

SOLANO COUNTY BOARD OF EDUCATION

Regular Meeting
Wednesday, February 11, 2009
6:00 PM
Boardroom
5100 Business Center Drive
Fairfield, California

AGENDA

The Solano County Office of Education does not discriminate against persons with disabilities and is an accessible facility. Disabled persons who wish to attend this meeting and require assistance in order to participate should contact the Administrative Services Manager at (707) 399-4402 at least 24 hours in advance of the meeting to make reasonable arrangements to ensure accessibility. Language translation services and American Sign Language (ASL) interpreters will be provided with a minimum notice of three business days prior to the meeting.

Non-confidential materials related to an item on this agenda that were submitted to the Board after distribution of the agenda packet are available for public inspection during normal business hours in the County Superintendent of Schools' office, 2nd floor, 5100 Business Center Drive in Fairfield.

Members of the public wishing to address any item listed on the agenda must submit a Request to Speak form to the Secretary of the Board (Superintendent) before the Board considers the specific item. Request to Speak forms are available on the table at the meeting room entrance. Please see the Comments from the Community section below for addressing items not listed on the agenda.

Posting or distribution of banners, leaflets, handouts, or other media or communications, which serve to promote or discourage specific points of view, are prohibited inside the meeting room.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE TO THE FLAG

II. ROLL CALL

John Galvan, President
Larry Asera, Vice President
Mayrene Bates
Doug Ford
Maria Kennedy
Raymond Silva
Rozzana Verder-Aliga
Dee Alarcón, Secretary

III. APPROVAL AND ADOPTION OF AGENDA

IV. CONSENT ITEMS

*All matters listed under the Consent Items are considered to be routine and will be enacted by the Board in one motion. There will be no discussion on these items prior to the time the Board votes on the motion unless members of the Board, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar. **(ROLL CALL VOTE)***

(a) Approval and Adoption of Minutes

Action: Consider approval of the minutes of the January 14, 2009, regular meeting.

(b) 2008-09 Budget Revision

SCOE Budget Revision 6 is presented for Board approval. This revision to the County School Service Fund adjusts revenues and expenditures for categorical programs and County Office of Education programs. Attachment A

Action: Consider adopting the 2008-09 Budget Revision 6.

(c) African American History Month

Proposed Resolution No. B08-09-14 recognizing February as African American History Month is being presented for consideration by the Board. Attachment B

Action: Consider adoption of Resolution No. B08-09-14.

(d) National Career and Technical Education Month

Proposed Resolution No. B08-09-15 recognizing February as National Career and Technical Education Month is being presented for consideration by the Board. Attachment C

Action: Consider adoption of Resolution No. B08-09-15.

(e) School Administrators' Week

Proposed Resolution No. B08-09-16 recognizing the first full week of March as the Week of the School Administrator is being presented for consideration by the Board. Attachment D

Action: Consider adoption of Resolution No. B08-09-16.

(f) Gifts

Action: Consider acceptance of the donations received as listed on Attachment E and direct the Superintendent to write letters of appreciation.

V. CORRESPONDENCE

VI. SUPERINTENDENT'S REPORT

(a) Golden Hills Community School Student Project Report

Janet Harden, Senior Director of Student Programs, and Rick Vaccaro, Principal of Alternative Education, will highlight a student project created by a team of students in the Community School Program.

(b) SCOE's New Website

Sheldon Reber, Public Information Officer, will report on the February 2, 2009, launch of SCOE's new website and provide an online tour highlighting its features.

(c) Financial Report

Lettie Allen, Associate Superintendent of Administrative Services and Operations, will present the financial report for January 2008-09, an update on the state budget, and a status on the financial condition of the county's school districts.

(d) Human Resources Report

Jay Speck, Assistant Superintendent of Human Resources, will report on routine personnel matters.

(e) Temporary Certificates

Temporary certificates approved by the County Superintendent are listed on Attachment F.

(f) Meetings/Special Dates

February 12, 2009 (Thursday)

- Retirement reception honoring Reta Jones 5:30 PM, Blue Rock Springs Room at SCOE (*Invitations mailed & e-mailed; RSVP and \$15 due 2/3/09 to Jocelyn Young at Golden Hills*)

February 16, 2009 (Monday)

- Presidents' Day Observed – SCOE Offices Closed

March 6, 2009 (Friday)

- Form 700 Statement of Economic Interest due to Laryn Bishop
- California Schoolmasters Club Annual Awards Dinner, 6:00 PM, Napa Elks Lodge (*RSVP and payment deadline are past*)

March 18, 2009 (Wednesday)

- Principal For A Day Reception, 2:45 PM at SCOE

April 1, 2009 (Wednesday)

- Solano County Spelling Bee, 6:00 PM at SCOE

VII. NEW BUSINESS

(a) Special Education/Behavioral Intervention Plan Settlement

Marsha Ludwig, Senior Director of Special Education, will present for the Board's consideration proposed Resolution No. B08-09-17 approving Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim Settlement and waving rights to file any claim regarding the Hughes Bill statute and regulations in the future. Attachment G

Action: Consider adoption of Resolution No. B08-09-17.

(b) Opposition to Further Education Funding Cuts

Proposed Resolution No. B08-09-18 is presented for consideration by the Board calling upon the Governor and Legislature to invest in the education of California's students by allowing broad fiscal flexibility in categorical programs, increasing state revenues, and rejecting additional funding cuts that would further reduce essential programs, services, and staffing that are integral to pupil success. Attachment H

Action: Consider adoption of Resolution No. B08-09-18.

