



# County of El Dorado

330 Fair Lane, Building A  
Placerville, California  
530 621-5390  
FAX 622-3645  
www.edcgov.us/bos/

## Legislation Text

**File #:** 10-1326, **Version:** 1

Health Services Department, Mental Health Division, and Department of Human Services recommending the Board authorize the Chair to sign retroactive Memorandum of Understanding 048-162-M-R2011 with the El Dorado County Office of Education as the Administrative Unit of the El Dorado County Special Education Local Plan Area "SELPA" and the Lake Tahoe Unified School District as the Lake Tahoe Unified SELPA, (jointly referred to herein as the "SELPAS"), in the amount of \$525,000 for the term January 1, 2011 through June 30, 2011 to set forth the roles of each agency in providing mental health services to students with disabilities in accordance with the student's Individualized Education Program.

### **FUNDING: SELPAS.**

<b>BUDGET SUMMARY:</b>		
Total Estimated Cost		\$525,000
Funding		
Budgeted	\$525,000	
New Funding	\$	
Savings	\$	
Other	\$	
Total Funding Available	\$525,000	
Change To Net County Cost		\$0

**Fiscal Impact/Change to Net County Cost:** There is no Net County Cost associated with this MOU. Of the \$525,000 projected compensation for services, \$250,000 is estimated for the Mental Health Division and \$275,000 is estimated for the Department of Human Services.

**Compensation for Services:** Payments will be made to County based upon monthly invoicing at specified billing rates for actual services performed and documented per contract requirements. Services and rates are detailed in Exhibits A, B, and C of the contract.

**Contract Termination:** This MOU includes a provision for any party to terminate the MOU, without cause, upon thirty (30) days written notice.

### **Background:**

The Federal Individuals with Disabilities Education Act (IDEA) entitles children with disabilities to a free and appropriate public education. Prior to 1984, school districts were responsible for providing all special education services to children. In 1984, the Legislature enacted AB 3632, the Special Education Pupils Program, which, among other things, transferred responsibility for providing mental health services to special education pupils from school districts to county mental health departments.

While counties have been performing these services under state law (Title 1, Division 7, Chapter 26.5 of the Government Code, §7570-7590), the services they provide allow public education to fulfill its mandate under federal law to provide an education to students with special needs.

The County has historically entered into an MOU with the El Dorado County Office of Education (EDCOE) in order to set forth the responsibilities of each agency participating in providing mental health services to students with disabilities per the student's Individualized Education Program. The latest such MOU (093-M1011) was approved and executed by the Board of Supervisors on October 5, 2010. The MOU outlined the division of responsibilities: County Mental Health provided mental health services, County Human Services provided the residential placement component, and EDCOE provided the education component.

On October 8, 2010, Governor Schwarzenegger signed the final State Budget bill passed by the Legislature; however, the Governor line item vetoed funding to reimburse counties for complying with the AB 3632 mandate. In vetoing this funding, the Governor declared that the AB 3632 mandate on counties for FY 2010/11 is suspended. The County of El Dorado joined a lawsuit that was filed in Sacramento County on November 4, 2010, along with 23 other counties, seeking court confirmation that the AB 3632 mandate has been suspended and the County has been relieved of the obligation to provide the related services, due to the Legislature's failure to override the Governor's veto of the budget line item that would have funded AB 3632 services.

As a result of the Governor's actions, and our belief that the mandate has been suspended, the Health Services Department recommended termination of the existing MOU (093-M1011) effective December 31, 2010. The Board of Supervisors approved that recommendation on November 15, 2010 and authorized the Department to continue discussions with EDCOE to establish a new MOU under which the County would provide substantially the same services, but would receive compensation for those services from EDCOE.

**Retroactive Term:**

This MOU covers the period January 1, 2011 through June 30, 2011. This MOU is retroactive to January 1, 2011 due to additional time needed to confer with County Counsel, Human Services, and the SELPAS to develop a replacement MOU.

**Reason for Recommendation:**

The Health Services Department and the Department of Human Services now recommend adoption of a new MOU to ensure the continued provision of mental health services that are included within students' Individualized Education Programs. Under the new MOU, the County will receive compensation for those services from the SELPAS.

**Action to be taken following Board approval:**

1. Chair to sign four (4) original MOUs.
2. Board Clerk's Office to return three (3) original MOUs to the Health Services Department.
3. Health Services Department to distribute as appropriate.

**Contact:** Neda West, Health Services Director

**Concurrences:** This MOU has been approved by County Counsel and Risk Management.