



VIA ELECTRONIC AND U.S. MAIL

June 25, 2019

Frank Guzman, Board President
Adrienne Konigar-Macklin, Board Vice President
Roberta Perlman, Board Trustee
Jason Rothman, Board Trustee
Andrew Wong, Board Trustee
Richard Martinez, Superintendent

Pomona Unified School District
800 S. Garey Ave.
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(909) 397-4800 Ext. 23882

Re: The District's Planned Use of S&C Funds for Law Enforcement and School Security Personnel

Dear President Guzman, Vice President Konigar-Macklin, Trustees Perlman, Rothman, and Wong ("the Board"), and Superintendent Martinez,

On behalf of Gente Organizada, and their social action groups Padres Unidos de Pomona and Pomona Student Union, we write this letter to share our deep concerns with the latest draft of the Pomona Unified School District ("the District") Local Control Accountability Plan for 2019-20 ("LCAP") and Annual Update.

Specifically, we are troubled that the District plans to spend between \$3.2 million and \$7.6 million in supplemental and concentration funds intended *to increase or improve services for high-need students*¹ on law enforcement and other school security personnel during the 2019-20 school year. *See* LCAP Actions G1-A19, G1-A27, G2-A8, G3-A8, G3-A15, and G3-A17.² Were the District to make this choice, the District would be in violation of the law because "supplemental and concentration funds" have a specific purpose and intended beneficiaries. The District may only use such funds to "increase or improve" services for high-need students above and beyond what all students receive. Yet, the District's proposed LCAP fails to demonstrate how its plans for law enforcement and other school security are "principally directed" towards or "effective in" meeting the District's goals for its high-need students as the law requires.

¹ This letter uses "high-need" and "unduplicated" interchangeably to refer to those students who are English Language Learners, foster youth and/or low-income and generate additional supplemental and concentration funds for the district under the Local Control Funding Formula.

² Unless otherwise noted, all citations to the LCAP are to the June 12, 2019 LCAP Draft which the Board considered at a regularly scheduled meeting held on that date.

The District's planned use of these special funds on law enforcement and other school security personnel violates the law and fails to serve its students. Accordingly, we ask the Board to disapprove the LCAP and Annual Update in its current form and request that the District revise the LCAP to incorporate the feedback outlined in this letter. The District should invest that \$7.6 million on high-need students by providing them with actual services, tools, programs, resources, and supports that will actually help improve or improve their educational outcomes and opportunities for success. If the district cannot properly justify the investment in additional security, then it should not count these actions towards its requirement to increase and improve services for high-need students and should certainly not fund these actions with supplemental and concentration funds.

In addition, we encourage the Board and District to work together with us and the broader school community to identify different ways, based on evidence, to target and support the District's high-need students using these special funds. This includes dis-investing in law enforcement and security personnel and spending more of the District's supplemental and concentration dollars on true academic supports for its students, targeted personnel supports, and supportive and effective safety resources such as Positive Behavior and Intervention Supports and restorative practices.

Background on Local Control Funding Formula and Local Control Accountability Plan Requirements

California's Local Control Funding Formula ("LCFF") provides school districts with additional funds on the basis of the number and concentration of high-need students or "unduplicated pupils": specifically, low-income students, English learners, and foster youth.ⁱ These funds are referred to as supplemental and concentration ("S&C") funds. Districts must follow LCFF statutory and regulatory provisions each year as a condition of accepting LCFF funds. In exchange for receiving LCFF funding, Local Educational Agencies ("LEAs") have an obligation to "increase or improve services" for high-need students as compared to all students in proportion to the S&C dollars received.ⁱⁱ This is an annual obligation, which the LCFF Regulations and LCAP Template emphasize.ⁱⁱⁱ

To meet regulatory standards, school districts must be able to demonstrate the following in their LCAP and Annual Update:

First, school districts must demonstrate that they are increasing or improving services to unduplicated students as compared to all students by at least the percentage of increase in S&C funds over and above the district's base level of funding.^{iv} Each proposed action or service intended to contribute to the satisfaction of the District's proportionality obligation must itself operate to increase or improve services for high-need students as compared to all students. The regulations clarify that "[t]o improve services" means to "grow services in quality," and "to increase services" means to "grow services in quantity" over and above what is provided to all students.^v In Pomona, the District must increase or improve services for high-need students as compared to services for all students by 34%.³ The District can do so by providing targeted services that are limited to high-need students or providing services that are available to all students either district-wide or at a school site level—provided those district-wide or

³ Pomona's LCAP fails to report its proportionality obligation in the Demonstration of Increase or Improved Services for Unduplicated Pupils section. See PUSD LCAP at 210. According to the Budget Overview for Parents, the District expects to receive \$63,981,066 in S&C fund generated based on the enrollment of high-needs students and \$187,040,248 in all other LCFF funds in 2019-20, which produces a proportionality obligation of 34% (\$63,981,066 / \$187,040,248).

school-wide services are *principally direct towards* and *effective in* meeting the district’s goals for its high-need students.

