COUNTY OF LOS ANGELES

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DEPARTMENT OF MENTAL HEALTH

http://dmh.co.la.ca.us

550 SOUTH VERMONT AVENUE, LOS ANGELES, CALIFORNIA 90020

Reply To: (213) 738-4601
Fax: (213) 386-1297

January 29, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

AUTHORIZATION FOR ACCEPTANCE OF FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT FUNDS
AND
APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH THE LOS ANGELES COUNTY OFFICE OF EDUCATION FOR FISCAL YEAR 2003-2004
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the receipt of Federal Individuals with Disabilities Education Act (IDEA) funds totaling $14,034,309 from the Los Angeles County Office of Education (LACOE) for Fiscal Year (FY) 2003-2004 only for mental health services to eligible students identified with disabilities and with an individualized education plan (IEP). Effective upon Board approval, these Federal IDEA funds, which were originally allocated to LACOE by the California Department of Education by Assembly Bill (AB) 1765, Chapter 157, Statutes of 2003, will be transferred to the County of Los Angeles on behalf of the Department of Mental Health (DMH) for FY 2003-2004 only.

   These funds, which are not new revenue to DMH, will be offset against the current budgeted amount of approximately $20.4 million for mandated State Senate Bill (SB) 90 services provided to eligible students with disabilities on a countywide basis.

2. Approve the Memorandum of Understanding (MOU), substantially similar to the Attachment, with LACOE to allow for the transfer of these Federal IDEA funds, in order to comply with legislation and instruct the Chairman of your Board and the Executive Officer, Board of Supervisors, to sign and certify two original MOUs.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Board approval is required to receive the IDEA funding allocation from LACOE to allow County to provide State-mandated mental health services, without interruption, to eligible students identified with disabilities and with an IEP, pursuant to Government Code Sections 7570, et seq. (Chapter 1747, Statutes of 1984) (AB 3632). AB 1765 provides Federal IDEA funds for mental health services, pursuant to Government Code Sections 7570 et seq., through County Offices of Education, which in Los Angeles County is LACOE.

Implementation of Strategic Plan Goals

The recommended Board actions are consistent with the County's Programmatic Goal 5, Children and Families' Well-Being, within the Countywide Strategic Plan. These funds will maintain the level of special education services for eligible students with disabilities.

FISCAL IMPACT/FINANCING

There is no impact on net County cost. To the extent that funds are available, County will pay for mandated Chapter 26.5 services provided in FY 2003-2004 and designated as SB 90 reimbursable with these Federal IDEA funds. These funds will be offset against the current budgeted amount of approximately $20.4 million for any reimbursable, mandated cost claims for Chapter 26.5 services provided in FY 2003-2004.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In California, counties are responsible for providing mental health services to students when required in the student's IEP under statute and regulation (Chapter 26.5 of the Government Code). This is a Federal mandate under IDEA.

Prior to FY 2002-2003, a total of $12 million had been budgeted for counties statewide as categorical funding to pay for mandated services under Chapter 26.5. Since the costs incurred by counties in providing those services far exceeded the categorical funding, counties were reimbursed their excess costs through the SB 90 mandate reimbursement process. However, in the FY 2002-2003 State Budget, the $12 million categorical funding was eliminated, and an indefinite moratorium on SB 90 mandate reimbursements to local government was implemented.

Thus, since July 1, 2002, California counties have not received any funding to pay for the mental health services provided to more than 27,000 disabled students statewide, including approximately 6,000 in Los Angeles County.

During the past year, intensive and extensive efforts were made to try to identify a long-term, permanent solution to the problem of lack of funding for this Federal and State mandated program, but without success. While these efforts continue, in the FY 2003-2004 Budget Act (AB 1765), the State provided $69 million of Federal IDEA dollars, for FY 2003-2004 only, in order to sustain the program.

