



January 8, 2016

President Michael Kirst and Board Members
California State Board of Education
1430 N Street, Room #5111
Sacramento, CA 95814

RE: State Board Agenda Item #2 – January 13, 2016

Dear President Kirst and Board Members:

I write regarding agenda Item 2, the new accountability system, and academic achievement. As we communicated in our August 28, 2015 letter and again on October 30, 2015, the department and its consultants' recommendation for the state to ignore actual academic achievement results of millions of students in 12 out of 14 grade levels in reading and math from mandatory state tests is entirely unacceptable.

President Obama's signature last month on the overwhelmingly bipartisan Every Student Succeeds Act (ESSA), and the one-year extension granted by the Legislature to address its mandate to approve evaluation rubrics and standards for school district and individual school site performance underscore the obligation of the Board to establish common sense policies relating to transparency at the school level, including reporting on academic achievement, monitoring subgroups, equity and closing of achievement gaps, and establishing absolute standards, standards for growth, and the other elements that EdVoice has previously identified as blatantly omitted or postponed in the accountability framework planning to date.

The recent enactment of ESSA provides a timely opportunity for the state to establish a single unified accountability system addressing California's priorities and the mandatory minimum federal accountability requirements. With your leadership, California can welcome this moment as the opportunity to establish a coherent state/federal accountability system that avoids the missteps, challenges and confusion raised by the previous sometimes dueling API/AYP systems operational in California for over a decade.

Robert Kennedy's remarks in 1965 on the relevance of academic transparency and accountability in ESEA are still relevant today, "...if you are placing or putting money into a school system which itself creates this problem [of not educating poor and minority kids well], or helps to create it, or does nothing or very little to alleviate it, are we not just in fact wasting the money...? All I suggest is that we can do something to make sure that we have the highest standards as possible...we are making progress in each of these communities...have some kind of system of reporting...people at the local community would know periodically as to what progress had been made under the program."

We believe the following issues need immediate attention and action by the Board.

Will the State “Meaningfully” Differentiate All Schools Annually?

Under ESSA, California must have a meaningful mechanism to annually gauge performance of individual schools so parents, community members and policy makers know the actual progress toward the state adopted academic content standards, and all the other key state priorities. To realize the promise of LCFF and an equitable educational opportunity for every child, particularly for students in poverty, English learners and foster youth, parents, guardians and community members must have meaningful and actionable school-level data to engage in LCAPs and local budget planning. State and local policy makers must have an objective mechanism, including relevant academic achievement data, to identify struggling schools in need of comprehensive support and improvement so that necessary program adjustments will be made.

As we have previously maintained, this basic approach to transparency and accountability is already required by state law, and now is also re-codified in the new ESSA, which explicitly mandates the State to, “establish a system of **meaningfully** differentiating, on an annual basis, all public schools in the State.”(SEC 1111(c)(4)(C)) Perhaps most significant for the Board to consider are the ESSA provisions on academic achievement and equity, which explicitly require that the mandatory mechanism developed to annually meaningfully differentiate all schools give “**much greater weight**” to “**academic achievement**”, including academic achievement “**growth**”, as specified, and include any school in which **any subgroup** of students is consistently underperforming. (SEC 1111(c)(4)(C)(i)(I) and (II))

Through formal rulemaking as the State Educational Agency (SEA), the Board has a great deal of authority to harmonize existing LCFF, LCAP and API statutes with federal law and address the “greater weight,” “academic achievement,” “meaningful differentiation” and other new mandatory federal law provisions. And, under California law, it appears the Board can prioritize the workload and provide direction to staff to develop a mechanism to utilize the API, LCFF, LCAP and other operative statutes to harmonize with the ESSA and begin the work of differentially gauging performance of **every school, ensuring that academic achievement receives the greatest weight**. In the alternative, the Board may consider urgency legislation providing additional or modified statutory authority to proceed.

Regardless, unnecessary misunderstanding regarding existing publicly available data, transparency and accountability requirements and authorities should be also be publicly addressed. Despite erroneous suggestions that the “API is gone,” current operative California law mandates the calculation and use of API scores beginning in 2015-16. In fact the API is explicitly written into the new LCFF law, and a recent opinion from the Legislative Counsel makes clear, “on their face, sections 52052 and 60640 require the API to be calculated using the CAASPP results. There is nothing in sections 52052 and 60640, nor in the legislative history of A.B. 484, that indicates that API scores are no longer calculated for and provided to schools and school districts.”

Will the Board Make Sure Academic Achievement Has the Greatest Weight?