(c) CSBA County Delegate for Region 3

Ballots for the elections to the 2009 California School Boards Association County Delegate Assembly for Region 3 must be submitted by March 16, 2009.

Action: One collective vote may be cast for the incumbent or a write-in candidate.

VIII. COMMENTS FROM THE COMMUNITY

The County Board of Education is aware of the importance of providing an opportunity for community members to address the Board regarding matters within the Board's jurisdiction that are not on the agenda. The president of the Board will recognize those who wish to speak and have submitted a Request to Speak form to the Secretary of the Board (Superintendent) before the first speaker is called. Request to Speak forms are available on the table at the meeting room entrance. Speakers are requested to identify themselves by name.

IX. BOARD DISCUSSION

(a) Board Policy 9250

Continue review of Board Policy 9250(IV) regarding allowable expenses for attendance at organization meetings.

(b) Suggestions on future Board agenda items

(c) Board Program Visits

The Board members may give a brief report on their recent activities including visits to any of SCOE's program sites.

X. ADJOURNMENT

- Attachments:
- (A) Budget Revision #6
 - (B) Resolution No. B08-09-14
 - (C) Resolution No. B08-09-15
 - (D) Resolution No. B08-09-16
 - (E) Gifts/Donations
 - (F) Temporary Certificates
 - (G) Resolution No. B08-09-17
 - (H) Resolution No. B08-09-18

GENERAL FUND

February 11, 2009

Program	Resource	Revenue	Certificated	Classified	Employee	Books and	Other	Sites, Bldgs,	Other	Fund
			Salaries	Salaries	Benefits	Supplies	Operating	Equipment	Outgo	Balance
			1000	2000	3000	4000	5000	6000	7000	Difference
Unrestricted (local)	0000	62,980				1,000	61,980			
Title I, Part A Neglected (adj alloc)	3010	15,510					14,067		1,443	
Title I, Part D (adj alloc)	3025	257,755					233,770		23,985	
IDEA	3310	173,709							173,709	
IDEA Preschool Grant	3315	3,639							3,639	
IDEA Preschool Local Entitlement	3320	11,538							11,538	
Title IV, Safe & Drug Free Schools (adj alloc & c/o)	3710	25				25				
Title II, Teacher Quality (adj alloc)	4035	(2,823)					(2,560)		(263)	
Medi-Cal (c/o)	5640					58,042			750	(58,792)
ROP (local)	6350	36,984				26,187	7,356		3,441	
ROP Training & Certification for Community Care (DSP) (incr revenue)	6355	3,090					2,802		288	
Spec Ed (local)	6500	4,300	3,083	684	533					
SELPA District & County Apportionment	6502	1,199,103							1,199,103	
SELPA NPA/NPS Pool	6504	(27,396)							(27,396)	
SELPA Legal Pool (local)	6507	7,000					7,000			
TUPE 4-8 (Tobacco Use Prevention Education) (adj alloc & c/o)	6660	211				192			19	
Transportation (local)	7240	87,553					55,425			32,128
County Oversight - Valenzuela (adj alloc)	7385	(571)					(571)			
Redevelopment (c/o)	9021						4,500			(4,500)
Larsen Preschool Integration (local)	9180	125				125				
SELPA Personnel Develop Consort (local)	9260	8,000					7,619		381	
TC McDaniel Misc Donations (local)	9380	2,128				2,128				
Spec Ed Misc Donations (local)	9450	150					150			
CISC (Curriculum and Instruction Steering Committee) Subcommittee	9480	1,000				900	100			
Total		1,844,010	3,083	684	533	88,599	391,638		1,390,637	(31,164)

SOLANO COUNTY BOARD OF EDUCATION
Solano County, California

RESOLUTION NO. B08-09-14
AFRICAN AMERICAN HISTORY MONTH

WHEREAS, the history of our great country has been written by men and women of every race, religion, and ethnic background, and during African American History Month we reinforce our commitment to be a nation of opportunity, equality, and hope for every citizen by recognizing that our nation is stronger because of the contributions of generations of courageous and determined African Americans; and

WHEREAS, African Americans have helped to shape our nation and influence American life. Patriots such as Frederick Douglass, Martin Luther King, Jr., Rosa Parks, Thurgood Marshall, Sojourner Truth, Harriet Tubman, Leon Sullivan, and W.E.B. DuBois broke down racial barriers and advanced the cause of civil rights; educators such as Booker T. Washington, Mary McLeod Bethune, and Dr. Frederick Patterson fought school segregation and transformed the academic world to ensure that every child has access to a good and equal education; and America has benefited from the achievements of scientists and inventors like George Washington Carver; been inspired by athletes like Jesse Owens, Wilma Rudolph, Jackie Robinson, and Althea Gibson who persevered while breaking the color barrier and competing at the highest levels of sports; and had our spirits lifted by gifted and creative entertainers like Ossie Davis, Nat King Cole, Billie Holiday, Ray Charles, Pearl Bailey, Ella Fitzgerald, and Louis Armstrong, each an encouragement to reach as far as our vision and dreams may take us; and

WHEREAS, this year the United States celebrated the inauguration of its 44th President, Barack Obama, the first African American president in our nation's history and whose agenda includes uniting all citizens of every culture through public service to others in a climate of mutual respect, leading the way by deed and example and sparking the popular catch phrase "Rosa sat so Martin could walk; Martin walked so Obama could run; Obama ran so our children can fly."

NOW, THEREFORE, BE IT RESOLVED that the Solano County Board of Education recognizes February as African American History Month and encourages all educators to commemorate this occasion with appropriate instructional activities that honor the struggles, courage, and accomplishments of African Americans and the progress made toward expanding the hearts and minds of our nation's citizens.

