



**JOHN CHIANG**  
California State Controller

October 3, 2014

**RECEIVED**  
October 03, 2014  
**Commission on  
State Mandates**

**LATE FILING**

Heather Halsey  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: **Notice of Complete Filing**  
Incorrect Reduction Claim (IRC), 12-9705-I-04  
*Seriously Emotionally Disturbed (SED) Pupils: Out-of-State  
Mental Health Services (97-TC-05)*  
Government Code Section 7576; Statutes 1996, Chapter 654  
Fiscal Years: 2003-2004, 2004-2005, and 2005-2006  
County of Los Angeles, Claimant

Dear Ms. Halsey:

The State Controller's Office is transmitting our response to the above-entitled IRC.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

JIM L. SPANO, Chief  
Mandated Cost Audits Bureau  
Division of Audits

**RESPONSE BY THE STATE CONTROLLER'S OFFICE  
TO THE INCORRECT REDUCTION CLAIM (IRC) BY  
LOS ANGELES COUNTY**

**Seriously Emotionally Disturbed Pupils:  
Out-of-State Mental Health Services Program**

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Note: References to Exhibits relate to the county’s IRC filed on May 7, 2013, as follows:

- Exhibit A – PDF page 10
- Exhibit B – PDF page 26
- Exhibit C – PDF page 35
- Exhibit D – PDF page 55

## **Tab 1**

1 **OFFICE OF THE STATE CONTROLLER**

300 Capitol Mall, Suite 1850

2 Sacramento, CA 94250

3 Telephone No.: (916) 445-6854

4 BEFORE THE

5 COMMISSION ON STATE MANDATES

6 STATE OF CALIFORNIA

9  
10 INCORRECT REDUCTION CLAIM ON:

11 Seriously Emotionally Disturbed Pupils: Out-  
12 of-State Mental Health Services Program

13 Chapter 654, Statutes of 1996

14 LOS ANGELES COUNTY, Claimant

No.: CSM 12-9705-I-04

AFFIDAVIT OF BUREAU CHIEF

15  
16 I, Jim L. Spano, make the following declarations:

- 17 1) I am an employee of the State Controller's Office (SCO) and am over the age of 18  
18 years.
- 19 2) I am currently employed as a Bureau Chief, and have been so since April 21, 2000.  
Before that, I was employed as an audit manager for two years and three months.
- 20 3) I am a California Certified Public Accountant (CPA).
- 21 4) I reviewed the work performed by the SCO auditor.
- 22 5) Any attached copies of records are true copies of records, as provided by the Los  
23 Angeles County or retained at our place of business.
- 24 6) The records include claims for reimbursement, along with any attached supporting  
25 documentation, explanatory letters, or other documents relating to the above-entitled  
Incorrect Reduction Claim.

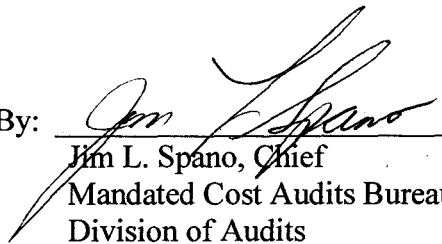
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7) A review of the claims for fiscal year (FY) 2003-04, FY 2004-05 and FY 2005-06 was completed on May 7, 2010.

I do declare that the above declarations are made under penalty of perjury and are true and correct to the best of my knowledge, and that such knowledge is based on personal observation, information, or belief.

Date: August 29, 2014

OFFICE OF THE STATE CONTROLLER

By:   
Jim L. Spano, Chief  
Mandated Cost Audits Bureau  
Division of Audits  
State Controller's Office

## **Tab 2**

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE  
TO THE INCORRECT REDUCTION CLAIM BY  
LOS ANGELES COUNTY**

**For Fiscal Year (FY) 2003-04, FY 2004-05 and FY 2005-06**

**Seriously Emotionally Disturbed Pupils: Out-of-State Mental Health Services Program  
Chapter 654, Statutes of 1996**

**SUMMARY**

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim (IRC) that Los Angeles County filed on May 7, 2013. The SCO audited the county's claims for costs of the legislatively mandated Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services Program for the period of July 1, 2003, through June 30, 2006. The SCO issued its final report on May 7, 2010 (**Exhibit C**).

The county submitted reimbursement claims totaling \$54,952,597—\$15,391,132 for FY 2003-04 (**Tab 3**); \$19,580,271 for FY 2004-05 (**Tab 4**); and \$19,981,194 for FY 2005-06 (**Tab 5**). Subsequently, the SCO audited the claims and determined that \$42,530,422 is allowable and \$12,422,175 is unallowable. The county claimed unallowable costs primarily because it claimed vendor payments for out-of-state residential placement of SED pupils in facilities that are owned and operated for profit.

The following table summarizes the review results:

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustment   |
|--|-------------------------|------------------------|-----------------------|
| <u>July 1, 2003, through June 30, 2004</u>                   |                         |                        |                       |
| Ongoing costs:   |                         |                        |                       |
| Mental health service:                                       |                         |                        |                       |
| Vendor reimbursements  | \$ 20,599,592           | \$ 16,421,363          | \$ (4,178,229)        |
| Case management  | 400,621                 | 400,621                | —                     |
| Travel   | 30,260                  | 30,260                 | —                     |
| Program management   | 15,968                  | 147,287                | (15,968)              |
| Total direct costs   | 21,177,760              | 16,999,531             | (4,178,229)           |
| Total indirect costs   | 620,849                 | 330,779                | (279,070)             |
| Total direct and indirect                                    | 21,798,609              | 17,330,310             | (4,468,299)           |
| Less reimbursements  | (6,407,477)             | (6,301,749)            | 105,728               |
| Total program costs  | <u>\$ 15,391,132</u>    | 11,028,561             | <u>\$ (4,362,571)</u> |
| Less amount paid by the State <sup>1</sup>                   |                         | —                      |                       |
| Allowable costs claimed in excess of (less than) amount paid |                         | <u>\$ 11,028,561</u>   |                       |
| <u>July 1, 2004, through June 30, 2005</u>                   |                         |                        |                       |
| Ongoing costs:   |                         |                        |                       |
| Mental health service:                                       |                         |                        |                       |
| Vendor reimbursements  | \$ 24,628,906           | \$ 19,449,176          | \$ (5,179,730)        |
| Case management  | 523,883                 | 523,883                | —                     |
| Travel   | 32,689                  | 32,689                 | —                     |
| Program management   | 189,852                 | 182,466                | (7,386)               |



| <u>Cost Elements</u>   | <u>Actual Costs<br/>Claimed</u> | <u>Allowable<br/>per Audit</u> | <u>Audit<br/>Adjustment</u> |
|--|---------------------------------|--------------------------------|-----------------------------|
| <u>July 1, 2004, through June 30, 2005 (continued)</u>       |                                 |                                |                             |
| Total direct costs   | 25,375,330                      | 20,188,214                     | (5,187,116)                 |
| Total indirect costs   | <u>688,251</u>                  | <u>421,632</u>                 | <u>(266,619)</u>            |
| Total direct and indirect                                    | 26,063,581                      | 20,609,846                     | (5,453,735)                 |
| Less reimbursements  | <u>(6,483,310)</u>              | <u>(5,230,526)</u>             | <u>1,252,784</u>            |
| Total program costs  | <u>\$ 19,580,271</u>            | 15,379,320                     | <u>\$ (4,362,571)</u>       |
| Less amount paid by the State <sup>1</sup>                   |                                 | <u>(15,379,320)</u>            |                             |
| Allowable costs claimed in excess of (less than) amount paid |                                 | <u>\$ —</u>                    |                             |
| <u>July 1, 2005, through June 30, 2006</u>                   |                                 |                                |                             |
| Ongoing costs:   |                                 |                                |                             |
| Mental health service:                                       |                                 |                                |                             |
| Vendor reimbursements  | \$ 30,710,315                   | \$ 25,046,394                  | \$ (5,663,921)              |
| Case management  | 568,041                         | 568,041                        | —                           |
| Travel   | 22,902                          | 22,902                         | —                           |
| Program management   | <u>171,725</u>                  | <u>162,807</u>                 | <u>(8,918)</u>              |
| Total direct costs   | 31,472,983                      | 25,800,144                     | (5,672,839)                 |
| Total indirect costs   | <u>83,754</u>                   | <u>459,348</u>                 | <u>375,594</u>              |
| Total direct and indirect                                    | 31,556,737                      | 26,259,492                     | (5,297,245)                 |
| Less reimbursements  | <u>(11,575,543)</u>             | <u>(10,136,951)</u>            | <u>1,438,592</u>            |
| Total program costs  | <u>\$ 19,981,194</u>            | 16,122,541                     | <u>\$ (3,858,653)</u>       |
| Less amount paid by the State <sup>1</sup>                   |                                 | <u>(16,122,541)</u>            |                             |
| Allowable costs claimed in excess of (less than) amount paid |                                 | <u>\$ —</u>                    |                             |
| <u>Summary: July 1, 2003, through June 30, 2006</u>          |                                 |                                |                             |
| Ongoing costs:   |                                 |                                |                             |
| Mental health service:                                       |                                 |                                |                             |
| Vendor reimbursements  | \$ 75,938,813                   | \$ 60,916,933                  | \$ (15,021,880)             |
| Case management  | 1,492,545                       | 1,492,545                      | —                           |
| Travel   | 85,851                          | 85,851                         | —                           |
| Program management   | <u>508,864</u>                  | <u>492,560</u>                 | <u>(16,304)</u>             |
| Total direct costs   | 78,026,073                      | 62,987,889                     | (15,038,184)                |
| Total indirect costs   | <u>1,392,854</u>                | <u>1,211,759</u>               | <u>(181,095)</u>            |
| Total direct and indirect                                    | 79,418,927                      | 64,199,648                     | (15,219,279)                |
| Less reimbursements  | <u>(24,466,330)</u>             | <u>(21,669,226)</u>            | <u>2,797,104</u>            |
| Total program costs  | <u>\$ 54,952,597</u>            | 42,530,422                     | <u>\$ (12,422,175)</u>      |
| Less amount paid by the State <sup>1</sup>                   |                                 | <u>(31,501,861)</u>            |                             |
| Allowable costs claimed in excess of (less than) amount paid |                                 | <u>\$ 11,028,561</u>           |                             |

<sup>1</sup> Payment information as of July 25, 2014.

The county challenges the mental health treatment portion of Findings 1 and 3 that relate to the out-of-state residential placement of SED pupils in facilities that are owned and operated for profit. The county contests \$5,746,047 for the audit period—\$1,546,863 for FY 2003-04 (\$1,426,010 in direct costs and \$120,853 in indirect costs), \$12,070,991 for FY 2004-05 (\$1,926,362 in direct costs and \$144,629 in indirect costs), and \$2,128,193 for FY 2005-06 (\$1,973,033 in direct costs and \$155,159 in indirect costs)—as follows:

|                            | Fiscal Year         |                     |                     | Total                |
|----------------------------|---------------------|---------------------|---------------------|----------------------|
|                            | 2003-04             | 2004-05             | 2005-06             |                      |
| Finding 1                  |                     |                     |                     |                      |
| Ineligible placements:     |                     |                     |                     |                      |
| Board-and-care             | \$ 2,732,305        | \$ 3,253,368        | \$ 3,690,888        | \$ 9,676,561         |
| Treatment                  | 1,426,010           | 1,926,362           | 1,973,033           | 5,325,405            |
| Unsupported costs          | 19,914              | —                   | —                   | 19,914               |
| Audit adjustments          | <u>\$ 4,178,229</u> | <u>\$ 5,179,730</u> | <u>\$ 5,663,921</u> | <u>\$ 15,021,880</u> |
| Finding 3                  |                     |                     |                     |                      |
| Treatment                  | \$ 1,426,010        | \$ 1,926,362        | \$ 1,973,033        |                      |
| Indirect rate <sup>2</sup> | 8.4749%             | 7.5079%             | 7.8640%             |                      |
| Indirect costs             | <u>\$ 120,853</u>   | <u>\$ 144,629</u>   | <u>\$ 155,159</u>   | <u>\$ 420,642</u>    |

<sup>2</sup> County used incorrect indirect cost rates to compute associated indirect costs.

# **I. SCO REBUTTAL TO STATEMENT OF DISPUTE – CLARIFICATION OF REIMBURSABLE ACTIVITIES, CLAIM CRITERIA, AND DOCUMENTATION REQUIREMENTS**

## **Parameters and Guidelines**

On May 26, 2000, the Commission on State Mandates (Commission) determined that Chapter 654, Statutes of 1996 imposed a state mandate reimbursable under Government Code section 17561 (**Tab 6**). The Commission adopted the program's parameters and guidelines on October 26, 2000 (**Tab 7**), corrected it on July 21, 2006 (**Tab 8**), and amended it on October 26, 2006 (**Tab 9**). The correction clarified out-of-state residential placement costs of SED pupils, stating that vendor reimbursements include mental health services and board-and-care costs. The amendment relates to the closing out of the program after FY 2005-06. Beginning in FY 2006-07, the program becomes part of the consolidated parameters and guidelines that is made up of the Handicapped and Disabled Students, Handicapped and Disabled Students II, and SED Pupils: Out-of-State Mental Health Services Programs.

Following are excerpts from the SED Pupils: Out-of-State Mental Health Services Program's parameters and guidelines that are applicable to the audit period (**Tab 9**).

Section I, SUMMARY OF MANDATE, provides a summary of the mandate. It states:

## **I. SUMMARY OF MANDATE**

Government Code section 7576, as amended by Statutes of 1996, Chapter 654, established new fiscal and programmatic responsibilities for counties to provide mental health services to Seriously Emotionally Disturbed (SED) pupils placed in out-of-state residential programs. In this regard, Title 2, Division 9, Chapter 1 of the California Code of Regulations, sections 60000 through 60610, were amended to further define counties' fiscal and programmatic responsibilities including those set forth under section 60100 entitled "LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil," providing that residential placements for a SED pupil may be made out-of-state only when no in-state facility can meet the pupil's needs, and under section 60200 entitled "Financial

Responsibilities," detailing county mental health and LEA financial responsibilities regarding the residential placements of SED pupils.

On May 25, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision on the subject test claim, finding the following activities to be reimbursable:

- Payment of out-of state residential placements for SED pupils. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Case management of out-of-state residential placements for SED pupils. Case management includes supervision of mental health treatment and monitoring of psychotropic medications. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, § 60110.)
- Travel to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's Individualized Education Plan (IEP). (Cal. Code Regs., tit. 2, § 60110.)
- Program management, which includes parent notifications, as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivision 60000- 60610. (Gov. Code, § 7576; Cal. Code of Regs., tit. 2, §§ 60100, 60110.)

These parameters and guidelines are effective for reimbursement claims filed for costs incurred through the 2005-2006 fiscal year. Commencing with the 2006-2007 fiscal year, reimbursement claims shall be filed through the consolidated parameters and guidelines for *Handicapped and Disabled Students* (04-RL-4282-10), *Handicapped and Disabled Students II* (02-TC-40/02-TC-49), and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05).

Section III, PERIOD OF REIMBURSEMENT, identifies the reimbursable activities. It states:

### **III. PERIOD OF REIMBURSEMENT**

Section 17557 of the Government Code, prior to its amendment by Statutes of 1998, Chapter 681, stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. This test claim was filed by the County of Los Angeles on December 22, 1997. Statutes of 1996, Chapter 654, was enacted on September 19, 1996 and became effective on January 1, 1997. Therefore, costs incurred in implementing Chapter 654, Statutes of 1996 on or after January 1, 1997, are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

Section IV, REIMBURSABLE ACTIVITIES, identifies the reimbursable activities. It states:

### **IV. REIMBURSABLE ACTIVITIES**

The direct and indirect costs of labor, materials and supplies, contracted services, equipment, training, and travel incurred for the following mandate components are eligible for reimbursement:

#### **A. One-Time Costs**

1. To develop policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.

2. To conduct county staff training on the new policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.

**B. Continuing Costs**

1. **Mental Health Service Vendor Reimbursements**

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

2. **Case Management**

To reimburse counties for case management of SED pupils in out-of-state residential placements, including supervision of mental health treatment and monitoring of psychotropic medications as specified in Government Code section 7576 and Title 2, California Code of Regulations, sub division 60110, including the costs of treatment related litigation (including administrative proceedings) over such issues as placement and the administration of psychotropic medication. Litigation (including administrative proceedings) alleging misconduct by the county or its employees, based in negligence or intentional tort, shall not be included.

3. **Travel**

To reimburse counties for travel costs necessary to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP as specified in Title 2, California Code of Regulations, subdivision 60110.

4. **Program Management**

To reimburse counties for program management costs, which include the costs of parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, sub divisions 60100 and 60110.

Section VI, SUPPORTING DATA, identifies the supporting data that must be maintained. It states:

**VI. SUPPORTING DATA**

For auditing purposes, all costs claimed shall be traceable to source documents (e.g., invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. All claims shall identify the number of pupils in out-of-state residential programs for the costs being claimed.

Section VII, OFFSETTING REVENUES AND OTHER REIMBURSEMENTS, identifies applicable offset requirements. It states:

**VII. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS**

Any offsetting savings the claimant experiences as a direct result of the subject mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim.

## **SCO Claiming Instructions**

In compliance with Government Code section 17558, the SCO issues claiming instructions for mandated programs in order to assist local agencies and school districts in claiming reimbursable costs. The SCO issued claiming instructions for Chapter 654, Statutes of 1996 in January 2001 (**Exhibit B**). The county used this version to file its reimbursement claims (**Tabs 3, 4, and 5**).

## **II. COUNTY OVERSTATED COSTS BY CLAIMING UNALLOWABLE OUT-OF-STATE RESIDENTIAL PLACEMENT COSTS**

### **Issue**

The county IRC contests a portion of Findings 1 and 3 in the SCO's final audit report issued May 7, 2014, related to unallowable out-of-state residential placement of SED pupils in for-profit facilities, consisting of treatment costs of \$5,325,405 and the related indirect costs of \$420,642.

The SCO concluded that vendor payments for residential placement costs resulting from the placement of SED pupils in facilities owned and operated for profit are not reimbursable under the state-mandated program.

The county believes that the treatment portion of residential placement costs resulting from the placement SED pupils in facilities owned and operated for profit are eligible and reimbursable under the state-mandated cost program.

### **SCO Analysis**

The county claimed \$5,746,047 in unallowable costs resulting from the out-of-state residential placement of SED pupils in for-profit facilities. These costs are not reimbursable under the SED Pupils: Out-of-State Mental Health Services Program.

The unallowable costs related to vendor payments for residential placement of clients in for-profit facilities involves ten facilities during the audit period as follows:

- For three of the ten residential facilities—Youth Care of Utah, Inc., Logon River Academy, LLC, and Charter Provo Canyon School, LLC—the county claimed vendor payments made to California nonprofit entities. The California nonprofit entities—Aspen Solutions, Inc. and Mental Health Systems, Inc.—contracted with the for-profit facilities located in Utah to provide residential placement services (**Tabs 12, 13 and 14**). The Youth Care of Utah, Logon River Academy, and Charter Provo Canyon School's Utah residential facilities are not organized and operated on a nonprofit basis.
- For three of the ten residential facilities—Aspen Ranch (**Tab 15**), New Leaf Academy and Sunhawk Academy (**Tab 16**)—the county asserted that the for-profit residential facilities had similar arrangements with Aspen Solutions, Inc. The county did not provide any documentation to support the nonprofit status of the three residential facilities. Further, the county did not provide any documentation illustrating the business relationship between the out-of-state residential facilities and the California nonprofit.
- For four of the ten residential facilities—Grove School, New Haven, Inc., Spring Creek Lodge, and Vista Adolescent Treatment Center—the county did not provide any documentation to support the nonprofit status of the four residential facilities.

The program's parameters and guidelines, Reimbursable Activities section IV. B., applicable to the time period specify the following services eligible for reimbursement (**Tab 9**):

1. Mental Health Service Vendor Reimbursements

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

2. Case Management

To reimburse counties for case management of SED pupils in out-of-state residential placements, including supervision of mental health treatment and monitoring of psychotropic medications as specified in Government Code section 7576 and Title 2, California Code of Regulations, sub division 60110, including the costs of treatment related litigation (including administrative proceedings) over such issues as placement and the administration of psychotropic medication. Litigation (including administrative proceedings) alleging misconduct by the county or its employees, based in negligence or intentional tort, shall not be included.

3. Travel

To reimburse counties for travel costs necessary to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP as specified in Title 2, California Code of Regulations, subdivision 60110.

4. Program Management

To reimburse counties for program management costs, which include the costs of parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, sub divisions 60100 and 60110.

The parameters and guidelines, as noted in item 1 above, provides reimbursement to counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, *California Code of Regulations*, sections 60100 and 60110.

Title 2, *California Code of Regulations*, section 60100, subdivision (h), specifies that out-of-state residential placements shall be made only in residential programs that meet the requirements of Welfare and Institutions Code section 11460(c)(2) through (3) (**Tab 10**). Welfare and Institutions Code section 11460, subdivision (c)(3), states that reimbursement shall only be paid to a group home organized and operated on a nonprofit basis (**Tab 11**).

The parameters and guidelines do not provide reimbursement for out-of-state residential placement of SED pupils in facilities that are owned and operated for profit.

### **County's Response**

The County of Los Angeles Department of Mental Health (LADMH) has filed this IRC because there is no basis to permit the disallowance of vendor costs related to the provision of mental health services to pupils in out-of-state residential placements, even if owned and operated for profit; this is because the statute upon which the SCO based its disallowance applies only to the AFDC-FC rate payment and not to payments made for mental health services.

The SCO disallowed not only the payment for care and supervision but also the payment for mental health services, even though LACDMH was statutorily required under the Government Code to pay for the mental health treatment services for the pupil regardless of whether his or her out-of-state placement was operated on a for- or not-for-profit basis.

Accordingly, this Incorrect Reduction Claim seeks to have the following costs associated with mental health treatment services provided to SED pupils in out-of-state residential placements reinstated:

- Fiscal Year 2003-04: \$1,546,863 (including \$1,426,010 in direct costs and \$120,853 in indirect costs)
- Fiscal Year 2004-05: \$2,070,991 (including \$1,926,362 in direct costs and \$144,629 in indirect costs)
- Fiscal Year 2005-06: \$2,128,193 (including \$1,973,033 in direct costs and \$155,159 in indirect costs)

### **SCO's Comment**

Our objective was to determine whether the costs of the county-filed claims are reimbursable under the program's parameters and guidelines adopted by the Commission. We did not assess the appropriateness or need for services provided in light of federal regulations.

The county's IRC submission contains a few statements that were not accurate; these include an incomplete filing and the related indirect costs.

The county's filing does not include the reimbursement claims filed with the SCO. The exhibit includes the claims prepared by the county's mental health department that were submitted to its auditor-controller (**Exhibit D**). We have included the actual claim forms filed with the SCO as part of our response (**Tabs 3, 4 and 5**). These forms were signed by the county's auditor-controller and submitted to the SCO for reimbursement of state-mandated program costs.

