

SECTION 24 F

LEGAL POOL DESCRIPTION AND PROCEDURES

It is the intent of the SELPA to resolve disputes at the lowest level of concern, and at the same time, maintaining relationships among parents and school personnel. Nevertheless, due process is necessary from time to time, in order to resolve disagreements about a child's special education program. The SELPA maintains a financial pool for the purpose of funding costs associated with due process litigation.

Accessing the Fund

Criteria for determining appropriate use of SELPA pool funds have been recommended by the Special Education Council, and adopted by the Council of Superintendents. The Assistant Superintendent, SELPA administers the Legal Pool. Before a district can apply for Legal Pool funding, the District Director must request a peer case review, in order to evaluate the strengths and weaknesses of the case, to explore options for service, and dispute resolution that may have been previously overlooked. At a minimum, this peer review must have district personnel involved in the case, the LEA Director, another LEA Director, the Assistant Superintendent, SELPA and a SELPA Program Specialist. If the decision to utilize an attorney is made, the District Director and Assistant Superintendent, SELPA evaluate the case relative to the adopted pool funding criteria. The Assistant Superintendent, SELPA may then approve full or partial funding of the litigation and associated costs. If the District Director and Superintendent disagree with decision of the Assistant Superintendent, SELPA, they may appeal the decision to the Council of Superintendents.

The SELPA maintains master contracts with a variety of firms, any of which are acceptable for pool funding. However, the SELPA funds at the lowest of the contracted rates. If a district chooses to use an attorney with a higher rate, the district is responsible for the difference. The Legal Pool may be used to finance district legal fees and parent attorney fees. The pool does not fund legal education, any legal opinions, or services initiated directly by districts without going through the Assistant Superintendent, SELPA. Legal opinions requested by the Assistant Superintendent, SELPA will be made available to all members of the SELPA.

Budgetary Information

The Legal Pool is funded through SELPA earned 97-98 Maximization revenues. Since these revenues were subsequently rolled into the AB 602 base allocation, these funds are split out each year as a separate fund at the SELPA level. Effective September 2000, the Council of Superintendents approved an ongoing, annual funding level of \$143,000. Any expenditure above this level of funding are charged back to member districts, based on the proportion of the fund used by each member district.

(2/2/01)

Legal Pool

CRITERIA FOR DETERMINING SELPA FISCAL RESPONSIBILITY

Student: _____ **District:** _____ **Date:** _____

Issue: _____

Has the district engaged SELPA peer case review?

Has the district sought SELPA approval for pool funding prior to securing legal services?

Did the Special Education Director research state/federal laws pertaining to the issue?

To what extent were state/federal laws followed?

Do current SELPA policies/procedures speak to this issue?

To what extent were SELPA policies/procedures followed?

Has the parent obtained legal counsel and initiated action requiring the district to defend its special education program for an individual (or class) of children?

Does the case involve legal questions that cannot otherwise be answered by SELPA?

Areas Where Pool Funding Is Not Deemed Appropriate

- * IEP meetings
- * Research / tasks that are programmatic in nature
- * Letter writing
- * Clerical tasks
- * Legal workshops (falls under staff development)

Generally speaking, SEC does not recommend SELPA pool funding for tasks that districts should be able to competently complete on their own

To what extent did the district research/offer other options to what the parent wants?

Explain mitigating circumstances:

Arguments for SELPA payment of service(s) offered:

Arguments against SELPA payment of service(s) offered:

Assistant Superintendent, SELPA Recommendations:

_____ Accept district request for reimbursement

_____ Reject district request for reimbursement

SELPA Decision:

_____ COS/SEC Chairs/Director: Accept Reject

_____ COS: Accept Reject