



TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

CALIFORNIA
DEPARTMENT OF
EDUCATION

September 13, 2011

Dear County and District Superintendents, Special Education Local Plan Area Directors, Special Education Administrators at County Offices of Education, Charter School Administrators, Principals, and Nonpublic School Directors:

ASSEMBLY BILL 114: AVAILABLE FUNDING SOURCES AND SPENDING PARAMETERS

On June 30, 2011, Assembly Bill 114, Chapter 43, Statutes of 2011 was signed into law. Under AB 114, several sections of Chapter 26.5 of the California *Government Code* (GC) were amended or rendered inoperative, thereby ending the state mandate on county mental health agencies to provide mental health services to students with disabilities. With the passage of AB 114, it is clear that local educational agencies (LEAs) are now solely responsible for ensuring that students with disabilities receive special educational and related services, including some services previously arranged for or provided by county mental health agencies. The Budget Act of 2011–12 established four specific funding sources to support the provision of mental health related services. This guidance provides information on each of these fund sources, as well as the purpose, parameters, reporting requirements, and distribution details concerning each source.

1. Federal Special Education Local Assistance Funding (Provision 9 of Budget Item Number 6110-161-0890)

The state is distributing \$69 million in federal Individuals with Disabilities Education Act (IDEA) funding only for the purpose of providing mental health related services, including out-of-home residential services for emotionally disturbed pupils, required by an individualized education program (IEP) pursuant to the IDEA and described by *Education Code* (EC) §56363. The California Department of Education (CDE) distributed these funds to special education local plan areas (SELPAs) on July 15, 2011, on a weighted basis using data available from the California Special Education Management Information System (CASEMIS) as of December 1, 2010.

To initiate this grant funding, SELPAs were required to provide the CDE with a signed grant assurance document. SELPAs are also required to file periodic fiscal expenditure reports. Each SELPA grant award notice provides the grant amount and the specific resource code(s) to use to account for these funds. After CDE

receives a signed grant assurance document from the SELPA, the SELPA receives an initial payment equal to 50 percent of the grant award. Subsequent payments to SELPAs shall be made on the basis of documentation which must provide sufficient detail to enable the grantee to establish a link between the services claimed and the student's IEP. The grant period for funding is July 1, 2011, through September 30, 2013.

**2. State Proposition 98 Special Education Local Assistance Funding
(Provisions 18 and 26 of Budget Item Number 6110-161-0001)**

The state is distributing \$249,786,000 in Proposition 98 funding solely for the purpose of providing mental health related services, including out-of-home residential services for emotionally disturbed pupils, required by the federal IDEA and as described in Section 56363 of the *EC*. The CDE is distributing these funds to SELPAs on an equal amount per Average Daily Attendance (ADA) reported for the 2011–12 second principal apportionment (P–2).

These funds are allocated to SELPAs through an apportionment process. CDE anticipates the distribution of these funds to be by October 1, 2011. SELPAs will receive an initial apportionment of 50 percent of the appropriated \$5,942,644.82 on the basis of the 2010–11 P–2 statewide SELPA ADA. An adjustment will be made for the Los Angeles Juvenile Court and Community School SELPA. The initial rates will be approximately \$0.39 per ADA for the Los Angeles Juvenile Court and Community School SELPA and \$41.90 per ADA for all other SELPAs. A second apportionment of 25 percent of the appropriated funds will be made in spring 2012. In summer 2012, adjustments will be made to reflect the ADA reported for the 2011–12 P–2 and the remaining funds will be apportioned.

The CDE will assign a restricted resource code for these funds. Regular reporting requirements will apply concerning the use of these funds.

**3. State Proposition 98 Special Education Local Assistance Funding for
Necessary Small Special Education Local Plan Area Extraordinary Cost Pool
(Provision 27 of Budget Item Number 6110-161-0001)**

The state is distributing \$3 million in Proposition 98 funding to administer an extraordinary cost pool associated with providing mental health related services, including out-of-home residential services for emotionally disturbed pupils. These funds are being distributed through the CDE to necessarily small SELPAs (as defined in *EC* §56212). The allocation method of these funds is pending a formal agreement with the Department of Finance and Legislative Analyst's Office.

This fund source may work in a similar manner to the nonpublic school (NPS) extraordinary cost pool for single payment; the necessarily small SELPAs will submit an application for additional funds to the CDE, and the funds will be allocated as reimbursement on the basis of an approved application. This funding

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is limited to eligible SELPAs and based on actual costs. Specific cost claims will be submitted to the CDE as part of the application for funding. The application submission date is still to be determined.

4. County Mental Health Service Funding Proposition 63 (Budget Item 4440-295-3085)

The state is allocating \$98,586,000 in Proposition 63 funding to provide Handicapped and Disabled Students I and II, and Seriously Emotionally Disturbed Pupils: Out of State Mental Health Services (AB 3632) to special education students. The budget item language stipulates that these funds shall be used exclusively for the purpose of funding IDEA-related mental health services within a special education pupil's IEP during the 2011–12 fiscal year. These funds have been distributed through the California Department of Mental Health to county mental health agencies based on a funding formula determined by the state in consultation with the California Mental Health Director's Association.

The specific allocation formula is based on each county's most recent actual expenditures as reported on the fiscal year (FY) 09–10 Medi-Cal Specialty Mental Health Cost Report MH1912 and SB 90 claim for costs incurred in providing mental health services to special education students, minus Medi-Cal reimbursements.

Pursuant to the budget language, an LEA may develop a Memorandum of Understanding (MOU) or contract with its county mental health agency to access this funding to address the provision of mental health services in pupils' IEPs. In such cases, the LEA shall provide a copy of the MOU or contract to the CDE. The budget language requires that counties use the funds for the purpose stated above or counties "shall return the funding to the state for reallocation to other counties."

If you have any questions regarding this subject, please contact the Policy and Program Services Unit, Special Education Division, by phone at 916-323-2409.

Sincerely,

Original signed by Fred Balcom. Hard copy of the signed document is available by contacting the Special Education Division's Director's Office at 916-445-4602.

Fred Balcom, Director
Special Education Division

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