

California Department of Education (<http://www.cde.ca.gov/sp/se/ac/useofmfunds.asp>)
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TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

January 5, 2012

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

ASSEMBLY BILL 114: USE OF MENTAL HEALTH FUNDS IN THE BUDGET ACT OF 2011–12

The purpose of this letter is to provide background and guidance regarding the use of funds authorized in the Budget Act of 2011–12 restricting the use of certain funds to “educationally related mental health services.”

General Funds

Pursuant to Assembly Bill (AB) 114, Section 54 (Chapter 43, Statutes of 2011), and provisions 18 and 26 of Item 6110 161-0001 of the Budget Act of 2011–12 funds must be used for:

. . . educationally related mental health services, including out-of-home residential services for emotionally disturbed pupils, required by an individualized education program pursuant to the federal Individuals with Disabilities Education Act (IDEA) of 2004 (20 U.S.C. Sec. 1400 et seq.) and as described in Section 56363 of the California *Education Code* (EC). The State Superintendent of Public Instruction shall allocate these funds to special education local plan areas in the 2011–12 fiscal year based upon an equal rate per pupil using the methodology specified in Section 56836.07 of the EC.

These provisions have been assigned Resource Code 6512, which differentiates these funds from Resource Code 6500, special education general fund programs. These funds shall be exclusively available for these services only for fiscal year (FY) 2011–12 and FY 2012–13.

Federal Funds

Pursuant to AB 114, Section 54 (Chapter 43, Statutes of 2011), provision 9 of Item 6110 161 0890 of the Budget Act of 2011–12, funds shall be available only for the purpose of providing:

. . . educationally related mental health services, including out-of-home residential services for emotionally disturbed pupils, required by an individualized education program pursuant to the federal IDEA of 2004 (20 U.S.C. Sec. 1400 et seq.) and as described in Section 56363 of the EC.

These funds were allocated to special education local plan areas (SELPA) on a one-time basis in the 2011–12 fiscal year using data available from the California Special Education Management Information System (CASEMIS) as of December 1, 2010. If funds are appropriated for the purpose of providing the educationally related mental health services for the 2012–13 fiscal year, they will be allocated based on an equal rate per pupil using a methodology specified in Section 56836.07 of the EC and using average daily attendance for the 2011–12 fiscal year.

Definition of Educationally Related Mental Health Services

As noted in the provisions above, educationally related mental health services are described in 30 EC Section 56363. Section 56363 defines the term “designated instruction and services” to mean “related services” as that term is defined in Section 1401(26) of Title 20 of the *United States Code* and Section 300.34 of Title 34 of the *Code of Federal Regulations* (CFR).

Related services under IDEA are defined in Section 300.34 of Title 34 of the CFR:

Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-

language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. (34 *CFR* 300.34(a))

Section 300.34 of Title 34 of the *CFR* further defines individual related services terms. The following list represents some of the services that may be appropriate when addressing the emotional and behavioral needs of students with disabilities:

- Counseling services (34 *CFR* 300.34(c)(2)) and California *EC* 56363(b)(9)
- Parent counseling and training (34 *CFR* 300.34(c)(8)) and California *EC* 56363(b)(11)
- Psychological services (34 *CFR* 300.34(c)(10)) and California *EC* 56363(b)(10)
- Social work services in schools (34 *CFR* 300.34(c)(14)) and California *EC* 56363(b)(13)

Refer to 34 *CFR* Section 300.34 for the complete list of individual related services terms. Residential placement is not listed as a related service in Section 300.34 of Title 34 of the *CFR*. However, residential placement is addressed elsewhere in the IDEA:

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non medical care and room and board, must be at no cost to the parents of the child (34 *CFR* 300.104).

In addition, the list of related services in the IDEA is not exhaustive or finite. The individualized education program (IEP) team must decide what related services are necessary to provide a free appropriate public education (FAPE) to each student with a disability.

To maintain clear and understandable terminology based upon existing statute, the California Department of Education (CDE) will be using the term "related services for students who have emotional and behavioral needs" in place of "educationally related mental health services."

Frequently Asked Questions

What limitations are on the use of state and federal funds provided in the Budget Act of 2011–12 for educationally related mental health services?

The legislature was clear that these funds are targeted for related services and that the funds are made available to local educational agencies (LEAs) to provide services formerly provided by the County Mental Health agencies and the Department of Social Services. The funds **cannot** be spent on educational services that have historically been provided by LEAs for students with emotional or behavioral needs.

What are allowable uses of the state and federal funds due to the term "educationally related mental health services"?

These funds may be used for:

The salaries of certificated supervisors and administrators; and clerical, technical, and office staff salaries associated with administering related services for students with emotional or behavioral needs.

The room and board cost of residential placement if it is included in the student's IEP.

Professional and consulting service (e.g., case management, medical services, day treatment, individual therapy, family therapy, group therapy, group rehabilitation, therapeutic behavior services, assessment, psychological services, and residential placement) costs for students with emotional or behavioral needs.

Rental and/or lease of office space to provide professional and consulting services for students with emotional or behavioral needs.

Transportation costs of student to receive related services from a provider.

Books and supplies related to providing related services.

If you have any questions regarding this subject, please contact Chris Essman, Education Programs Consultant, Special Education Division, by phone at 916-327-3507 or by e-mail at cessman@cde.ca.gov.

Sincerely,

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

Fred Balcom, Director
Special Education Division

FB:rb

Last Reviewed: Monday, January 09, 2012