Second, and to meet the proportionality obligation, any use of S&C funds for school-wide or district-wide services must also be “**principally directed towards**” the district’s goals for high-need students in state or local priority areas. The principal purpose of the S&C funds’ use must be to meet high-need student goals—those goals must be “a forethought not an afterthought” in deciding to pursue an action or service.^{vi} It is not enough to note that the majority of beneficiaries of an action will be high-need students.^{vii} Instead, **a school district must explain in its LCAP how it considered the “needs, conditions, or circumstances of its unduplicated students”** in deciding to pursue an action or service.^{viii} For example, in rejecting Fresno USD’s planned use of S&C funds to pay for custodial staff and bathroom renovations in 2016-17, the California Department of Education (“CDE”) explained that the district’s discussion of benefits and stakeholder engagement was not enough to justify those activities without showing “how the district considered the factors such as the needs, conditions or circumstances of its unduplicated pupils in particular, in connection with these actions.”^{ix}

Third, also to meet the proportionality obligation, the use of S&C funds for school-side or district-wide services must be “**effective in**” meeting the district’s goals for high-need students. Effectiveness necessarily requires both that the *proposed* action or service is reasonably likely to yield effective results and, after implementation, that the *implemented* action or service is in fact effective based on its resulting impact:

For *proposed* actions or services, a district must explain the mechanism by which the action or service will achieve one or more of the expected outcomes for 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.”^x For example, in rejecting Klamath-Trinity USD’s planned use of S&C funds to pay for training for staff on issues of students living in poverty, the CDE found the district failed to explain those actions “in relation to one or more expected annual outcomes” for high-need students.^{xi}

- For *implemented* actions or services, a district must show that the action is actually working to increase or improve services for high-need students over time. Accordingly, a school district’s Annual Update 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.^{xii} A school district must “relate overall effectiveness of the actions/services, as measured by the LEA, with the relevant LCAP goal.”^{xiii}

Pomona USD’s Draft 2019-20 LCAP and Annual Update

Tonight, the Board of Trustees will consider a version of the 2019-20 LCAP and Annual Update that was first presented to the Board on June 12, 2019.^{xiv} The discussion below is based on that version.

The 2019-20 LCAP includes a plan for \$63,981,106 in S&C funds the District expects to receive during the 2019-20 school year. The LCAP establishes three goals for the District: (1) all students will demonstrate achievement of rigorous academic standards through high quality instruction and learning opportunities; (2) student learning will be supported by qualified teachers and staff; and (3) all students will access safe and equitable learning environments and differentiated support systems that promote college and career readiness. Among the many actions for the three goals, six actions appear to use S&C funds, at least in part, for law enforcement and other school security. See LCAP Actions G1-A19, G1-A27, G2-A8, G3-A8, G3-A15, and G3-A17. In total, the LCAP allocates \$7.6 million in S&C funds (approximately 8.4% of all S&C funds) to support these six actions for the 2019-20 school year.

Most significantly, in a newly-numbered^{xv} action this year, the 2019-20 LCAP allocates \$3.2 million in S&C funds primarily for district-wide and school-wide law enforcement and other school security personnel for general educational programming.⁴ Specifically, G3 A17 reads in full:

G3 A17: School Site Specialists and other security staff will contribute to improved behavior and attendance to augment the safety of students while in school and a child and welfare attendance Coordinator will assist with chronic absenteeism issues. Additional staff will be contracted to support the safety of our students in the neediest areas.

G3 A17 includes approximately \$800,000 for certificated salaries, \$1.2 million for classified salaries, \$890,000 for employee benefits, and \$350,000 for services and other operating expenses.^{xvi} As the Planned Services document that was shared with the Parent Advisory Committee on June 5, 2019 indicates^{xvii}, the planned use of these funds includes “26.6 FTE Campus Security Assistants & Officers,” “8 FTE School Site Specialists,” “Consultants,” and “City of Pomona: Safety Officers.” (Note that this Planned Services document is not attached to the LCAP – thus, someone reading the LCAP on its face would not know what positions are being funded by this action, nor that some of these positions include “Safety Officers.” To learn more about how these funds have been and will be used, on June 14, 2019 we submitted a Public Records Act Request to the District on behalf of the same community groups.)