Concerning the indirect cost rates, the county claimed 7.7066% for FY 2003-04, 6.8276% for FY 2004-05, and 0.2227% for FY 2005-06 on its filed mandate claims. However, in its filed IRC, the county indicated that its indirect cost rates are 8.4749% ( $\$120,853 \div \$1,426,010$ ) for FY 2003-04, 7.5079% ( $\$144,629 \div \$1,926,362$ ) for FY 2004-05, and 7.864% ( $\$155,159 \div \$1,973,033$ ) for FY 2005-06. Based on our audit of the claims, we found that actual indirect cost rates were 4.8497% for FY 2003-04, 5.0543% for FY 2004-05, and 4.7072% for FY 2005-06. In its response to the draft audit report, the county agreed with the indirect cost rates we determined to be allowable. The county also did not challenge the indirect cost rates in its IRC. The unallowable indirect costs are \$69,157 for FY 2003-04, \$97,364 for FY 2004-05, and \$92,875 for FY 2005-06 rather than \$120,853 for FY 2003-04, \$144,629 for FY 2004-05, and \$155,159 for FY 2005-06 as shown in its IRC.

A comparison of the rates used is shown in the table below.

|                          | Fiscal Year      |                  |                  | Total             |
|--------------------------|------------------|------------------|------------------|-------------------|
|                          | 2003-04          | 2004-05          | 2005-06          |                   |
| Indirect costs:          |                  |                  |                  |                   |
| Claimed rates            | 7.7066%          | 6.8276%          | 0.2227%          |                   |
| IRC rates                | 8.4749%          | 7.5079%          | 7.864%           |                   |
| Audited rates            | 4.8497%          | 5.0543%          | 4.7072%          |                   |
| Unallowable direct costs | \$ 1,426,010     | \$ 1,926,362     | \$ 1,973,033     |                   |
| Audited rates            | 4.8497%          | 5.0543%          | 4.7072%          |                   |
| Revised indirect costs   | <u>\$ 69,157</u> | <u>\$ 97,364</u> | <u>\$ 92,875</u> | <u>\$ 259,396</u> |

A summary of the county arguments are presented in bold below and our response follows:

- A. Title 2, California Code of Regulations, sections 60100 and 60110 are not applicable for payment of mental health services costs. Further, Government Code section 7576 does not place a restriction on the on the type of facility providing community mental health services, even if located out-of-state.**

The parameters and guidelines (section IV.B.1) specify that the mandate is to reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code of Regulations (CCR), sections 60100 and 60110. Title 2, CCR, section 60100, subdivision (h), specifies that out-of-state residential placements shall be made only in residential programs that meet the requirements of Welfare and Institutions Code section 11460, subdivision (c)(2) through (3). Welfare and Institutions Code section 11460, subdivision (c)(3), states that reimbursement shall only be paid to a group home organized and operated on a nonprofit basis. The program's parameters and guidelines do not provide reimbursement for out-of-state residential placements made outside the regulation.

We do not dispute that Government Code section 7572 requires mental health services to be provided by qualified mental health professionals. As noted in our previous response, the county is prohibited from placing a client in a for-profit facility and the residential placement vendor payments shall be made only to a group home organized and operated on a nonprofit basis. The unallowable treatment and board-and-care vendor payments claimed result from the county placement of clients in prohibited out-of-state residential facilities. Again, the state-mandated program's parameters and guidelines do not include a provision for the county to be reimbursed for vendor payments made to out-of-state residential placements outside of the regulations.

We agree that there is inconsistency between the California law and federal law related to IDEA funds. Furthermore, we do not dispute the assertion that California law is more restrictive than federal law in terms of out-of-state residential placement of SED pupils; however, the fact remains that this is a state-mandated cost program and the county filed a claim seeking reimbursement from the State under the provisions of Title 2, CCR, section 60100.

- B. In regard to special education services, the Education Code section 56366 places no such restriction based on profit status in consideration of the appropriate nonpublic, nonsectarian schools providing educational services.**

We also agree that Education Code sections 56366.1 and 56365 do not restrict local educational agencies (LEAs) from contracting with for-profit schools for educational services. These sections specify that educational services must be provided by a school certified by the California Department of Education.

Nevertheless, the fact remains that this is a state-mandated cost program and the county filed a claim seeking reimbursement from the State under the provisions of Title 2, CCR, section 60100, and Welfare and Institutions Code section 11460, subdivision (c)(3). Residential placements made outside of the regulation are not reimbursable under state-mandated cost program.

### **III. CONCLUSION**

The SCO audited Los Angeles County's claims for costs of the legislatively mandated SED Pupils: Out-of-State Mental Health Services Program (Chapter 654, Statutes of 1996) for the period of July 1, 2003, through June 30, 2006. The county claimed \$54,952,597 for the mandated program. Our audit disclosed that \$42,530,422 is allowable and \$12,422,175 is unallowable. The costs are unallowable because the county claimed ineligible vendor payments for out-of-state residential



placements of SED pupils in facilities that are owned and operated for profit; claimed unsupported residential placement and program management costs; applied incorrect indirect cost rates to ineligible and unsupported costs; applied offsetting reimbursements toward ineligible direct costs; and did not provide support for portions of program management costs reimbursed by federal, state, and local funds.

The county is challenging the SCO's adjustment totaling \$5,746,047, for the mental health treatment portion of ineligible out-of-state residential placement of SED pupils in facilities that are owned and operated for profit, and the associated indirect costs.

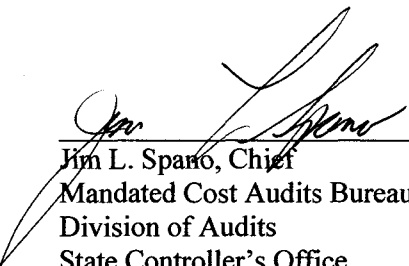
The county is not eligible to receive reimbursement for vendor payments made to ineligible out-of-state residential facilities for the placement of SED pupils. The underlying regulations do not provide for reimbursement of out-of-state residential placements made outside of the regulation. As such, vendor payments to for-profit facilities are not eligible for reimbursement under the state-mandated cost program.

In conclusion, the Commission should find that: (1) the SCO correctly reduced the county's FY 2003-04 claim by \$4,362,571; (2) the SCO correctly reduced the county's FY 2004-05 claim by \$4,200,951; and (3) the SCO correctly reduced the county's FY 2005-06 claim by \$3,858,653.

#### IV. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on August 29, 2014, at Sacramento, California, by:



Jim L. Sparto, Chief  
Mandated Cost Audits Bureau  
Division of Audits  
State Controller's Office

### **Tab 3**

| CLAIM FOR PAYMENT  |  |  | For State Controller Use Only |                           |
|--|--|--|-------------------------------|---------------------------|
| Pursuant to Government Code Section 17561<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES  |  |  | (19) Program Number 50200     |                           |
|  |  |  | (20) Date Filed JAN 05 2005   |                           |
|  |  |  | (21) LRS Input 02125          |                           |
| (01) Claimant Identification Number<br>9919  |  |  | Reimbursement Claim Data      |                           |
| (02) Claimant Name<br>Auditor-Controller   |  |  | (22) SEDP-1, (03)             | 428                       |
| County of Location<br>County of Los Angeles  |  |  | (23) SEDP-1, (04)(A)(1)(f)    | 0                         |
| Street Address or P.O. Box<br>500 West Temple Street, Room 603   |  |  | (24) SEDP-1, (04)(A)(2)(f)    | 0                         |
| City<br>Los Angeles  | State<br>CA  | Zip Code<br>90012                                      | (25) SEDP-1, (04)(B)(1)(f)    | 20,599,592                |
| Type of Claim  | Estimated Claim                                    | Reimbursement Claim                                    | (26) SEDP-1, (04)(B)(2)(f)    | 400,621                   |
|  | (03) Estimated <input checked="" type="checkbox"/> | (09) Reimbursement <input checked="" type="checkbox"/> | (27) SEDP-1, (04)(B)(3)(f)    | 30,260                    |
|  | (04) Combined <input type="checkbox"/>             | (10) Combined <input type="checkbox"/>                 | (28) SEDP-1, (04)(B)(4)(f)    | 147,287                   |
|  | (05) Amended <input type="checkbox"/>              | (11) Amended <input type="checkbox"/>                  | (29) SEDP-1, (06)             | 3                         |
| Fiscal Year of Cost  | (06) 2004-2005                                     | (12) 2003-2004   | (30) SEDP-1, (07)             | 620,849                   |
| Total Claimed Amount   | (07) \$16,930,245                                  | (13) \$15,391,132                                      | (31) SEDP-1, (09)             | 0                         |
| Less: 10% Late Penalty, but not to exceed \$1,000  |  | (14)   | (32) SEDP-1, (10)             | 6,407,477                 |
| Less: Estimated Claim Payment Received   |  | (15)   | (33)                          |                           |
| Net Claimed Amount   | (16) \$16,930,245                                  | (17) \$15,391,132                                      | (34)                          |                           |
| Due from State   | (08) \$16,930,245                                  | (18)   | (35)                          |                           |
| Due to State   |  | (18)   | (36)                          |                           |
| (37) CERTIFICATION OF CLAIM  |  |  |                               |                           |
| <p>In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> |  |  |                               |                           |
| Signature of Authorized Officer  |  |  | Date                          |                           |
| John Naimo FOR   |  |  | 1/3/05                        |                           |
| J. Tyler McCauley  |  |  | Auditor-Controller            |                           |
| Type or Print Name   |  |  | Title                         |                           |
| (38) Name of Contact Person for Claim<br>Leonard Kaye  |  |  | Telephone Number              | (213) 974-8564 Ext.       |
|  |  |  | E-mail Address                | lkaye@auditor.co.la.ca.us |

| MANDATED COSTS  |   |   |                              |                     |                            | FORM SEDP-1  |
|---|---|---|------------------------------|---------------------|----------------------------|--------------|
| SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES<br>CLAIM SUMMARY                           |   |   |                              |                     |                            |              |
| (01) Claimant:<br>COUNTY OF LOS ANGELES /<br>CONSOLIDATED   |   | (02) Type of Claim<br>Reimbursement <input checked="" type="checkbox"/> X<br>Estimated <input type="checkbox"/> |                              |                     | Fiscal Year<br>2003/2004   |              |
| <b>Claim Statistics</b>   |   |   |                              |                     |                            |              |
| (03) Number of pupils placed in out-of-state residential programs in the fiscal year of claim. (* Please see notes below) |   |   |                              |                     |                            | 428          |
| <b>Direct Costs</b>   |   | <b>Object Accounts</b>  |                              |                     |                            |              |
| (04) Reimbursable Components  | (a)<br>Salaries   | (b)<br>Benefits   | (c)<br>Services and Supplies | (d)<br>Fixed Assets | (e)<br>Travel and Training | (f)<br>Total |
| <b>A. One-Time Costs</b>  |   |   |                              |                     |                            |              |
| 1. Develop Policies, Procedures, and Contractual Arrangements   |   |   |                              |                     |                            |              |
| 2. Conduct County Staff Training  |   |   |                              |                     |                            |              |
| <b>B. Ongoing Costs See Schedule 1</b>  |   |   |                              |                     |                            |              |
| 1. Mental Health Service Vendor Reimbursements  | 20,599,592  |   |                              |                     |                            | 20,599,592   |
| 2. Case Management  | 400,621   |   |                              |                     |                            | 400,621      |
| 3. Travel   | 30,260  |   |                              |                     |                            | 30,260       |
| 4. Program Management   | 147,287   |   |                              |                     |                            | 147,287      |
| (05) Total Direct Costs   | 21,177,760  |   |                              |                     |                            | 21,177,760   |
| <b>Indirect Costs</b>   |   |   |                              |                     |                            |              |
| (06) Indirect Cost Rate   | See Tab: "FY 2003/04 Indirect Cost Rate" Schedule                         |   |                              |                     |                            | 2.9316%      |
| (07) Total Indirect Costs   | [Line (06) x line (05)(a)] or [Line (06) x (line (05)(a) + line (05)(b))] |   |                              |                     |                            | 620,849      |
| (08) Total Direct and Indirect Costs  | [Line (05)(f) + line (07)]  |   |                              |                     |                            | 21,798,609   |
| <b>Cost Reduction</b>   |   |   |                              |                     |                            |              |
| (09) Less: Offsetting Savings   |   |   |                              |                     |                            |              |
| (10) Less: Other Reimbursements   | See Schedule 1  |   |                              |                     |                            | 6,407,477    |
| (11) Total Claimed Amount   | [Line (08) - (line (09) + line (10))]                                     |   |                              |                     |                            | 15,391,132   |

Revised 09/03

- \* Note: (1) Includes pupils who had multiple placements during the fiscal year. The unduplicated count is 412.  
 (2) DMH total is 427 while DCFS shows 428. The difference is due to one client who received mental health services funded by a school district in Oregon rather than LAC-DMH.

**SCHEDULE 1**  
**County of Los Angeles Consolidated Chapter 654/96 Claim for 2003-2004**  
**Seriously Emotionally Disturbed Pupils: Out-of State Mental Health Services**

//-----Claimed Costs by County Department-----//

| <u>Reimbursement Component</u>          | <u>Mental Health (MH)</u> | <u>Children &amp; Family Services (DCFS)</u> | <u>Totals</u>       |
|---|---------------------------|--|---------------------|
| Vendor Reimbursement [Note 1]           | \$6,807,951               | \$13,791,641                                 | \$20,599,592        |
| Case Management [Note 2]                | 400,621                   |  | 400,621             |
| Travel [Note 3]                         | 30,260                    |  | 30,260              |
| Program Management [Note 4]             | 86,872                    | 60,415                                       | 147,287             |
| Indirect Cost [Note 5]                  | 620,849                   |  | 620,849             |
| Less: FY 2003-04 State Funding [Note 6] | (866,655)                 | (5,540,822)                                  | (6,407,477)         |
| Totals                                  | <u>\$7,079,898</u>        | <u>\$8,311,234</u>                           | <u>\$15,391,132</u> |

**Notes:**

[1] For MH, See Part I, Attachment 1, page 13 for computation of totals; for DCFS, see Part II, Board & Care Expenditures, page 13.

[2] See Attachment 2, page 15 for computation of totals.

[3] See Attachment 3 for itemization of travel costs.

[4] Sum of \$81,970 [Attachment 4a, page 1] and \$4,902 [Attachment 4b, page 6] = \$86,872

[5] See analysis of costs in Tab " FY 2003/2004 Indirect Cost Rate".

[6] For MH see Part I, 03-04, Federal IDEA Funds; for DCFS see part II, State Fund Revenue Offset, page 1

Sch 1

## **Tab 4**

| CLAIM FOR PAYMENT  |  |  | For State Controller Use Only      |            |
|--|--|--|------------------------------------|------------|
| Pursuant to Government Code Section 17561<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES  |  |  | (19) Program Number 00191          |            |
|  |  |  | (20) Date Filed <b>JAN 17 2006</b> |            |
|  |  |  | (21) LRS Number                    |            |
| (01) Claimant Identification Number<br>9919  |  |  | Reimbursement Claim Data           |            |
| (02) Claimant Name<br><b>Auditor-Controller</b>  |  |  | (22) SEDP-1, (03)                  | 495        |
| County of Location<br><b>County of Los Angeles</b>   |  |  | (23) SEDP-1, (04)(A)(1)(f)         |            |
| Street Address or P.O. Box<br>500 West Temple Street, Room 603   |  |  | (24) SEDP-1, (04)(A)(2)(f)         |            |
| City<br>Los Angeles  | State<br>CA  | Zip Code<br>90012                                      | (25) SEDP-1, (04)(B)(1)(f)         | 24,628,906 |
| Type of Claim  | Estimated Claim                                    | Reimbursement Claim                                    | (26) SEDP-1, (04)(B)(2)(f)         | 523,883    |
|  | (03) Estimated <input checked="" type="checkbox"/> | (09) Reimbursement <input checked="" type="checkbox"/> | (27) SEDP-1, (04)(B)(3)(f)         | 32,689     |
|  | (04) Combined <input type="checkbox"/>             | (10) Combined <input type="checkbox"/>                 | (28) SEDP-1, (04)(B)(4)(f)         | 189,852    |
|  | (05) Amended <input type="checkbox"/>              | (11) Amended <input type="checkbox"/>                  | (29) SEDP-1, (06)                  | 8          |
| Fiscal Year of Cost  | (06) 2005-2006                                     | (12) 2004-2005   | (30) SEDP-1, (07)                  | 688,251    |
| Total Claimed Amount   | (07) \$21,538,298                                  | (13) \$19,580,271                                      | (31) SEDP-1, (09)                  |            |
| Less: 10% Late Penalty, but not to exceed \$1,000  |  | (14)   | (32) SEDP-1, (10)                  | 6,483,310  |
| Less: Estimated Claim Payment Received   |  | (15) \$12,274,184                                      | (33)                               |            |
| Net Claimed Amount   | (16) \$21,538,298                                  | (17) \$7,306,087                                       | (34)                               |            |
| Due from State   | (08) \$21,538,298                                  | (18) \$7,306,087                                       | (35)                               |            |
| Due to State   |  | (18)   | (36)                               |            |
| (37) CERTIFICATION OF CLAIM  |  |  |                                    |            |
| <p>In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> |  |  |                                    |            |
| Signature of Authorized Officer  |  | Date   |                                    |            |
| <i>John Naimo FOR</i>  |  | 1/11/06  |                                    |            |
| J. Tyler McCauley  |  | Auditor-Controller                                     |                                    |            |
| Type or Print Name   |  | Title  |                                    |            |
| (38) Name of Contact Person for Claim<br>Leonard Kaye  |  | Telephone Number                                       | (213) 974-8564                     | Ext.       |
|  |  | E-mail Address   | lkaye@auditor.co.la.ca.us          |            |

| <b>MANDATED COSTS</b><br><b>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:</b><br><b>OUT-OF-STATE MENTAL HEALTH SERVICES</b><br><b>CLAIM SUMMARY</b> |   |  |                                    |                        |                                  | <b>FORM</b><br><b>SEDP-1</b> |
|---|---|--|------------------------------------|------------------------|----------------------------------|------------------------------|
| <b>(01) Claimant:</b><br>COUNTY OF LOS ANGELES /<br>Consolidated  |   | <b>(02) Type of Claim</b><br>Reimbursement <span style="border: 1px solid black; padding: 0 10px;">X</span><br>Estimated <span style="border: 1px solid black; padding: 0 10px;"></span> |                                    |                        | <b>Fiscal Year</b><br>2004/2005  |                              |
| <b>Claim Statistics</b>   |   |  |                                    |                        |                                  |                              |
| <b>(03) Number of pupils placed in out-of-state residential programs in the fiscal year of claim.</b>   |   |  |                                    |                        |                                  | 495                          |
| <b>Direct Costs See Schedule 1</b>  |   | <b>Object Accounts</b>   |                                    |                        |                                  |                              |
| <b>(04) Reimbursable Components</b>   | (a)<br>Salaries   | (b)<br>Benefits  | (c)<br>Services<br>and<br>Supplies | (d)<br>Fixed<br>Assets | (e)<br>Travel<br>and<br>Training | (f)<br>Total                 |
| <b>A. One-Time Costs</b>  |   |  |                                    |                        |                                  |                              |
| 1. Develop Policies, Procedures,<br>and Contractual Arrangements  |   |  |                                    |                        |                                  |                              |
| 2. Conduct County<br>Staff Training   |   |  |                                    |                        |                                  |                              |
| <b>B. Ongoing Costs</b>   |   |  |                                    |                        |                                  |                              |
| 1. Mental Health Service<br>Vendor Reimbursements   | 24,628,906  |  |                                    |                        |                                  | 24,628,906                   |
| 2. Case Management  | 523,883   |  |                                    |                        |                                  | 523,883                      |
| 3. Travel   | 32,689  |  |                                    |                        |                                  | 32,689                       |
| 4. Program Management   | 189,852   |  |                                    |                        |                                  | 189,852                      |
| <b>(05) Total Direct Costs</b>  | 25,375,330  |  |                                    |                        |                                  | 25,375,330                   |
| <b>Indirect Costs</b>   |   |  |                                    |                        |                                  |                              |
| <b>(06) Indirect Cost Rate</b>  | See Tab: "FY 2004/05 Indirect Cost Rate" Schedule                         |  |                                    |                        |                                  | 7.5079%                      |
| <b>(07) Total Indirect Costs</b>  | [Line (06) x line (05)(a)] or [Line (06) x (line (05)(a) + line (05)(b))] |  |                                    |                        |                                  | 688,251                      |
| <b>(08) Total Direct and Indirect Costs</b>   | [Line (05)(f) + line (07)]  |  |                                    |                        |                                  | 26,063,581                   |
| <b>Cost Reduction</b>   |   |  |                                    |                        |                                  |                              |
| <b>(09) Less: Offsetting Savings</b>  |   |  |                                    |                        |                                  |                              |
| <b>(10) Less: Other Reimbursements</b>  |   |  |                                    |                        |                                  | (6,483,310)                  |
| <b>(11) Total Claimed Amount</b>  | [Line (08) - (line (09) + line (10))]                                     |  |                                    |                        |                                  | 19,580,271                   |



**SCHEDULE 1**  
**County of Los Angeles Consolidated Chapter 654/96 Claim for 2004-2005**  
**Seriously Emotionally Disturbed Pupils: Out-of State Mental Health Services**

//-----Claimed Costs by County Department-----//

| <u>Reimbursement Component</u>          | <u>Mental Health (MH)</u> | <u>Children &amp; Family Services (DCFS)</u> | <u>Totals</u>       |
|---|---------------------------|--|---------------------|
| Vendor Reimbursement [Note 1]           | \$8,481,555               | \$16,147,351                                 | \$24,628,906        |
| Case Management [Note 2]                | 523,883                   |  | 523,883             |
| Travel [Note 3]                         | 32,689                    |  | 32,689              |
| Program Management [Note 4]             | 128,929                   | 60,923                                       | 189,852             |
| Indirect Cost [Note 5]                  | 688,251                   |  | 688,251             |
| Less: FY 2003-04 State Funding [Note 6] |                           | (6,483,310)                                  | (6,483,310)         |
| Totals                                  | <u>\$9,855,307</u>        | <u>\$9,724,964</u>                           | <u>\$19,580,271</u> |

**Notes:**

[1] For MH, See Part I, Attachments 1, page 16 for computation of totals, 1a, 1b, and 1c; for DCFS, see Part II, Board & Care Expenditures, page 16, and attachment III.

[2] See Attachment 2, page 19 for computation of totals.

[3] See Attachment 3 for itemization of travel costs.

[4] See MH, Part I, Attachments 4d and 4b; See DCFS, Part II, attachment 2.

[5] See analysis of costs in Tab " FY 2003/2004 Indirect Cost Rate".

[6] See DCFS, Part II, State Fund Revenue Offset.