PASSED AND ADOPTED this 11th day of February 2009, by the Solano County Board of Education, Solano County, California, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

CERTIFICATION

I, Dee Alarcón, secretary to the Solano County Board of Education, Solano County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said Board at a regular meeting thereof held on the above stated date, which resolution is on file in the office of said Board.

Secretary's Signature

Date

SOLANO COUNTY BOARD OF EDUCATION
Solano County, California

**RESOLUTION NO. B08-09-15
CAREER AND TECHNICAL EDUCATION MONTH**

WHEREAS, February has been designated Career and Technical Education (CTE) Month in recognition of the programs and instructors that prepare our nation's secondary and postsecondary students for a wide range of careers; and

WHEREAS, according to the U.S. Bureau of Labor Statistics, over 75% of the fastest growing occupations within the next decade will require career and technical education, which is reflected in this year's theme, *CTE: Building Blocks for a Successful Career*, and

WHEREAS, profound economic and technological changes in our society are rapidly displayed in the structure and nature of work, thereby placing new and additional responsibilities on our educational system and requiring workers to be trained in skilled professions with career and technical education playing a crucial role in preparing a well-educated and skilled workforce able to compete in a global economy; and

WHEREAS, career and technical education gives high school students experience in practical, meaningful applications of basic skills such as reading, writing, and mathematics, thus improving the quality of their education, motivating potential dropouts, and giving all students leadership opportunities in their fields and in their communities while also providing Americans with a school-to-careers connection; and

WHEREAS, career and technical education is the backbone of a strong, well-educated workforce, which fosters productivity in business and industry, contributes to America's leadership in the international marketplace, and offers individuals lifelong opportunities to learn new skills, providing them with career choices and potential job satisfaction.

NOW, THEREFORE, BE IT RESOLVED, that the Solano County Board of Education recognizes February as Career and Technical Education Month and supports the ever-increasing cooperative efforts of career and technical educators, business, and industry to stimulate the growth and vitality of our local economy and that of the entire nation by preparing graduates for career fields forecast to experience the largest and fastest growth in the next decade.

PASSED AND ADOPTED this 11th day of February 2009, by the Solano County Board of Education, Solano County, California, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

CERTIFICATION

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Secretary's Signature

Date

SOLANO COUNTY BOARD OF EDUCATION
Solano County, California

RESOLUTION NO. B08-09-16
WEEK OF THE SCHOOL ADMINISTRATOR

WHEREAS, leadership matters for California's public education system and the more than six million students it serves; and

WHEREAS, the title "school administrator" is a broad term used to define many education leadership posts including superintendents, assistant superintendents, principals, assistant principals, special education and adult education leaders, curriculum and assessment leaders, school business officials, classified educational leaders, and other district and county office of education employees; and

WHEREAS, school administrators are passionate, lifelong learners who believe in the value of quality public education and understand that providing quality service for student success is paramount for the profession; and

WHEREAS, many school administrators began their careers as teachers with the average administrator having served in public education for more than a decade and the majority of California's superintendents having served in education for more than 20 years, and such experience is beneficial in their work to effectively and efficiently lead public education and improve student achievement; and

WHEREAS, public schools across the nation operate with lean management systems, employing fewer managers and supervisors than most public and private sector industries including transportation, food service, manufacturing, utilities, construction, publishing, and public administration; and

WHEREAS, school leaders depend on a network of support from school communities – fellow administrators, teachers, parents, students, businesses, community members, board trustees, colleges and universities, community and faith-based organizations, elected officials, and district and county staff and resources – to promote ongoing student achievement and school success; and

WHEREAS, research shows great schools are led by great principals, and great districts and offices of education are led by great superintendents, and these site leaders are supported by extensive administrative networks throughout the state; and

WHEREAS, the State of California has declared the first full week of March as the "Week of the School Administrator" in Education Code 44015.1, recognizing that the future of California's public education system depends upon the quality of its leadership.

NOW, THEREFORE, BE IT RESOLVED that the Solano County Board of Education supports March 1-7, 2009, as the Week of the School Administrator and commends all school leaders for the contributions they make to successful student achievement.

PASSED AND ADOPTED this 11th day of February 2009, by the Solano County Board of Education, Solano County, California, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

CERTIFICATION

I, Dee Alarcón, secretary to the Solano County Board of Education, Solano County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said Board at a regular meeting thereof held on the above stated date, which resolution is on file in the office of said Board.

Secretary's Signature

Date

**Donations to Solano County Office of Education
February 11, 2009**

Monetary donation of \$200 from Randy Storbo of the Vacaville Elks Lodge to the special education adapted PE programs to be used for the 16th Annual Joy Graham Bowling Event in February.

Monetary donation of \$520 through the United Way by Michael Slocum, Hayward, to enhance the Irene Larsen Center facilities.

Scrap metal valued at \$150 donated by TEMCO, Benicia, to the ROP welding program.