In the Demonstration of Increased or Improved Services for Unduplicated Pupils (DIISUP) section of the 2019-20 LCAP, the District states the use of funds as follows:

Safety is an important concern for our students and family and must be addressed to promote learning. School security provides safety for all of our unduplicated student groups during school hours and helps with behavior as needed. All of our staff is trained regularly and material and supplies that are needed are provided. By providing a safer environment on our campuses students will be able to concentrate on their learning and increase academic achievement.

Neither the Demonstration of Increased and Improved Services for Unduplicated Pupils section nor the Annual Update evaluate the effectiveness of this action (formerly G3 A8 in the 2018-19 LCAP). The Annual Update states only that “School Site Specialists and other security staff were hired to ensure students safety was maintained.” Although the District plans to continue spending a substantial amount

⁴ In contrast, the five other identified school security actions are tied to additional programming and services outside of the general educational programming. See, e.g., G1 A19 (campus security for STEM-related extending learning opportunities). Although our analysis focuses on G3 A17, the concerns nonetheless apply with equal force to the other five actions, as it is unclear why security services are necessary for the delivery of these services. Accordingly, the Board should not approve any of the identified actions.

of S&C funds on law enforcement and other school security personnel, those services are not discussed elsewhere in the LCAP, such as in the LCAP's "Greatest Progress," "Greatest Needs," "Performance Gaps," or "Stakeholder Engagement" sections of the LCAP.

The Board Should Not Approve Pomona USD's LCAP and Annual Update Because It Violates the LCFF Law and Regulations By Failing to Demonstrate How Certain District-Wide Actions Increase or Improve Services for High-Need Students

The District's LCAP fails to demonstrate that each use of S&C funds "increases or improves" services for unduplicated students above and beyond what all students receive for two independent reasons. First, the LCAP does not adequately explain how G3 A17—which uses S&C funds for across-the-board law enforcement and other school security personnel—is "principally directed towards" district goals for high-need students. Second, the District fails to put forward any evidence that this investment in law enforcement or security personnel is or has been "effective in" meeting the District's goals for high-need students.

Principally Directed to Goals for High-Need Students. The District appears to provide a generalized service—across-the-board law enforcement and other school security personnel—that the District believes will benefit all students. The District states: "School security provides safety for all of our unduplicated student groups during school hours and helps with behavior as needed." But to be "principally directed," it is insufficient to note that the majority of beneficiaries of an action will be unduplicated pupils.^{xviii} Pomona's LCAP states that "safety is an important concern for our students" but offers no evidence that the District considered the unique "needs, conditions, or circumstances" of its high-need pupils in deciding to pursue this action.^{xix} And because the district's goals for these students must be "a forethought not an afterthought" in deciding to pursue an action or service, the District cannot fashion a post hoc justification that would meet the "principally directed" standard. The across-the-board law enforcement and security services are intended for all students. If the district elects to spend money in that way, those services should be funded, if at all, using base funds. (Indeed, in its 2016-17 LCAP, the District previously funded a similar action, which provided "staffing for health and safety," using only base dollars).

The District's plans are thus strikingly similar to Fresno's plans for district-wide and school-wide "School Site Security Enhancements" that the CDE rejected in 2017.^{xx} Fresno's 2016-17 LCAP explained that "[S]chool safety was a top request from teachers." In G4 A47, the LCAP planned the use of \$440,000 in S&C funds for additional crossing guards, community and school resource officers from the local police at secondary schools, a police department chaplaincy program at elementary schools, and shot spotter technology. The LCAP described these actions as part of a "a comprehensive approach to serving the unique needs of our large student population." And to justify the use of the funds, the District wrote that "crime in Fresno is significantly higher than the state and national average" and also that the planned actions "leads to school and community safety, as well as reduced downtime and classroom disruption that occurs from the stoppage of classroom instruction when safety protocols need to be implemented." However, because the District provided "no statement describing how the security investments are directed towards meeting the needs of unduplicated pupils, as opposed to all pupils," the CDE found the LCAP did not meet the "principally directed" requirement.

Pomona's LCAP does not provide as much detail as the Fresno LCAP but similarly describes a program that is intended to serve all students and completely fails to explain how those plans help meet the

District's goals for its high-need students. Thus, the LCAP does not meet the "principally directed" requirement and must be rejected on those grounds.