Schedule 1

| MANDATED COSTS<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES<br>CLAIM SUMMARY      |  | FORM<br>SEDP-1           |
|--|--|--------------------------|
| (01) Claimant:<br>COUNTY OF LOS ANGELES /<br>DEPARTMENT OF MENTAL HEALTH   | (02) Type of Claim<br>Reimbursement <input checked="checked" type="checkbox"/> X<br>Estimated <input type="checkbox"/> | Fiscal Year<br>2004/2005 |
| <b>Claim Statistics</b>  |  |                          |
| (03) Number of pupils placed in out-of-state residential programs in the fiscal year of claim. (Please see note below) |  | 495                      |
| <b>Direct Costs</b>  | <b>Object Accounts</b> <b>MH Part I</b>  |                          |
| (04) Reimbursable Components   | (a) Salaries   | (b) Benefits             |
| <b>A. One-Time Costs</b>   | (c) Services and Supplies  | (d) Fixed Assets         |
| 1. Develop Policies, Procedures, and Contractual Arrangements  | (e) Travel and Training  | (f) Total                |
| 2. Conduct County Staff Training   |  |                          |
| <b>B. Ongoing Costs See SEDP-2</b>   |  |                          |
| 1. Mental Health Service Vendor Reimbursements   | 8,481,555  | 8,481,555                |
| 2. Case Management   | 523,883  | 523,883                  |
| 3. Travel  | 32,689   | 32,689                   |
| 4. Program Management  | 128,929  | 128,929                  |
| (05) Total Direct Costs  | 9,167,056  | 9,167,056                |
| <b>Indirect Costs</b>  |  |                          |
| (06) Indirect Cost Rate  | See Tab: "FY 2004/05 Indirect Cost Rate" Schedule  |                          |
| (07) Total Indirect Costs  | [Line (06) x line (05)(a)] or [Line (06) x (line (05)(a) + line (05)(b))]  |                          |
| (08) Total Direct and Indirect Costs   | [Line (05)(f) + line (07)]   |                          |
| <b>Cost Reduction</b>  |  |                          |
| (09) Less: Offsetting Savings  |  |                          |
| (10) Less: Other Reimbursements  |  |                          |
| (11) Total Claimed Amount  | [Line (08) - (line (09) + line (10))]  |                          |
|  |  | 9,855,307                |

Revised 09/03

Note: The number includes pupils who had multiple placements during the fiscal year of claim. The unduplicated count is 473.

**FORM  
SEDP-2**

|                   |           |
|-------------------|-----------|
| (02) Fiscal Year: | 2004/2005 |
|-------------------|-----------|

☐ Program Management

## Object Accounts

[illegible]

**FORM  
SEDP-2**

|                   |           |
|-------------------|-----------|
| (02) Fiscal Year: | 2004/2005 |
|-------------------|-----------|

**One-Time Costs:**

☐ Conduct County Staff Training☐ Travel☐ Program Management

## Object Accounts

| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses   | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
|--|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| See Attachment 2   |  |  |                 |                 | 523,883                            |                        |                                  |
| (05) Total <input checked="checked" type="checkbox"/> Subtotal <input type="checkbox"/> Page: 1 of 1 |  |  |                 |                 | 523,883                            |                        |                                  |

|  |                              |
|--|------------------------------|
| <b>MANDATED COSTS</b><br><b>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:</b><br><b>OUT-OF-STATE MENTAL HEALTH SERVICES</b><br><b>COMPONENT/ACTIVITY COST DETAIL</b> | <b>FORM</b><br><b>SEDP-2</b> |
|--|------------------------------|

(01) Claimant: COUNTY OF LOS ANGELES  
DEPARTMENT OF MENTAL HEALTH

(02) Fiscal Year: 2004/2005

(03) Reimbursable Components: Check only one box per form to identify the component being claimed.  
**One-Time Costs:**

☐ Develop Policies, Procedures, and Contractual Arrangements

☐ Conduct County Staff Training

**Ongoing Costs:**

☐ Mental Health Service Vendor Reimbursements\*

☒ Travel

☐ Case Management

☐ Program Management

(04) Description of Expenses: Complete columns (a) through (h).

**Object Accounts**

| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
|--|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| See Attachment 3   |  |  |                 |                 | 32,689                             |                        |                                  |
| (05) Total <input checked="" type="checkbox"/>   | Subtotal <input type="checkbox"/>        | Page: 1 of 1                             |                 |                 | 32,689                             |                        |                                  |

|  |                                  |
|--|----------------------------------|
| <b>MANDATED COSTS</b><br><b>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:</b><br><b>OUT-OF-STATE MENTAL HEALTH SERVICES</b><br><b>COMPONENT/ACTIVITY COST DETAIL</b> | <b>FORM</b><br><br><b>SEDP-2</b> |
|--|----------------------------------|

(01) Claimant: COUNTY OF LOS ANGELES  
DEPARTMENT OF MENTAL HEALTH

(02) Fiscal Year: 2004/2005

(03) Reimbursable Components: Check only one box per form to identify the component being claimed.

**One-Time Costs:**

☐ Develop Policies, Procedures, and Contractual Arrangements

☐ Conduct County Staff Training

**Ongoing Costs:**

☐ Mental Health Service Vendor Reimbursements\*

☐ Travel

☐ Case Management

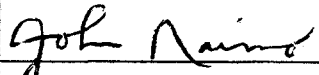
☒ Program Management

(04) Description of Expenses: Complete columns (a) through (h).

**Object Accounts**

| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses          | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
|---|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| See Attachment 4a<br>See Attachment 4b  |  |  |                 |                 | 114,928<br>14,001                  |                        |                                  |
| (05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: <u>1</u> of <u>1</u> |  |  |                 |                 | 128,929                            |                        |                                  |

## **Tab 5**

| CLAIM FOR PAYMENT   |  |  |                            | For State Controller Use only |  |
|---|--|--|----------------------------|-------------------------------|--|
| Pursuant to Government Code Section 17561<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES   |  |  |                            | (19) Program Number 00191     | JAN 1 2 2007   |
|   |  |  |                            | (20) Date File                |  |
|   |  |  |                            | (21) LRS Input                |  |
| L<br>A<br>B<br>E<br>L<br><br>H<br>E<br>R<br>E   | (01) Claimant Identification Number<br>9919                    |  |                            | Reimbursement Claim Data      |  |
|   | (02) Claimant Name<br>Auditor-Controller                       |  |                            | (22) SEDP-1, (03)             | 566  |
|   | County of Location<br>County of Los Angeles                    |  |                            | (23) SEDP-1, (04)(A)(1)(f)    |  |
|   | Street Address or P.O. Box<br>500 West Temple Street, Room 603 |  |                            | (24) SEDP-1, (04)(A)(2)(f)    |  |
|   | City<br>Los Angeles  |  | State<br>CA                | Zip Code<br>90012             | (25) SEDP-1, (04)(B)(1)(f) <span style="float: right;">30,710,315</span> |
|   | Type of Claim  | Estimated Claim  | Reimbursement Claim        | (26) SEDP-1, (04)(B)(2)(f)    | 568,041  |
|   | (03) Estimated <input checked="" type="checkbox"/>             | (09) Reimbursement <input checked="" type="checkbox"/> | (27) SEDP-1, (04)(B)(3)(f) | 22,902                        |  |
|   | (04) Combined <input type="checkbox"/>                         | (10) Combined <input type="checkbox"/>                 | (28) SEDP-1, (04)(B)(4)(f) | 171,725                       |  |
|   | (05) Amended <input type="checkbox"/>                          | (11) Amended <input type="checkbox"/>                  | (29) SEDP-1, (06)          | 1                             |  |
|   | Fiscal Year of Cost  | (06) <u>2006 / 2007</u>                                | (12) <u>2005/ 2006</u>     | (30) SEDP-1, (07)             | 83,754   |
| Total Claimed Amount (07) 21,979,312  |  |  | (13) 19,981,194            | (31) SEDP-1, (09)             |  |
| Less: 10% Late Penalty, not to exceed \$1,000   |  |  | (14)                       | (32) SEDP-1, (10)             | 11,575,543   |
| Less: Prior Claim Payment Received  |  |  | (15) 14,976,655            | (33)                          |  |
| Net Claimed Amount  |  |  | (16) 5,004,539             | (34)                          |  |
| Due to Claimant   | (08) 21,979,312  | (17) 5,004,539   | (35)                       |                               |  |
| Due to State  |  | (18)   | (36)                       |                               |  |
| <b>(37) CERTIFICATION OF CLAIM</b>  |  |  |                            |                               |  |
| <p>In accordance with the provisions of Government Code 17561, I certify that I am the officer authorized by the local agency to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein, and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.</p> <p>The amounts for this Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statements. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p> |  |  |                            |                               |  |
| Signature of Authorized Officer   |  |  | Date                       |                               |  |
|  FOR   |  |  | 1/5/07                     |                               |  |
| J. Tyler McCauley   |  |  | Auditor-Controller         |                               |  |
| Type or Print Name  |  |  | Title                      |                               |  |
| (38) Name of Contact Person for Claim   |  |  |                            |                               |  |
| Leonard Kaye  |  |  | Telephone Number           | (213) 974-8564 Ext. _____     |  |
|   |  |  | E-mail Address             | lkaye@auditor.lacounty.gov    |  |



| <b>MANDATED COSTS</b><br><b>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:</b><br><b>OUT-OF-STATE MENTAL HEALTH SERVICES</b><br><b>CLAIM SUMMARY</b>       |   |                 |   |                        |                                  | <b>FORM</b><br><b>SEDP-1</b>    |
|---|---|-----------------|---|------------------------|----------------------------------|---------------------------------|
| <b>(01) Claimant:</b><br>COUNTY OF LOS ANGELES /<br>Consolidated  |   |                 | <b>(02) Type of Claim</b><br>Reimbursement <input checked="checked" type="checkbox"/> X<br>Estimated <input type="checkbox"/> |                        |                                  | <b>Fiscal Year</b><br>2005/2006 |
| <b>Claim Statistics</b>   |   |                 |   |                        |                                  |                                 |
| <b>(03) Number of pupils placed in out-of-state residential programs in the fiscal year of claim. [See Part I, Attachment 1a Summary, page 18.]</b> |   |                 |   |                        |                                  | 566                             |
| <b>Direct Costs See Schedule 1</b>  |   |                 | <b>Object Accounts</b>  |                        |                                  |                                 |
| <b>(04) Reimbursable Components</b>   | (a)<br>Salaries   | (b)<br>Benefits | (c)<br>Services<br>and<br>Supplies  | (d)<br>Fixed<br>Assets | (e)<br>Travel<br>and<br>Training | (f)<br>Total                    |
| <b>A. One-Time Costs</b>  |   |                 |   |                        |                                  |                                 |
| 1. Develop Policies, Procedures,<br>and Contractual Arrangements  |   |                 |   |                        |                                  |                                 |
| 2. Conduct County<br>Staff Training   |   |                 |   |                        |                                  |                                 |
| <b>B. Ongoing Costs</b>   |   |                 |   |                        |                                  |                                 |
| 1. Mental Health Service<br>Vendor Reimbursements   | 30,710,315  |                 |   |                        |                                  | 30,710,315                      |
| 2. Case Management  | 568,041   |                 |   |                        |                                  | 568,041                         |
| 3. Travel   | 22,902  |                 |   |                        |                                  | 22,902                          |
| 4. Program Management   | 171,725   |                 |   |                        |                                  | 171,725                         |
| <b>(05) Total Direct Costs</b>  | 31,472,983  |                 |   |                        |                                  | 31,472,983                      |
| <b>Indirect Costs</b>   |   |                 |   |                        |                                  |                                 |
| <b>(06) Indirect Cost Rate</b>  | [See Tab: "FY 2005/06 Indirect Cost Rate" Schedule]                       |                 |   |                        |                                  | 0.2661%                         |
| <b>(07) Total Indirect Costs</b>  | [Line (06) x line (05)(a)] or [Line (06) x (line (05)(a) + line (05)(b))] |                 |   |                        |                                  | 83,754                          |
| <b>(08) Total Direct and Indirect Costs</b>   | [Line (05)(f) + line (07)]  |                 |   |                        |                                  | 31,556,737                      |
| <b>Cost Reduction</b>   |   |                 |   |                        |                                  |                                 |
| <b>(09) Less: Offsetting Savings</b>  |   |                 |   |                        |                                  |                                 |
| <b>(10) Less: Other Reimbursements</b>  | [See Schedule 1 for Federal and State reimbursements]                     |                 |   |                        |                                  | 11,575,543                      |
| <b>(11) Total Claimed Amount</b>  | [Line (08) - (line (09) + line (10))]                                     |                 |   |                        |                                  | 19,981,194                      |

**SCHEDULE 1**  
**County of Los Angeles Consolidated Chapter 654/96 Claim for 2005-2006**  
**Seriously Emotionally Disturbed Pupils: Out-of State Mental Health Services**

| <u>Reimbursement Component</u>         | <u>//-----Claimed Costs by County Department-----//</u> |  |                     |
|--|---|--|---------------------|
|  | <u>Mental Health (MH)</u>                               | <u>Children &amp; Family Services (DCFS)</u> | <u>Totals</u>       |
| Vendor Reimbursement [Note 1]          | \$9,951,264   | \$20,759,051                                 | \$30,710,315        |
| Case Management [Note 2]               | 568,041   |  | 568,041             |
| Travel [Note 3]                        | 22,902  |  | 22,902              |
| Program Management [Note 4]            | 108,786   | 62,939                                       | 171,725             |
| Indirect Cost [Note 5]                 | 83,754  |  | 83,754              |
| Less:                                  |   |  |                     |
| FY 2005-06 Federal IDEA Funds [Note 6] | (3,246,747)   |  | (3,246,747)         |
| FY 2005-06 State Funding [Note 7]      |   | (8,328,796)                                  | (8,328,796)         |
| Totals                                 | <u>\$7,488,000</u>                                      | <u>\$12,493,194</u>                          | <u>\$19,981,194</u> |

**Notes:**

[1] For MH, See Part I, Attachments 1a and 1b for itemized expenditures; for DCFS [Part II], See "Expenditure Summary" and "Adendum Exp. FY 2004-05" for itemized expenditures.

[2] See Part I, Attachment 2, page 18 for computation of totals.

[3] See Part I, Attachment 3, page 2 for computation of travel costs.

[4] See Part I, Attachments 4a and 4b and See Part II, Attachment 2a for itemized expenditures.

[5] See analysis of costs in Part I, "FY 2005/2006 Indirect Cost Rate".


[6] See Part I, "FY 2005/06 Federal IDEA Funds" for offsetting 'Other Reimbursements'.

[7] See Part II, Attachment 2b for offsetting 'Other Reimbursements'.



| MANDATED COSTS<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES<br>CLAIM SUMMARY |  | FORM<br>SEDP-1           |                                    |                        |                                  |              |
|---|--|--------------------------|------------------------------------|------------------------|----------------------------------|--------------|
| (01) Claimant:<br>COUNTY OF LOS ANGELES /<br>DEPARTMENT OF MENTAL HEALTH  | (02) Type of Claim<br>Reimbursement <input checked="checked" type="checkbox"/> X<br>Estimated <input type="checkbox"/> | Fiscal Year<br>2005/2006 |                                    |                        |                                  |              |
| <b>Claim Statistics</b>   |  |                          |                                    |                        |                                  |              |
| (03) Number of pupils placed in out-of-state residential programs in the fiscal year of claim.                    |  | 560                      |                                    |                        |                                  |              |
| <b>Direct Costs</b>   | <b>Object Accounts</b>   |                          |                                    |                        |                                  |              |
| (04) Reimbursable Components  | (a)<br>Salaries  | (b)<br>Benefits          | (c)<br>Services<br>and<br>Supplies | (d)<br>Fixed<br>Assets | (e)<br>Travel<br>and<br>Training | (f)<br>Total |
| <b>A. One-Time Costs</b>  |  |                          |                                    |                        |                                  |              |
| 1. Develop Policies, Procedures,<br>and Contractual Arrangements  |  |                          |                                    |                        |                                  |              |
| 2. Conduct County<br>Staff Training   |  |                          |                                    |                        |                                  |              |
| <b>B. Ongoing Costs</b>   |  |                          |                                    |                        |                                  |              |
| 1. Mental Health Service<br>Vendor Reimbursements   | 9,951,264  |                          |                                    |                        |                                  | 9,951,264    |
| 2. Case Management  | 568,041  |                          |                                    |                        |                                  | 568,041      |
| 3. Travel   | 22,902   |                          |                                    |                        |                                  | 22,902       |
| 4. Program Management   | 108,786  |                          |                                    |                        |                                  | 108,786      |
| (05) Total Direct Costs   | 10,650,993   |                          |                                    |                        |                                  | 10,650,993   |
| <b>Indirect Costs</b>   |  |                          |                                    |                        |                                  |              |
| (06) Indirect Cost Rate   | See Tab: "FY 2005/06 Indirect Cost Rate" Schedule  |                          |                                    |                        |                                  | 0.7864%      |
| (07) Total Indirect Costs   | [Line (06) x line (05)(a)] or [Line (06) x (line (05)(a) + line (05)(b))]  |                          |                                    |                        |                                  | 83,754       |
| (08) Total Direct and Indirect Costs  | [Line (05)(f) + line (07)]   |                          |                                    |                        |                                  | 10,734,747   |
| <b>Cost Reduction</b>   |  |                          |                                    |                        |                                  |              |
| (09) Less: Offsetting Savings   |  |                          |                                    |                        |                                  |              |
| (10) Less: Other Reimbursements   | See Tab "FY 2005/06 Federal IDEA Funds"  |                          |                                    |                        |                                  | 3,246,747    |
| (11) Total Claimed Amount   | [Line (08) - (line (09) + line (10))]  |                          |                                    |                        |                                  | 7,488,000    |

| MANDATED COSTS<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES<br>COMPONENT/ACTIVITY COST DETAIL                        |  | FORM<br>SEDP-2   |                 |                 |                                    |                        |                                  |
|---|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| (01) Claimant: COUNTY OF LOS ANGELES<br>DEPARTMENT OF MENTAL HEALTH   |  | (02) Fiscal Year: 2005/2006                            |                 |                 |                                    |                        |                                  |
| (03) Reimbursable Components: Check only one box per form to identify the component being claimed.  |  |  |                 |                 |                                    |                        |                                  |
| One-Time Costs:   |  |  |                 |                 |                                    |                        |                                  |
| <input type="checkbox"/> Develop Policies, Procedures, and Contractual Arrangements   |  | <input type="checkbox"/> Conduct County Staff Training |                 |                 |                                    |                        |                                  |
| Ongoing Costs:  |  |  |                 |                 |                                    |                        |                                  |
| <input checked="" type="checkbox"/> Mental Health Service Vendor Reimbursements*  |  | <input type="checkbox"/> Travel                        |                 |                 |                                    |                        |                                  |
| <input type="checkbox"/> Case Management  |  | <input type="checkbox"/> Program Management            |                 |                 |                                    |                        |                                  |
| (04) Description of Expenses: Complete columns (a) through (h).   |  |  |                 |                 |                                    |                        |                                  |
| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses  | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity               | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
| See Attachment 1a for FY 2005/06 Expenditures<br>See Attachment 1b for Expenditures for Due Process<br>Hearing Settlements / Late Invoices for FY 2004/05 |  |  |                 |                 | 9,919,363<br><br>31,901            |                        |                                  |
| (05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: 1 of 1   |  |  |                 |                 |                                    | 9,951,264              |                                  |

|   |  |                                  |
|---|--|----------------------------------|
|  | <b>MANDATED COSTS</b><br><b>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:</b><br><b>OUT-OF-STATE MENTAL HEALTH SERVICES</b><br><b>COMPONENT/ACTIVITY COST DETAIL</b> | <b>FORM</b><br><br><b>SEDP-2</b> |
|---|--|----------------------------------|

(01) Claimant: COUNTY OF LOS ANGELES  
DEPARTMENT OF MENTAL HEALTH

(02) Fiscal Year: 2005/2006

(03) Reimbursable Components: Check only **one** box per form to identify the component being claimed.

**One-Time Costs:**

☐ Develop Policies, Procedures, and Contractual Arrangements

☐ Conduct County Staff Training

**Ongoing Costs:**

☐ Mental Health Service Vendor Reimbursements\*

☐ Travel

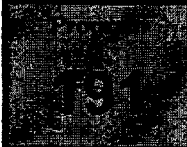
☒ Case Management

☐ Program Management

(04) Description of Expenses: Complete columns (a) through (h).

**Object Accounts**

| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses          | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
|---|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| See Attachment 2  |  |  |                 |                 | 568,041                            |                        |                                  |
| (05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: <u>1</u> of <u>1</u> |  |  |                 |                 | 568,041                            |                        |                                  |

|   |  |                                  |
|---|--|----------------------------------|
|  | <b>MANDATED COSTS</b><br><b>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:</b><br><b>OUT-OF-STATE MENTAL HEALTH SERVICES</b><br><b>COMPONENT/ACTIVITY COST DETAIL</b> | <b>FORM</b><br><br><b>SEDP-2</b> |
|---|--|----------------------------------|

(01) Claimant: COUNTY OF LOS ANGELES  
DEPARTMENT OF MENTAL HEALTH

(02) Fiscal Year: 2005/2006

(03) Reimbursable Components: Check only one box per form to identify the component being claimed.

**One-Time Costs:**

☐ Develop Policies, Procedures, and Contractual Arrangements

☐ Conduct County Staff Training

**Ongoing Costs:**

☐ Mental Health Service Vendor Reimbursements\*

☒ Travel

☐ Case Management

☐ Program Management

(04) Description of Expenses: Complete columns (a) through (h).

