



## Background

The EL Dorado County SELPA has historically operated two separate risk pools: The Non-Public School (NPS) and Special Needs pools. Neither pool has a reliable ongoing funding stream. The Special Needs Pool has been funded by the excess of annual Out of Home Care funding over expenses. However, the continuation of that annual excess could change at any time with an increase in required Out of Home Care expenditures. In addition, the Out of Home Care funding model is being revised and the outcome of that process is unknown. The NPS Pool has been funded by off-the-top contributions from the SELPA's AB602 funds, which are not sufficient to pay total SELPA-wide NPS costs. Since the NPS Pool runs at a shortfall each year, annual district contributions to cover that shortfall are required.

Over time, draws on these pools have been established to fund ongoing regional program expenses. The Special Needs Pool is used to protect districts from the special education fiscal impact of declining ADA and to provide early payment to districts for increases in ADA. The Special Needs pool has also been used to fill any gap in special education funding created by state-imposed deficits and, correspondingly, deficit restoral dollars have been directed back the pool as revenue. For the first time, the deficit for last year (2015-16) has not been and is not expected to be fully restored. In fact, the expectation is that any future deficits will likely not be restored.

The EL Dorado County SELPA Superintendents previously recommended that the Non-Public School (NPS) and Special Needs pools be consolidated into a Shared Risk Pool funded with one-time funds that will provide partial reimbursement for qualifying NPS costs, legal costs, and costs associated with special circumstances that require high-cost services for individual students.

## Fiscal Recommendations

In short, pay ongoing expenses from annual funding, create a single risk pool primarily funded by the existing pool balances, and design access to the pool to live within our means.

- Stop paying ongoing regional program costs as expenses of each pool (\$278K). Instead pay this out of the amount of AB602 funding directed off-the-top to the NPS Pool (a total of \$648K), and direct the remaining amount (\$370K) to the combined pool as annual revenue.
- Eliminate the coverage of special education deficits from the combined pool, and pass along any deficits and restoral dollars directly to districts.
- Combine the carryover balance, and revenue and expense components of each pool and create one Shared Risk Pool.
- Design pool access rules for each of the three claim categories (NPS, Legal, and Special Circumstances Student) in order to actively manage the financial health of the combined pool from year to year.



### NPS Placement Recommendations

NPS placement costs, including education and transportation, may be eligible for reimbursement of up to 50% of educational costs from the Shared Risk Pool. Total per student reimbursement will be based on actual days of attendance not to exceed 185 days of regular school year attendance and 25 days of extended school year attendance, net of the LCFF revenue received for the student. In order to be eligible for reimbursement, claims must meet all of the reimbursement criteria.

Costs for transportation to and from the NPS are only eligible for reimbursement if transportation is required per the student's IEP. ~~Whether the district or~~ If the parent transports the student, the cost of transportation will be reimbursed at the current federal mileage reimbursement rate for one way mileage to and one way mileage from the student's residence and the non-public school.

Costs for related services, including Educationally Related Mental Health Services, are not eligible for pool reimbursement and should be paid in full by the placing district.

### NPS Reimbursement Criteria:

LEAs requesting reimbursement from the Shared Risk Pool for costs associated with the placement of a student in nonpublic school (NPS) should meet all of the following criteria:

- 1) **SELPA Involvement:** When an LEA is considering a nonpublic school placement, a SELPA representative should be meaningfully involved prior to the determination of an NPS placement. The SELPA representative could be a program specialist, coordinator, director or designee. This involvement may include participation in IEP meetings or consultation. The SELPA representative's role is to ensure that the LEA has explored possible alternatives prior to determining that an NPS placement is the least restrictive environment for the student. The SELPA representative will also support the LEA in making sure that all other reimbursement criteria are met.
- 2) **State Certification:** The NPS in which the student is placed must be certified by the California Department of Education.
- 3) **Master Contract/ISA:** The LEA shall have a completed and signed El Dorado County SELPA Master Contract with the NPS in which the student has been placed. The LEA should also have an Individual Services Agreement (ISA) with the NPS, specifying the services the NPS will provide to the individual student. The services in the ISA should reflect the services agreed to and documented in the student's current IEP.
- 4) **IEP:** The student's current IEP should contain all of the components below in order to be considered for reimbursement from the pool:
  - A behavior intervention plan for all students being placed due to behavioral concerns;
  - A transition plan (for students 16 and older or who will turn 16 prior to the next annual IEP);
  - School type of (70) Non-public day school indicated on the educational setting page of the IEP (or code 71 or 72 when appropriate for residential placements);



