

TULARE COUNTY/DISTRICT SELPA POLICY # 2520

BUSINESS & FINANCE
LP

Adopted: 06/09/10
Revised: 04/10/24

Special Education Litigation and Due Process Hearing Costs

Upon the approval of the Superintendents Governance Committee, Local Education Agency (LEA) costs connected with preparation for due process hearings, as well as cost of legal representation in due process hearings, will be paid by the Special Education Local Plan Area (SELPA) with a cap at \$60,000. Costs may be for hearing level or court costs. Consideration will be given to cost of attorney or consultant support during mediation and/or any attorney costs incurred in order to reach a mediated settlement.

Legal costs include costs related to a settlement agreement. Legal costs do not include district support costs (i.e., psychologist, administration, phone, fax, etc.).

The following criteria will be used by the Superintendents Governance Committee in determining approval:

CRITERIA

1. The district has made a good faith effort to follow all state and federal guidelines and requirements, as well as Special Education Local Plan Area policies and procedures.
2. The issue has SELPA-wide implications.
3. The district offered and was willing to participate in mediation before due process.
4. The decision to seek legal counsel was made jointly by the district and Special Education Local Plan Area staff.
5. Counsel will typically be employed by contract with the administrative unit of the Special Education Local Plan Area.

PROCEDURE

1. A deductible against legal costs of \$7,000 or direct service districts under 900 ADA and \$10,000 for districts over 900 ADA per filing will be applied to all districts submitting requests for payment of legal costs by the SELPA.
2. The Local Education Agency will submit to the Special Education Local Plan Area, the following documentation of case history by August 1st of the following year to seek reimbursement;
 - a. Notification of Due Process Filing
 - b. Notification of OAH letter dismissing / closing case.
 - c. How and when the SELPA staff expertise was used; Local Education Agencies are encouraged to utilize both the SELPA staff and the

- Directors of Special Education Committee for guidance and suggestions in resolving the dispute.
- d. Copy of paid legal fee invoices with totaling amount being requested for reimbursement.
 3. Requests for payment of legal representation will be made to the SELPA office. A review and recommendation will be made by the SELPA to the Fiscal ad hoc committee of the Superintendents Governance Committee.
 4. Requests will be reviewed by the Fiscal ad hoc committee, which will make a recommendation regarding reimbursement to the Superintendents Governance Committee.
 5. There will be a \$60,000 cap on the reimbursement of costs; however, an appeal to the legal fees reimbursement ad hoc committee for an additional amount up to \$20,000 may be made by district.
 6. The Superintendents Governance Committee will review the recommendations and approve, disapprove or modify reimbursement costs. The Superintendents Governance Committee decision shall be final.

MONITORING OF LEGAL COSTS

The SELPA Administrator will annually report legal costs approved by the Superintendents Governance Committee and paid by the SELPA at a Superintendents Governance Committee meeting in November of each school year.