**Object Accounts**

| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
|--|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| See Attachment 3   |  |  |                 |                 | 22,902                             |                        |                                  |
| (05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: 1 of 1      |  |  |                 |                 | 22,902                             |                        |                                  |

| MANDATED COSTS<br>SERIOUSLY EMOTIONALLY DISTURBED PUPILS:<br>OUT-OF-STATE MENTAL HEALTH SERVICES<br>COMPONENT/ACTIVITY COST DETAIL |  | FORM<br>SEDP-2   |                 |                 |                                    |                        |                                  |
|--|--|--|-----------------|-----------------|------------------------------------|------------------------|----------------------------------|
| (01) Claimant: COUNTY OF LOS ANGELES<br>DEPARTMENT OF MENTAL HEALTH  |  | (02) Fiscal Year: 2005/2006                            |                 |                 |                                    |                        |                                  |
| (03) Reimbursable Components: Check only one box per form to identify the component being claimed.                                 |  |  |                 |                 |                                    |                        |                                  |
| One-Time Costs:  |  |  |                 |                 |                                    |                        |                                  |
| <input type="checkbox"/> Develop Policies, Procedures, and Contractual Arrangements  |  | <input type="checkbox"/> Conduct County Staff Training |                 |                 |                                    |                        |                                  |
| Ongoing Costs:   |  |  |                 |                 |                                    |                        |                                  |
| <input type="checkbox"/> Mental Health Service Vendor Reimbursements*  |  | <input type="checkbox"/> Travel                        |                 |                 |                                    |                        |                                  |
| <input type="checkbox"/> Case Management   |  | <input checked="" type="checkbox"/> Program Management |                 |                 |                                    |                        |                                  |
| (04) Description of Expenses: Complete columns (a) through (h).  |  |  |                 |                 |                                    |                        |                                  |
| (a)<br>Employee Names, Job<br>Classifications, Functions Performed,<br>and Description of Expenses                                 | (b)<br>Hourly<br>Rate<br>or<br>Unit Cost | (c)<br>Hours<br>Worked<br>or<br>Quantity               | (d)<br>Salaries | (e)<br>Benefits | (f)<br>Services<br>and<br>Supplies | (g)<br>Fixed<br>Assets | (h)<br>Travel<br>and<br>Training |
| See Attachment 4a<br>See Attachment 4b   |  |  |                 |                 | 94,334                             |                        |                                  |
|  |  |  |                 |                 | 14,452                             |                        |                                  |
| (05) Total <input checked="" type="checkbox"/> Subtotal <input type="checkbox"/> Page: 1 of 1                                      |  |  |                 |                 | 108,786                            |                        |                                  |



## **Tab 6**

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Section 7576, as amended  
by Statutes of 1996, Chapter 654;

California Code of Regulations, Title 2,  
Division 9, Chapter 1, Sections 60000-60610;  
and

California Department of Mental Health  
Information Notice Number 86-29

Filed on December 22, 1997

By the County of Los Angeles, Claimant.

No. 97-TC-05

*Seriously Emotionally Disturbed (SED) Pupils:  
Out-of-State Mental Health Services*

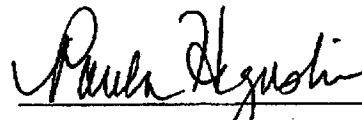
STATEMENT OF DECISION PURSUANT  
TO GOVERNMENT CODE SECTION  
17500 ET SEQ. ; TITLE 2, CALIFORNIA  
CODE OF REGULATIONS, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7

*(Adopted on May 25, 2000)*

**STATEMENT OF DECISION**

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in  
the above-entitled matter.

This Decision shall become effective on May 26, 2000.

  
\_\_\_\_\_  
Paula Higashi, Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Section 7576, as amended  
by Statutes of 1996, Chapter 654;

California Code of Regulations, Title 2,  
Division 9, Chapter 1, Sections 60000-60610;  
and

California Department of Mental Health  
Information Notice Number 86-29

Filed on December 22, 1997;

By the County of Los Angeles, Claimant.

No. 97-TC-05

*Seriously Emotionally Disturbed (SED) Pupils:  
Out-of-State Mental Health Services*

STATEMENT OF DECISION PURSUANT  
TO GOVERNMENT CODE SECTION  
17500 ET SEQ.; TITLE 2, CALIFORNIA  
CODE OF REGULATIONS, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7

*(Adopted on May 25, 2000)*

**STATEMENT OF DECISION**

The Commission on State Mandates (Commission) heard and decided this test claim on April 27, 2000 during a regularly scheduled hearing. Leonard Kaye, Paul McIver, Gurubanda Khalsa, and Robert Ulrich appeared for the County of Los Angeles and Daniel Stone appeared for the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 et seq., article XIII B, section 6 of the California Constitution and related case law.

The Commission, by a vote of 7-0, approved this test claim.

**BACKGROUND AND FINDINGS**

This test claim alleges reimbursable costs mandated by the state regarding the monitoring and paying for out-of-state residential placements for seriously emotionally disturbed (SED) pupils as detailed in Government Code section 7576, California Code of Regulations sections 60000-60610, and the California Department of Mental Health Information Notice Number 86-29.

Prior law provided that any community mental health agency shall be responsible for the provision of psychotherapy or other mental health services, as defined by regulation, when required in an individual's IEP. Specifically, Government Code section 7576 as amended by Statutes of 1985, Chapter 1247 provided:

"Notwithstanding any other provision of law, the State Department of Mental Health, or any community mental health service designated by the State Department of Mental Health, shall be responsible for the provision of psychotherapy or other mental health services, as defined by regulation by the State Department of Mental Health, developed in consultation with the State Department of Education, when required in the child's [IEP]. This service shall be provided directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic, nonsectarian school or agency. "

Regulations in effect immediately before the enactment of the test claim legislation prohibited county mental health agencies from providing psychotherapy and other mental health services in those cases where out-of-state residential placement was required. Section 60200 provided:

"(b) The local [county] mental health program shall be responsible for:

"(1) Provision of mental health services as recommended by a local mental health program representative and included in an [IEP]. Services shall be provided directly or by contract. . . . *The services must be provided within the State of California.*" (Emphasis added.)

In contrast, LEAs were required to provide mental health services for students placed outside of California under subdivision (c) of section 60200, which provided:

"(c) [LEAs] shall be responsible for:

"(3) *Mental health services when an individual with exceptional needs is placed in a nonpublic school outside of the State of California.*" (Emphasis added.)

Thus, the law in effect immediately before the enactment of the test claim legislation did not require county mental health agencies to pay or monitor the mental health component of out-of-state residential placements for SED pupils.<sup>1</sup>

#### The Test Claim Legislation

The Legislature, in section 1 of Statutes of 1996, Chapter 654, expresses its intent that:

"The *fiscal and program* responsibilities of community mental health services shall be the same *regardless of the location of placement*. . . . [LEAs] and community mental health services *shall make out-of-state placements* . . . only if other options have been considered and are determined inappropriate. . . . "<sup>2</sup> (Emphasis added .)

Before the enactment of Chapter 654, counties were only required to provide mental health services to SED pupils placed in out-of-home (in-state) residential facilities. However, section 1 now requires counties to have fiscal and programmatic responsibility for SED pupils

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<sup>1</sup> Title 2, California Code of Regulations, section 60200, subdivision (c)(3).

<sup>2</sup> Statutes of 1996, Chapter 654.

regardless of placement - i.e., regardless of whether SED pupils are placed out-of-home (in-state) or out-of-state.

Chapter 654 also added subdivision (g) to Government Code section 7576, which provides:

"Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the county of origin which *shall have fiscal and programmatic responsibility for providing or arranging for provision of necessary services. . . .*" (Emphasis added.)

California Code of Regulations, sections 60100 and 60200, amended in response to section 7576, further define counties' "fiscal and programmatic responsibilities" for SED pupils placed in out-of-state residential care. Specifically, section 60100 entitled "LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil" reflects the Legislature's intent behind the test claim statute by providing that residential placements for a SED pupil may be made out-of-state only when no in-state facility can meet the pupil's needs. Section 60200 entitled "Financial Responsibilities" details county mental health and LEA financial responsibilities regarding the residential placements of SED pupils.

In particular, amended section 60200 removes the requirement that LEAs be responsible for the out-of-state residential placement of SED pupils. Subdivision (c) of section 60200 now provides that the county mental health agency of origin shall be "responsible for the provision of assessments and mental health services included in an IEP in accordance with [section 60100]." Thus, as amended, section 60200 replaces the LEA with the *county of origin* as the entity responsible for paying the mental health component of *out-of-state* residential placement for SED pupils.

Therefore, the Commission found that under the test claim legislation and implementing regulations, county mental health agencies now have the fiscal and programmatic responsibility for the mental health component of a SED pupil's IEP whenever such pupils are referred to a community mental health agency by an IEP team.

**Issue 1: Does the Test Claim Legislation Impose a New Program or Higher Level of Service Within an Existing Program Upon County Offices of Education Within the Meaning of Section 6, Article XIII B of the California Constitution by Requiring County Mental Health Agencies to Pay for Out-of-State Residential Placement for Seriously Emotionally Disturbed Pupils?**

In order for a statute or executive order, which is the subject of a test claim, to impose a reimbursable state mandated program, the language: (1) must direct or obligate an activity or task upon local governmental entities; and (2) the required activity or task must be new, thus constituting a "new program," or it must create an increased or "higher level of service" over the former required level of service. The court has defined a "new program" or "higher level of service" as a program that carries out the governmental function of providing services to the public, or a law, which to implement a state policy, imposes unique requirements on local

agencies or school districts that do not apply generally to all residents and entities in the state. To determine if a required activity is new or imposes a higher level of service, a comparison must be undertaken between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must be state mandated.<sup>3</sup>

The test claim legislation involves the paying and monitoring of the mental health component of out-of-state residential placement for SED pupils. These placements are deemed necessary by an IEP team to ensure that the pupil receives a free appropriate public education. Public education in California is a peculiarly governmental function administered by local agencies as a service to the public. Moreover, the test claim legislation imposes unique requirements upon county mental health agencies that do not apply generally to all residents and entities of the state. Therefore, the Commission found that paying and monitoring of the mental health component of out-of-state residential placements for SED pupils constitutes a "program" within the meaning of section 6, article XIII B of the California Constitution.<sup>4</sup>

Does A Shift of Costs and Activities Between Local Governmental Entities Create a New Program or Higher Level of Service?

The Commission found that immediately before the enactment of the test claim legislation, LEAs were responsible for paying and monitoring the mental health component of out-of-state residential placements for SED pupils. The test claim legislation shifted these responsibilities to county mental health agencies. The Government Code considers both LEAs and county mental health agencies local agencies for purposes of mandates law. Thus, the question arises whether a shift of program responsibilities from one local agency to another constitutes a state mandate. This question was recently addressed in *City of San Jose v. State of California*?

In *City of San Jose*, the issue was whether Government Code section 29550, which gave counties the discretion to charge cities and other local agencies for the costs of booking persons arrested by a city or other local agency into county jails, constituted a state mandate. The City of San Jose (City) contended that because the statute allowed counties to charge cities and other local agencies for booking fees, the statute imposed a new program under article XIII B, section 6. Thus, the City maintained that the *Lucia Mar*<sup>7</sup> decision governed the claim.

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<sup>3</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>4</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 172.

<sup>5</sup> *City of San Jose, supra* (1996) 45 Cal.App.4th 1802.

<sup>6</sup> The Commission noted that the *Handicapped and Disabled Students* Test Claim, which also involved a shift of funding and activities from one local agency to another, was decided six years before the *City of San Jose* decision. Therefore, the analysis the Commission relied on in deciding the *Handicapped and Disabled Students* Test Claim is inapplicable to the present test claim.

<sup>7</sup> *Lucia Mar, supra* (1988) 44 Cal.3d 830, involved Education Code section 59300, enacted in 1981. That section required local school districts to contribute part of the cost of educating district students at state schools for the severely handicapped while the state continued to administer the program. Prior to 1979, the school districts had been required by statute to contribute to the education of students in their districts who attended state schools.

The *City of San Jose* court disagreed with the City's contention. The court held that the shift in funding was not from the state to the local agency, but from the county to the city and, thus, *Lucia Mar* was inapposite. The court stated:

"The flaw in the City's reliance on *Lucia Mar* is that in our case the shift in funding is not from the state to the local entity but from the county to the city. In *Lucia Mar*, prior to the enactment of the statute in question, the program was funded and operated entirely by the state. Here, however, at the time section 29550 was enacted, and indeed long before that statute, the financial and administrative responsibility associated with the operation of county jails and detention of prisoners was borne entirely by the county. "<sup>8</sup> (Emphasis added.)

The *City of San Jose* court concluded that:

"Nothing in article XIII B prohibits the shifting of costs between local governmental entities. "<sup>9</sup> (Emphasis added. )

The requirement to provide for and monitor the mental health component of a SED pupil in an out-of-state residential placement was not shifted to county mental health agencies by LEAs - LEAs have no such power. Rather, the shift in activities was performed by the state. *City of San Jose* applies if it can be shown that LEAs initiated the shift of costs to counties. However, this is not the case. Although a shift between local agencies occurred, the state required the shift. Moreover, the shift entailed both costs and activities.

As explained above, the legislation at issue in *City of San Jose* permitted counties to charge cities and other local agencies for the costs of booking persons arrested by a city or other local agency into county jails. The counties, in turn, enacted ordinances that required cities and other local agencies to pay booking fees. Under these facts, the county not the state, imposed costs upon cities and other local agencies. While the state enabled counties with the authority to charge booking fees to cities or other local agencies, the state did not require the imposition of such fees.

The same cannot be said for the test claim legislation. Before the enactment of the test claim legislation, LEAs were required to provide for the mental health component of a SED pupil in an out-of-state residential placement. Under the test claim legislation, the state shifted those responsibilities from LEAs to county mental health agencies. This scenario is different from

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However, those statutes were repealed following the passage of Proposition 13 in 1978. In 1979, the state assumed full responsibility for funding the schools. At the time section 59300 was enacted in 1981, the state had full financial responsibility for operating state schools.

The California Supreme Court found that the primary financial and administrative responsibility for state handicapped schools rested with the state at the time the test claim statute was enacted. The court stated that "[t]he intent of [section 6] would plainly be violated if the state could, while retaining administrative control of programs it has supported with state tax money, simply shift the cost of the programs to local government. . . ." (Emphasis added.) Thus, the court found that, under the circumstances of the case, the transfer of financial responsibility from the state to local school districts imposed a new program under section 6.

<sup>8</sup> *City of San Jose*, *supra* (1996) 45 Cal.App.4th 1802, 1812.

<sup>9</sup> *Id.* at 1815.

the one in *City of San Jose*, in which the court recounted: "in our case the shift in *funding* is not from the State to the local entity but from county to city. "<sup>10</sup> (Emphasis added.)

Based on the foregoing, the Commission found that *City of San Jose* does not apply to the present test claim. The shift in responsibilities regarding the mental health component of SED pupils in out-of-state residential placements represents a shift performed by the state. In addition, there is a shift of *costs and activities*.

**Issue 2: Does the Requirement That Counties Pay and Monitor the Mental Health Component of Out-of-State Residential Placements for SED Pupils Represent Costs Mandated by the State?**

The Commission noted that the issue of whether federal special education law requires counties to pay and monitor the mental health component of out-of-state residential placements for SED pupils must be addressed to determine whether there are costs mandated by the state.

Overview of Federal Special Education Law - The Individuals with Disabilities Education Act (IDEA)

The Commission noted that the Education for All Handicapped Children Act (Act) of 1975 is the backbone of the federal statutory provisions governing special education.<sup>11</sup> The express purpose of the Act is to assist state and local educational efforts to assure equal protection of the law and that children with disabilities have available special education and related services designed to meet their unique needs.

The Act requires : "that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living. "<sup>12</sup> The Act defines FAPE as "special education" and "related services" that: (1) are provided at public expense,\* under public supervision and direction, and without charge; (2) meet the standards of the state educational agency; (3) include an appropriate preschool, elementary, or secondary school education in the state involved; and (4) are provided in conformity with the individualized education program (IEP) required under federal law.

The Commission further noted that every disabled child must have an IEP. The IEP is a written statement developed in a meeting between the school, the teacher, and the parents. It includes the child's current performance, the annual goals and short-term instructional objectives, specific educational services that must be provided, and the objective criteria and evaluation procedures to determine whether the objectives are being achieved. Special education services include both *special education*, defined as specially designed instruction to meet the unique needs of a child with disabilities, and *related services*, defined as such developmental, corrective, and other supportive services as may be require;! to assist a child

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<sup>10</sup> *City of San Jose, supra* (1996) 45 Cal.App.4th 1802, 1812.

<sup>11</sup> In 1990, Congress changed the title of the Act to the "Individuals with Disabilities Education Act."

<sup>12</sup> *Ibid.*



with disabilities to benefit from special education. The federal definition of a "child with a disability" includes children with serious emotional disturbances.

Are Counties Responsible for Paying and Monitoring the Mental Health Component of Out-of-State Residential Placements for SED Pupils Under Federal Law?

As discussed in the previous section, federal law requires that every child receive a FAPE. The Commission found that SED pupils are no exception to this requirement.<sup>13</sup> The test claim legislation requires counties to be responsible for the mental health component of out-of-state residential placements for SED pupils. A SED pupil's IEP team, which includes a county mental health representative, directs such placements.<sup>14</sup> The purpose of a SED pupil's IEP is to ensure they receive a FAPE in the least restrictive environment. In those cases where out-of-state residential placements are required, it is because an IEP team has determined that no school site, school district, or out-of-home (in-state) residential placement is adequate to provide the necessary special education services to meet the federal FAPE requirement.<sup>15</sup>

The Commission found that when an IEP team recommends an out-of-state residential placement for a SED pupil, the requirement to provide such placement is a federal, not state requirement. Such placements are made to ensure pupils receive a FAPE, not in response to any state program. However, the fact that federal law requires the state to provide a FAPE to all disabled children begs the question: Does federal law require county mental health agencies to pay and monitor the mental health component of out-of-state residential placements for SED pupils?

The Commission found that federal law does not require counties to provide out-of-state placements. The Commission recognized that federal law defines "local educational agency" as:

"A public board of education or other public authority legally constituted within a State for either *administrative control or direction of*, or *to perform a service function for*, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. . . . The term includes -

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<sup>13</sup> The claimant agrees: "As previously noted, of the 1,000 pupils who receive residential care, only a few, about 100, are placed out-of-state. But the rights of the few are no less than the rights of the many. [SED] pupils placed in out-of-state residential program [sic] are also entitled to a [FAPE]." See claimant's Test Claim filing dated December 22, 1997 at page 3.

<sup>14</sup> Education Code section 56345 requires school districts or county offices of education to provide the services that are recommended in the student's IEP.

<sup>15</sup> The Commission noted that title 2, California Code of Regulations, section 60100 provides that when an IEP team member recommends residential placement, the IEP team is expanded to include a county mental health representative. Before determining that residential placement is required, the expanded IEP team must consider other, less restrictive alternatives - such as a full-time behavioral aide in the classroom and/or parent training. The IEP team must document the alternatives considered and why they were rejected. Section 60100 goes on to provide that: "Residential placements for a [SED pupil] may be made out of California only when no in-state facility can meet the pupil's needs. "

“(i) an educational service agency . . . ; and

“(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school. ”<sup>16</sup>

The Commission found that, as the above definition demonstrates, federal law does not consider counties to be “local educational agencies. ”<sup>17</sup> Counties are not legally constituted in the state for “either *administrative control or direction of, or to perform a service function for,* public elementary or secondary schools. ” Under the test claim legislation counties are only providing services *on an individual basis*.

Furthermore, the Commission found that counties are not recognized by the state as an administrative agency having control and direction of a public elementary or secondary school. It is LEAs that continue to control a SED pupil’s IEP. LEAs determine when a county mental health agency representative must join a pupil’s IEP team. The county acts in a responsive manner to the determinations of the LEA, not in a proactive manner. Therefore, the Commission concluded that counties do not have administrative control and direction of public elementary or secondary schools, let alone SED pupils.

Moreover, the Commission recognized that federal law defines public agency to include:

“ [State Educational Agencies-J, LEAs, [educational service agencies (ESA)] , public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and *any other political subdivisions of the State that are responsible for providing education to children with disabilities.* ”<sup>18</sup>  
(Emphasis added.)

The Commission found that the federal definition of “public agency” does not include counties for purposes of this test claim. Since counties are not included in the federal definition of LEAs, the question remains whether counties are “responsible for providing education to children with disabilities. ” To answer this question it is necessary to review the state’s requirements under the test claim legislation. Here, under the test claim legislation, counties are not responsible for providing education to children with disabilities. Rather, the test claim legislation limits counties’ responsibilities to paying for and monitoring the mental health component of out-of-state residential placements of SED pupils. Under the test claim legislation, LEAs continue to be responsible for the educational aspects of a SED pupil’s IEP. This is evidenced by regulation section 60110, subdivision (b)(2), which provides that: “The LEA shall be responsible for providing or arranging for the special education and non-mental health related services needed by the pupil.” Moreover, there is no reference to counties in federal special education law that would support a finding that counties, under the program outlined in the test claim legislation, are required to pay for and monitor out-of-state residential placements of SED pupils. Therefore, the Commission concluded that federal law does not

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<sup>16</sup> Title 20, United States Code, section 1401, subdivision (15).

<sup>17</sup> The definition of “local educational agency” is identical in the federal regulations. See 34 Code of Federal Regulations, section 300.18.

<sup>18</sup> 34 Code of Federal Regulations, section 300.22.

require counties to pay for and monitor the mental health component of out-of-state residential placements for SED pupils.

### CONCLUSION

Based on the foregoing, the Commission concluded that the test claim legislation, regulations, and information notice impose new programs or higher levels of service within an existing program upon counties within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Payment of out-of-state residential placements for SED pupils. (Gov. Code, § 7576; Cal. Code Regs., tit. 2, §§ 60100, 60110.)
- Case management of out-of-state residential placements for SED pupils. Case management includes supervision of mental health treatment and monitoring of psychotropic medications. (Gov. Code, § 7576; Cal. Code Regs., tit. 2, § 60110.)
- Travel to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP. (Cal. Code Regs., tit. 2, § 60110.)
- Program management, which includes parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, sections 60000-60610. (Gov. Code, § 7576; Cal. Code of Regs., tit. 2, §§ 60100, 60110.)

## **Tab 7**

**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov



October 31, 2000

Mr. Leonard Kaye, Esq.  
SB 90 Coordinator  
County of Los Angeles  
500 West Temple Street, Room 525  
Los Angeles, California 90012-2766

Mr. Paige Vorhies  
State Controller's Office  
Division of Accounting and Reporting  
3301 C Street, Suite 500  
Sacramento, California 95816

*And Affected State Agencies and Interested Parties (See Enclosed Mailing List)*

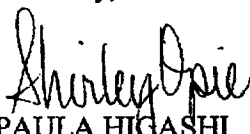
RE: **Adopted Parameters and Guidelines**  
*Seriously Emotionally Disturbed (SED) Pupils:*  
*Out-Of-State Mental Health Services, CSM 97-TC-05*  
Government Code Section 7576,  
Statutes of 1996, Chapter 654  
Title 2, Division 9, Chapter 1, California Code of Regulations,  
Sections 60000-60610  
California Department of Mental Health Information Notice Number 86-29

Dear Mr. Kaye:

Enclosed are the final Parameters and Guidelines adopted by the Commission on State Mandates on October 26, 2000. The Parameters and Guidelines are effective on October 31, 2000.

Commission staff will begin development of a Statewide Cost Estimate. Please contact Piper Rodrian at (916) 323-5869 with questions.

Sincerely,

  
4 PAULA HIGASHI  
Executive Director

cc: Mailing list  
Enclosure: Adopted Parameters and Guidelines  
f:/mandates/1997/97tc05/ps&gs/pgadoptr

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Section 7576, as amended  
by Statutes of 1996, Chapter 654;  
California Code of Regulations, Title 2,  
Division 9, Chapter 1, Sections 60000-60610;  
and  
California Department of Mental Health  
Information Notice Number 86-29

Filed on December 22, 1997

By the County of Los Angeles, Claimant.

