



Monterey County Office of Education

Dr. Nancy Kotowski
County Superintendent of Schools

District Advisory and Financial Services
Finance and Business Services

Bulletin No. 14-009

To: Chief Business Officials and Fiscal Directors
From: Colleen Stanley, Executive Director of Finance
Date: October 10, 2013
Re: **Behavioral Intervention Plans Mandated Cost Claims**

The Commission on State Mandates has recently adopted guidelines for the Behavioral Intervention Plans (BIP)/Hughes Bill mandated cost claim.

Initial reimbursement claims must be filed within 120 days from the date the claiming instructions were issued by the State Controller's Office. Costs incurred for compliance with this mandate are reimbursable for fiscal years 1993-94 through 2011-12 and must be filed with the State Controller's Office by November 21, 2013.

Fagen, Friedman & Fulfroost, on behalf of CSBA's Education Legal Alliance has offered some direction in regards to filing these claims. Attached is their memo dated September 5, 2013.

We recommend that you contact your mandated cost claim preparers and determine whether or not your district should file a claim for this mandate keeping in mind that the deadline to file is November 21, 2013.

If you have any questions please contact me at cstanley@monterey.k12.ca.us or 831-755-0308.



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MEMORANDUM

TO: SELPA Directors

FROM: Fagen, Friedman & Fulfroft on behalf of CSBA's Education Legal Alliance

DATE: September 5, 2013

RE: **BIP/Hughes Bill Mandated Cost Claiming**

On April 19, 2013 the Commission on State Mandates adopted parameters and guidelines for the BIP/Hughes Bill mandated cost claim. The Commission adopted standardized reimbursement rates for claims in 1993-94 through 2011-12, but required claimants to file claims based on actual costs commencing in 2012-13. The standardized reimbursement rates are \$.32818 for SELPA one-time start-up costs, likely incurred in 1993-94, and \$1.18702 for SELPA ongoing costs. The district and COE ongoing cost rate is \$9.45701. These figures are based on 2006-07 numbers.

The State Controller's Office issued claiming instructions based on these figures. The claiming instructions include a table showing the applicable standardized rate for each year, calculated to take into account inflation or deflation based on the 2006-07 figure. Claims for the period 1993-94 – 2011-12 are required to be filed with the State Controller by November 21, 2013. Claims based on actual costs for the 2012-13 year must be filed by February 18, 2014.

BIG PICTURE

1. Filing a claim does not mean you will get money. No money will be coming unless and until the Legislature acts on it and the Governor signs it. However, just like the lottery, you can't win if you don't play – i.e. if funds are authorized and you have not filed a claim, you will get nothing.

2. The likelihood of recovery, especially when balanced against the effort, depends on the year:

--1993-94 through 2009-2010. These years are the simplest as you can make a claim based on the standardized reimbursement rate. The reimbursement for these claim years is limited to the amount of encroachment. In other words, if you covered all special education expenses, including BIP/Hughes Bill costs, without dipping into the general fund, then you will recover nothing. However, your BIP costs are recoverable to the extent they encroached on your

reimbursement figures. Offsets apply differently to SELPAs, COEs, and Districts. Our discussion below applies to 1993-94 through 2009-10 since the requirement commencing in 2010-11 that special education revenues be used first towards BIP costs eliminates most claims entirely.

For SELPAs. Because SELPAs have no general fund, they have no encroachment. Thus, limiting recovery to encroachment levels is a serious problem. As a matter of fact, SELPAs bill back to districts, or in some other way adjust the budget if necessary to cover costs. For a multi-district SELPA it is therefore likely impossible to trace that bill back and use the SELPA standardized rate to recover. For a single district SELPA, hopefully, that will not be the case.

For COEs. COEs can claim in the same way a district can for its own ADA, such as students in Juvenile Court School (or any other legally claimable ADA). To recover, COEs will need to show encroachment on the general fund.

For Districts. Hopefully locating encroachment will not be hard and likely you have it. Check your district records first; your COE may also have encroachment data. From 1998 to the present, consult your SACS codes for this information. For pre-1998 encroachment data, and if all else fails, check your audit reports.

CONTROLLER'S FORMS

Please note that advice on filling out the Controller's forms is really beyond our expertise. We suggest you rely on your own claiming advisers, SELPA finance gurus, and good sense.