TEMPORARY CERTIFICATES

<u>Name</u>	<u>District</u>	<u>Credential</u>
Kaydee Carroll	Fairfield-Suisun	CBEST Substitute/Waiver
Candice Bersola	Fairfield-Suisun	Emergency Substitute Permit
Stephanie Bundenthal	Fairfield-Suisun	Emergency CLAD
Bettye Dicks-Crosser	Fairfield-Suisun	Emergency Substitute Permit
Henry Lane	Fairfield-Suisun	Emergency Substitute Permit
Jeffrey Telmo	Fairfield-Suisun	CBEST Substitute/Waiver
Eric Nikaido	Fairfield-Suisun	Emergency Substitute Permit
Melissa Michalk	Fairfield-Suisun	Single Subject/Foreign Language: Spanish
Brenda Terrell	Fairfield-Suisun	Multiple Subject
Pascale Jorgenson	Fairfield-Suisun	Emergency Substitute Permit
Jason Morace	Fairfield-Suisun	Single Subject/English
Jason Morace	Fairfield-Suisun	Emergency CLAD
D. Michael Boles	Vacaville	Administrative Services
Tami Caudle	Dixon	Emergency Substitute Permit
Jeffrey Telmo	Travis	CBEST Substitute/Waiver
Monique Winfield	Solano County	Single Subject/English
Denise McKown	Fairfield-Suisun	Emergency Substitute Permit
Melody Griffin	Fairfield-Suisun	Emergency Substitute Permit
Ann Kettner	Solano County	Multiple Subject
Marc Beaumont	Travis	Emergency Substitute Permit
Gerald Woods	MIT	Single Subject/Science: Physics/Waiver
Sunchae Camphor	Vallejo	Single Subject/Science: Biological/Provisional Intern Permit
Linda Hann	Vallejo	Single Subject/English/Limited Assignment
Megan Vandebroek	Vallejo	Emergency Substitute Permit
Paul Davis	Vallejo	Emergency Substitute Permit
Denis Feehan	Vallejo	Emergency Substitute Permit
Stephanie Strez	Vallejo	Emergency Substitute Permit
Karen Torretta	Vallejo	Emergency Substitute Permit
Sheri Luney	Dixon	Emergency Substitute Permit
Alex Nwosu	Fairfield-Suisun	CBEST Substitute/Waiver
Amy Weisz	Fairfield-Suisun	CBEST Substitute/Waiver
Sher Sheldon-Lander	Vallejo	Education Specialist/Mild-Moderate
Joanne Buckso	Vacaville	Administrative Services
Margaret Hilts	Vallejo	Administrative Services
Carolyn Cohen Finley	Vallejo	Pupil Personnel Services/School Counseling/Waiver
Kasumi Ketron	Solano County	Single Subject/Math
Sonia Rodriguez	Vacaville	Designated Subjects/Career Tech Ed/Full-Time/Arts, Media & Entertainment
Michele Perkins	Vacaville	CBEST Substitute/Waiver
M. Joan Hedrick	Vacaville	CLAD Certificate
Adrienne Stevenson	Fairfield-Suisun	Emergency Career Substitute Permit
Lori Turner	Travis	Emergency Substitute Permit
Kara Hinkley Rydman	Benicia	CLAD Certificate

Temporary Certificates (continued)

<u>Name</u>	<u>District</u>	<u>Credential</u>
Stuart Clary	Vacaville	Emergency Substitute Permit for Prospective Teachers
David George	SCOE	CLAD Certificate
Lori Johnson	Benicia	Emergency CLAD
Tamara Anderson	Dixon	Emergency Substitute Permit
Kenneth Smith	Vallejo	CLAD Certificate
Randall Goni	Vallejo	CLAD Certificate
Maria Christina Thomas	Vallejo	CLAD Certificate
Dorothy Hermes	Vallejo	CLAD Certificate
Joellen Karabasz	Vallejo	Single Subject/English/Short-Term Staff Permit
James Seder	Fairfield-Suisun	Single Subject/Business/Limited Assignment
Jereme Davis	Fairfield-Suisun	Single Subject/P.E.
Aylyn Groff	Travis	CBEST Substitute/Waiver
Stacey Threadgill	Travis	CBEST Substitute/Waiver
Kyle Henderson	Benicia	CLAD Certificate
Thomas Horne	Benicia	CLAD Certificate
Rebecca Dunavent	Benicia	CLAD Certificate
Andrea Jenest	Benicia	Single Subject/Science: Geoscience/Limited Assignment
Jennifer Schaner	Benicia	Single Subject/English; Social Science/Limited Assignment
Carolina Asensio-Torcal	Fairfield-Suisun	Emergency CLAD
Louise Jacob	Fairfield-Suisun	Emergency CLAD
Burton Neff	Fairfield-Suisun	CLAD Certificate
Katherine Gagnon	Fairfield-Suisun	CLAD Certificate
Carrie Joslin	Fairfield-Suisun	CLAD Certificate
Eduardo Gonzalez	Dixon	Emergency Substitute Permit
Christine Bridwell	Vallejo	CLAD Certificate
Deborah Morrison	Benicia	CLAD Certificate
Arlene Empleo	Benicia	CLAD Certificate
Gregory Reed	Benicia	CLAD Certificate
Alicia Riley	Travis	CBEST Substitute/Waiver
Thomas Dougherty	SCOE	Certificate of Completion of Staff Development

Temporary County Certificates Issued January 2009

District	<i>Full Credential/ Auth.</i>	<i>Intern Cred.</i>	<i>Prov. Intern Permit</i>	<i>Short- Term Staff Permit</i>	<i>Emergency Permit</i>	<i>Waiver</i>	<i>Emergency Sub</i>	<i>Child Dev. Permit</i>
Benicia	9				1			
SCOE	2							
Dixon							4	
Fairfield- Suisun	8				4	4	8	
Travis						4	2	
Vacaville	4					1	1	
Vallejo	8		1	1		1	5	
MIT Academy						1		
Private/ NPS								
Solano College								
Solano County	3							
Totals	34		1	1	5	11	20	

NOTICE TO LEAS

Re: Pending Settlement of the Behavioral Intervention Plans
[Hughes Bill] Mandated Cost Claim

This Notice is intended to inform all local educational agencies (“LEAs”) in California about their rights regarding the Behavioral Intervention Plans Mandated Cost Test Claim, claim CSM-4464, initiated September 28, 1994 by San Diego Unified School District, Butte County Office of Education, and San Joaquin County Office of Education (“Claimants”), and the subsequent Sacramento Superior Court case, case No. 03CS01432, regarding this same test claim (“the Claim”). For purposes of this Notice, LEAs include all school districts, county offices of education, special education local plan areas (“SELPA”), and joint agencies composed of such organizations in the State of California. The Claim has significant fiscal implications for LEAs. For this reason, LEAs are advised to review this Notice and the attached Waiver with legal counsel before deciding whether to sign the Waiver.

