



## A Client Brief

# LCFF Spending Rules Generate Debate

Yesterday's packed meeting of the State Board of Education (SBE) was the latest in a series of hearings tackling the development of the regulations, templates, and evaluation rubrics for the Local Control Funding Formula (LCFF) and the related Local Control Accountability Plans (LCAPs). The hearing provided an opportunity for the public to see the draft LCFF spending regulations and broader accountability framework and to provide feedback to the SBE.

### Draft LCFF Emergency Spending Regulations - "Local Options Framework"

While many local educational agencies (LEAs) have been focused on clarifying the actual amount of 2013-14 funding they will receive under the LCFF, and on preparing to develop their LCAPs before the July 1, 2014 deadline, the most immediate task for the SBE is to draft emergency spending regulations related to the supplemental and concentration grants provided in the LCFF. These grants are for students that are English-learners (EL), from low-income families (LI), or who are foster youth (FY). Because the same student does not generate multiple grants if they fall in more than one of these categories, the LCFF statutes rather awkwardly refer to these students as "unduplicated pupils." LEAs are statutorily required to "increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils," and the SBE must adopt regulations related to this requirement by January 31, 2013.

The SBE has contracted with **WestEd** for guidance with public engagement and information, and for assistance in drafting the necessary regulations related to the LCFF and LCAPs. WestEd has recommended a "local options framework" that is intended to provide each LEA with flexibility to determine how it will demonstrate it has met the statutory requirement to "increase or improve" services for EL, LI and FY students, as opposed to creating regulations that direct an LEA to spend or account for funding use in a specific way. The development of the "local options framework" was driven by guidance from the SBE that implementation of the LCFF support the following principles:

- Simplicity
- Transparency
- Performance-focused rather than compliance-oriented
- Equity, support for all students
- Acceptability
- Local flexibility

The local options framework would allow LEAs to demonstrate increased or improved services for EL, LI and FY students through one of the following methodologies:

- Spend More
- Provide More
- Achieve More

These three methodologies are described in more detail in the draft regulations and non-binding guidance provided below. WestEd and the CDE say this approach reflects the intent of the LCFF legislation as a whole to focus on improving outcomes for all students. They also stressed that the draft regulation proposal should be considered jointly with related concepts for the local control and accountability plans.

### SBE Debate and Public Feedback

The crux of the debate and public comments on the draft regulations focused on finding the right balance between the promise of local control/flexibility and the intent to target resources for the EL, LI and FY students that generate supplemental and concentration funding. Many of the EL and civil rights groups expressed frustration that the proposed regulations did not provide enough accountability for the use of the funds intended for EL, poor, and foster students. Representatives from many of the statewide education groups, including ACSA, CCSESA, CASBO, CSBA, and CTA expressed support for the local control focus of the regulations and broader framework.

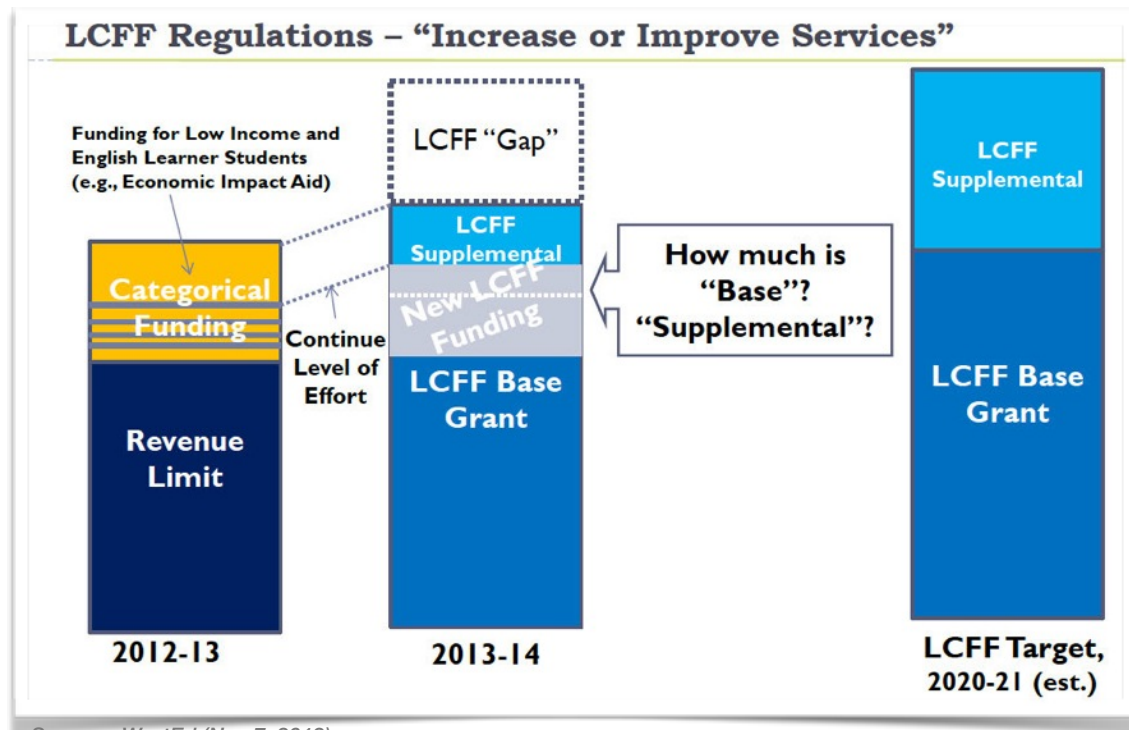
The “Achieve More” approach received the most public scrutiny during the testimony portion of the hearing. In response, SBE members indicated that there may be more or fewer options in the future. There was also a strong focus during public testimony that local engagement with stakeholders (students, parents, etc.) needs to be meaningful. SBE members reiterated that engagement is an important element.