Effective in Meeting Goals for High-Need Students. Further, the District fails to offer any evidence that law enforcement and other school security personnel have been effective, or will be effective in the future, in meeting the District's goals for high-need students. Action G3 A17 states: "School Site Specialists and other security staff will contribute to improved behavior and attendance to augment the safety of students" and "Additional staff will be contracted to support the safety of our students in the neediest areas." The LCAP establishes measurable outcomes for Goal 3 around suspensions, middle school dropout rate, expulsion rate, drop out rate, attendance, chronic absenteeism, parent involvement survey, California Healthy Kids, and Quality, Currency, and Availability of Instructional Materials. And yet, as with the CDE's Fresno Unified decision, the District has failed to explain G3 A17 "in relation to one or more expected annual outcomes" for unduplicated students and thus is not demonstrating effectiveness for this action. For example, the District provides no evidence around how these investments have improved the behavior or attendance or chronic absenteeism for high-need students, let alone as compared to all students. In addition, the Annual Update does not evaluate the effectiveness of this action at all, which was previously part of G3 A8, explaining only that school security "were hired." This explanation falls far short because it does not address the effectiveness of the action, nor does it relate the District's measure of effectiveness with its goal that unduplicated pupils "will access safe and equitable learning environments."^{xxi}

Indeed, we question whether the District could ever show that across-the-board law enforcement and other school security personnel effectively support the District's goals for high-need students. As student members of the Pomona Student Union testified at the June 12, 2019 Board Meeting, the presence of law enforcement at Pomona's schools has had the opposite effect, undermining the District's principal goal to create *equitable* learning environments. ***As student leader Melanie Andreo explained at that hearing, school security has made many students in Pomona feel unfairly targeted and uncomfortable in school, which has actually reduced students' sense of school safety.***

In sum, the LCAP completely fails to (1) justify its use of S&C funds as "principally directed" and (2) show that it would be "effective in" meeting the District's goals for high-need students. ***Accordingly, the Board should disapprove the LCAP as drafted and require that it be amended to demonstrate how any action increases or improves services for high-need students as compared to all students. We do not believe this is possible first because the action was never designed with high-need students in mind, as the District's 2016-17 LCAP demonstrates, and second because the District has failed to offer any evidence of effectiveness after implementing the same action each year since then. As such, and where it is not possible to meet the "principally directed" and "effective in" standards, then the District should cease funding this action with S&C dollars and instead reallocate those dollars to other community LCAP priorities as discussed further below.***

Students, Parents, and other Stakeholders Request that the District Do Not Spend S&C Funds on Law Enforcement and Security and Instead Invest in Supportive Resources

Gente Organizada, Padres Unidos de Pomona, the Pomona Student Union, and the students, parents, and community members they represent, request that the Board and District refrain from using S&C funds for any additional law enforcement and other school security personnel at our schools, which fails to satisfy the intent and the spirit of the law. Instead, there are numerous better and far more effective ways the District could be investing these critical dollars. For example, the District has identified several

themes through its stakeholder engagement that could benefit from greater investment, such as tutors in core subjects, library/media extended access, additional art and music programs, foster youth supports, and more counselors. We support additional investments in each of these items, especially in fully funding arts and music programs and in funding additional mental health professionals, including counselors and psychologists.

Most glaringly, the District should invest in the key strategy that the District itself has identified as supporting student behavior most effectively—Positive Behavior Intervention & Support (“PBIS”) programs. The LCAP identifies PBIS as a key contributor to the District’s greatest progress in recent years, explaining that PBIS is responsible for decreasing major behavioral office referrals and suspensions and increasing ELA and Math performance at PBIS schools. The LCAP also identifies PBIS as a key strategy to specifically support foster youth, a high-need student group in red on the CaSchoolDashboard.org due to suspensions. And yet, inexplicably, the District plans to *decrease* by over \$1 million the funds that go towards implementing the only action that expressly supports PBIS (i.e., G1 A13) without explanation for this disinvestment.^{xxii} Thus, ***we urge the District to reallocate the spending it proposes for law enforcement and security to PBIS, restorative practices, and other supportive policies that are significantly more effective in keeping students safe and promoting a positive school climate for high-need students.***

Conclusion

The District plans to continue spending between some \$3 million of supplemental and concentration funds on law enforcement and school security personnel without any showing that those services are “principally directed” or “effective in meeting” the District’s goals for high-need students. The LCAP thus fails to satisfy the District’s requirement that it “increase or improve services” for unduplicated students above and beyond what all other students receive. Accordingly, and for all the reasons stated above, the Board should disapprove of the District’s LCAP and amend the LCAP to address the concerns raised by this letter.