AB 1765 also defines the allocation methodology for the disbursement of funds to the counties. Since Federal law requires that IDEA funds be allocated only to local education agencies, the funds are granted to the County Office of Education of each county. Legislation further stipulates that the local County Office of Education shall contract with the local Mental Health Plan for the transfer of these funds in their entirety. The allocation amount to each county is determined by a formula based on the previous categorical funding allocation and SB 90 mandate claims from FY 2001-2002. Los Angeles County is to receive $14,034,309 according to the allocation formula approved by the State.

CONTRACTING PROCESS

This contract with LACOE is mandated by the legislation as the means for the County to receive the allocated funds. The MOU is substantially the same as that being used by other counties for this purpose. It is designed solely for the purpose of having LACOE provide the funds as set forth in the legislation.

IMPACT ON CURRENT SERVICES

Board approval of the acceptance of Federal IDEA funds totaling $14,034,309 from LACOE will enable the County to provide mandated mental health services to eligible students identified with disabilities and with an IEP in order to benefit from a public education.

CONCLUSION

The Department of Mental Health will need one (1) copy of the adopted Board's action and two (2) original signed MOUs. It is requested that the Executive Officer of the Board notifies the Department of Mental Health's Contract Development and Administration Division at (213) 738-4684, when these documents are available.

Respectfully submitted,

Marvin J. Southard, D.S.W.
Director of Mental Health

MJS:SK:JH:RK

Attachment

c: Chief Administrative Officer
County Counsel
Los Angeles County Office of Education (LACOE), Karen Hemingway
Chairperson, Mental Health Commission

MEMORANDUM OF UNDERSTANDING
BETWEEN
COUNTY OF LOS ANGELES
AND
LOS ANGELES COUNTY OFFICE OF EDUCATION

THIS MEMORANDUM OF UNDERSTANDING (MOU), entered into this ____ day of _____, 2004, which date is enumerated for purposes of reference only, is by and between the COUNTY OF LOS ANGELES (COUNTY) and LOS ANGELES COUNTY OFFICE OF EDUCATION (LACOE). This MOU shall be administered by the County of Los Angeles Department of Mental Health (DIRECTOR).

WHEREAS, Government Code Sections 7570, et seq. (Chapter 1747, Statutes of 1984) (Assembly Bill 3632) require COUNTY to provide mental health services which are identified within the individualized education plan (IEP) pursuant to Government Code Section 7572 et seq.;

WHEREAS, since 1984 COUNTY has provided mental health services pursuant to AB 3632;

WHEREAS, COUNTY and Special Education Local Plan Areas (SELPAs) enter into an Interagency Agreement(s) for services pursuant to Government Code Section 7570 et seq. which are reviewed annually;

WHEREAS, AB 1765 (Chapter 157, Statutes of 2003) provides Federal IDEA funds for mental health services pursuant to Government Code Sections 7570 et seq. through county offices of education, which in Los Angeles County is LACOE;

WHEREAS, AB 1765 requires LACOE to contract with COUNTY for the purpose of transferring these funds in their entirety to COUNTY to provide specified mental health services to eligible students;

WHEREAS, this funding shall be considered offsetting revenue within the meaning of Government Code Section 17556(e) for any reimbursable mandated cost claim for the provision of these mental health services provided in the 2003-2004 fiscal year;

WHEREAS, these funds shall be used exclusively for purposes of funding mental health services, which are related to an IEP, in 2003-2004; and

WHEREAS, AB 1765 states that it is the intent of the Legislature that the allocation be in effect for the 2003-2004 fiscal year only;

NOW, THEREFORE, it is mutually agreed as follows:

A. COUNTY shall submit an invoice to LACOE requesting all funds specified in the local allocation prescribed under AB 1765.

B. Upon its receipt of funds, LACOE shall transfer to COUNTY the local allocation prescribed under AB 1765 for fiscal year 2003-2004 in its entirety.