As noted above, the new ESSA codifies the common sense policy to ensure academic achievement matters most. And, as we noted in previous correspondence in August and October, 2015, we believe the department recommendations and background material to date on this subject has been woefully incomplete at best and now is exposed as clearly inconsistent and incompatible with the new requirements in federal law. Unless California intends to return to the days of dueling accountability systems and inconsistent school level rankings and labels, the Board must explicitly direct the development of a harmonized mechanism that satisfies federal law by establishing a “much greater weight” to measures of academic achievement, growth, graduation rates and related robust academic measures when making annual meaningful differentiation of schools so parents and the public know whether schools are working for all students and subgroups of students to be on-track at grade level and ultimately on a path to achieve college and career readiness.

Will the “State” Comply with California and Federal Law and the State Constitution?

Recent discussions regarding LCFF evaluation rubric, accountability, and continuous improvement support have focused predominately on district and county continuous improvement models. The state’s role has largely been obfuscated with respect to its constitutional responsibility to protect the individual rights of every child in every school. And, the work on accountability continues to skirt the state-law mandate to set standards for achievement and growth for individual **schools** in each of the state priority areas in the LCFF statute, including pupil academic achievement and subject area pupil outcomes for **every school**.

Nonetheless, the new ESSA unambiguously mandates **state-level** activities to, “establish a State-determined methodology to identify...**schools**...for comprehensive support and improvement.”(SEC. 1111(c)(4)(D)(i)) And, ESSA requires the **state** to identify at a minimum, the lowest performing 5% of all schools, all high schools failing to graduate one third or more of their students, all schools that fail to improve in a **state-determined** number of years and all **schools identified by the state** for comprehensive support and improvement.

Harmonizing ESSA/LCFF and LCAP in 2016 will help ensure that every student has an equitable opportunity to learn. As a matter of law, the Board should re-double its efforts to provide leadership and explicit direction to the department staff and outside consultants to address the heretofore incomplete work to meet state and federal deadlines in 2016. And, with respect to the lofty promises of LCFF and risk to challenges of the constitutionality of the LCFF supplemental and concentration grant scheme as applied, there is much work to do. The state cannot continue to claim that LCFF is providing extra help to disadvantaged students when it drops money in the form of a dump truck to district headquarters, instead of backpacks to the actual school sites, and then fails to provide any transparency or cohesive local-state mechanism to monitor or referee allocations of the extra resources to determine if the extra help ever arrived in the classrooms with students in poverty, English learners and foster youth at the schools and programs where these students are actually enrolled or that it has resulted in their improved academic outcomes and closing achievement gaps.

Improvements in State-Level Reporting and Data Systems Are Needed

In order to comply with ESSA and be used in a state-level accountability system, metrics must be based on data that is: (a) collected statewide, (b) comparable statewide, and (c) capable of being disaggregated by subgroup. Many of the metrics required by LCFF under the eight state priorities and discussed in 2015 as potential indicators in the proposed draft evaluation rubrics do not meet these criteria. Statewide attendance data, for example, is not disaggregated by subgroup. Yet some LEAs such as the CORE districts serving over 15% of the state's enrollment have already built and utilize data systems more comprehensive than the state's. The Board should direct staff to provide a detailed analysis of data system needs, identify state-level shortcomings and opportunities to leverage local systems to facilitate the development of a comprehensive system to support a unified LCFF/ESSA accountability system and data reporting requirements.

Decisive Actions and Direction Needed Now

California is now faced with state and federal deadlines and the quandary of super majority urgency legislation, if any, to adjust authorities to enable the state to meet explicit mandates for transparency and accountability and preserve the promise of LCFF. Without transparency of resources at the site level, nor any state-level monitoring of academic results of students and student subgroups at **every school**, the state cannot demonstrate it is meeting its constitutional responsibility to oversee a statewide system of public education that ensures every child has access to an equitable opportunity to learn. The longer the state delays in implementing basic transparency and accountability, the greater the risk it cannot demonstrate LCFF meets the constitutional standard of equity, as applied.

As the policy making body for K-12 education in California, the Board must direct the department to develop recommendations that respond minimally to the common sense federal requirements and move away from multiple opaque and unreliable mind-numbing acronym-filled measures that downplay academic achievement and hide behind "continuous improvement" as the new mantra for safe harbor protection of the status quo and school improvement consultant full employment programs. This cannot be tolerated for schools evidencing the most obvious ongoing academic failure to children in poverty, English learners and foster youth. A system design that tolerates known ongoing persistent academic failure, high academic achievement gaps, high dropout rates, and high remediation rates, particularly among these students is not acceptable and not constitutional. California's system of public education will not soon recover from the current ill-advised direction; rather, it's much more likely the proposed scheme will result in direct intervention by the courts.

Respectfully,



Bill Lucia

President & CEO

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