

238

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Director of Mental Health

SUBMITTAL DATE: June 2, 2003

SUBJECT: Notice of Anticipated Performance Contract Dispute for FY 2003-04 with the State Department of Mental Health, All Districts

RECOMMENDED MOTION: Move that the Board of Supervisors:

- 1) Approve the attached letter to the State Department of Mental Health to provide the required notice of anticipated performance contract dispute related to the AB 3632, SB 90 mandate reimbursement process;
- 2) Authorize the Chairman of the Board to sign the attached letter to the State Department of Mental Health.

BACKGROUND: The annual performance contract between the State Department of Mental Health and Riverside County Mental Health requires an Administrative Assurance that the County will comply with all requirements to provide mental health services to pupils with disabilities. If the performance contract were signed as is, the County would be obligated to provide mental health services for special education pupils whether or not the State provides funding in accordance with the State Mandate Compensation Process (SB 90).

Continued on the next page.

John J. Ryan

 John J. Ryan, Director
 Department of Mental Health

JJR:DK

FINANCIAL DATA:

CURRENT YEAR COST:	NA	ANNUAL COST:	NA
NET COUNTY COST:	NA	IN CURRENT YEAR BUDGET:	NA
SOURCE OF FUNDS:	NA	BUDGET ADJUSTMENT:	NA

C.E.O. RECOMMENDATION: **APPROVE**

County Executive Officer Signature *[Signature]*

Department Recommendation: Consent Policy
 Per Executive Office: Consent Policy

Prev. Agn. ref.

Dist.

AGENDA NO.

3 * 3

Subject: Notice of Anticipated Performance Contract Dispute for FY 2003-04, All Districts

BACKGROUND: Continued...

Therefore, as required by the current performance contract, the Department recommends that the Board of Supervisors approve and sign the attached letter to notify the State Department of Mental Health of the anticipated performance contract dispute. This notice of anticipated performance contract dispute provides the County with the flexibility to adjust service levels for special education pupils in the event that SB 90 claims are again deleted from the State budget and "deferred" until some future unspecified date.

AB 3632 passed in 1984, mandated local Mental Health Departments to become a part of educational services for special education children as required by law under the Federal Individuals with Disabilities Education Act. Under this law, when mental health services are needed for children to benefit from their education a referral can be made to the Department of Mental Health for an assessment resulting in a report to the parent and to the Individualized Education Plan (IEP) team.

Parents must provide permission and request the services as a part of their child's plan and they are entitled to due process rights if services are not provided, as they want. As determined through the team and when placed on the IEP as part of the child's education plan, mental health services are to be provided through the Mental Health Department and the Department becomes a part of the educational team. State regulations require an interagency agreement to be developed between Special Education Local Plan Areas (SELPA's) and Mental Health Departments to implement local procedures within State requirements. Such an agreement has been in place in Riverside since 1986. In FY 01-02 2,159 children were provided mental health services under this program, and 2,040 children for the first eight months of FY 02-03. Local education agencies consider this service important to the education of the children they serve.

Initially, the commission on State Mandates determined that only some part of the new requirements were a new mandate to the county and thus they would provide funding for only some of the costs of the program. Later, counties were funded at 100% for the services. However, for FY 02-03 the Governor put a moratorium on all mandate reimbursement claims as he proposes to do again in FY 03-04. Riverside County's AB 3632 services cost approximately \$6.5 to \$6.8 million dollars per year, of which around \$5 million is funded through the State's SB 90 mandate claims process. Because of Riverside County's strong commitment to insure appropriate services to children, special education mental health services have been funded for this current Fiscal Year through a County General Fund loan. However, Riverside County, like all counties, faces a severe financial crisis and cannot make any guarantee to continue this loan, particularly when the Governor has proposed to defer mandate payments for a second year in FY 03-04. It is the Department's position that the mandate to assure necessary mental health services to special education children is fundamentally an education requirement to provide Free and Appropriate Public Education (FAPE) services in order to qualify for Federal IDEA funding. It is not the County's responsibility to provide these services when the State fails to fund them. This interpretation was recently upheld by a ruling in Tuolumne County by Superior Court Judge Eleanor Provost.

Numerous counties have already sent the requested letter to the State Department of Mental Health in order to provide the required notice about the counties dispute with portions of the Performance Contract.

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