No. 97-TC-05

*Seriously Emotionally Disturbed (SED)  
Pupils: Out-of-State Mental Health Services*

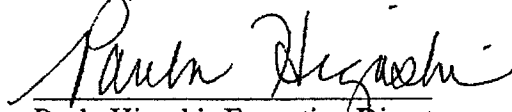
ADOPTION OF PARAMETERS AND  
GUIDELINES PURSUANT TO  
GOVERNMENT CODE SECTION 17557  
AND TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, SECTION 1183.12

*(Adopted on October 26, 2000)*

**PARAMETERS AND GUIDELINES**

The Commission on State Mandates adopted Parameters and Guidelines for the above-entitled matter on October 26, 2000.

This Decision shall become effective on October 31, 2000.

  
Paula Higashi, Executive Director

## **Parameters and Guidelines**

Government Code Section 7576  
Statutes of 1996, Chapter 654

California Code of Regulations, Title 2, Division 9, Chapter 1, Sections 60000-60610  
California Department of Mental Health Information Notice Number 86-29

### ***Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services***

#### **I. SUMMARY OF MANDATE**

Government Code section 7576, as amended by Statutes of 1996, Chapter 654, established new fiscal and programmatic responsibilities for counties to provide mental health services to Seriously Emotionally Disturbed (SED) pupils placed in out-of-state residential programs. In this regard, Title 2, Division 9, Chapter 1 of the California Code of Regulations, sections 60000 through 60610, were amended to further define counties' fiscal and programmatic responsibilities including those set forth under section 60100 entitled "LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil," providing that residential placements for a SED pupil may be made out-of-state only when no in-state facility can meet the pupil's needs, and under section 60200 entitled "Financial Responsibilities," detailing county mental health and LEA financial responsibilities regarding the residential placements of SED pupils.

On May 25, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision on the subject test claim, finding the following activities to be reimbursable:

- Payment of out-of state residential placements for SED pupils. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Case management of out-of-state residential placements for SED pupils. Case management includes supervision of mental health treatment and monitoring of psychotropic medications. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, § 60110.)
- Travel to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's Individualized Education Plan (IEP). (Cal. Code Regs., tit. 2, § 60110.)
- Program management, which includes parent notifications, as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivision 60000- 60610. (Gov. Code, § 7576; Cal. Code of Regs., tit. 2, §§ 60100, 60110.)

## **II. ELIGIBLE CLAIMANTS**

Counties.

## **III. PERIOD OF REIMBURSEMENT**

Section 17557 of the Government Code, prior to its amendment by Statutes of 1998, Chapter 681, stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. This test claim was filed by the County of Los Angeles on December 22, 1997. Statutes of 1996, Chapter 654, was enacted on September 19, 1996 and became effective on January 1, 1997. Therefore, costs incurred in implementing Chapter 654, Statutes of 1996 on or after January 1, 1997, are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

## **IV. REIMBURSABLE ACTIVITIES**

The direct and indirect costs of labor, materials and supplies, contracted services, equipment, training, and travel incurred for the following mandate components are eligible for reimbursement:

### **A. One-Time Costs**

1. To develop policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.
2. To conduct county staff training on the new policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.

### **B. Continuing Costs**

#### **1. Mental Health Service Vendor Reimbursements**

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110.

#### **2. Case Management**

To reimburse counties for case management of SED pupils in out-of-state residential placements, including supervision of mental health treatment and monitoring of psychotropic medications as specified in Government Code section 7576 and Title 2, California Code of Regulations, sub division 60110, including the costs of treatment



related litigation (including administrative proceedings) over such issues as placement and the administration of psychotropic medication. Litigation (including administrative proceedings) alleging misconduct by the county or its employees, based in negligence or intentional tort, shall not be included.

3. Travel

To reimburse counties for travel costs necessary to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP as specified in Title 2, California Code of Regulations, subdivision 60110.

4. Program Management

To reimburse counties for program management costs, which include the costs of parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivisions 60100 and 60110.

## **V. CLAIM PREPARATION AND SUBMISSION**

Each claim for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV. of these Parameters and Guidelines.

### **A. Direct Costs**

Direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

1. Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, productive hourly rate and related fringe benefits.

Reimbursement for personnel services includes compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contribution to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

2. Materials and Supplies

Only expenditures that can be identified as direct costs of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

### 3. Contract Services

Provide the name(s) of the contractor(s) who performed the services, including any fixed contract for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services.

### 4. Fixed Assets

List the costs of the fixed assets that have been acquired specifically for the purpose of this mandate. If the fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for the purposes of the mandated program is eligible for reimbursement.

### 5. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

### 6. Training

The cost of training an employee to perform the mandated activities, as specified in Section IV of these Parameters and Guidelines, is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

### B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

## **VI. SUPPORTING DATA**

For auditing purposes, all costs claimed shall be traceable to source documents (e.g., invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All

documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. All claims shall identify the number of pupils in out-of-state residential programs for the costs being claimed.

#### **VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS**

Any offsetting savings the claimant experiences as a direct result of the subject mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim.

#### **VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION**

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's Office claiming instructions, for those costs mandated by the State contained herein.

# Commission on State Mandates

List Date: 12/26/1997

Mailing Information Proposed Parameters and Guidelines

## Mailing List

Claim Number 97-TC-05 Claimant County of Los Angeles

Amending CG 7576

Subject 1747/84, 1274/85, 654/96

Issue Seriously Emotionally Disturbed (SED) Pupils: Out-of-State mental Health Svcs.

Mr. Scott Berenson (A-31),  
Department of Mental Health

1600 9th Street, Room 150  
Sacramento CA 95814

Tel: (916) 654-2988  
FAX: (916) 653-6486

Mr. Allan Burdick,  
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000  
Sacramento CA 95841

Tel: (916) 485-8102  
FAX: (916) 485-0111

Ms. Annette Chinn,  
Cost Recovery Systems

1750 Creekside Oaks Drive, Suite 290  
Sacramento CA 95833-3640

Tel: (916) 939-7901  
FAX: (916) 939-7801

Mr. Phillip Crandall, Director  
Humboldt County Mental Health

1711 3rd Street  
Ukiah CA 95501

Tel: (707) 268-2835  
FAX: (707) 445-7270

Mr. Jim Cunningham, Leg. Mandate Spclst.  
San Diego City Schools

4100 Normal Street Room 3159  
San Diego CA 92103-2682

Tel: (619) 725-7565  
FAX: (619) 725-7580

**Claim Number**

97-TC-05

**Claimant**

County of Los Angeles

Amending CG 7576

**Subject**

1747/84, 1274/85, 654/96

**Issue**

Seriously Emotionally Disturbed (SED) Pupils: Out-of-State mental Health Svcs.

Mr. William A. Doyle, Mandated Cost Administrator  
San Jose Unified School District

1153 El Prado Drive  
San Jose CA 95120

*Tel:* (408) 997-2500

*FAX:* (408) 997-3171

Dr. Eleanor Fritz, Chief of Childrens Services  
Ventura County Behavioral Health

300 N. Hillmont Avenue Suite 252  
Ventura Ca 93003

*Tel:* (805) 652-3288

*FAX:* (805) 652-6160

Mr. Leonard Kaye, Esq.,  
County of Los Angeles  
Auditor-Controller's Office  
500 W. Temple Street, Room 603  
Los Angeles CA 90012

*Tel:* (213) 974-8564

*FAX:* (213) 617-8106

Mr. James Lombard (A-15), Principal Analyst  
Department of Finance

915 L Street  
Sacramento CA 95814

*Tel:* (916) 445-8913

*FAX:* (916) 327-0225

Dr. Merna McMillan, PHD, Director  
Santa Barbara County Mental Health

300 North San Antonio Road, Bldg 3  
Santa Barbara CA 93110

*Tel:* (805) 681-5233

*FAX:* (805) 681-5262

Ms. Laurie McVay,  
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000  
Sacramento CA 95841

*Tel:* (916) 485-8102

*FAX:* (916) 485-0111

**Claim Number**

97-TC-05

**Claimant**

County of Los Angeles

Amending CG 7576

**Subject**

1747/84, 1274/85, 654/96

**Issue**

Seriously Emotionally Disturbed (SED) Pupils: Out-of-State mental Health Svcs.

Mr. Paul Minney,  
Girard & Vinson

1676 N. California Blvd. Suite 450  
Walnut Creek CA 94596

Tel: (925) 746-7660  
FAX: (925) 935-7995

Mr. Joseph D. Mullender, Jr.,  
Attorney at Law

89 Rivo Alto Canal  
Long Beach CA 90803

Tel: (562) 439-6376  
FAX: (562) 962-7102

Mr. Andy Nichols,  
Vavrinek Trine Day & Co., LLP

12150 Tributary Point Drive, Suite 150  
Gold River CA 95670

Tel: (916) 353-1050  
FAX: (916) 351-1020

Mr. Keith B. Petersen, President  
Sixten & Associates

5252 Balboa Avenue Suite 807  
San Diego CA 92117

Tel: (619) 514-8605  
FAX: (619) 514-8645

Ms. Linda Powell (A-31), Deputy Director  
Dept. of Mental Health

1600 9th Street Room 250  
Sacramento CA 95814

Tel: (916) 654-2378  
FAX: (916) 654-2440

Ms. Sandy Reynolds, President (Interested Person)  
Reynolds Consulting, Inc.

P.O. Box 987  
Sun City CA 92586

Tel: (909) 672-9964  
FAX: (909) 672-9963

**Claim Number**

97-TC-05

**Claimant**

County of Los Angeles

Amending CG 7576

**Subject**

1747/84, 1274/85, 654/96

**Issue**

Seriously Emotionally Disturbed (SED) Pupils: Out-of-State mental Health Svcs.

Rima Singh,  
Santa Clara County Counsel's Office

70 West Hedding Street, East Wing 9th Floor  
San Jose CA 95110

*Tel:* (408) 299-2111  
*FAX:* (408) 292-7240

Mr. Steve Smith, CEO (Interested Person)  
Mandated Cost Systems

2275 Watt Avenue Suite C  
Sacramento CA 95825

*Tel:* (916) 487-4435  
*FAX:* (916) 487-9662

Jim Spano,  
State Controller's Office

Division of Audits (B-8)  
300 Capitol Mall, Suite 518 P.O. Box 942850  
Sacramento CA 95814

*Tel:* (916) 323-5849  
*FAX:* (916) 324-7223

Mr. Daniel G. Stone (D-8), Assistant Attorney General

Attorney General's Office  
Government Law Section  
1300 I Street 17th Floor  
Sacramento CA 95814

*Tel:* (916) 324-5499  
*FAX:* (916) 324-8835

Mr. Henry Tarke, Assistant Deputy Director  
Health and Human Services Agency

Heartbeat Bureau (P 531A) P.O. Box 85524  
San Diego CA 92186-5524

*Tel:* (619) 692-5578  
*FAX:* (619) 692-8674

Mr. Paige Vorhies (B-8), Bureau Chief

State Controller's Office  
Division of Accounting & Reporting  
3301 C Street Suite 500  
Sacramento CA 95816

*Tel:* (916) 445-8756  
*FAX:* (916) 323-4807

**Claim Number**

97-TC-05

**Claimant**

County of Los Angeles

Amending CG 7576

**Subject**

1747/84, 1274/85, 654/96

**Issue**

Seriously Emotionally Disturbed (SED) Pupils: Out-of-State mental Health Svcs.

Mr. David Wellhouse,  
Wellhouse & Associates

9175 Kiefer Blvd Suite 121  
Sacramento CA 95826

*Tel:* (916) 368-9244  
*FAX:* (916) 368-5723



**DECLARATION OF SERVICE BY MAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

October 31, 2000, I served the:

**Adopted Parameters and Guidelines**

*Seriously Emotionally Disturbed (SED) Pupils:*

*Out-Of-State Mental Health Services, CSM 97-TC-05*

Government Code Section 7576,

Statutes of 1996, Chapter 654

Title 2, Division 9, Chapter 1, California Code of Regulations,

Sections 60000-60610

California Department of Mental Health Information Notice Number 86-29

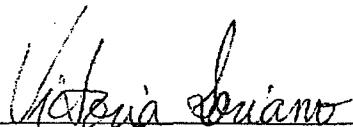
by placing a true copy thereof in an envelope addressed to:

Mr. Leonard Kaye, Esq.  
SB 90 Coordinator  
County of Los Angeles  
500 West Temple Street, Room 525  
Los Angeles, California 90012-2766

*State Agencies and Interested Parties (See attached mailing list);*

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 31, 2000, at Sacramento, California

  
Victoria Soriano

## **Tab 8**

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Section 7576, as amended  
by Statutes of 1996, Chapter 654;  
California Code of Regulations, Title 2,  
Division 9, Chapter 1, Sections 60000-60610;  
and  
California Department of Mental Health  
Information Notice Number 86-29

Filed on December 22, 1997

By the County of Los Angeles, Claimant.

No. 97-TC-05

*Seriously Emotionally Disturbed (SED)  
Pupils: Out-of-State Mental Health Services*

ADOPTION OF PARAMETERS AND  
GUIDELINES PURSUANT TO  
GOVERNMENT CODE SECTION 17557  
AND TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, SECTION 1183.12

*(Adopted on October 26, 2000; Corrected on  
July 21, 2006)*

**CORRECTED PARAMETERS AND GUIDELINES**

On October 26, 2000, the Commission adopted the staff analysis and proposed parameters and guidelines for this program. Page 5 of the analysis adopted by the Commission states the following:

Residential Costs

It is the County of Santa Clara's position that the proposed Parameters and Guidelines do not provide reimbursement for "residential costs" of out-of-state placements. Staff disagrees. ***The Commission, in its Statement of Decision for this mandate, found that payment of out-of state residential placements for SED pupils is reimbursable.*** The Commission's regulations require Parameters and Guidelines to describe specific costs that are reimbursable, including one-time and on-going costs, and the most reasonable methods of complying with the mandate.<sup>1</sup> It is staff's position that ***the cost of out-of-state residential placement of SED pupils would reasonably include the board and care of that pupil while they are out-of-state, and therefore, staff finds that residential costs are covered under payment of out-of-state residential placement for SED pupils.*** Staff does not propose any changes to Claimant's Revised Proposed Parameters and Guidelines, since Section IV., entitled "Reimbursable Activities, B. Continuing Costs, 1. Mental Health Service Vendor Reimbursements," already provides for reimbursement to counties for "payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and the California Code Regulations, Title 2, subsections 60100 and 60110." It is staff's position that ***under Section IV., the***

<sup>1</sup> Title 2, California Code of Regulations, section 1183.1 (a) (4).

***term "payments to service vendors providing mental health services to SED pupils in out-of-state residential placements" includes reimbursement for "residential costs" of out-of-state placements. (Emphasis added.)***

In order for the parameters and guidelines to conform to the findings of the Commission, this correction is being issued. The following underlined language is added to Section IV (B), Reimbursable Activities:

1. Mental Health Service Vendor Reimbursements

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Paula Higashi, Executive Director

## **Corrected Parameters and Guidelines**

Government Code Section 7576  
Statutes of 1996, Chapter 654

California Code of Regulations, Title 2, Division 9, Chapter 1, Sections 60000-60610  
California Department of Mental Health Information Notice Number 86-29

### ***Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services***

#### **I. SUMMARY OF MANDATE**

Government Code section 7576, as amended by Statutes of 1996, Chapter 654, established new fiscal and programmatic responsibilities for counties to provide mental health services to Seriously Emotionally Disturbed (SED) pupils placed in out-of-state residential programs. In this regard, Title 2, Division 9, Chapter 1 of the California Code of Regulations, sections 60000 through 60610, were amended to further define counties' fiscal and programmatic responsibilities including those set forth under section 60100 entitled "LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil," providing that residential placements for a SED pupil may be made out-of-state only when no in-state facility can meet the pupil's needs, and under section 60200 entitled "Financial Responsibilities," detailing county mental health and LEA financial responsibilities regarding the residential placements of SED pupils.

On May 25, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision on the subject test claim, finding the following activities to be reimbursable:

- Payment of out-of state residential placements for SED pupils. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Case management of out-of-state residential placements for SED pupils. Case management includes supervision of mental health treatment and monitoring of psychotropic medications. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, § 60110.)
- Travel to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's Individualized Education Plan (IEP). (Cal. Code Regs., tit. 2, § 60110.)
- Program management, which includes parent notifications, as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivision 60000- 60610. (Gov. Code, § 7576; Cal. Code of Regs., tit. 2, §§ 60100, 60110.)

## **II. ELIGIBLE CLAIMANTS**

Counties.

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Section 17557 of the Government Code, prior to its amendment by Statutes of 1998, Chapter 681, stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. This test claim was filed by the County of Los Angeles on December 22, 1997. Statutes of 1996, Chapter 654, was enacted on September 19, 1996 and became effective on January 1, 1997. Therefore, costs incurred in implementing Chapter 654, Statutes of 1996 on or after January 1, 1997, are eligible for reimbursement.

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The direct and indirect costs of labor, materials and supplies, contracted services, equipment, training, and travel incurred for the following mandate components are eligible for reimbursement:

### **B. One-Time Costs**

1. To develop policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.
2. To conduct county staff training on the new policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.

### **C. Continuing Costs**

#### **1. Mental Health Service Vendor Reimbursements**

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

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To reimburse counties for case management of SED pupils in out-of-state residential placements, including supervision of mental health treatment and monitoring of psychotropic medications as specified in Government Code section 7576 and Title 2, California Code of Regulations, sub division 60110, including the costs of treatment related litigation (including administrative proceedings) over such issues as placement

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3. Travel

To reimburse counties for travel costs necessary to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP as specified in Title 2, California Code of Regulations, subdivision 60110.

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To reimburse counties for program management costs, which include the costs of parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivisions 60100 and 60110.

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Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

## **VI. SUPPORTING DATA**

For auditing purposes, all costs claimed shall be traceable to source documents (e.g., invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the



date of initial payment of the claim. All claims shall identify the number of pupils in out-of-state residential programs for the costs being claimed.

**VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS**

Any offsetting savings the claimant experiences as a direct result of the subject mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim.

**VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION**

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's Office claiming instructions, for those costs mandated by the State contained herein.

## **Tab 9**

## **Amended Parameters and Guidelines**

Government Code Section 7576  
Statutes of 1996, Chapter 654

California Code of Regulations, Title 2, Division 9, Chapter 1, Sections 60000-60610  
California Department of Mental Health Information Notice Number 86-29

### ***Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services***

#### **EFFECTIVE FOR REIMBURSEMENT CLAIMS FILED FOR COSTS INCURRED THROUGH THE 2005-2006 FISCAL YEAR**

##### **I. SUMMARY OF MANDATE**

Government Code section 7576, as amended by Statutes of 1996, Chapter 654, established new fiscal and programmatic responsibilities for counties to provide mental health services to Seriously Emotionally Disturbed (SED) pupils placed in out-of-state residential programs. In this regard, Title 2, Division 9, Chapter 1 of the California Code of Regulations, sections 60000 through 60610, were amended to further define counties' fiscal and programmatic responsibilities including those set forth under section 60100 entitled "LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil," providing that residential placements for a SED pupil may be made out-of-state only when no in-state facility can meet the pupil's needs, and under section 60200 entitled "Financial Responsibilities," detailing county mental health and LEA financial responsibilities regarding the residential placements of SED pupils.

On May 25, 2000, the Commission on State Mandates (Commission) adopted its Statement of Decision on the subject test claim, finding the following activities to be reimbursable:

- Payment of out-of state residential placements for SED pupils. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Case management of out-of-state residential placements for SED pupils. Case management includes supervision of mental health treatment and monitoring of psychotropic medications. (Gov. Code, § 7576, Cal. Code Regs., tit. 2, § 60110.)
- Travel to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's Individualized Education Plan (IEP). (Cal. Code Regs., tit. 2, § 60110.)
- Program management, which includes parent notifications, as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, subdivision 60000- 60610. (Gov. Code, § 7576; Cal. Code of Regs., tit. 2, §§ 60100, 60110.)

These parameters and guidelines are effective for reimbursement claims filed for costs incurred through the 2005-2006 fiscal year. Commencing with the 2006-2007 fiscal year, reimbursement claims shall be filed through the consolidated parameters and guidelines for *Handicapped and Disabled Students* (04-RL-4282-10), *Handicapped and Disabled Students II* (02-TC-40/02-TC-49), and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05).

## **II. ELIGIBLE CLAIMANTS**

Counties.

## **III. PERIOD OF REIMBURSEMENT**

Section 17557 of the Government Code, prior to its amendment by Statutes of 1998, Chapter 681, stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. This test claim was filed by the County of Los Angeles on December 22, 1997. Statutes of 1996, Chapter 654, was enacted on September 19, 1996 and became effective on January 1, 1997. Therefore, costs incurred in implementing Chapter 654, Statutes of 1996 on or after January 1, 1997, are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

## **IV. REIMBURSABLE ACTIVITIES**

The direct and indirect costs of labor, materials and supplies, contracted services, equipment, training, and travel incurred for the following mandate components are eligible for reimbursement:

### **A. One-Time Costs**

1. To develop policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.
2. To conduct county staff training on the new policies, procedures and contractual arrangements, necessary to implement a county's new fiscal and programmatic responsibilities for SED pupils placed in out-of-state residential programs.

### **B. Continuing Costs**

#### **1. Mental Health Service Vendor Reimbursements**

To reimburse counties for payments to service vendors providing mental health services to SED pupils in out-of-state residential placements as specified in Government Code section 7576 and Title 2, California Code Regulations, sub divisions 60100 and 60110. Included in this activity is the cost for out-of-state residential board and care of SED pupils.

## **2. Case Management**

To reimburse counties for case management of SED pupils in out-of-state residential placements, including supervision of mental health treatment and monitoring of psychotropic medications as specified in Government Code section 7576 and Title 2, California Code of Regulations, sub division 60110, including the costs of treatment related litigation (including administrative proceedings) over such issues as placement and the administration of psychotropic medication. Litigation (including administrative proceedings) alleging misconduct by the county or its employees, based in negligence or intentional tort, shall not be included.

## **3. Travel**

To reimburse counties for travel costs necessary to conduct quarterly face-to-face contacts at the residential facility to monitor level of care, supervision, and the provision of mental health services as required in the pupil's IEP as specified in Title 2, California Code of Regulations, subdivision 60110.

## **4. Program Management**

To reimburse counties for program management costs, which include the costs of parent notifications as required, payment facilitation, and all other activities necessary to ensure a county's out-of-state residential placement program meets the requirements of Government Code section 7576 and Title 2, California Code of Regulations, sub divisions 60100 and 60110.

# **V. CLAIM PREPARATION AND SUBMISSION**

Each claim for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV. of these Parameters and Guidelines.

## **A. Direct Costs**

Direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

### **1. Salaries and Benefits**

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, productive hourly rate and related fringe benefits.

Reimbursement for personnel services includes compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contribution to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

## 2. Materials and Supplies

Only expenditures that can be identified as direct costs of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

## 3. Contract Services

Provide the name(s) of the contractor(s) who performed the services, including any fixed contract for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services.

## 4. Fixed Assets

List the costs of the fixed assets that have been acquired specifically for the purpose of this mandate. If the fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for the purposes of the mandated program is eligible for reimbursement.

