



Education Legal Alliance



Butte County SELPA
Butte County Special Education Local Plan Area



December 19, 2008

To: All School District Superintendents, County Superintendents of Schools, and SELPA Directors

From: Richard Hamilton, Associate General Counsel and Director, Education Legal Alliance, California School Boards Association

Re: Approval of Special Education Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim Settlement

We are pleased to announce that the State and school test claimants San Diego USD, Butte COE and San Joaquin COE have agreed on a settlement for the Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim. The legislation which is the source of the claim requires school agencies to develop behavioral intervention plans for special education students with serious behavioral problems.

We believe this is a fair settlement and look forward to your participation. We are requesting that you place approval of this settlement on your school board, county board, or SELPA board agenda in January or February. Enclosed are the following documents related to your approval of the settlement.

- Notice to LEAs with original and copy of a Waiver plus a self-addressed return envelope
- Sample board agenda item language
- Draft resolution
- Settlement Agreement with waiver and draft legislation attached

In order to trigger the obligation by the Legislature to enact the funding, at least 85% of all school districts, county offices of education (COEs) and SELPAs, constituting 92% of statewide ADA, must approve the waiver, sign it, and return it to me by February 27, 2009.

In approving the resolution, school boards will be enabling their districts to share in ongoing increased AB 602 funding for each SELPA of about \$10.924857 per ADA starting 2009-10 and receive an additional estimated \$ 14.851782 per ADA for the general fund each year for six years commencing 2011-12 through 2016-17. In exchange for the state funding, your board must waive its right to file mandated cost claims on the Hughes Bill mandate, thus, in effect, conceding that this mandate is fully funded by virtue of this legislation. Thus, districts will be reimbursed for the costs of this mandate without filing annual mandate claims, which are subject to audits and other procedural hurdles.

Similar detail regarding per ADA funding for SELPAs and COEs is available on the next page under "Settlement Terms".

This settlement is modeled on the Special Education Mandated Cost Settlement which 100% of LEAs approved in January 2001. We hope to achieve a similar result here.

CSBA's Education Legal Alliance was proud to support the efforts leading to the settlement, funding the services of Fagen Friedman & Fulfro, Diana McDonough, Of Counsel, to reach this agreement. We are also grateful for the efforts of 29 SELPAs throughout the State who volunteered to collect extensive data on this mandate. Their information was key to the resolution.

The Settlement Terms

This settlement provides a permanent increase in special education funds to cover Hughes Bill costs in the future, allocated as follows:

- \$65 million as a permanent increase to the AB 602 funding base effective 2009-10. Each SELPA's funding rate will increase by about \$10.924857 per 2008-09 P-2 ADA. COLA and growth will be added in 2010-11 and thereafter, to the extent it is added to AB 602 generally.

This settlement also provides \$520 million in general fund reimbursement for past special education Hughes Bill costs and is allocated as follows:

- \$510 million to school districts at \$85 million per year over 6 years commencing 2011-12 through 2016-17 based on 2007-08 P-2 ADA. This amount translates to about \$14.851782 per unit of 2007-08 P-2 ADA for each of the 6 years;
- \$1.5 million to COEs in 2009-10 based on December, 2007 special education pupil count, with no COE receiving less than \$5,000. This amount translates to about \$35.056558 per county special education pupil according to the December 2007 pupil count;
- \$6 million to SELPAs in 2009-10 based on December, 2007 special education pupil count, with no SELPA receiving less than \$10,000. This amount translates to about \$8.850014 per special education pupil according to the December 2007 pupil count; and
- \$2.5 million for administrative and legal costs incurred by the test claimants since 1994, including reimbursement to CSBA's Education Legal Alliance for legal fees and to the 29 SELPAs for the costs of completing the surveys.

Steps Required for Implementation

The above will be implemented contingent on the following:

1. 85% of all LEAs (school districts, COEs and SELPAs), representing 92% of statewide ADA sign a waiver agreeing to waive their rights to contest the settlement and to file any claim regarding Hughes Bill legislation and regulations and
2. The parties (test claimants and the State) will seek a superior court ruling that the settlement is final and binding on all LEAs and
3. Legislation is enacted appropriating the necessary funds for 2009-10 and placing ongoing funding in statute.

Please Note: you are only responsible for # 1.

Action To Be Taken By Your District, County Office or SELPA:

The following is an outline of action required:

1. Read the "Notice to LEAs" and "Waiver"; consult your attorneys as needed.
2. Place the matter on your school board, county board or SELPA board's agenda in January or February. Include the "Resolution" and "Notice to LEAs" in the board packet. (You may include the entire settlement document if you wish.) Conform the Agenda item and Resolution to your district, COE or SELPA. To do so, the documents are available on CSBA's website at <http://www.csba.org/LegislationAndLegal/Legal/ELAUUpdates.aspx> under "Legal Resources." To insert the estimated dollar amounts your district, COE or SELPA will receive into the Agenda item and Resolution go to the School Services of California website at <http://www.sscal.com/> where the amounts have been calculated for your use.
3. Adopt the Board resolution.
4. Sign and date the original waiver and return it to me in the enclosed self-addressed envelope.

Richard Hamilton
California School Boards Association
3100 Beacon Blvd.
West Sacramento, CA 95691

Please send the documents to me no later than **Friday, February 27, 2009**. Thank you, in advance, for attending to this in an expeditious manner.

Should you have questions regarding the above information, please email Carol Cox at ccox@csba.org and me at rhamilton@csba.org.

Below is a list of those SELPAs who provided the data. We are grateful to them for their willingness to join us in this important endeavor.

Butte County	Modoc County	Stanislaus County
Calaveras County	Mono County	Tehama County
Clovis Unified School District	North Region	Tri-City
El Dorado County	Poway Unified School District	Tuolumne County
Fresno County	Sacramento City Unified School District	Ventura
Fresno Unified School District	San Diego South	West End
Glenn County	San Diego Unified	West Orange
Greater Anaheim	San Joaquin County	Yolo County
Inyo County	Solano County	
Lodi Area	Sonoma County	
Marin County		

Enclosures:

- 1) Notice to LEAs w/waivers and self-addressed envelope
- 2) Agenda item
- 3) Draft resolution
- 4) Settlement Agreement

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