- Appropriate low incidence services when student qualifies with a low incidence disability;
  - Goals in all areas of need as identified on the present levels page of the IEP;
  - Mental health goals for students who are eligible for special education under the criteria for Emotional Disturbance;
  - Documentation that all required team members, including a school psychologist, were in attendance at the IEP meeting where NPS placement was determined; and
  - Goals to address all behaviors or areas of need that led to the placement in a non-public school.
- 5) **Pool Participation Documents:** LEAs requesting reimbursement from the Shared Risk Pool will submit the following documents within 30 days of the beginning of the school year. For placements occurring after the 30<sup>th</sup> day, documents should be submitted within 30 days of the initial placement in non-public school. Documents will include:
- A completed Pool Participation Form detailing SELPA involvement in the placement and district attempts to address needs of student in less restrictive settings;
  - A copy of the completed and signed Master Contract and ISA; and
  - A copy of the current IEP with all IEP pages and parent signature.

Once all pool participation documents have been received, the SELPA Administrator or designee will review the documents to ensure that all criteria have been met. If any of the above elements are missing, the SELPA will notify the district representative for the district submitting the pool participation request.

### Legal Cost Recommendations

The SELPA recommends that legal costs be reimbursed through the Shared Risk Pool.

Legal costs associated with any of the following are eligible for 50% reimbursement from the Shared Risk Pool:

- Legal costs associated with Office for Civil Rights Complaints, Due Process Complaints, Compliance Complaints, or any other legal proceeding.
- Costs associated with Settlement Agreements (including legal fees and compensatory education).

Eligible costs must relate to an individual student where the student qualifies for special education and where the legal issue is related to the provision of a free and appropriate public education or where the dispute concerns whether the student should qualify for special education.

In order to apply for reimbursement from the Shared Risk Pool for legal costs, districts must have explored other resources and demonstrated a good faith effort to bear a portion of the costs associated with the request. Costs associated with personnel (including para-educators), transportation, and assessments are not eligible for reimbursement from the Shared Risk Pool. Prior



to applying for access to the Shared Risk Pool, the total legal costs must meet the thresholds below according to the total district ADA (chart of 2015-16 ADA June P-2 included below):

- Districts with prior year P2 ADA of 200 or lower, the application must meet a minimum amount of \$2,000. This would result in an award of \$1,000+.
- Districts with prior year P2 ADA between 201 and 1000, the application must meet a minimum amount of \$5,000. This would result in an award of \$2,500+.
- Districts with prior year P2 ADA of more than 1000, the application must meet a minimum amount of \$10,000. This would result in an award of \$5,000+.

Reimbursable costs may not cover a period of more than six months for any one student issue. If the student moves to a different LEA within the SELPA, the receiving district may re-apply for access to the Shared Risk Pool. In the following circumstances, a SELPA representative will review the file and determine the merit of the case. If, after a complete file review, the SELPA believes that the case has merit and warrants continued reimbursement, then a recommendation will be made to Executive Committee for approval of the request:

- When the billable costs continue for more than six consecutive months; and/or
- When the billable costs total more than \$25,000 (\$12,500 reimbursed amount).

Total reimbursement from the pool for a single student matter shall not exceed \$50,000 without approval from the full Superintendents' Council.

### **Special Circumstances Student Recommendations**

Occasionally, a student may require intensive services and supports that cost well beyond the revenue generated by that student through LCFF and AB 602 funding. While it is not unusual for the costs of educating students with IEPs to exceed revenue, the El Dorado County SELPA recommends allowing access to the Shared Risk Pool for partial reimbursement when the costs exceed certain thresholds. Costs will be reimbursed at 50%. Total annual reimbursement from the pool may not exceed \$75,000 per student (for a \$150,000 claim). Districts must submit a Special Circumstances Student Application annually demonstrating that the district has explored all other resources and made a good faith effort to bear a portion of the costs associated with the request. Applications will be reviewed by a SELPA representative and submitted to the Executive Committee for approval. Applications will document SELPA involvement and participation of a SELPA representative at IEP meetings, when possible. Applications must be re-submitted annually.

Prior to applying for access to the Shared Risk Pool, Special Circumstances Student costs must meet a minimum threshold of \$100,000 (for a 50% reimbursement of \$50,000).



<b>2015-16 ADA June P-2</b>	
Black Oak Mine	1,237.85
Buckeye	4,615.33
Camino	492.20
EDUHS	6,345.93
Gold Oak	451.63
Gold Trail	612.08
Indian Diggings	18.29
Latrobe	130.87
Mother Lode	1,025.02
Pioneer	287.90
Placerville	1,233.45
Pollock Pines	649.44
Rescue	3,565.67
COE Charter	242.91
Silver Fork	12.84
Total	20,921.41