In reviewing this Notice, please be aware of the following items:

1. This Notice and the attached Waiver apply only to the Behavioral Intervention Plans Mandated Cost Claim and claims arising from California Education Code section 56523 and California Code of Regulations, title 5, sections 3001, subdivisions (c), (d), (e), (f), and (aa), and 3052, as those sections read on or before July 1, 2008, (collectively “the Hughes Bill Statute and Regulations”).
2. This Notice and the attached Waiver do not affect any rights any LEAs may have to file test claims with the Commission on State Mandates (“the Commission”) on any mandates created as a result of changes to state or federal statutes or regulations that occur after July 1, 2008.

A. What is the Behavioral Intervention Plans Mandated Cost Claim?

The Behavioral Intervention Plans Mandated Cost Claim is a fourteen-year effort by local school districts, county offices of education, and SELPAs to obtain reimbursement for costs associated with behavioral intervention plans required by the Hughes Bill Statute and Regulations under state law.

The California Constitution requires that whenever the Legislature mandates a new program or a higher level of service, the State must provide funds to reimburse local government for the actual costs of implementation, with certain exceptions. State law requires that the State shall reimburse each local agency for all unfunded costs mandated by the State. The Commission has the authority to hear and decide tests claims that local agencies file as a result of new laws passed by the Legislature and signed into law by the Governor. The legal framework and authority for the mandated claims reimbursement process is found at article XIII B, section 6, of the California Constitution, sections 17500 through 17630 of the California Government Code, and sections 1181 through 1189.11 of title 2 of the California Code of Regulations.

The Behavioral Intervention Plans Mandated Cost Claim was initiated in 1994 when San Diego Unified School District, Butte County Office of Education, and San Joaquin County Office of Education filed test claim CSM-4464 asking the State to reimburse LEAs for the unfunded costs associated with behavioral intervention plans, as required by state law under the Hughes Bill Statute and Regulations. Under the Commission’s rules, test claims are treated like class actions, and therefore the Claim is applicable to all LEAs statewide.



B. What is the Outcome of the Behavioral Intervention Plans Mandated Cost Claim?

On September 28, 2000, after years of filings and hearings, the Commission adopted a Statement of Decision regarding CSM-4464 finding that the Hughes Bill Statute and Regulations imposed a reimburseable state mandate on school districts by requiring the following seven activities in excess of federal law: SELPA plan requirements, development and implementation of behavioral intervention plans, functional analysis assessments, modifications and contingent behavioral intervention plans, development and implementation of emergency interventions, prohibited behavioral intervention plans, and due process hearings. The settlement of the Special Education Mandated Cost Claim in 2000-01 explicitly omitted the Behavioral Intervention Plans Mandated Cost Claim. (Ed. Code § 56836.156(g).)

Subsequently, Claimants proposed parameters and guidelines for the CSM-4464 claiming process, but various disputes arose with the State and a final draft of the claiming parameters and guidelines was never adopted by the Commission. The parties attempted to settle without success and the matter reached a stalemate.

On September 26, 2003, the State's Department of Finance filed a lawsuit in the Sacramento Superior Court (Department of Finance v. Commission on State Mandates, Case No. 03CS01432) challenging the Commission's decision in CSM-4464. The State and the Claimants ("Parties") agreed to delay the proceedings before the Court in order to attempt to negotiate a settlement. The initial settlement negotiations were unsuccessful.

On October 4, 2007, pending reforms in the mandate process prompted the Parties to continue negotiations. The Parties began meeting to work on a mutually agreeable resolution.

A chief task in the settlement process was developing a statewide cost estimate for the claim. Claimants surveyed more than 20 SELPAs representing more than 10% of the public school students statewide. The State's Department of Finance staff reviewed copies of all survey returns and verified that the cumulative cost totals accurately reflected the SELPA data.

In May 2008, the Sacramento Superior Court notified the State that it must bring its case to trial by September 26, 2008, or be subject to dismissal under the state law which requires all matters to be brought to trial within five years. The Parties filed a stipulation with the Sacramento Superior Court agreeing to extend the five-year period pending this resolution.

C. What is the Outcome of the Settlement Negotiations?

The State and Claimants have negotiated a settlement agreement ("Agreement") which is contingent upon the following three events occurring:

1. On or before February 28, 2009, no less than 85% of all K-12 school districts, county offices of education (COEs), and SELPAs shall sign the Waiver, attached hereto as Exhibit A. In addition, the school districts and county offices of education signing Exhibit A must have served student populations accounting for no less than 92% of the second principal apportionment ("P-2") average daily attendance ("ADA") in the 2007-08 fiscal year.