C. COUNTY shall deposit these funds into a separate account for the purpose of identifying expenditures incurred for the provision of mental health services pursuant to this MOU.

D. COUNTY shall provide an accounting to LACOE of expenditures incurred pursuant to this MOU.

E. This MOU pertains only to the enactment of funding and other provisions of AB 1765 and shall terminate on June 30, 2004.

F. GENERAL ASSURANCES – By executing this MOU, both parties agree that the General Assurances and Federal Funds Conditions specified in Attachment 1 will be observed. It is understood and agreed that nothing in Attachment 1 is intended to make LACOE responsible for the expenditure of funds following their transfer to COUNTY.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers in the County of Los Angeles, State of California.

LOS ANGELES COUNTY OFFICE OF EDUCATION

BY: _____ DATED 1/26/04
Patricia L. Meyer

TITLE: Director, Division of Business Operations

COUNTY OF LOS ANGELES

BY: _____ DATED_____
CHAIRMAN OF THE BOARD OF SUPERVISORS

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD.

_____ DATED_____

Clerk of the Board of Supervisors
of Los Angeles County, California

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
LOS ANGELES, CALIFORNIA

BY: _____ DATED 1-29-04
DEPUTY

GENERAL ASSURANCES AND FEDERAL FUNDS CONDITIONS

The signature of the Authorized Official on the Certification of Acceptance of Grant Conditions acknowledges that General Assurances and Federal Funds Conditions will be observed.

General Assurances

1. Programs and services shall be in compliance with Title VI and Title VII of the U.S. Civil Rights Act of 1964, the California Fair Employment Practices Act, and Subchapter 4 (commencing with Section 30) of Chapter I of Division 1 of Title 5, California Code of Regulations. A statement of compliance with Title VI of the Civil Rights Act of 1964 has been filed with the County Office of Education.

2. Programs and services shall be in compliance with Title IX (nondiscrimination on the basis of sex) of the Federal Education Amendments of 1972 (20 U.S.C. 1681-1683) and subsequent amendments.

3. Programs and services shall be in compliance with the affirmative action provisions of the Federal Education Amendments of 1972 and subsequent amendments.

4. Programs and services shall be in compliance with the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and subsequent amendments.

5. Programs and services for disabled persons shall be in compliance with the Individuals with Disabilities Education Act, (20 U.S.C. Sec. 1400-1487, and attendant regulations) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

6. (a) When federal funds are made available, they will be used so as to supplement, and, to the extent practicable, increase the amount of state and local funds that would, in the absence of such federal funds, be made available for uses specified in the State Plan, and in no case supplant such state or local funds.
   (b) The awardees shall ensure that federal funds are not used to reduce the level of expenditures for the preceding fiscal year as described in 34 CFR 300.231-300.232.

7. All state and federal statutes, regulations, program plans, and applications applicable to each program under which federal and state funds are made available through this application will be met by the applicant agency in its administration of each program, and the undersigned is authorized to file these assurances for such applicant agency.

8. The local agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, state and federal funds paid to that agency under each program.

9. The public agency shall make reports to the state agency or board and to the State Superintendent of Public Instruction as may reasonably be necessary to enable the state agency or board and the Superintendent to perform their duties and will maintain such records and provide access to those records as the state agency or board or the Superintendent deem necessary. Such records shall include, but not be limited to, records

which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from

other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activities for which the funds are used.

10. Any application, evaluation, periodic program plan, and/or report relating to each program will be made readily available to parents and other members of the general public.

11. Auditable records of each participating school program will be maintained on file at the district office. (5 C.C.R. 3944; 34 C.F.R. 74.24).

12. Each local agency shall have adopted policies and procedures consistent with Chapter 5.1 (commencing with Section 4600 of Division 1 of Title 5 of the California Code of Regulations) for investigation and resolution of complaints. Each LEA shall annually notify in writing, as applicable, its students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties of their LEA complaint procedures, including the opportunity to appeal to the California Department of Education and the provisions of Chapter 5.1 (5 C.C.R. 4620-4632).