After hearing hours of public testimony, members of the SBE made it clear that the input was taken seriously and that the regulations may look different by January based upon the public feedback. At the same time, several members indicated general support for an options-based approach to the regulations.

### Analysis

Although there are legitimate criticisms of the local options framework, the divide between the “equity” groups and the LEAs/education organizations is fundamentally philosophical (proponents of flexibility/local control vs. proponents of regulatory/state control and the difference between outcome-based vs. input-based compliance). For example, while it is true that the transition to a new assessment and accountability system, and particularly a temporary suspension of the Academic Performance Index (API), will make it challenging to assess claims of “achieving more,” it is unlikely that better data will appease the proponents of strict spending restrictions. There was even skepticism of the “spend more” proposal because of possible manipulation of numbers, and some of the local options critics wanted to focus exclusively on increased supplemental programs and services (inputs) specifically directed to ELs, LIs and FY.

Interestingly, there was very little focus on the “proportionality” requirement. The level of increased or improved services is supposed to be proportional to the increased apportionment attributable to supplemental and concentration grants, but there is little clear guidance regarding how this would be measured. Each LEA will be transitioning to the LCFF from a different level of “base” funding (2012-13 revenue limit plus categoricals), each LEA therefore receives a different amount of 2013-14 “gap” funding toward the full LCFF target, and the percentage of 2013-14 increased funding (if any) specifically attributable to supplemental and concentration grants is not easily quantifiable. WestEd provided the following table that suggests the difficulty of setting any state-level “proportionality” factor that could be applied to LEAs:



Given the perspective of Governor Jerry Brown and the majority of his appointees to the State Board, and the difficulty in quantifying precise amounts of increased funding and/or increased services, it seems likely that the draft spending regulations will lean more toward local flexibility than to strict restrictions. However, it was made abundantly clear that the “equity” groups plan to carefully monitor local decisions regarding implementation of the LCFF and development of the LCAPs, and that regardless of which methodology (spend more, provide more, achieve more) is utilized, the data and rationale will be critically scrutinized. The SBE is scrambling to draft the emergency regulations for LCFF at their January meeting, but if there are subsequent issues with the regulations or the interpretation of those regulations by LEAs, expect the SBE to revisit and refine them as they develop final regulations and potentially subsequent revisions.

## DRAFT – LCFF Spending Regulations

Following is the draft language for emergency LCFF spending regulations:

*Article 1. Local Control and Accountability Plan and Spending Requirements for Supplemental and Concentration Grants.*

### **§ XXX1. Scope.**

- (a) This chapter applies to all local educational agencies as defined in subdivision (a) of §XXX2.
- (b) Funding restrictions specified in Education Code section 42238.07 apply to local control funding formula funds apportioned pursuant to Education Code Sections 2574, 2575, 42238.02, and 42238.03.

**§ XXX2. Definitions.**

*In addition to those found in Education Code sections 2574-2579 and 42238-42303, the following definitions are provided:*

- (a) "Local educational agency" means a school district, county office of education, or charter school.*
- (b) "Services" as used in Education Code section 42238.07 may include, but are not limited to, services associated with the delivery of instruction, administration, facilities, technology, and other general infrastructure necessary to operate and deliver educational instruction and related services.*
- (c) "Prior year" means one fiscal year immediately preceding the fiscal year for which a local control and accountability plan or annual update to the local control and accountability plan is approved.*
- (d) "Unduplicated pupil" means any of those pupils to whom any of the definitions included in Education Code section 42238.01 apply.*

**§ XXX3. Options for Local Educational Agencies to Demonstrate Increased or Improved Services for Unduplicated Pupils in Proportion to the Increase in Funds Apportioned for Supplemental and Concentration Grants.**

*(a) A local educational agency shall provide evidence in its local control and accountability plan, using the template adopted by the State Board of Education, to demonstrate increased or improved services for unduplicated pupils as required by paragraph (1) of subdivision (a) of Education Code section 42238.07 by describing how the local educational agency expends funds in accordance with of the following options:*