2. The parties shall seek a superior court ruling that the settlement is final and binding on all LEAs, assuming implementing legislation is enacted. In the absence of such a ruling, the parties shall seek an alternative, mutually agreeable final and formal resolution of the dispute.
3. Legislation must be enacted appropriating the following funds for the settlement:
 - a. \$65 million as a permanent increase to the AB 602 base, commencing 2009-10, subject to COLA and ADA growth in subsequent years.
 - b. \$510 million retroactive payment in total for general fund use payable to school districts in \$85 million installments over six years, commencing 2011-12 and ending 2016-17, all payments to be based on 2007-08 P-2 ADA. The State may enlarge these installments, discharging the obligation more quickly if it so decides. These payments may be suspended in a year in which Test 3 of Proposition 98 is operative. If the payment is suspended in any year or years, it must be made in the year or years immediately following the designated six-year period or lesser period if the State has discharged its obligation prior to the end of the six years.
 - c. \$10 million lump sum retroactive payment for general fund use payable in 2009-10, divided as follows:
 - \$1.5 million to COEs based on December, 2007 county special education pupil count, with no county office of education receiving less than \$5000;
 - \$6.0 million to SELPAs based on December, 2007 special education pupil count, with no SELPA receiving less than \$10,000; and
 - \$2.5 million to San Joaquin County Office of Education for administrative costs incurred in pursuing the Claim.

By separate agreement among the Claimants, the \$2.5 million allocation to the San Joaquin County Office of Education will be used to pay for the administrative costs incurred to pursue the Claim from 1994 to the present.

The Parties intend that the legislation will be requested in early 2009 and enacted on an urgency basis prior to or concurrent with the Budget Act for the 2009-10 fiscal year. It is possible that non-substantive changes to the proposed legislation described above may occur with the consent of the parties.

D. What Rights Are Waived by LEAs Who Elect to Sign the Waiver?

Under article XIII B, section 6, of the California Constitution, sections 17500 through 17630 of the California Government Code, and sections 1181 through 1189.11 of title 2 of the California Code of Regulations, LEAs have the right to file mandated cost claims with the Commission on State Mandates. Further, under section 1542 of the Civil Code, a waiver does not extend to unknown claims. However, LEAs who sign this Waiver agree to give up certain of these rights as follows:

1. **Known Claims:** LEAs electing to sign the attached Waiver agree to waive their right to file or to otherwise pursue reimbursement claims for the mandated programs and services contained in the Behavioral Intervention

Plans Mandated Cost Claim or any other known claim arising from California Education Code section 56523 and California Code of Regulations, title 5, sections 3001, subdivisions (c), (d), (e), (f), and (aa), and 3052, as those sections read on or before July 1, 2008. Further, LEAs signing the Waiver acknowledge that the amount needed to satisfy the State's minimum funding obligation under Proposition 98 shall not be increased by the retrospective payments required by the settlement and forever give up their right to contend otherwise.

2. **Unknown Claims:** LEAs electing to sign the attached Waiver also agree to waive their right to pursue any unknown mandated cost claim arising from California Education Code section 56523 and California Code of Regulations, title 5, sections 3001, subdivisions (c), (d), (e), (f), and (aa), and 3052, as those sections read on or before July 1, 2008.
3. **Exemptions:** The Waiver does not prohibit LEAs from filing mandated cost claims to the extent that state or federal statutes or regulations are amended or added or changed in any way after July 1, 2008.

Of course, unless the three events take place which are set out in Section C above, the Waiver is not binding.

E. Where is More Detailed Information on the Settlement Available?

With the mailing of this notice all LEAs have been sent a copy of the Settlement and Release Agreement in this matter and a copy of the Proposed Draft Legislation. A review of these documents provides additional information. For more information or additional copies of these documents go to CSBA's website at: <http://www.csba.org/LegislationAndLegal/Legal/ELAUpdates.aspx> under "Legal Resources" or email Carol Cox at ccox@csba.org and Dick Hamilton at (916) 669-3270, e-mail rhamilton@csba.org.

PLEASE NOTE:

A copy of the Waiver is attached to this notice. The original Waiver (separately enclosed) should be signed and mailed, using the enclosed self-addressed envelope to:

Dick Hamilton, Associate General Counsel and Director
Education Legal Alliance
California School Boards Association
3100 Beacon Blvd.
West Sacramento, CA 95691

The signed Waiver must reach Mr. Hamilton on or before **February 28, 2009**.

In doing so you are indicating support for the Settlement and approval of the Waiver.

Exhibit A to Settlement Agreement
Behavioral Intervention Plans Mandated Cost Claim

WAIVER

This Waiver is entered into on _____ [DATE] by _____ [NAME OF LEA], hereinafter "LEA," to fulfill one of the terms of the Settlement and Release Agreement for the Behavioral Intervention Plans Mandated Cost Claim ("Agreement").

A. Known Claims

With respect to section 56523 of the California Education Code and the California Code of Regulations, title 5, sections 3001, subdivisions (c), (d), (e), (f), and (aa), and section 3052 as those sections read on or before July 1, 2008, (collectively "the Hughes Bill Statute and Regulations"), LEA hereby knowingly and voluntarily waives the rights set forth under article XIII B, section 6, of the California Constitution, sections 17500 through 17630 of the California Government Code, and sections 1181 through 1189.11 of Title 2 of the California Code of Regulations. By signing this Waiver, LEA hereby acknowledges that LEA forever gives up its right to file any mandated cost claim regarding the Hughes Bill Statute and Regulations, and/or to pursue any filed claim regarding that statute and regulations, and/or to benefit from such a claim, including any claim regarding the following programs and services:

1. Special education local plan area plan requirements pursuant to California Code of Regulations, title 2, sections 3001, subdivision (c), and 3052, subdivision (j), as these sections read on July 1, 2008;
2. Development and implementation of behavioral intervention plans pursuant to California Code of Regulations, title 2, sections 3001, subdivisions (c), (d), (e), and (f), and 3052, subdivisions (a), (c), (d), (e), and (f), as these sections read on July 1, 2008;
3. Functional analysis assessments pursuant to California Code of Regulations, title 2, sections 3001, subdivisions (d) and (f), and 3052, subdivisions (b), (c), and (f), as these sections read on July 1, 2008;
4. Modifications and contingent behavioral intervention plans pursuant to California Code of Regulations, title 2, section 3052, subdivisions (g) and (h), as these sections read on July 1, 2008;
5. Development and implementation of emergency interventions pursuant to California Code of Regulations, title 2, sections 3001, subdivisions (c) and (d), and 3052, subdivision (i), as these sections read on July 1, 2008;
6. Prohibited behavioral intervention plans pursuant to California Code of Regulations, title 2, sections 3001, subdivision (d), and 3052, subdivision (l), as these sections read on July 1, 2008; and
7. Due process hearings pursuant to California Code of Regulations, title 2, section 3052, subdivision (m), as this section read on July 1, 2008.

LEA further acknowledges and concedes that the amount that is required to be appropriated for the purpose of satisfying the STATE's minimum funding obligation to LEAs pursuant to article XVI, section 8, of the California Constitution shall not be required to be increased, to any extent, by payment of the retrospective amounts described in Paragraph II.B. of the Agreement, and by signing this Waiver LEA forever gives up its right to contend otherwise.

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B. Unknown Claims

1. LEA expressly waives the application of California Civil Code section 1542 regarding mandated cost claims under California Education Code section 56523 and California Code of Regulations, title 5, sections 3001, subdivisions (c), (d), (e), (f), and (aa), and 3052 as those sections read on or before July 1, 2008.
2. LEA certifies that it has read the following provisions of California Civil Code Section 1542:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."
3. LEA understands that it is agreeing that California Civil Code section 1542 does not apply to this Waiver. LEA understands and acknowledges that the significance and consequence of this waiver of California Civil Code section 1542 is:
 - a. LEA may have additional claims arising or occurring up to the date of this Waiver of which it is not now aware;
 - b. LEA may not make a further demand for any such claims;
 - c. LEA may not receive any benefit(s) from any such claims that may be filed by other claimants; and
 - d. LEA extends its waiver to include now unknown and/or later discovered claims.

C. Exemptions

LEA signs this Waiver with the understanding that it does not prohibit LEAs from filing mandated cost claims to the extent that the Hughes Bill Statute and Regulations are amended or added or changed in any way after July 1, 2008.

D. Advice of Attorney

LEA warrants and represents that it has reviewed and understands the Notice to LEAs Re: Pending Settlement of the Behavioral Intervention Plans Mandated Cost Claim ("the Notice") and this Waiver, and that it has been advised to seek legal advice from the attorney of its choice regarding the Notice and this Waiver. LEA acknowledges and represents either that it relied upon legal advice from its attorney in executing this Waiver or that it chose not to rely upon legal advice from its attorney in executing this Waiver. LEA further acknowledges and represents that, in executing this Waiver, it has not relied on any inducements, promises, or representations other than those stated in the Notice and Waiver.

E. Contingency of Waiver

LEA understands that this Waiver is binding only if the preconditions to the full implementation of the Settlement Agreement are satisfied. Those preconditions are set out in Section C of the Notice and Section II.A. of the Agreement, and are, in brief: (1) at least 85% of all LEAs sign this Waiver, including school districts and county offices of education who served student

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populations accounting for 92% of the P-2 2007-08 ADA; (2) the parties seek a superior court ruling that the settlement is final and binding on all LEAs; and (3) legislation is enacted appropriating the necessary funding and placing ongoing funding in statute.

Dated: _____ Signed: _____

Print or Type Name Above _____

Authorized Agent for [Name of LEA] _____

SOLANO COUNTY BOARD OF EDUCATION
Solano County, California

RESOLUTION NO. B08-09-17
APPROVAL OF BEHAVIORAL INTERVENTION PLANS [HUGHES BILL] MANDATED COST CLAIM SETTLEMENT AND AGREEMENT TO WAIVE FUTURE CLAIMS

WHEREAS, the Commission on State Mandates (“the Commission”), in a test claim known as the Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim, has determined that, since 1993, there are unfunded state mandates exceeding the federal requirements in the following seven (7) components of the Hughes Bill Statute and Regulations (California Education Code section 56523 and California Code of Regulations, title 5, sections 3001, subdivisions (c), (d), (e), (f), and (aa), and 3052): special education local plan area (“SELPA”) plan requirements, development and implementation of behavioral intervention plans, functional analysis assessments, modifications and contingent behavioral intervention plans, development and implementation of emergency interventions, prohibited behavioral intervention plans, and due process hearings; and

WHEREAS, these state mandates remain required components of the Hughes Bill Statute and Regulations; and

WHEREAS, final claiming instructions for the Behavioral Intervention Plans Mandated Cost Claim were never adopted by the Commission due to various disputes that arose with the State; and

WHEREAS, the State’s Department of Finance disputes that any of the identified Behavioral Intervention Plans Mandated Cost Claim mandates qualify for state reimbursement because it contends they are required by federal law, and therefore the State has filed a lawsuit with the Sacramento Superior Court, case No. 03CS01432, to contest the Commission’s decision in the Behavioral Intervention Plans Mandated Cost Claim; and

WHEREAS, the Test Claimants believe that the identified mandates require new programs and increased levels of service in excess of federal law, and are therefore unfunded state mandates, and therefore the Test Claimants oppose the court action filed by the State challenging the Commission’s decision; and