13. Any funds under any application program, which pursuant to paragraph (1), are available for obligation and expenditure in the year appropriated shall be obligated and expended in accordance with: (a) the federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and (b) any program plan or application submitted by such educational agencies for institutions for such programs for such succeeding fiscal year. "Obligations" are the amounts of orders placed, contracts and sub-grants awarded, services received, and similar transactions during a given period, which will require payment during the same or future period.

14. As required by Section 8355 of the California Government Code and Sections 701-707 of Chapter 10 of Title 41 of the United States Code, and implemented at 34 C.F.R. Part 85, Sections 85.600-635, to provide a drug-free workplace, the above named contractor or grant recipient will continue to provide a drug-free workplace by: (a) publishing a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as defined at 34 C.F.R., Part 85, Section 85.605 and 85.610; and (b) establishing a Drug-Free Awareness Program as required by the California Government Code Section 8355(b), to inform employees about all of the following: (1) the dangers of drug abuse in the workplace; (2) the person or organization's policy of maintaining a drug-free workplace; (3) any available counseling, rehabilitation and employee assistance programs, and; (4) penalties that may be imposed upon employees for drug abuse violations; (c) provide as required by California Government Code Section 8355(c) that every employee who works on the proposed contract or grant: (1) will receive a copy of the company's drug-free workplace policy statement, and; (2) will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

15. As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 C.F.R. Part 82, for prospective participants entering into a grant or cooperative agreement over $100,000, as defined at 34 C.F.R. Part 82, Sections 82.105 and 82.110, the applicant certifies that: (a) no Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement; (b) if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with these instructions; (c) the undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub recipients shall certify and disclose accordingly.

16. As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 C.F.R. Part 85, for prospective participants in primary covered transactions, as defined at 34 C.F.R. Part 85, Sections 85.105 and 85.110. The applicant certifies that it and its principals: (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (15)(b) of this certification; and (d) have not within a three-year period preceding this application had one or more public transactions (Federal, State, or Local) terminated for cause or default; and
Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this grant.

17. **The following is required for all state grants:**
Recipient, by signing this grant, hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this agreement. Furthermore, Recipient, by signing this agreement, hereby certifies that: (a) no state funds disbursed by this grant will be used to assist, promote, or deter union organizing; (b) recipient shall account for state funds disbursed for a specific expenditure by this grant to show that those funds were allocated to that expenditure; (c) recipient shall, where state funds are not designated as described in item b above, allocate on a pro rata basis all disbursements that support the grant program; (d) recipient makes expenditures to assist, promote, or deter

union organizing, Recipient will maintain records sufficient to show that no state funds were used for those expenditures, and shall provide those records to the Attorney General upon request; and (e)recipient hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote, or deter union organizing.

Federal Funds Conditions

1. This award is valid and enforceable only if the United States Government makes sufficient funds available to the State for the current Fiscal Year for the purposes of this program. In addition, this award is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms or funding of this award in any manner.

2. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this grant shall be amended to reflect any reduction of funds.

3. For purposes of compliance with the Office of Management and Budget Circular A-133 Compliance Supplement, the "State laws and procedures applicable to sub recipients" of the California Department of Education are those State laws, regulations, and procedures applicable to State agencies.

4. Section 80.21, Title 34, of the Code of Federal Regulations allows the state's sub recipients to receive payments provided they demonstrate the willingness and ability to minimize the time elapsing between the receipt and disbursements of federal funds; otherwise, reimbursement is the preferred method of payment. Further, this section requires the state's sub recipients to promptly remit to the federal agency any interest greater than $100 that they earned on the payments. Additionally, if the state's sub recipients receive payments, Section 80.20(b)(7), Title 34, of the Code of Federal Regulations, requires them to follow procedures for minimizing the time between the receipt and disbursement of federal funds.