dashboard, the LCAP, and any improvement plans within your district this fall."

The school board is required to hold at least one public hearing with an opportunity for public comment and recommendations regarding the specific actions and expenditures proposed in the LCAP or annual update.³³ For the 2018-19 LCAP, this public hearing is scheduled for June 26th at 5pm, **less than 24 hours before the school board is set to adopt the LCAP** on June 27th at 9:30am. It is highly unlikely, if at all possible, that community stakeholders can read and analyze the over 100-page document and provide meaningful feedback in one night. It is even more unlikely that the District would be able to receive, meaningfully assess, respond to, and incorporate this feedback within this time frame.

Furthermore, no LCAP-specific board meetings are published on the District's website. The District does not post information about LCAP input sessions on school marquees or its website, and no Board Meetings are listed as LCAP Public Hearings or input sessions on the District calendar. Additionally, no Board Minutes are posted online as of September 2017, preventing interested community members from accessing potential LCAP documents for review. Parents and community members do not have access to information about how and when to provide their input into this important local planning and accountability tool.

In contrast, and by way of example, Oakland Unified School District's (OUSD) website has an LCAP-specific calendar with all LCAP meetings and public hearings for the coming year, including all committee, school site, and school board LCAP-related meetings; publishes agendas, minutes and slides, resources, and presentations from these sessions; and includes drafts of and changes to its LCAP on a clear, easy-to-find website.³⁴

KTJUSD reports that "school plans are transposed to the LCAP" after being developed by School Site Councils, with input gathered through student groups and "community input nights." However, community members report that school site councils are not advertised. Further, it is unclear whether local input is being considered when forming the district-wide LCAP because the school site plans for many District schools are identical and do not reflect the needs of their stakeholders.

Finally, in addition to lack of notification of these opportunities for input, we have heard significant concerns from parents, community members, and tribal leaders that the District does not sincerely consider the input it receives. Stakeholders report that their concerns and input are dismissed and that major decisions, including the allocation of funds, are made without incorporating the input provided during the limited engagement spaces the District provides.³⁵

³³ California Education Code § 52062(b)(1)

³⁴ See, <https://www.ousd.org/domain/3262>.

³⁵ We have recently become aware that the District is flouting similar consultation requirements under the Federal Impact Aid statute. Specifically, the District's Indian Policies and Procedures fail to meet all regulatory requirements and are out of compliance with Impact Aid requirements as determined by the Department of Education. See, email for Department of Education Program Analyst dated June 13, 2018 and "IPP Annual Screening Checklist (FY2019)."

While tribal consultation for Impact Aid are distinct from the District's stakeholder engagement requirements under LCFF, many of these consultation requirements are parallel. It is concerning that the District has been found to have failed to describe in its IPPs how "the parents of Indian children and members of the tribe ... provide input on the educational program and activities," "how and when the LEA will notify tribe and parents ... of the opportunities to submit recommendations and comments," "how and when the tribes or parents of Indian children can make recommendations for changes," and "how and when [the LEA] will respond to [and disseminate responses to] the comments [and recommendations] received through the IPP consultation."

5. KTJUSD should implement the following remedies.

For all of the reasons discussed above, we urge the District to ensure that its LCAP includes the following:

1. Provide a detailed explanation of the District's use of S&C funds for "Maintain Maintenance, Operations and Transportation Department, staff and supplies."
 - a. How did the District spend \$1,095,879 for maintenance, operations and transportation?
 - b. The District must either justify its use of S&C funds on maintenance staff and deferred maintenance in accordance with 5 CCR § 15496, or remove this proposed use from S&C funding.
2. Explain the process by which the District re-allocated nearly \$500,000 of S&C funds during the 2016/17 school year, including how the District performed stakeholder engagement in making its decision and how the re-allocated actions/services were principally directed towards and effective in meeting its goals for high-need students.
3. Explain the difference between the amount of S&C funds the District received for the 2017/18 year and the amount of S&C funds the District budgeted.
4. When it is released, ensure the 2017/18 Annual Update includes full reporting on any shortfalls in S&C expenditures, an explanation of where the S&C funds were re-allocated and the process to decide on and approve that re-allocation, and justify how these expenditures increased or improved services for unduplicated pupils.
5. Review descriptions and justifications for all schoolwide and districtwide use of S&C funds including but not limited to Goal 1, Actions 2, 6, 7, 8, 9, 10, 11, 19, 42, and 49; and Goal 2, Actions 1, 2, 3, 4, 26, and 50, and revise them to provide the required descriptions and justifications consistent with 5 CCR § 15496.
6. In the event that there are such expenditures which cannot be described and justified as set forth in #5, KTJUSD must exclude any such services currently included in its 2018-2019 LCAP from services that contribute to meeting the requirement to increase or improve services for unduplicated pupils over services provided to all pupils in the LCAP year, and must not use S&C funds for these services.
7. To the extent any of these actions and services that cannot be justified as an increased/improved service for 2018-19 were part of its S&C expenditures in 2017-18, the district should not count these services as prior year expenditures on high-need students as part of its minimum proportionality percentage calculation.
8. Improve the stakeholder engagement process by:
 - a. Making the full draft LCAP available to community members earlier to make sure they can fully engage in the process and offer input.
 - b. Clearly explaining each allocation of S&C funds and how KTJUSD plans to use those funds
 - c. Engaging community members in a meaningful way, including publicizing LCAP input sessions broadly; ensuring that these meetings are held at times and locations