WHEREAS, this litigation could thwart resolution of these matters for a number of years; and

WHEREAS, to avoid the cost and uncertainty of further litigation, to alleviate the uncertainty regarding the Hughes Bill Statute and Regulations funding, and to expedite the resolution of this long-pending mandate claim, the State and the Test Claimants (“Parties”) have determined to compromise and settle the claims set forth in the Behavioral Intervention Plans Mandated Cost Claim; and

WHEREAS, the Parties have negotiated a settlement agreement (“Agreement”), which provides \$520 million as general fund reimbursement for past costs associated with the Hughes Bill Statute and Regulations, allocated as follows:

- \$510 million to school districts based on 2007-08 P-2 average daily attendance (“ADA”) (about \$14.85 per ADA annually for six years, beginning in 2011-12, or for a lesser period at the State’s discretion should the State choose to accelerate payment of such reimbursement);
- \$1.5 million to county offices of education in 2009-10 based on December 2007 county special education pupil count, about \$35.06 per pupil, with no county office of education receiving less than \$5,000;
- \$6 million to SELPAs in 2009-10 based on December 2007 special education pupil count, about \$8.85 per pupil, with no SELPA receiving less than \$10,000; and
- \$2.5 million in 2009-10 for administrative costs incurred in pursuing the Claim; and

WHEREAS, the settlement further provides \$65 million as a permanent increase to the AB 602 funding base for special education programs and services beginning in 2009-10, resulting in each SELPA's funding rate increasing by about \$10.92 per ADA, with this amount increasing by the cost of living adjustment and ADA growth in subsequent years;

WHEREAS, by approving this settlement the Solano County Office of Education will receive approximately \$17,565.00 [total] in discretionary funding for retroactive reimbursement; and

WHEREAS, the Solano County Office of Education, in exchange for the foregoing financial settlement, must waive its right to file any further mandate claims arising from the Hughes Bill Statute and Regulations, or to benefit from any new Hughes Bill Statute and Regulations claims filed, unless the Hughes Bill Statute and Regulations change; and

WHEREAS, if for some reason the settlement process is not completed, the Waiver will not take effect; and

WHEREAS, the Solano County Board of Education has reviewed the Notice to LEAs Re: Pending Settlement of the Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim and the required Waiver; and

WHEREAS, the Solano County Office of Education administrative staff, having reviewed the terms of the pending settlement, recommends that the Board approve the settlement and agree to waive its rights to file mandated cost claims arising from the Hughes Bill Statute and Regulations in the future or to benefit from such claims unless the Hughes Bill Statute and Regulations change.

NOW, THEREFORE, BE IT RESOLVED, that the Solano County Board of Education approves the terms of the pending settlement of the Behavioral Intervention Plans Mandated Cost Claim, agrees to waive its rights regarding claims as set forth in the attached Waiver, and authorizes the County Superintendent of Schools to sign the required Waiver and to deliver it as requested by no later than February 28, 2009, and to complete any other administrative task necessary to effectuate this decision.

PASSED AND ADOPTED this 11th day of February 2009, by the Solano County Board of Education, Solano County, California, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

John Galvan, President, Solano County Board of Education

Date

CERTIFICATION

I, Dee Alarcón, secretary to the Solano County Board of Education, Solano County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said Board at a regular meeting thereof held on the above stated date, which resolution is on file in the office of said Board.

Dee Alarcón, Solano County Superintendent of Schools and
Secretary to the Solano County Board of Education

Date

SOLANO COUNTY BOARD OF EDUCATION
Solano County, California

**RESOLUTION NO. B08-09-18
SOLVING THE BUDGET CRISIS**

WHEREAS, California's more than 6 million students deserve the highest quality education;
and

WHEREAS, the Legislature and Governor already imposed \$2.8 billion in education cuts in September 2008, resulting in significant reduction of essential programs and services to students that are integral to their success, and

WHEREAS, these cuts have resulted in teacher layoffs and increased class sizes statewide, not to mention a further erosion of the support system for students provided by thousands of classified and paraprofessional staff that have also been laid off; and

WHEREAS, the Legislature and the Governor propose to cut school funding even further in the middle of the current school year, compounded by deep cuts in 2009-10, resulting in districts having \$1,500 less per student than they need to maintain programs and services for students of two years ago; and

WHEREAS, very broad fiscal flexibility is essential for maximum local decision-making and would allow districts to prioritize during the budget crisis; and

WHEREAS, the Governor's budget plan also illegally manipulates Proposition 98, the state's minimum school funding law, to permanently cut at least \$7 billion from California's students, in violation of the California Constitution; and

WHEREAS, further budget reductions to education are fundamentally inconsistent with the state's goal of improving student achievement, at a time when our students are making progress toward meeting rigorous state and federal education standards; and

WHEREAS, the budget problem was not created by our students and fixing it should not come at the expense of their educational progress and success.

NOW, THEREFORE, BE IT RESOLVED, that the Solano County Office of Education adamantly opposes further cuts to education funding and urges the Legislature and Governor to immediately solve the budget crisis with a balanced approach that includes revenue increases; and

BE IT FURTHER RESOLVED, that the Solano County Office of Education supports broad local budget flexibility to help school districts prioritize the resources they have to best serve the needs of their students.

PASSED AND ADOPTED this 11th day of February 2009, by the Solano County Board of Education, Solano County, California, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

CERTIFICATION

I, Dee Alarcón, secretary to the Solano County Board of Education, Solano County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said Board at a regular meeting thereof held on the above stated date, which resolution is on file in the office of said Board.

Secretary's Signature

Date