## 5. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

## 6. Training

The cost of training an employee to perform the mandated activities, as specified in Section IV of these Parameters and Guidelines, is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

## B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

## **VI. SUPPORTING DATA**

For auditing purposes, all costs claimed shall be traceable to source documents (e.g., invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. All claims shall identify the number of pupils in out-of-state residential programs for the costs being claimed.

## **VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS**

Any offsetting savings the claimant experiences as a direct result of the subject mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION**

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's Office claiming instructions, for those costs mandated by the State contained herein.

## **Tab 10**



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### 2 CA ADC § 60100

§ 60100. LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil.

Term

2 CCR § 60100

Cal. Admin. Code tit. 2, § 60100

Bardays Official California Code of Regulations Currentness

Title 2. Administration

Division 9. Joint Regulations for Pupils with Disabilities

Chapter 1. Interagency Responsibilities for Providing Services to Pupils with Disabilities

Article 3. Residential Placement

§ 60100. LEA Identification and Placement of a Seriously Emotionally Disturbed Pupil.

(a) This article shall apply only to a pupil with a disability who is seriously emotionally disturbed pursuant to paragraph (i) of Section 3030 of Title 5 of the California Code of Regulations.

(b) When an IEP team member recommends a residential placement for a pupil who meets the educational eligibility criteria specified in paragraph (4) of subsection (c) of Section 300.7 of Title 34 of the Code of Federal Regulations, the IEP shall proceed in the following manner:

(1) An expanded IEP team shall be convened within thirty (30) days with an authorized representative of the community mental health service.

(2) If any authorized representative is not present, the IEP team meeting shall be adjourned and be reconvened within fifteen (15) calendar days as an expanded IEP team with an authorized representative from the community mental health service participating as a member of the IEP team pursuant to Section 7572.5 of the Government Code.

(3) If the community mental health service or the LEA determines that additional mental health assessments are needed, the LEA and the community mental health service shall proceed in accordance with Sections 60040 and 60045.

(c) Prior to the determination that a residential placement is necessary for the pupil to receive special education and mental health services, the expanded IEP team shall consider less restrictive alternatives, such as providing a behavioral specialist and full-time behavioral aide in the classroom, home and other community environments, and/or parent training in the home and community environments. The IEP team shall document the alternatives to residential placement that were considered and the reasons why they were rejected. Such alternatives may include any combination of cooperatively developed educational and mental health services.

(d) When the expanded IEP team recommends a residential placement, it shall document the pupil's educational and mental health treatment needs that support the recommendation for residential placement. This documentation shall identify the special education and related mental health services to be provided by a residential facility listed in Section 60025 that cannot be provided in a less restrictive environment pursuant to Title 20, United States Code Section 1412(a)(5).

(e) The community mental health service case manager, in consultation with the IEP team's administrative designee, shall identify a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment.

(f) The residential placement shall be in a facility listed in Section 60025 that is located within, or in the county adjacent to, the county of residence of the parents of the pupil with a disability, pursuant to paragraph (3) of subsection (a) of Section 300.552 of Title 34 of the Code of Federal Regulations. When no nearby placement alternative which is able to implement the IEP can be identified, this determination shall be documented, and the community mental health service case manager shall seek an appropriate placement which is as close to the parents' home as possible.

(g) Rates for care and supervision shall be established for a facility listed in Section 60025 in accordance with Section 18350 of the Welfare and Institutions Code.

(h) Residential placements for a pupil with a disability who is seriously emotionally disturbed may be made out of California only when no in-state facility can meet the pupil's needs and only when the requirements of subsections (d) and (e) have been met. Out-of-state placements shall be made only in residential programs that meet the requirements of Welfare and Institutions Code Sections 11460(c)(2) through (c)(3). For educational purposes, the pupil shall receive services from a privately operated non-medical, non-detention school certified by the California Department of Education.

(i) When the expanded IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in residential care, the community mental health service shall ensure that:

(1) The mental health services are specified in the IEP in accordance with Title 20, United States Code Section 1414(d)(1)(A)(vi).

(2) Mental health services are provided by qualified mental health professionals.

(j) When the expanded IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a facility listed in Section 60025, the expanded IEP team shall ensure that placement is in accordance with admission criteria of the facility.

Note: Authority cited: Section 7587, Government Code. Sections 10553, 10554, 11462(i) and (j) and 11466.1, Welfare and Institutions Code. Reference: Sections 7576(a) and 7579, Government Code; Sections 11460(c)(2)-(c)(3), 18350 and 18356, Welfare and Institutions Code; Sections 1412 and 1414, Title 20, United States Code; and Sections 300.7 and 300.552, Title 34, Code of Federal Regulations.

#### HISTORY

1. New section refiled 5-1-87 as an emergency; designated effective 5-1-87 (Register 87, No. 30). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-31-87.

2. Division 9 (Chapter 1, Articles 1-9, Sections 60000-60610, not consecutive) shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1988 pursuant to Item 4440-131-001(b)(2), Chapter 135, Statutes of 1987 (Register 87, No. 46).

3. Division 9 (Chapter 1, Articles 1-9, Sections 60000-60610, not consecutive) shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1997, pursuant to Government Code section 7587, as amended by Stats. 1996, c. 654 (A.B. 2726, s4.) (Register 98, No. 26).

4. Division 9 (Chapter 1, Articles 1-9, Sections 60000-60610, not consecutive) repealed June 30, 1997, by operation of Government Code section 7587, as amended by Stats. 1996, c. 654 (A.B. 2726, s4.) (Register 98, No. 26).

5. New article 3 (sections 60100-60110) and section filed 6-26-98 as an emergency; operative 7-1-98 (Register 98, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-29-98 or emergency language will be repealed by operation of law on the following day.

6. Editorial correction restoring prior Histories 1-2, adding new Histories 3-4, and renumbering and amending existing History 1 to new History 5 (Register 98, No. 44).

7. New article 3 (sections 60100-60110) and section refiled 10-26-98 as an emergency; operative 10-29-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-26-99 or emergency language will be repealed by operation of law on the following day.

8. New article 3 (sections 60100-60110) and section refiled 2-25-99 as an emergency; operative 2-26-99 (Register 99, No. 9). A Certificate of Compliance must be transmitted to OAL by 6-28-99 or emergency language will be repealed by operation of law on the following day.

9. Certificate of Compliance as to 2-25-99 order, including amendment of section heading, amendment of subsections (b)-(b)(2), (d) and (i)(1) and amendment of Note, transmitted to OAL 6-25-99 and filed 8-9-99 (Register 99, No. 33).

2 CCR § 60100, ← 2 CA ADC § 60100 →

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## **Tab 11**

(c) If an amount collected as child or spousal support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under subdivision (a) of Section 11477 for the current months and all past months.

11458. The county may cancel, suspend or revoke aid under this chapter for cause. Upon instructions from the department, the county shall cancel, suspend or revoke aid under this chapter.

Upon request of the department, an immediate report of every suspension of aid shall be made to the department stating the reason for the suspension and showing the action of the county in approving the suspension.

11460. (a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments or Indian tribes, consortia of tribes, or tribal organizations that have entered into an agreement pursuant to Section 10553.1.

(b) "Care and supervision" includes food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which he or she is enrolled at the time of placement. Reimbursement for the costs of educational travel, as provided for in this subdivision, shall be made pursuant to procedures determined by the department, in consultation with representatives of county welfare and probation directors, and additional stakeholders, as appropriate.

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider which are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish the maximum level of state participation in out-of-state foster care group home program rates effective January 1, 1992.

(1) The department shall develop regulations that establish the method for determining the level of state participation for each out-of-state group home program. The department shall consider all of the following methods:

(A) A standardized system based on the level of care and services per child per month as detailed in Section 11462.

(B) A system which considers the actual allowable and reasonable costs of care and supervision incurred by the program.

(C) A system which considers the rate established by the host state.

(D) Any other appropriate methods as determined by the department.

(2) State reimbursement for the AFDC-FC group home rate to be paid to an out-of-state program on or after January 1, 1992, shall only be paid to programs which have done both of the following:

(A) Submitted a rate application to the department and received a determination of the level of state participation.

(i) The level of state participation shall not exceed the current fiscal year's standard rate for rate classification level 14.

(ii) The level of state participation shall not exceed the rate determined by the ratesetting authority of the state in which the facility is located.

(iii) The level of state participation shall not decrease for any child placed prior to January 1, 1992, who continues to be placed in the same out-of-state group home program.

(B) Agreed to comply with information requests, and program and fiscal audits as determined necessary by the department.

(3) State reimbursement for an AFDC-FC rate paid on or after January 1, 1993, shall only be paid to a group home organized and operated on a nonprofit basis.

(d) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This shall apply regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(e) Nothing shall preclude a county from using a portion of its county funds to increase rates paid to family homes and foster family agencies within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county's expense.

11461. (a) For children or, on and after January 1, 2012, nonminor dependents placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, or the approved home of a nonrelative extended family member as described in Section 362.7, or, on and after January 1, 2012, a supervised independent living setting, as defined in subdivision (w) of Section 11400, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

| Age        | Basic rate |
|------------|------------|
| 0-4.....   | \$294      |
| 5-8.....   | 319        |
| 9-11.....  | 340        |
| 12-14..... | 378        |
| 15-20..... | 412        |

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a)

## **Tab 12**

## MANAGEMENT AGREEMENT

This MANAGEMENT AGREEMENT (the "Agreement") is made and entered into as of the 1st day of January, 2003, by and between Aspen Solutions Inc., a California nonprofit mutual benefit company ("ASI"), and Youth Care of Utah, Inc., a Delaware corporation ("Youth"). ASI and Youth are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

### RECITALS

WHEREAS, ASI is engaged in the business of providing certain management and administrative services to providers of health care services;

WHEREAS, Youth is a Delaware corporation whose employees provide therapeutic services in the state of Utah;

WHEREAS, Youth desires to retain ASI to manage and administer certain aspects of Youth's business relating to the therapeutic services provided by Youth; and

WHEREAS, Youth and ASI recognize that Youth has sole and complete responsibility for the provision of professional services.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

### ARTICLE 1

#### DUTIES OF ASI

Notwithstanding anything to the contrary in this Agreement, the parties hereto understand and agree that Youth has the sole responsibility for provision of therapeutic services. ASI does not itself provide therapeutic services to the clients of Youth and shall not exercise control over or interfere in any way with the exercise of professional judgment by Youth or Youth's employees in connection with Youth's therapeutic services. The parties agree that the benefits hereunder to Youth do not require, are not payment for, and are not in any way contingent upon the referral or any other arrangement for the provision of any item or service offered by ASI or any of its affiliates or any other providers which may be managed by ASI. The following non-therapeutic services shall be performed by ASI on behalf of Youth:

#### 1.1 General Management and Administration.

1.1.1 ASI shall be responsible for performing, supervising or paying for all business services, resources and other aspects of Youth's business as addressed in greater detail in the remainder of this Article 1.

1.1.2 Providing administrative coordination and support to Youth.



1.2 Financial Services. ASI's responsibilities under this Agreement shall include the following:

1.2.1 Establishing bookkeeping and accounting systems, including the maintenance and supervision of all of Youth's business records and the preparation, distribution and recordation of all bills and statements for services rendered by Youth, and the billing and completion of reports and forms required by insurance companies, governmental agencies and other third party payors, as applicable.

1.2.2 Providing Youth access to any and all books and records maintained by ASI on behalf of Youth upon five (5) business days notice in writing by Youth to ASI.

1.2.3 Preparing and furnishing cost reports as necessary.

1.3 Personnel Services: Payroll and Other Services. ASI's responsibilities under this Agreement shall include:

1.3.1 Recruiting, hiring, compensating, training and discharging all personnel necessary for the performance of the terms of this Agreement who shall be employees of ASI. Supervision of all Youth staff with regards to therapeutic activities shall be the right and responsibility of Youth's director.

## ARTICLE 2

### COMPENSATION

Youth shall pay to ASI those amounts set forth on Exhibit A hereto for services rendered by ASI hereunder. Said compensation shall be paid monthly and shall be due and payable on the fifteenth (15th) day of the month following the month in which service is provided.

## ARTICLE 3

### TERM AND TERMINATION

3.1 Term. The initial term of this Agreement shall commence on the date first written above and shall continue in effect until December 31, 2023 unless sooner terminated pursuant to the provisions of this Agreement. Thereafter, this Agreement shall automatically renew for successive periods of one (1) year each, unless terminated as provided herein.

3.2 Termination With Cause by Either Party. In the event of a material breach of this Agreement by either party, the other party shall provide written notice to the defaulting party (the "Default Notice") specifying the nature of the breach. In the event such breach is not cured to the reasonable satisfaction of the non-defaulting party within thirty (30) days after service of the Default Notice, this Agreement shall automatically terminate at the election of the non-defaulting party upon the giving of a written notice of termination to the defaulting party not later than sixty (60) days after service of the Default Notice; provided, however, that if the nature of the breach is such that it cannot be reasonably cured within thirty (30) days, this Agreement cannot be terminated by the non-defaulting party so long as the defaulting party is taking or has taken

reasonable steps within said thirty (30) day period to cure the breach and such steps are being diligently pursued.

3.3 Termination for Insolvency. Either party may terminate this Agreement immediately and without notice in the event that an application is made by the other party for the appointment of a receiver, trustee or custodian for any of the other party's assets; a petition under any section or chapter of the federal Bankruptcy Code or any similar law or regulation is filed by or against the other party and is not dismissed within sixty (60) days; the other party makes an assignment for the benefit of his creditors; or the other party becomes insolvent or fails generally to pay his debts as they become due.

3.4 Termination for Jeopardizing Client Care. Either party may terminate this Agreement immediately if: (a) the action or inaction of the other party constitutes an immediate and serious threat to the therapeutic services being provided; (b) the non-breaching party has given the other party prior written notice specifying such action or inaction; and (c) the breaching party has not within twenty-four (24) hours after being given such notice corrected the action or inaction. Notwithstanding anything herein to the contrary, during the 24-hour period described in the preceding sentence, Youth shall be entitled to take such other actions as are reasonably necessary to ensure the safety of the clients it provides therapeutic services for.

3.5 Termination for Change in Law. Subject to Section 3.6, either party may terminate this Agreement immediately if any change in the law or regulations governing the parties renders performance of this Agreement unenforceable or illegal by its terms.

3.6 Reformation of Agreement. If any provision in the Agreement is in violation of any law or regulation, the parties will amend, to the extent possible, the Agreement as necessary to correct such offending term or terms, while preserving the underlying economic and financial arrangements between the parties and without substantial economic detriment to either party.

3.7 Books and Records. Within fifteen (15) days of termination under this Article 3, ASI shall return to Youth all books, records and intangible property it has in its possession relating to Youth and its operations.

## ARTICLE 4

### COVENANTS OF ASI

4.1 Corporate Status. ASI covenants and agrees that it is presently, and shall remain throughout the initial term of this agreement and each renewal term thereof, a California nonprofit mutual benefit corporation in good standing with the California Secretary of State.

4.2 Insurance. ASI covenants and agrees that it shall maintain in effect during the initial term and each renewal term thereof, adequate comprehensive general liability and other insurance coverage to cover any loss, liability or damage which may result out of the activities of ASI or its officers, agents or employees. Youth shall be entitled to receive not less than thirty (30) calendar days' prior written notice of any reduction or cancellation in such insurance coverage by ASI. Evidence of the policies described above shall be provided to Youth upon request.

## ARTICLE 5

### COVENANTS OF YOUTH

#### 5.1 Corporate Status. Youth covenants and agrees that:

5.1.1 it is presently and shall remain throughout the initial term of this Agreement and each renewal term thereof, a corporation or limited liability company in good standing in the state of its incorporation or organization, as the case may be; and

5.1.2 it shall retain reasonable control over the manner in which it furnishes services.

#### 5.2 Insurance.

5.2.1 Youth covenants and agrees that it shall obtain and maintain in effect throughout the initial term of this Agreement and each renewal term thereof and pay the cost, of such policies of comprehensive general liability insurance and professional liability insurance with coverage in the minimum amount of Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the annual aggregate to insure it and its employees against liability for damages directly or indirectly related to the performance of any services provided, the use of any property and facilities provided by Youth and activities performed by Youth. ASI shall be entitled to receive not less than thirty (30) days written notice of any reduction or cancellation of such insurance coverage by Youth. Evidence of the insurance policies described above shall be provided to ASI upon request.

5.2.2 ASI covenants and agrees that it shall obtain and maintain in effect policies of workers' compensation and other insurance to the extent required by applicable law.

5.3 Cooperation. Youth covenants and agrees that it shall provide ASI access to all records and information and the use of such facilities as is required by ASI to perform its services hereunder subject to all applicable confidentiality laws. Youth further covenants that it shall grant ASI such authority as may be necessary or desirable to ensure ASI's ability to perform its duties hereunder.

5.4 Compliance With Law. Youth represents and warrants that it has not within the past three (3) years been cited for a material violation of any federal, state, local or other statute, law or regulation, and that Youth employees are duly licensed to provide therapeutic services to the extent required by applicable law.

## ARTICLE 6

### RECORDS

6.1 Business Records. All business records, papers and documents of Youth are the property of Youth.

## ARTICLE 7

### ARBITRATION

In the event of any dispute arising out of or relating to this Agreement, any Party will have the right to demand that such dispute be resolved by binding arbitration, pursuant to California Code of Civil Procedure Section 1280 et seq. (the "Arbitration Statute"), including Section 1283.05 regarding discovery. Such Party will serve a written notice to arbitrate pursuant to this Article 7 on the other Party to the dispute. An arbitration hearing will be held before a single arbitrator jointly selected by the Parties. The arbitrator will be selected from a list of retired superior court judges from the Counties of Los Angeles or Orange. If the parties fail within ten (10) calendar days to agree on the appointment of a single arbitrator, then each party will appoint one arbitrator (who need not be a retired superior court judge) within three (3) days thereafter and the two arbitrators will select a third arbitrator (who must be a retired superior court judge) who will serve as the sole arbitrator of the dispute. The arbitrator will decide the dispute in accordance with the procedure set forth in the Arbitration Statute within fifteen (15) days following the conclusion of the hearing. The prevailing party in such action will be entitled to recover all reasonable incurred costs and expenses accorded by the arbitrator, including reasonable attorneys fees and legal costs, incurred by such party in connection with such action. The decision of the arbitrator will be final and binding on both parties for any and all purposes. Judgment upon any award rendered by the arbitrator may be entered in any court of competent jurisdiction. Notwithstanding any other provision of this Agreement, in the case of a dispute involving a claim for equitable relief, a court with equitable jurisdiction may grant temporary restraining orders and preliminary injunctions to preserve the status quo existing before the events that are the subject of the dispute. Any final equitable or other relief will be ordered in the arbitration proceeding.

## ARTICLE 8

### INDEMNIFICATION

8.1 By ASI. ASI shall indemnify, defend, protect and hold Youth and its officers, directors, employees, agents and representatives ("Youth Released Parties") harmless from and against any and all liabilities, losses, damages, claims, causes of action, costs and expenses, including reasonable attorney's fees, (hereinafter each referred to as a "Claim") caused by reason of any injury to person or property resulting from the acts or omissions of ASI or ASI's employees or agents which occur in the course of performance of its duties under this Agreement or by reason of ASI's breach hereof, provided, however, that ASI shall have no responsibility to indemnify, protect and hold any Youth Released Parties harmless from and against any Claim occurring through the negligence of Youth or any of Youth's employees or agents and provided further that such indemnification obligation shall not apply with respect to any Claim covered by either Party's existing insurance policies.

8.2 By Youth. Youth shall indemnify, defend, protect and hold ASI and its officers, directors, employees, agents and representatives ("ASI Released Parties") harmless from and against any and all liabilities, losses, damages, claims, causes of action, costs and expenses, including reasonable attorney's fees, (hereinafter each referred to as a "Claim") caused by reason

of any injury to person or property resulting from the acts or omissions of Youth or Youth's employees or agents which occur in the course of performance of its duties under this Agreement or by reason of Youth's breach hereof, provided, however, that Youth shall have no responsibility to indemnify, protect and hold any ASI Released Parties harmless from and against any Claim occurring through the negligence of ASI or any of ASI's employees or agents.

## **ARTICLE 9**

### **INDEPENDENT CONTRACTOR**

In the performance of the work, duties and obligations described hereunder, it is mutually understood and agreed that each party is at all times acting and performing as an independent contractor with respect to the other and that -no relationship of partnership, joint venture or employment is created by this Agreement. Neither party, nor any other person performing services on behalf of either party pursuant to this Agreement, shall have any right or claim against the other party under this Agreement for social security benefits, workers' compensation benefits, disability benefits, unemployment insurance benefits, health benefits, vacation pay, sick leave or any other employee benefits of any kind. Each party agrees to be responsible for, to pay, and to hold the other party harmless from and indemnify the other party against, all such compensation, social security, workers, compensation, disability, unemployment and other benefits, and tax withholding and similar obligations related to those persons employed or engaged by such party.

## **ARTICLE 10**

### **NOTICES**

All notices required to be given hereunder shall be in writing and shall be deemed delivered if personally delivered or dispatched by certified or registered mail, return receipt requested, postage prepaid, addressed to the parties as follows:

Youth: Youth Care of Utah, Inc.  
17777 Center Court Drive, Suite 300  
Cerritos, California 90703  
Attn: Susan Burden  
Facsimile No. 562-467-5511

ASI: Aspen Solutions, Inc.  
17777 Center Court Drive, Suite 300  
Cerritos, California 90703  
Attn: Ginny Romig  
Facsimile No. 562-467-5574

with a copy to:

Nathaniel Weiner, Esq.

Aspen Education Group, Inc.  
17777 Center Court Drive, Suite 300  
Cerritos, California 90703  
Facsimile No. 562-402-7036

Notice shall be deemed given on the date it is deposited in the mail in accordance with the foregoing. Any party may change the address to which to send notices by notifying the other party of such change of address in writing in accordance with the foregoing.

## ARTICLE 11

### MISCELLANEOUS

11.1 Severability. Any terms or provisions of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other term or provisions herein and such remaining terms and provisions shall remain in full force and effect.

11.2 Attorneys' Fees. In the event that either party to this Agreement shall bring any action at law or in equity to enforce any term, covenant or condition of this Agreement, the prevailing party in such action shall be entitled to recover all costs and expenses, including reasonable attorney's fees, incurred by such party in connection with such action.

11.3 Governing Law. The existence, validity and construction of this Agreement shall be governed by laws of the State of California.

11.4 Assignment. Neither party shall have the right to assign this Agreement without the prior written consent of the other party, provided that any assignment to an entity under common control shall not require such consent. Any attempted assignment of this Agreement in contravention of this Section 11.4 shall be null and void and without any effect whatsoever.

11.5 Successors and Assigns. Subject to the provisions of this Agreement regarding assignment, the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

11.6 Waiver. The waiver by either party to this Agreement of any one or more defaults, if any, on the part of the other, shall not be construed to operate as a waiver of any other or future defaults, under the same or different terms, conditions or covenants contained in this Agreement.