convenient for all community members, parents and students; and facilitating such meetings in a way that allows for real community input, rather than a one-sided presentation

- d. Providing the public with written explanations for why and how the community feedback the District received is incorporated or not incorporated in KTJUSD's LCAP.

For additional guidance on the legal requirements related to the LCAP, highlighting stakeholder engagement, proper reporting in Annual Updates, material differences in budgeted and estimated actual expenditures, and justification of *all* schoolwide and districtwide uses of S&C funds, we refer the District to a 2017 letter sent to all County Superintendents by the ACLU of California and Public Advocates, available here: <http://www.publicadvocates.org/wp-content/uploads/2017-8-2-pa-aclu-lcff-dear-county-superintendent-letter.pdf>.

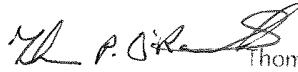
We request a written response from the District within 10 days and for the District to incorporate these actions into its LCAP. We look forward to seeking a collaborative resolution that will best serve the District's students and families.

We look forward to hearing from you. Please feel free to contact me directly at vleung@aclusocal.org and 212-977-5219.

Sincerely,



Sylvia Torres-Guillén, ACLU of California
Victor Leung, ACLU of Southern California
Theodora Simon, ACLU of Northern California



Thomas P. O'Rourke, Sr.
Chairman
Yurok Tribal Council Yurok Tribe

Thomas P. O'Rourke, Sr.
Chairman, Yurok Tribe



Ryan Jackson
Hoopa Valley Tribal Chairman

Appendix

Highly Qualified Teachers

KTJUSD links all of the following actions to spending on Goal 1, Action 2, “Highly Qualified Teachers,” providing no description of the services, generally no justification of how these are principally directed at high-need students, no transparency in how districtwide use of S&F funds are being utilized, and in some cases, does not make clear how the service or activity is in any way related to spending on highly qualified teachers. It is impossible to understand how the District is allocating S&C funds to these diverse programs. This does not invite transparency or accountability, as a reader is unable to assess how this significant portion of total S&C funds were spent across the district.

- “Cultural Connection Teacher to help with anti-bullying, anger management, conflict resolution, and social skills/ restorative justice positive physiology”
- **Maintain Music Teacher**
- **Intervention Coach:** “Coach will oversee Data Collection, Data assessment, and creation of curriculum, assist classroom teachers in utilizing data and resources to help students.”
- **High School Mathematics Teacher:** “Teacher will come to site to teach the 8th grade math class
- “Instructional Activities: The principal and Intervention Coach will work with HHS to develop a course to be offered each period for HS students to train as literacy coaches in math or language arts. HHS students will then report to HES every day to work with targeted students under the supervision of literacy coach. Grades 3–8”
- **Professional Collaboration:** “Teachers will develop a professional skills self-assessment and all teachers will take a mentoring role with a specific skill”
- “Hire a credentialed math teacher to improve quality of instruction; \$250 per teacher classroom supply budget to augment instruction.”
- **Instructional Activities:** Students will have course offerings/projects and programs during the school day and in ASES that have a focus of music, STEM or STEAM, sports or Physical Education, and Drama”
- **Instructional Activities:** “Data from the 14-15 and 15-16 school year will be analyzed to determine a baseline of what the attendance rates at HVES actually has been.”
- “Student government will promote activities that have attendance component such as rallies, dances, development of enrichment clubs, trimester trips for grades 4th – 8th”
- “Building trades course/ Develop and implement building trades course so that it becomes career technical education (CTE) pathway”
- “Metal/Auto shop teacher and program that includes career technical education pathway”
- **Professional Collaboration**
- “Circle of Courage” training during weekly collaboration. PBIS Training. Revisit “Love and Logic.”