In addition, we encourage the Board and District to work to identify different ways, based on evidence-based research and stakeholder engagement, to effectively support school safety and positive school climate for the District’s high-need students using these special funds. We offer ourselves as resources to help the District identify alternative investments.

Thank you for your attention to this matter.

Sincerely,



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Attachments:

Attachment 1 – June 14, 2019 Public Records Act Request

Attachment 2 – CDE Fresno Decision

Attachment 3 – CDE *Klamath I* Decision

Attachment 4 – CDE *Kamath II* Decision

CC:

(via electronic mail)

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ⁱ Calif. Education Code (hereinafter, “EC”) sections 42238.02, 42238.07.

ⁱⁱ 5 CCR § 15496(a).

ⁱⁱⁱ 5 CCR § 15496(a); *see generally* LCAP Template.

^{iv} EC Section 42238.07; 5 CCR 15496.

^v EC Section 42238.07; 5 CCR 15496.

^{vi} LCFF Equity Coalition Comments Re: SBE September 2014 Agenda Item #18 – LCFF Permanent regulations; LCFF Equity Coalition Comments Re: SBE January 2014 Agenda Item #20 - LCFF Emergency Regulations, Page 3. The Coalition’s proposal of the “principally directed and effective” language was accepted and inserted into the permanent regulations draft on July 28, 2014 and ultimately adopted into the final regulations on November 14, 2014. The arguments and rationale of sponsors to proposed laws that are ultimately adopted by legislating bodies can be relied on by courts when determining the meaning of any asserted ambiguities in the legislated language. *See, e.g., People v. Rizo*, 22 Cal. 4th 681, 685 (2000).

^{vii} *CDE Fresno decision*, pg. 7

^{viii} *CDE Klamath I decision*, page 7-8; *CDE Fresno decision*, pg. 6 (emphasis added); *CDE Klamath II decision*, pg. 12; *CDE Fresno decision*, pg. 10-11

^{ix} *CDE Fresno decision*, pg. 10-11. Action 43 and 44 in the Fresno 2016-2017 LCAP were respectively: “maintain 40 additional custodians, 3 custodial supervisors and 4 grounds maintenance positions” and “renovate high school bathrooms.” In attempts to justify these actions/services as principally directed toward high-need students, the school district stated some of the benefits of these proposed actions/services: “[a]ccording to the National Education Association, clean schools reduce the spread of infectious illness, reduce triggers for asthma and allergies and reduce absenteeism for both students and staff.” The school district also tried to bolster its justification through referencing how the actions/services were the result of stakeholder feedback and engagement: “[p]roperly maintained bathrooms was the single most consistent request made during the 17 meetings the district conducted with students.” However, this discussion of benefits and stakeholder engagement was not enough to meet the “principally directed” requirement without further emphasize on high-need students. The CDE determined that “[t]he description of these actions states benefits for each. However, 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.”

^x *CDE Klamath I decision*, pg. 8 (emphasis added)

^{xi} *CDE Klamath I decision*, pg. 9. In the LCAP, the school district stated that training for emotional-social well-being, trauma informed care, and training for staff on issues of students living in poverty would meet the needs of all students, “but is especially targeted for Foster Youth and Low Socio-Economic students.” However, the CDE determined that because this explanation was “not discussed in relation to one or more expected annual outcomes”, the school district had failed to justify that action/service as effective in meeting the LCAP goals for unduplicated students.

^{xii} EC Section 52061(a)(1) and (2) (emphasis added).

^{xiii} *CDE Klamath I decision*, pg. 12.

^{xiv} Because the LCAP was not attached to the Board’s publicly available agenda and therefore not disseminated to the public prior to the Board’s regular June 12, 2019 meeting, we requested and received digital copies of the LCAP and Annual Update on June 10, 2019.

^{xv} Although previously included in G3 A8, “the safety portion on this action [G3 A8] was removed and a new action (G3 A17) was created in order to distinguish, monitor and evaluate the actions better.” PUSD LCAP at 62.

^{xvi} See PUSD LCAP at 197-98.

^{xvii} See G3 A8 of the June 5, 2019 Planned Services document.

^{xviii} *CDE Fresno decision*, pg. 7

^{xix} *CDE Klamath I decision*, page 7-8; *CDE Fresno decision*, pg. 6 (emphasis added); *CDE Klamath II decision*, pg. 12; *CDE Fresno decision*, pg. 10-11

^{xx} *CDE Fresno decision*, pg. 12-13.

^{xxi} *CDE Klamath I decision*, pg. 12

^{xxii} The Annual Update explains only that the cost of three teacher specialists were transferred to another action. PUSD LCAP at 35.