11.7 Caption and Headings. The captions and headings throughout this Agreement are for convenience of reference only and shall in no way be held or deemed to be a part of or affect the interpretation of this Agreement.

11.8 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant or condition hereof, as third party beneficiaries or

otherwise, and all of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns.

11.9 Entire Agreement; Amendments. This Agreement states the entire contract between the parties in respect to the subject matter of this Agreement and supersedes any oral or written proposals, statements, discussions, negotiations or other agreements before or contemporaneous to this Agreement. The parties acknowledge that they have not been induced to enter into this Agreement by any oral or written representations or statements not expressly contained in this Agreement. This Agreement may be modified only by mutual agreement of the parties provided that, before any modification shall be operative or valid, it be reduced to writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Management Agreement on that day and year set forth hereinabove.

YOUTH CARE OF UTAH, INC.

By: Susan M. Burden  
Susan Burden  
Vice President

ASPEN SOLUTIONS, INC.

By: Ginny Romig  
Ginny Romig  
President

## **EXHIBIT A**

### **MANAGEMENT FEE PROVISIONS**

In return for services as provided for hereunder by Aspen Solutions, Inc., Youth Care of Utah, Inc. shall compensate Aspen Solutions, Inc. an amount equal to 2% of the monthly gross revenue billed by ASI on behalf of Youth, payable in arrears on a monthly basis.



## **Tab 13**



June 12, 2002

Ms. Zoe Trachtenberg  
Los Angeles Department of Mental Health  
AB3632 Residential Placement Unit, 3<sup>rd</sup> Floor  
550 South Vermont Avenue  
Los Angeles, CA 90020

Dear Ms. Trachtenberg:

Please advise the Contracts Division of L.A. County Mental Health that Logan River Academy is under contract with Mental Health Systems, Inc. Therefore, all payments for client's therapy/counseling charges should be made payable to Mental Health Systems, Inc. Please use the following information when preparing payments:

MENTAL HEALTH SYSTEMS, INC.  
P.O. Box 3662  
Logan, UT 84323

Thank you for your help in resolving this matter. If any additional information is needed, I can be contacted at 435-755-8400.

Sincerely,

Kristine Sinner

## AGREEMENT TO PROVIDE MENTAL HEALTH SERVICES

This agreement is executed this 4th day of October 2000, by and between MHS, Inc. ("MHS"), a California non-profit corporation and Logan River Academy ("Logan River") a Utah for-profit limited liability company.

### RECITALS

- A. MHS is certified as a Short-Doyle/Medi-Cal Mental Health Rehabilitation Services Provider, which desires to contract with Logan River to provide care to children and adolescents who have been authorized by certain County Mental Health Departments of California as listed on Exhibit C to receive mental health services;
- B. Logan River has been approved by the certain County Mental Health Departments for the State of California (as listed on Exhibit C) as a provider of services to children and adolescents residing in California and desires to contract with MHS for the purpose of obtaining certain funds distributed by California State Social Services and California County Mental Health Departments;
- C. MHS seeks to contract with qualified professionals to assure that appropriate care is provided to those persons authorized to receive mental health services;
- D. Logan River has agreed to provide the services of qualified professionals to provide care to those persons authorized to receive mental health services.

IT IS THEREFORE AGREED by the parties as follows:

#### 1. Definitions.

- A. Beneficiary shall mean any person authorized by any of the certain County Mental Health Departments of California (as listed on Exhibit C which may be amended from time to time as appropriate and upon mutual agreement of the parties) to receive Mental Health Services and who has been properly placed at Logan River for the provision of services pursuant to Chapter 26.5 of Division 7 of title 1 of the Government Code.
- B. Mental Health Services shall mean all inpatient mental health services.
- C. Covered Services are those services covered by California State Social Service funding or by California County Mental Health Departments, as identified on Exhibit A.
- D. Professional shall mean an employee, or independent contractor of Logan River qualified to provide services as required pursuant to this Agreement.

2. **Provision of Covered Services.**

Logan River will employ Professionals who shall provide Covered Services to Beneficiaries in accordance to this Agreement. Logan River shall insure that Covered Services are rendered in a manner which assures availability, adequacy, and continuity if care to Beneficiaries.

Logan River shall operate continuously throughout the term of this Agreement with at least the minimum number and type of staff which meet applicable State and Federal requirements, and which are necessary for the provision of the services hereunder.

All Covered Services rendered hereunder shall be provided by Logan River under the general supervision of MHS. MHS shall have the right to monitor the kind, quality, appropriateness, timeliness and the amount of Covered Services to be provided, however all decisions pertaining to the Mental Health Services to be rendered to any Beneficiary shall be based on the individual Beneficiary's medical needs as initially determined by Logan River. Logan River shall remain solely responsible for the quality of all Mental Health Services and Covered Services provided.

3. **Compliance with Laws.**

A. **Nondiscrimination.** Logan River shall not discriminate in providing any services based on sex, race, national origin, religion, or disability of any Beneficiary.

B. **Child Abuse Reporting and Related Personnel Requirements.** Logan River, and all persons employed by Logan River, shall comply with all child abuse and neglect laws of the State of Utah and shall report all known or suspected instances of child abuse to an appropriate child protective agency, as mandated by the laws of Utah. Logan River shall assure that any person who enters into the employment as a care custodian of minor children, or who enters into employment as a health practitioner, prior to commencing employment, and as a prerequisite to that employment, shall sign a statement on a form provided by MHS in accordance with the above laws to the effect that such person has knowledge of, and will comply with, these laws. For the safety and welfare of minor children, Logan River shall, to the maximum extent permitted by law, ascertain arrest and conviction records for all current and prospective employees and shall not employ or continue to employ any person convicted of any crime involving any harm to minor children. Logan River shall not employ or continue to employ, or shall take other appropriate action to fully protect all persons receiving services under this Agreement concerning, any person whom Logan River knows, or reasonably suspects, has committed any acts which are inimical to the health, morals, welfare, or safety of minor children, or which otherwise make it inappropriate for such person to be employed by Logan River.

C. **Fair Labor Standards.** Logan River shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend and hold harmless MHS, its officers, employees and agents, from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorney's fees arising under any wage and hour law, including, but not limited to the Federal Fair Labor Standards Act, for services performed by Logan River's employees for which MHS may be found jointly or solely liable.

D. **Licensure.** Logan River certifies that it is licensed as a Residential Treatment Center and that each of its Professionals is licensed and/or certified in good standing to practice his or her profession in the State of Utah. Logan River, its Professionals, officers, agents, employees and subcontractors shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers and exemptions necessary for the provision of the services hereunder and required by the laws or regulations of the United States, Utah and all other applicable government jurisdictions or agencies. Logan River agrees to immediately notify MHS in the event that Logan River or any Professional has his/her license placed on probation, suspended, or terminated.

4. **Insurance.**

Without limiting Logan River's indemnification as provided herein, at all times during the course of this Agreement, Logan River shall maintain professional liability insurance at least in the amount of [\$1,000,000 per occurrence and \$3,000,000 annual aggregate]. Logan River shall also maintain customary and reasonable workers compensation insurance and general liability insurance. The costs for said policies, deductible amounts, uncovered liabilities, defense costs, loss adjustment expenses and settlements arising out of or from any services provided by Logan River (including those services rendered by Logan River Professionals or personnel who are acting under the direction or supervision of Logan River) shall be payable by Logan River, to the extent not covered by insurance proceeds. The costs for said policies, deductible amounts, uncovered liabilities, defense costs, loss adjustment expenses, and settlements arising out of services provided by MHS shall be payable by MHS, to the extent not covered by insurance proceeds.

Logan River shall provide evidence of such coverage prior to the effective date of this Agreement and thereafter as requested by MHS. Logan River's insurance shall include MHS as an additional insured with respect to the operations which Logan River performs under contract with MHS. It is agreed that any insurance maintained by MHS shall apply in excess of and not contribute with, insurance provided by this policy. Logan River's insurance shall not be canceled, limited or non-renewed until thirty (30) days written notice has been given to MHS at the address first noted in this Agreement.

In the event that any Professional or Logan River is sued as a result of any services provided to a Beneficiary pursuant to this Agreement, Logan River shall immediately notify MHS. Logan River shall notify MHS, in writing, within sixteen (16)

hours of becoming aware of any occurrence of a serious nature, which may expose MHS to liability. Such occurrences shall include, but not be limited to deaths, accidents or injuries to any Beneficiary, or acts of negligence of Logan River or one of its Professionals.

5. **Prohibition on Billing Beneficiaries.**

MHS shall be the sole source of payment to Logan River for those Covered Services rendered to the Beneficiaries for which MHS obtains funding from California State Social Services and/or California County Mental Health Departments. Logan River agrees that in no event shall it seek payment from the Beneficiaries for any Covered Service except in those instances where there is a co-payment amount or for incremental costs, as outlined in the financial policies of Logan River, including medical and ancillary expenses not covered under routine room and board. If Logan River desires to seek such payment from the Beneficiaries for either a co-payment or for incremental costs, Logan River shall seek such payment directly without any involvement from MHS. Logan River agrees that it and not MHS will have full responsibility for Logan River's collection of money for such co-payments or incremental costs.

6. **Total Quality Management/Utilization Review.**

Logan River agrees to cooperate fully with MHS in assuring total quality management and utilization review in accordance with MHS's policies. This includes, but is not limited to, permitting MHS to observe the operation of Logan River and to review the records of individual Beneficiaries, in accordance with all applicable laws, to assure that the care which is provided is appropriate.

7. **Release of Medical Information.**

MHS, as applicable and appropriate, shall obtain from Beneficiaries appropriate authorization for release of medical information by MHS. Logan River, as applicable and appropriate, shall obtain from Beneficiaries appropriate authorization for release of medical information by Logan River.

8. **Indemnification.**

Except as provided herein, MHS agrees to indemnify and hold Logan River, its offices, directors, employees, agents, successors and assigns harmless from and against any claim, damage, loss, expense, liability, obligation, action or cause of action, including reasonable attorney's fees and reasonable costs of investigation, which Logan River may sustain, pay, suffer or incur by reason of any act, omission, or negligence of MHS in performing its obligations under this Agreement.

Immediately after either Party has notice of a claim or potential claim relating either directly or indirectly to any Beneficiary as defined by this Agreement, that party shall give notice to the other of any claim or other matter with respect to which indemnity

may be sought pursuant to this provision, and of the commencement of any legal proceedings or action with respect to such claim, and shall permit the other party at its own expense to assume the handling and defense of any such claim, proceeding or action. Neither party shall pay or settle any claim or action subject to the indemnity hereunder without the prior written consent of the other party. Failure to give such notice, or the payment or settlement without written consent, shall vitiate the indemnity provided herein.

**9. Maintenance of Records.**

Logan River agrees to maintain standard financial and medical records for Beneficiaries for at least a five-year period (or longer if required by law or by any funding source) and to comply with all applicable provisions of federal and state law concerning confidentiality of such records. In the event a Beneficiary chooses another mental health services provider, Logan River shall forward such records to the new mental health services provider upon Logan River's receipt of the Beneficiary's signed consent and authorization in a timely manner at no cost to the Beneficiary or MHS.

**10. Access to Records.**

This Section is included herein because of the possible application of Section 1861(v)(1)(1) of the Social Security Act to this Agreement. If such Section and the regulations promulgated thereunder, then this Section of the Agreement will be deemed not to be a part of this Agreement and will be null and void. Until the expiration of four years after the furnishing of services under this Agreement, Logan River will make available to MHS, the California County Mental Health Departments listed on Exhibit C, U.S. Department of Health and Human Services, and the Controller General this Agreement and all related books, documents, and records. Unless required by law, Logan River shall not otherwise disclose the terms and conditions of this Agreement to any third parties, except to its attorneys or accountants who shall be similarly bound.

**11. Audits.**

Logan River will permit MHS and those California County Mental Health Departments listed on Exhibit C, upon written request and during reasonable business hours, to have access to its business, financial and client records related to services provided to Beneficiaries related to this Agreement for the purpose of auditing Logan River's bills and for conducting quality and utilization review.

**12. Required Notification.**

Logan River shall notify MHS within five days of any of the following occurrences:

- A. Logan River or a Professional's license is suspended, revoked, voluntarily relinquished, or subject to terms of or other restrictions;

- B. Logan River or a Professional is suspended from participation in the Medicare or Medicaid programs;
- C. Logan River's insurance as set forth in Section 5 is terminated or the limits of coverage are decreased for any reason;
- D. When a Professional who is a member of the medical staff has his/her privileges limited or terminated in any manner;
- E. Logan River or a Professional is named in a professional liability action or any other action involving a Beneficiary or related to the services provided by Logan River or its Professionals to any Beneficiary.

**13. Compliance with Medicare and Medicaid/No Referrals.**

The parties to this Agreement expressly acknowledge that it has been and continues to be their intent to comply fully with all federal, state, and local laws, rules and regulations. It is not a purpose, nor is it a requirement, of this Agreement or of any other agreement between the parties, to offer or receive any remuneration of any patient, payment of which may be made in whole or in part by Medicare or Medicaid. Neither party shall make or receive any payment that would be prohibited under state or federal law.

**14. Compensation.**

MHS will pay Logan River in accordance with the procedures and terms set forth in Exhibit B ("Fee Schedule and Compensation Procedure").

Logan River shall only be entitled to compensation from MHS for those services for which MHS has received remuneration from the California State and Social Services or from a California County Mental Health Department. Logan River shall not be entitled to any compensation from MHS for any services for which MHS does not receive remuneration from the California State Social Services or California County Mental Health Department. By the way of illustration and not limitation, MHS may not receive remuneration, and therefore Logan River shall not be entitled to any compensation for the following:

- A. Services rendered prior to receipt of any required advance approval to provide services;
- B. Services which are not Covered Services as set forth on Exhibit A;
- C. Unnecessary services as determined by MHS in accordance with its utilization policies and procedures.



In consideration of the compensation which Logan River receives under this Agreement, Logan River agrees to cooperate with MHS and to amend this Agreement from time to time as MHS may reasonably request in order to comply with various contractual obligations which MHS may need to satisfy in order to receive California State Social Services or California County Mental Health Department funding.

15. Costs.

All costs incurred in the provision of Logan River's services, including but not limited to the Covered Services, shall be born by Logan River and not MHS. Any costs incurred by MHS for the purpose of providing Total Quality Management/Utilization Review as set forth in Section 6, hereto or conducting Audits as set forth in Section 11 hereto shall be born by MHS, provided however, that any additional costs incurred by MHS which result from any delay or complication for which Logan River is responsible shall be born by Logan River. Logan River shall reimburse MHS for all such costs within thirty (30) days of receiving from MHS a written account of all such additional costs.

16. Patient Disputes.

If there are any disputes between MHS and Logan River for itself or its Professionals, the dispute must be discussed directly between Logan River and MHS and at no point shall the Beneficiary become aware of or participate in these discussions.

17. Termination.

The term of this Agreement is one (1) year and shall renew automatically unless terminated in accordance with the provisions of this Section.

A. Either party may terminate this Agreement without cause upon thirty days written notice. In the event that this Agreement is terminated, the parties will work together to bring forth the smooth transition of Beneficiaries' care which, by way of demonstration but not exclusion, may include providing interim services not to exceed sixty (60) days in accordance with all terms of this Agreement.

B. The Agreement shall be terminated automatically upon Logan River having its license suspended or revoked or its ability to participate in the Medicare/Medicaid program, suspended or terminated.

C. Either party may immediately terminate this Agreement with cause if the other party materially breaches this Agreement. Under such circumstances, the non-breaching party may give notice of the breach and the Agreement shall terminate within fifteen (15) days unless the breach is corrected within such time.

18. Effect of Termination.

Upon termination, the provisions of Section 4 ("Insurance"), Section 8 ("Indemnification"), Section 10 ("Access to Records"), Section 11 ("Audits"), Section 14 ("Compensation"), Section 15 ("Costs") and Section 16 ("Patient Dispute") shall remain in effect.

19. Non-Exclusivity.

Nothing contained herein shall restrict the right of Logan River or Professional to participate in providing services to other patients, regardless of the payor for such services.

20. Jeopardy.

In the event the performance by either party hereto of any term, covenant, condition or provision of this Agreement should (i) jeopardize (A) the licensure of either party, any employee or any individual providing services hereunder or any provider owned and/or operated by either party or any corporate affiliate of such party (a "Covered Party"); (B) any Covered Party's participation in or reimbursement from Medicare, Medicaid or other reimbursement of payment programs; or (c) any Covered Party's full accreditation by JCAHO or any successor accrediting agency, or (ii) if the continuance of this Agreement should be in violation of any statute, ordinance, or otherwise deemed illegal or be deemed unethical by any recognized body, agency, or association in the medical or behavioral health care fields (collectively, "Jeopardy Event"), then the parties shall use their best efforts to meet forthwith in an attempt to negotiate an amendment to this Agreement to remove or negate the effects of the Jeopardy Event. In the event the parties are unable to negotiate such an amendment within fifteen (15) days following written notice by either party of the Jeopardy Event, then either party may terminate this Agreement immediately upon written notice to the other party, notwithstanding any severability provisions hereto to the contrary.

21. Notices.

All notices required under this Agreement shall be provided in writing as follows:

MHS:

Mental Health Systems, Inc.  
9845 Erma Road, Suite 300  
San Diego, CA 92131  
Attn: Bill Eastwood

With a copy to:

Gray Cary Ware & Freidenrich  
4365 Executive Drive, Suite 1600  
San Diego, CA 92121-2189  
Attention: T. Knox Bell, Esp.

Logan River:

Logan River Academy, L.L.C.  
1683 South Highway 89-91  
Logan, UT 84321  
Attn: Administration

**22. Independent Status.**

Logan River is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services or Covered Services required of it by the terms of this Agreement. Logan River is entirely responsible for compensating its Professional and other staff, subcontractors and consultants employed by Logan River. The parties are independent of each other and this Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between MHS and Logan River or any of Logan River's Professionals, other employees, agents, consultants or subcontractors. Logan River assumes exclusively the responsibility for the acts of its Professional, employees, agents, consultants and/or subcontractors as they relate to the services and Covered Services to be provided during the course and scope of their employment. Logan River will remain an independent contractor responsible for all taxes and/or payments made by MHS. Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership, joint venture or lease between Logan River and MHS with respect to UHS of Logan River, Inc. or any equity interest in UHS of Logan River, Inc. on the part of MHS.

**23. Assignment.**

This Agreement shall not be subcontracted or assigned except to an affiliate or purchaser of Logan River. If MHS wishes to assign this Agreement, it must notify Logan River in writing and obtain its written consent.

**24. Organization, Power and Authority.**

MHS hereby represents, warrants and covenants that it is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of California, is qualified or otherwise has met all lawful requirements to transact business in the State of Utah, and has all requisite corporate power and authority to execute and

deliver this Agreement, to perform its obligations under this Agreement, and this Agreement is valid, binding and enforceable in accordance with its terms.

Logan River hereby represents, warrants and covenants that it is a for-profit limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, is qualified or otherwise has met all lawful requirements to transact business in the State of Utah, and has all requisite power and authority to execute and deliver this Agreement, to perform its obligations under this Agreement, and this Agreement is valid, binding and enforceable in accordance with its terms

**25. Non-assumption of Liabilities.**

By entering into and performing this Agreement, neither party shall become liable for any of the existing or future obligations, liabilities or debts of the other party.

**26. Rights Cumulative, No Waiver.**

No right or remedy herein conferred upon or reserved to either of the parties hereto is intended to be exclusive of any right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of an event of default thereunder. The failure of either party hereto to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed by as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

**27. Captions and Headings.**

The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Agreement nor in any way affect the Agreement.

[Remainder of Page intentionally left blank]

**28. Counterparts.**

This Agreement may be executed in counterparts, each of which will be treated as an original, but all of which together will constitute one and the same instrument.

29. Entire Agreement.

This Agreement contains the entire agreement of the parties and can only be modified by documents signed by both the parties.

Entered into this on the date first noted above.

"MHS"  
Mental Health Systems, Inc.

Bill Cartwood

Title: Executive Director

"Logan River"  
Logan River Academy, L.L.C.

James W. Carter

Title: Executive Director

## **Tab 14**

**AGREEMENT TO PROVIDE  
MENTAL HEALTH SERVICES**

This Agreement is executed this 1st day of July, 1998, by and between Mental Health System, Inc. ("MHS"), a California non-profit corporation and Charter Provo Canyon School, LLC ("Provo Canyon") a Delaware for-profit limited liability company.

**RECITALS**

A. MHS is certified as a Short-Doyle/Medi-Cal Mental Health Rehabilitation Services Provider, which desires to contract with Provo Canyon to provide care to children and adolescents who have been authorized by certain County Mental Health Departments of California as listed on Exhibit C to receive mental health services;

B. Provo Canyon has been approved by the certain County Mental Health Departments for the State of California (as listed on Exhibit C) as a provider of services to children and adolescents residing in California and desires to contract with MHS for the purpose of obtaining certain funds distributed by California State Social Services and California County Mental Health Departments;

C. MHS seeks to contract with qualified professionals to assure that appropriate care is provided to those persons authorized to receive mental health services;

D. Provo Canyon has agreed to provide the services of qualified professionals to provide care to those persons authorized to receive mental health services.

**IT IS THEREFORE AGREED by the parties as follows:**

**1. Definitions.**

A. Beneficiary shall mean any person authorized by any of the certain County Mental Health Departments of California (as listed on Exhibit C which may be amended from time to time as appropriate and upon mutual agreement of the parties) to receive Mental Health Services and who has been properly placed at Provo Canyon for the provision of services pursuant to Chapter 26.5 of Division 7 of Title 1 of the Government Code.

B. Mental Health Services shall mean all inpatient mental health services.

C. Covered Services are those services covered by California State Social Service funding or by California County Mental Health Departments, as identified on Exhibit A.

D. Professional shall mean an employee, or independent contractor of Provo Canyon qualified to provide services as required pursuant to this Agreement.

2. **Provision of Covered Services.** Provo Canyon will employ Professionals who shall provide Covered Services to Beneficiaries in accordance to this Agreement. Provo Canyon shall insure that Covered Services are rendered in a manner which assures availability, adequacy, and continuity of care to Beneficiaries.

Provo Canyon shall operate continuously throughout the term of this Agreement with at least the minimum number and type of staff which meet applicable State and Federal requirements, and which are necessary for the provision of the services hereunder.

All Covered Services rendered hereunder shall be provided by Provo Canyon under the general supervision of MHS. MHS shall have the right to monitor the kind, quality, appropriateness, timeliness and the amount of Covered Services to be provided, however all decisions pertaining to the Mental Health Services to be rendered to any Beneficiary shall be based on the individual Beneficiary's medical needs as initially determined by Provo Canyon. Provo Canyon shall remain solely responsible for the quality of all Mental Health Services and Covered Services provided.