- (1) Spend more on services for unduplicated pupils in proportion to the increase in supplemental and concentration grant funds over the amount spent in the prior year.*
- (2) Provide more, or improve, services for unduplicated pupils in proportion to the increase in supplemental and concentration grant funds. These services may include, but are not limited to, expanding existing services, extending learning time, increasing learning options, or providing professional development opportunities.*
- (3) Achieve more for unduplicated pupils in proportion to the increase in supplemental and concentration grant funds. Local educational agencies may demonstrate an increase in achievement by providing evidence of achievement in the applicable state priorities referenced in subdivision (d) of Education Code Section 52060, subdivision (d) of Education Code Section 52066, and subparagraph (B) of paragraph (5) of subdivision (b) of Education Code Section 47605, including a description of the increase in achievement for unduplicated pupils in proportion to the increase in supplemental and concentration grant funds.*

*(b) Pursuant to paragraph (2) of subdivision (a) of Education Code section 42238.07, local educational agencies are authorized to use the funds apportioned for the purposes provided on the basis of the number of unduplicated pupils for schoolwide purposes, for school districts, districtwide purposes, for county offices of education, countywide purposes, or for charter schools, charterwide purposes, in a manner that is no more restrictive than the restrictions provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.).*

## Examples of Spend More, Provide More, Achieve More

WestEd provided non-binding examples of how LEAs may provide evidence of the selected option to demonstrate “increased or improved services for unduplicated pupils in proportion to the increase in funds apportioned.” (EC 42238.07)

### Spend More

The following is an example of how an LEA may demonstrate the “spend more” option. This example is one way this could be demonstrated and is not intended to serve as guidance or direction.

#### ***Increase Spending Relative to the Proportion of Local Control Funding Formula Base and Supplemental Funding***

For increased funding attributable to the LCFF above the prior year (i.e., incremental increase attributable to the LCFF), calculate the proportion of “new” funding that is provided as base versus supplemental/concentration. Add this amount to the prior year level of spending for students in need (e.g., low income, English learners, and foster youth) in the relative ratio of such funding at the LCFF target (full implementation). At full implementation the amount spent will meet or exceed the target for the supplemental/concentration funding level.

### Provide More

The following are examples of how an LEA may demonstrate the “provide more” option. These examples are not intended to serve as guidance or direction.

Add or improve services to provide more to unduplicated students; examples include, but are not limited to:

- Extend learning time for unduplicated pupils: Add learning time through summer school, intersession, and/or before- or after-school programs.
- Increase learning options: Add specialized programs and/or staff (e.g., intervention support, instructional aides, reduced class sizes, and technology support) to increase support for unduplicated pupils.
- Offer targeted professional development: Some or all teachers participate in professional development to improve learning support for unduplicated pupils.
- Provide supplemental learning materials: Provide print, technology, equipment, and/or supplies to address learning needs of unduplicated pupils.

### Achieve More

The following option is an example of how local educational agencies (LEAs) may demonstrate the “achieve more” option. This example is not intended to serve as guidance or direction.

Provide evidence of significant growth in the preceding two- or more year period for unduplicated pupils, as documented by state or local data indicating student performance on the Local Control Funding Formula (LCFF) state priorities as identified in *Education Code* sections 52060(d), 52066(d), or 47605(b)(5)(B) for the local educational agency.

## Education Code Requirement for LCFF Spending Regulations

Education Code Section 42238.07

*(a) On or before January 31, 2014, the state board shall adopt regulations that govern the expenditure of funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Sections 2574, 2575, 42238.02, and 42238.03. The regulations shall include, but are not limited to, provisions that do all of the following:*

*(1) Require a school district, county office of education, or charter school to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils in the school district, county office of education, or charter school.*

*(2) Authorize a school district, county office of education, or charter school to use funds apportioned on the basis of the number of unduplicated pupils for schoolwide purposes, or, for school districts, districtwide purposes, for county offices of education, countywide purposes, or for charter schools, charterwide purposes, in a manner that is no more restrictive than the restrictions provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.).*

*(b) The state board may adopt emergency regulations for purposes of this section*

## LCFF and LCAP Timelines

The SBE is required to review and take action on the following:

- **On or before January 1, 2014**, the SBE must review for approval the updated standards and criteria for use by LEAs in the adoption of local budgets.
- **Before January 30, 2014**, the SBE must review for approval any changes that the Public School Accountability Act Advisory Committee (PSAA) recommends to the Academic Performance Index (API) after a review of LCFF statute to ensure current regulations on assignment of accountability data to districts of residence are consistent with LCFF funding and accountability provisions. The PSAA advisory committee will meet on December 9, 2013, to finalize its recommendations to the SPI and SBE. Recommendations will be presented to the board no later than the January, 2014.
- **By January 31, 2014**, the SBE must review for approval spending regulations that clarify how expenditures of funds should be managed to demonstrate compliance. The final draft of spending regulations will be presented to the board for approval of emergency regulations and commencement of the rule making process at the January 2014 SBE meeting.
- **On or before March 31, 2014**, the SBE must review for approval the LCAP templates for use by LEAs to support local adoption and annual review of the LCAP.
- **On or before October 1, 2015**, the SBE must review for approval evaluation rubrics that provide a “holistic multidimensional assessment” of LEA strengths and weaknesses to be used by entities providing technical assistance and evaluating LEAs that may need intervention. (EC 52064.5)