3. **Compliance with Laws.**

A. **Nondiscrimination.** Provo Canyon shall not discriminate in providing any services based on the sex, race, national origin, religion, or disability of any Beneficiary.

B. **Child Abuse Reporting and Related Personnel Requirements.** Provo Canyon, and all persons employed by Provo Canyon, shall comply with all child abuse and neglect laws of the State of Utah and shall report all known or suspected instances of child abuse to an appropriate child protective agency, as mandated by the laws of Utah. Provo Canyon shall assure that any person who enters into employment as a care custodian of minor children, or who enters into employment as a health or other practitioner, prior to commencing employment, and as a prerequisite to that employment, shall sign a statement on a form provided by MHS in accordance with the above laws to the effect that such person has knowledge of, and will comply with, these laws. For the safety and welfare of minor children, Provo Canyon shall, to the maximum extent permitted by law, ascertain arrest and conviction records for all current and prospective employees and shall not employ or continue to employ any person convicted of any crime involving any harm to minor children. Provo Canyon shall not employ or continue to employ, or shall take other appropriate action to fully protect all persons receiving services under this Agreement concerning, any person whom Provo Canyon knows, or reasonably suspects, has committed any acts which are inimical to the health, morals, welfare, or safety of minor children, or which otherwise make it inappropriate for such person to be employed by Provo Canyon.



C. Fair Labor Standards. Provo Canyon shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend and hold harmless MHS, its officers, employees and agents, from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorney's fees arising under any wage and hour law, including, but not limited to the Federal Fair Labor Standards Act, for services performed by Provo Canyon's employees for which MHS may be found jointly or solely liable.

D. Licensure. Provo Canyon certifies that it is licensed as a Residential Treatment Center and that each of its Professionals is licensed and/or certified in good standing to practice his or her profession in the State of Utah. Provo Canyon, its Professionals, officers, agents, employees and subcontractors shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers and exemptions necessary for the provision of the services hereunder and required by the laws or regulations of the United States, Utah and all other applicable government jurisdictions or agencies. Provo Canyon agrees to immediately notify MHS in the event that Provo Canyon or any Professional has his/her license placed on probation, suspended, or terminated.

4. Insurance. Without limiting Provo Canyon's indemnification as provided herein, at all times during the course of this Agreement, Provo Canyon shall maintain professional liability insurance at least in the amount of [\$2,000,000 per occurrence and \$6,000,000 annual aggregate]. Provo Canyon shall also maintain customary and reasonable workers compensation insurance and general liability insurance. The costs for said policies, deductible amounts, uncovered liabilities, defense costs, loss adjustment expenses, and settlements arising out of or from any services provided by Provo Canyon (including those services rendered by Provo Canyon Professionals or personnel who are acting under the direction or supervision of Provo Canyon) shall be payable by Provo Canyon, to the extent not covered by insurance proceeds. The costs for said policies, deductible amounts, uncovered liabilities, defense costs, loss adjustment expenses, and settlements arising out of services provided by MHS shall be payable by MHS, to the extent not covered by insurance proceeds.

Provo Canyon shall provide evidence of such coverage prior to the effective date of this Agreement and thereafter as requested by MHS. Provo Canyon's insurance shall include MHS as an additional insured with respect to the operations which Provo Canyon performs under contract with MHS. It is agreed that any insurance maintained by MHS shall apply in excess of and not contribute with, insurance provided by this policy. Provo Canyon's insurance shall not be canceled, limited or non-renewed until after thirty (30) days written notice has been given to MHS at the address first noted in this Agreement.

In the event that any Professional or Provo Canyon is sued as a result of any services provided to a Beneficiary pursuant to this Agreement, Provo Canyon shall immediately notify MHS. Provo Canyon shall notify MHS, in writing, within sixteen (16) hours of becoming aware of any occurrence of a serious nature which may expose MHS to liability. Such occurrences shall include, but not be limited to deaths, accidents or injuries to any Beneficiary, or acts of negligence of Provo Canyon or one of its Professionals.

5. **Prohibition on Billing Beneficiaries.** MHS shall be the sole source of payment to Provo Canyon for those Covered Services rendered to the Beneficiaries for which MHS obtains funding from California State Social Services and/or California County Mental Health Departments. Provo Canyon agrees that in no event shall it seek payment from the Beneficiaries for any Covered Service except in those instances where there is a co-payment amount or for incremental costs, as outlined in the financial policies of Provo Canyon, including medical and ancillary expenses not covered under routine room and board. If Provo Canyon desires to seek such payment from the Beneficiaries for either a co-payment or for incremental costs, Provo Canyon shall seek such payment directly without any involvement from MHS. Provo Canyon agrees that it and not MHS will have full responsibility for Provo Canyon's collection of money for such co-payments or incremental costs.

6. **Total Quality Management/Utilization Review.** Provo Canyon agrees to cooperate fully with MHS in assuring total quality management and utilization review in accordance with MHS's policies. This includes, but is not limited to, permitting MHS to observe the operation of Provo Canyon and to review the records of individual Beneficiaries, in accordance with all applicable laws, to assure that the care which is provided is appropriate.

7. **Release of Medical Information.** MHS, as applicable and appropriate, shall obtain from Beneficiaries appropriate authorization for release of medical information by MHS. Provo Canyon, as applicable and appropriate, shall obtain from Beneficiaries appropriate authorization for release of medical information by Provo Canyon.

8. **Indemnification.** Except as provided herein, MHS agrees to indemnify and hold Provo Canyon, its officers, directors, employees, agents, successors and assigns harmless from and against any claim, damage, loss, expense, liability, obligation, action or cause of action, including reasonable attorney's fees and reasonable costs of investigation, which Provo Canyon may sustain, pay, suffer or incur by reason of any act, omission, or negligence of MHS in performing its obligations under this Agreement.

Except as provided herein, Provo Canyon agrees to indemnify and hold MHS, its officers, directors, employees, agents, successors and assigns harmless from and against any claim, damage, loss, expense, liability, obligation, action or cause of action, including reasonable attorney's fees and reasonable costs of investigation, which MHS may sustain, pay, suffer or incur by reason of any act, omission, or negligence of Provo Canyon in performing its obligations under this Agreement.

Immediately after either Party has notice of a claim or potential claim relating either directly or indirectly to any Beneficiary as defined by this Agreement, that party shall give notice to the other of any claim or other matter with respect to which indemnity may be sought pursuant to this provision, and of the commencement of any legal proceedings or action with respect to such claim, and shall permit the other party at its own expense to assume the handling and defense of any such claim, proceeding or action. Neither party shall pay or settle any claim or action subject to the indemnity hereunder without the prior written consent of the other party.

Failure to give such notice, or the payment or settlement without written consent, shall vitiate the indemnity provided herein.

9. **Maintenance of Records.** Provo Canyon agrees to maintain standard financial and medical records for Beneficiaries for at least a five-year period (or longer if required by law or by any funding source) and to comply with all applicable provisions of federal and state law concerning confidentiality of such records. In the event a Beneficiary chooses another mental health services provider, Provo Canyon shall forward such records to the new mental health services provider upon Provo Canyon's receipt of the Beneficiary's signed consent and authorization in a timely manner at no cost to the Beneficiary or MHS.

10. **Access to Records.** This Section is included herein because of the possible application of Section 1861(v)(1)(I) of the Social Security Act to this Agreement. If such Section 1861(v)(1)(I) should not be found applicable to this Agreement under the terms of such Section and the regulations promulgated thereunder, then this Section of the Agreement will be deemed not to be a part of this Agreement and will be null and void. Until the expiration of four years after the furnishing of services under this Agreement, Provo Canyon will make available to MHS, the California County Mental Health Departments listed on Exhibit C, U.S. Department of Health and Human Services, and the Comptroller General this Agreement and all related books, documents and records. Unless required by law, Provo Canyon shall not otherwise disclose the terms and conditions of this Agreement to any third parties, except to its attorneys or accountants who shall be similarly bound.

11. **Audits.** Provo Canyon will permit MHS and those California County Mental Health Departments listed on Exhibit C, upon written request and during reasonable business hours, to have access to its business, financial and client records related to services provided to Beneficiaries related to this Agreement for the purpose of auditing Provo Canyon's bills and for conducting quality and utilization review.

12. **Required Notification.** Provo Canyon shall notify MHS within five days of any of the following occurrences:

A. Provo Canyon or a Professional's license is suspended, revoked, voluntarily relinquished, or subject to terms of probation or other restrictions;

B. Provo Canyon or a Professional is suspended from participation in the Medicare or Medicaid programs;

C. Provo Canyon's insurance as set forth in Section 5 is terminated or the limits of coverage are decreased for any reason;

D. When a Professional who is a member of the medical staff has his/her privileges limited or terminated in any manner;

E. Provo Canyon or a Professional is named in a professional liability action or any other action involving a Beneficiary or related to the services provided by Provo Canyon or its Professionals to any Beneficiary.

13. Compliance with Medicare and Medicaid/No Referrals. The parties to this Agreement expressly acknowledge that it has been and continues to be their intent to comply fully with all federal, state, and local laws, rules and regulations. It is not a purpose, nor is it a requirement, of this Agreement or of any other agreement between the parties, to offer or receive any remuneration of any patient, payment of which may be made in whole or in part by Medicare or Medicaid. Neither party shall make or receive any payment that would be prohibited under state or federal law.

14. Compensation. MHS will pay Provo Canyon in accordance with the procedures and terms set forth in Exhibit B ("Fee Schedule and Compensation Procedure").

Provo Canyon shall only be entitled to compensation from MHS for those services for which MHS has received remuneration from the California State Social Services or from a California County Mental Health Department. Provo Canyon shall not be entitled to any compensation from MHS for any services for which MHS does not receive remuneration from the California State Social Services or California County Mental Health Department. By way of illustration and not limitation, MHS may not receive remuneration, and therefore Provo Canyon shall not be entitled to any compensation for the following:

- A. services rendered prior to receipt of any required advance approval to provide services;
- B. services which are not Covered Services as set forth on Exhibit A;
- C. unnecessary services as determined by MHS in accordance with its utilization policies and procedures.

In consideration of the compensation which Provo Canyon receives under this Agreement, Provo Canyon agrees to cooperate with MHS and to amend this Agreement from time to time as MHS may reasonably request in order to comply with various contractual obligations which MHS may need to satisfy in order to receive California State Social Services or California County Mental Health Department funding.

15. **Costs.** All costs incurred in the provision of Provo Canyon's services, including but not limited to the Covered Services, shall be born by Provo Canyon and not by MHS. Any costs incurred by MHS for the purpose of providing Total Quality Management/Utilization Review as set forth in Section 6, hereto or conducting Audits as set forth in Section 11 hereto shall be born by MHS, provided however, that any additional costs incurred by MHS which result from any delay or complication for which Provo Canyon is responsible shall be born by Provo Canyon. Provo Canyon shall reimburse MHS for all such costs within thirty (30) days of receiving from MHS a written account of all such additional costs.

16. **Patient Disputes.** If there are any disputes between MHS and Provo Canyon for itself or its Professionals, the dispute must be discussed directly between Provo Canyon and MHS and at no point shall the Beneficiary become aware of or participate in these discussions.

17. **Termination.** The term of this Agreement is one (1) year and shall renew automatically unless terminated in accordance with the provisions of this Section.

A. Either party may terminate this Agreement without cause upon thirty days written notice. In the event that this Agreement is terminated, the parties will work together to bring forth the smooth transition of Beneficiaries' care which, by way of demonstration but not exclusion, may include providing interim services not to exceed sixty (60) days in accordance with all terms of this Agreement.

B. The Agreement shall be terminated automatically upon Provo Canyon having its license suspended or revoked or its ability to participate in the Medicare/Medicaid program suspended or terminated.

C. Either party may immediately terminate this Agreement with cause if the other party materially breaches this Agreement. Under such circumstances, the nonbreaching party may give notice of the breach and the Agreement shall terminate within fifteen (15) days unless the breach is corrected within such time.

18. **Effect of Termination.** Upon termination, the provisions of Section 4 ("Insurance"), Section 8 ("Indemnification"), Section 10 ("Access to Records"), Section 11 ("Audits"), Section 14 ("Compensation"), Section 15 ("Costs") and Section 16 ("Patient Disputes") shall remain in effect.

19. **Non-Exclusivity.** Nothing contained herein shall restrict the right of Provo Canyon or Professional to participate in providing services to other patients, regardless of the payor for such services.

20. **Jeopardy.** In the event the performance by either party hereto of any term, covenant, condition or provision of this Agreement should (i) jeopardize (A) the licensure of either party, any employee or any individual providing services hereunder or any provider owned and/or operated by either party or any corporate affiliate of such party (a "Covered Party"); (B) any Covered Party's participation in or reimbursement from Medicare, Medicaid or other reimbursement of payment programs; or (C) any Covered Party's full accreditation by JCAHO or any successor accrediting agency, or (ii) if the continuance of this Agreement should be in violation of any statute, ordinance, or otherwise deemed illegal or be deemed unethical by any recognized body, agency or association in the medical or behavioral health care fields (collectively, "Jeopardy Event"), then the parties shall use their best efforts to meet forthwith in an attempt to negotiate an amendment to this Agreement to remove or negate the effects of the Jeopardy Event. In the event the parties are unable to negotiate such an amendment within fifteen (15) days following written notice by either party of the Jeopardy Event, then either party may terminate this Agreement immediately upon written notice to the other party, notwithstanding any severability provisions hereto to the contrary.

21. **Notices.** All notices required under this Agreement shall be provided in writing as follows:

**MHS:**

Mental Health Systems, Inc.  
9845 Brna Road, Suite 300  
San Diego, CA 92131  
Attn: Bill Eastwood

With a copy to:

Gray Cary Ware & Freidenrich  
4365 Executive Drive, Suite 1600  
San Diego, CA 92121-2189  
Attention: T. Knox Bell, Esq.

**Provo Canyon:**

Charter Provo Canyon School, LLC  
1350 East 750 North  
Orem, UT 84097  
Attn: Administration

With a copy to:

Charter Provo Canyon School, LLC  
c/o Charter Behavioral Health Systems, LLC  
1105 Sanctuary Parkway, Suite 400  
Alpharetta, Georgia 30004  
Attn: General Counsel

22. **Independent Status.** Provo Canyon is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services or Covered Services required of it by the terms of this Agreement. Provo Canyon is entirely responsible for compensating its Professionals and other staff, subcontractors and consultants employed by Provo Canyon. The parties are independent of each other and this Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between MHS and Provo Canyon or any of Provo Canyon's Professionals, other employees, agents, consultants or subcontractors. Provo Canyon assumes exclusively the responsibility for the acts of its Professionals, employees, agents, consultants and/or subcontractors as they relate to the services and Covered Services to be provided during the course and scope of their employment. Provo Canyon will remain an independent contractor responsible for all taxes and/or payments made by MHS. Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership, joint venture or lease between Provo Canyon and MHS with respect to Charter Provo Canyon School or any equity interest in Charter Provo Canyon School on the part of MHS.

23. **Assignment.** This Agreement shall not be subcontracted or assigned except to an affiliate or purchaser of Provo Canyon. If MHS wishes to assign this Agreement, it must notify Provo Canyon in writing and obtain its written consent.

24. **Organization, Power and Authority.** MHS hereby represents, warrants and covenants that it is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of California, is qualified or otherwise has met all lawful requirements to transact business in the State of Utah, and has all requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations under this Agreement, and this Agreement is valid, binding and enforceable in accordance with its terms.

Provo Canyon hereby represents, warrants and covenants that it is a for-profit limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, is qualified or otherwise has met all lawful requirements to transact business in the State of Utah, and has all requisite power and authority to execute and deliver this Agreement, to perform its obligations under this Agreement, and this Agreement is valid, binding and enforceable in accordance with its terms.

25. **Nonassumption of Liabilities.** By entering into and performing this Agreement, neither party shall become liable for any of the existing or future obligations, liabilities or debts of the other party.

26. **Rights Cumulative, No Waiver.** No right or remedy herein conferred upon or reserved to either of the parties hereto is intended to be exclusive of any right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of an event of default thereunder. The failure of either party hereto to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

27. **Captions and Headings.** The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Agreement nor in any way affect the Agreement.

[Remainder of Page intentionally left blank]



28. **Counterparts.** This Agreement may be executed in counterparts, each of which will be treated as an original, but all of which together will constitute one and the same instrument.

29. **Entire Agreement.** This Agreement contains the entire agreement of the parties and can only be modified by documents signed by both the parties.

Entered into this on the date first noted above.

"MHS"

Mental Health Services, Inc.:

Bill Castwood

Title: Executive Director

"Provo Canyon"

Charter Provo Canyon School, LLC:

\_\_\_\_\_  
Title: \_\_\_\_\_

## **Tab 15**



August 1, 2005

Zoe Trachtenberg, LCSW  
Program Manager, AB3632 Residential Placement Unit  
Los Angeles County Department of Mental Health  
Children's System of Care  
550 South Vermont Avenue  
Los Angeles, CA 90020

Dear Zoe

Thank you for your inquiry into Aspen Solutions, Inc. Aspen Solutions, Inc is a nonprofit mutual benefit corporation based and authorized to do business in the State of California. Below find the information requested.

|                   |   |
|-------------------|---|
| Contractor Name:  | Aspen Solutions, Inc. (Aspen Ranch)                     |
| Program Location: | 2000 W. Dry Valley Road, Loa, Utah, 84747               |
| Payment Location: | 17777 Center Court Drive, Suite 300, Cerritos, CA 90703 |
| EIN :             | 91-1983950  |
| Rates:            | Room & Board \$212.00<br>Mental Health 88.00            |

|                          |                |
|--------------------------|----------------|
| Contact Signature/ Name  | Ruth K. Moore  |
| Title                    | Vice President |
| Signature for Amendments | Ruth K. Moore  |
| Signature for Invoices   | Ruth K. Moore  |

Should you require additional information do not hesitate to contact me directly at 562-467-5509.  
Thank you.

Sincerely,

  
Ruth K. Moore  
Vice President, Aspen Solutions, Inc

## **Tab 16**



August 1, 2005

Zoe Trachtenberg, LCSW  
Program Manager, AB3632 Residential Placement Unit  
Los Angeles County Department of Mental Health  
Children's System of Care  
550 South Vermont Avenue  
Los Angeles, CA 90020

Dear Zoe

Thank you for your inquiry into Aspen Solutions, Inc. Aspen Solutions, Inc is a nonprofit mutual benefit corporation based and authorized to do business in the State of California. Below find the information requested.

|                   |   |
|-------------------|---|
| Contractor Name:  | Aspen Solutions, Inc. (SunHawk Academy)                 |
| Program Location: | 948 North 1300 West, Saint George, Utah 84770           |
| Payment Location: | 17777 Center Court Drive, Suite 300, Cerritos, CA 90703 |
| EIN :             | 91-1983950  |
| Rates:            | Room & Board \$212.00<br>Mental Health 88.00            |

|                           |                |
|---------------------------|----------------|
| Contactor Signature/ Name | Ruth K. Moore  |
| Title                     | Vice President |
| Signature for Amendments  | Ruth K. Moore  |
| Signature for Invoices    | Ruth K. Moore  |

Should you require additional information do not hesitate to contact me directly at 562-467-5509.  
Thank you.

Sincerely,

  
Ruth K. Moore  
Vice President, Aspen Solutions, Inc

17777 Center Court Drive  
Suite 300  
Cerritos, CA 90703

[www.aspeneducation.com](http://www.aspeneducation.com)

Help for Today - Hope for Tomorrow

(562) 467-5500  
(562) 467-5553 - FAX

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 9, 2014, I served the:

**SCO Comments**

Incorrect Reduction Claim, 12-9705-I-04

*Seriously Emotionally Disturbed (SED) Pupils: Out-of-State  
Mental Health Services (97-TC-05)*

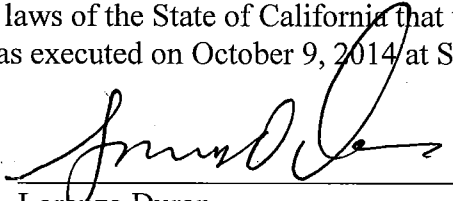
Government Code Section 7576; Statutes 1996, Chapter 654

Fiscal Years: 2003-2004, 2004-2005, and 2005-2006

County of Los Angeles, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 9, 2014 at Sacramento, California.



Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 10/9/14

**Claim Number:** 12-9705-I-04

**Matter:** Seriously Emotionally Disturbed (SED) Pupils: Out of State Mental health Services

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Lacey Baysinger**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Allan Burdick**,

7525 Myrtle Vista Avenue, Sacramento, CA 95831

Phone: (916) 203-3608

allanburdick@gmail.com

**Michael Byrne**, *Department of Finance*

915 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

michael.byrne@dof.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-0706

gcarlos@sco.ca.gov

**Annette Chinn**, *Cost Recovery Systems, Inc.*

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901  
achinnrcs@aol.com

**Marieta Delfin**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-4320  
mdelfin@sco.ca.gov

**Tom Dyer**, *Department of Finance (A-15)*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274  
tom.dyer@dof.ca.gov

**Donna Ferebee**, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Dorothy Holzem**, *California Special Districts Association*

1112 I Street, Suite 200, Sacramento, CA 95814

Phone: (916) 442-7887  
dorothyh@csda.net

**Edward Jewik**, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-8564  
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-9891  
jkanemasu@sco.ca.gov

**Robin Kay**, *County of Los Angeles*

**Claimant Representative**

Department of Mental Health, 550 S. Vermont Avenue, 12th Floor, Los Angeles, CA 90020

Phone: (213) 738-4108  
rkay@dmh.lacounty.gov

**Jean Kinney Hurst**, Senior Legislative Representative, Revenue & Taxation, *California State Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814-3941

Phone: (916) 327-7500  
jhurst@counties.org

**Jay Lal**, *State Controller's Office (B-08)*

Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0256  
JLal@sco.ca.gov



**Kathleen Lynch**, *Department of Finance (A-15)*

915 L Street, Suite 1280, 17th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

kathleen.lynch@dof.ca.gov

**John Naimo**, Acting Auditor-Controller, *County of Los Angeles*

Auditor-Controller, 500 West Temple Street, Room 525, Los Angeles, CA 90012

Phone: (213) 974-8302

jnaimo@auditor.lacounty.gov

**Andy Nichols**, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939

andy@nichols-consulting.com

**Christian Osmena**, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

christian.osmena@dof.ca.gov

**Keith Petersen**, *SixTen & Associates*

P.O. Box 340430, Sacramento, CA 95834-0430

Phone: (916) 419-7093

kbsixten@aol.com

**Jai Prasad**, *County of San Bernardino*

Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA

92415-0018

Phone: (909) 386-8854

jai.prasad@atc.sbcounty.gov

**Kathy Rios**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-5919

krios@sco.ca.gov

**Lee Scott**, *Department of Finance*

15 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

lee.scott@dof.ca.gov

**David Scribner**, *Max8550*

2200 Sunrise Boulevard, Suite 240, Gold River, CA 95670

Phone: (916) 852-8970

dscribner@max8550.com

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov