



C A L I F O R N I A D E P A R T M E N T O F

Mental Health

1600 9th Street, Sacramento, CA 95814
(916) 654-2309

February 14, 2007

DMH LETTER NO.: 07-02

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: SUBJECT: MEMORANDUM OF UNDERSTANDING (MOU)
TEMPLATE AS REQUIRED IN AB 1807 (CHAPTER 74,
STATUTES OF 2006) FOR ADOPTION BY COUNTY MENTAL
HEALTH DEPARTMENTS AND COUNTY OFFICES OF
EDUCATION BY MAY 1, 2007 FOR AB 3632

REFERENCE: AB 1807 (Chapter 74, Statutes 2006)

The purpose of this letter is to provide direction to county mental health departments (CMHs) for the adoption of a MOU between county offices of education (COEs) and CMH, as required by AB 1807 (Chapter 74, Statutes of 2006) (Enclosure 1). AB 1807 requires the California Department of Mental Health (DMH), in collaboration with the California Department of Education (CDE), and in consultation with CMHs and COEs, to develop a MOU template for use by CMHs and COEs. DMH would like to acknowledge and thank the California Department of Education, the California Mental Health Directors Association, and Special Education Local Plan Area Directors for their partnership and assistance in the MOU Template development, and for their continuing support. The MOU template has been finalized and is enclosed (Enclosure 2).

Per AB 1807, CMHs have until May 1, 2007 to adopt the MOU, and must submit it to DMH within 15 days of adoption; COEs must also submit the MOU to CDE within 15 days. Additionally, CMHs must have a MOU in place before they receive funding as appropriated in budget item 4440-104-001 of the Fiscal Year 2006-07 Budget Act (\$52 million).

MOU Template Elements

AB 1807 requires the MOU template to contain, at a minimum, the following elements:

- The requirements of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code in the areas of referrals, data collection, and reporting, including, but not limited to, the recommendations made pursuant to Paragraph (3) of subdivision (b) of Section 56139 of the Education Code and paragraph (1) of subdivision (b) of Section 7576.2 of the Government Code.
- Data required to be reported by county mental health departments to county offices of education to meet federal reporting requirements under the federal Individuals with Disabilities Education Act (IDEA).
- A description of the array of services to be delivered consistent with assessments and individualized education plans (IEP).

Reporting Requirements

The MOU template includes specific data requirements that CMHs will report to COEs to enable the COE to link the mental health services provided to a student's (IEP). The reports are derived from Client Service Information (CSI) data already reported by CMH to DMH. The reporting requirements for Fiscal Year (FY) 2007-08 include the same information that has been required since 2006, with one additional data element: the student's district of residence, as most recently provided in writing by the school district. To accommodate this new reporting requirement, DMH is adding a data field to the CSI data system. DMH will provide training and technical assistance to counties on this data field in the near future.

CSI data extracts that contain the required information will be available for CMH download each year on February 1 for the period July 1 through December 31, and September 1 for the period January 1 through June 30. The extracts will include, in addition to the school district of residence, the county; service provider; county client number; the student's name; date of birth; gender; mode of service provided pursuant to Government Code Section 7570 et seq.; service function; units of service; units of time; date of service; and for 24-hour services, the dates of admission, entry, exit and discharge. Two additional columns will be added for CMHs to complete the estimated rate per unit, and the estimated total cost of the service. The estimated rates are to be based on the most recent settled costs for the specific services. Enclosed is a mock-up sample of the extract (Enclosure 3). The enclosed MOU

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template contains further details on the data reporting requirements. No additional information is required by DMH or CDE for the timely transfer IDEA funds from COEs to CMHs.

MOU Submission to DMH

Counties are to submit their adopted MOUs to DMH by May 15, 2007. Please submit two hard copies of the signed MOU and an electronic version of the MOU to:

Robin Ulesich-Foemmel
Children and Family Program Policy
Department of Mental Health
1600 9th Street, Room 130
Sacramento, CA 95814

If you have programmatic questions or need additional information, please contact Robin Ulesich-Foemmel at (916) 651-0491 or robin.ulesich-foemmel@dmh.ca.gov.

If you have any legal questions, please contact Roland Bowns, DMH Legal Counsel, at (916) 654-2453 or roland.bowns@dmh.ca.gov.

The DMH and CDE will provide technical assistance and clarification to CMH and COE as necessary or requested for the adoption of the MOU. Please contact Robin Ulesich-Foemmel at (916) 651-0491 or robin.ulesich-foemmel@dmh.ca.gov if assistance is required.

Sincerely,

Original signed by:

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosures: AB 1807 (Chapter 74, Statutes 2006)
MOU Template
DMH Mock-up CSI Report

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE (NAME) COUNTY MENTAL HEALTH AGENCY
AND THE (NAME) COUNTY OFFICE OF EDUCATION
FOR CHILDREN'S MENTAL HEALTH SERVICES**

WHEREAS, Government Code Section 7570 et seq. (AB 3632) requires counties and their Mental Health Divisions to conduct mental health assessments and to provide necessary mental health-related services, including residential care-based treatment, required by students with disabilities who are identified within the individualized education program, pursuant to Government Code sections 7570, 7572, and 7572.5;

WHEREAS, the State Legislature, in the Budget Act provides federal Individuals with Disabilities Education Act (IDEA) local assistance funding for the provision of mental health services pursuant to Government Code Section 7570 et seq. by transmitting the funds to county offices of education;

WHEREAS, the Budget Act requires each county office of education (COE) and county mental health agency (CMHA) to enter into a memorandum of understanding (MOU) for the purpose of transferring these federal grant funds, subject to the fulfillment of the grant's terms and conditions, to the CMHA for specified mental health services that are provided for eligible students in the school districts;

WHEREAS, these federal IDEA funds are to be allocated according to the allocation plan developed by the California Department of Mental Health (DMH) to the (Name) County Office of Education and are required to be used exclusively for the purpose of funding mental health services identified within an individualized education program (IEP), and for which expenses have been or will be incurred in Fiscal Year 2007-2008; and

NOW, THEREFORE, it is agreed as follows:

1. Transfer of Funds Pursuant to the Budget Act. The (Name) COE shall transfer federal IDEA funds to the (Name) CMHA within five (5) business days of the COE's receipt of the federal IDEA funds as prescribed under Senate Bill (SB) 1895, Section 9, Chapter 493, Statutes of 2004.

(Name) COE will pay (Name) CMHA as mandated by Assembly Bill (AB) 1807, Section 80, Chapter 74, Statutes of 2006, a minimum of 50 percent of federal grant funds by January 1 of each year. (Name) COE will pay (Name) CMHA a minimum of 75 percent of federal grant funds by March 1 as mandated by AB 1807 upon fulfillment of the grant terms and conditions and in accordance with the federal Cash Management Improvement Act. Up to twenty-five percent of the remaining funds will be paid as specified in the grant terms and conditions and in accordance with the federal Cash Management Improvement Act.*

In accordance with SB 1895, any county mental health agency allocation that exceeds actual documented costs for allowable services shall be reallocated within six months after the end of each fiscal year on a pro rata basis to other counties where actual costs exceed the allocation.

*The federal Cash Management Improvement Act of 1990 (CMIA) was enacted by Public Law 101-453 and codified at United States Code, Title 31, sections 3335, 6501, and 6503. The implementing regulations are provided in Title 31 of the Code of Federal Regulations (CFR) Part 205. In accordance with Title 31 CFR Part 205.10, the California Department of Education (CDE) must institute procedures to project or reconcile estimates with actual and immediate cash needs. Consequently, all CDE, Special Education Division (SED), grant allocations must be limited to the minimum amounts needed and must be timed to the actual, immediate cash requirements of the grantee. The mid-year and year-end expenditure reports provide SED with actual cost and service data to determine the actual cost need of each grantee's scheduled mid-year and year-end payments (see paragraph 2 below).

2. Records. (Name) CMHA will provide (Name) COE with an accounting of expenditures incurred pursuant to this MOU two times for the Fiscal Year. The first accounting of expenditures will cover the period of July 1, 2007, through December 31, 2007, and will be provided by February 1, 2008. The second accounting of expenditures will cover the period of January 1, 2008, through June 30, 2008, and will be provided by September 1, 2008.

The accounting will include for each student the following data: the school district of residence, as provided most recently in writing by the district; the service function code only of the services provided pursuant to Government Code Section 7570 et seq.; the units of service; and the cost per unit. The student's name, date of birth, provider name, date of service, unit/minutes/mode, estimated cost per unit, and Service Function Code (SFC) in sufficient detail to enable (Name) COE to establish a link between the services claimed and the individual student's IEP. (Name) CMHA is responsible for maintaining all required documentation in accordance with current practice for audit purposes.

3. Array of services. The array of services will be provided for a child with a disability, as defined in paragraph (3) of Section 1401 of Title 20 of the United States Code, and shall include those related services as defined in paragraph (26) of Section 1401 of Title 20 of the United States Code, and designated instruction and services, as defined in Section 56363 of the Education Code, the California Code of Regulations, Title 2, Division 9, Section 60020(i); and in the most current version of the State Mandates Claims Parameters and Guidelines for this program.

4. Referrals and assessment reports. (Name) CMHA and (Name) COE agree to abide by the policies and procedures for making student referrals and providing the necessary assessment reports as mandated in Government Code Section 7576 and clarified in Title 2, Division 9, California Code of Regulations Section 60040.

5. Privacy. (Name) CMHA and (Name) COE acknowledge the protections afforded to student health information under regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 14-109, students records under the Family Educational Rights and Privacy Act (FERPA), 20 USC Section

1232g; and under provisions of state law relating to privacy. (Name) CHMA and (Name) COE shall ensure that all activities undertaken under this MOU will conform to the requirements of these laws.

6. Indemnity. (Name) CMHA and (Name) COE shall each defend, hold harmless and indemnify the other party, its governing board, officers, administrators, agents, employees, independent contractors, subcontractors, consultants, and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys' fees and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of facilities, death, sickness, or injury to any person(s) or damage to any property, from any cause whatsoever arising from or connected with its service hereunder, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the indemnifying party, its employees, agents, subcontractors, independent contractors, consultants, or other representatives.

This indemnity provision shall survive the term of this MOU and is in addition to any other rights or remedies that (Name) CMHA or (Name) COE may have under law and/or the MOU.

7. Integration. This MOU represents the entire understanding of (Name) COE and (Name) CMHA as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This MOU may not be modified or altered except in writing signed by both parties hereto. This is an integrated MOU.

8. Laws and Venue. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of _____, State of California, unless otherwise specifically provided for under California law.

9. Third Party Rights. Nothing in this MOU shall be construed to give any rights or benefits to anyone other than (Name) COE and (Name) CMHA.

10. Severability. The unenforceability, invalidity or illegality of any provision(s) of this MOU shall not render the other provisions unenforceable, invalid, or illegal.

11. Term. This MOU shall cover the period of July 1, 2007, through June 30, 2008. This MOU shall terminate as of the close of business on June 30, 2008. However, this MOU may be extended by the parties' mutual written consent if an extension is required to transfer additional federal IDEA funds made available by the State for the same purpose.

12. General Assurances. As a condition of receiving funds under this MOU, (Name) CMHA has reviewed and executed the General Assurances and Federal Funds Conditions as required by the California Department of Education as stated in the grant letter of intent (a copy is attached and incorporated). The (Name) COE shall provide (Name)

CMHA with a copy of any amendments to the General Assurances and Federal Funds Conditions for (Name) CMHA's review. Within ten (10) days of receiving any amendments to the General Assurances and Federal Funds Conditions, (Name) CMHA shall execute the General Assurances and Federal Funds Conditions and return a signed copy.

13. Dispute Resolution. (Name) CMHA and (Name) COE agree that the following process will be used to address disputes on the implementation of the MOU only after collaborative efforts have been attempted at the lowest possible level.

By July 1 of 2007, and for any extension of this MOU beyond 2008, (Name) CMHA and (Name) COE will name a mutually agreed upon administrator of a county department or agency to assist to resolve disputes using a process of facilitated communication through non-binding (Name) CMHA and (Name) COE mediation. The parties will use the following process:

- A written notice of the request for dispute resolution, including a description of the concerns to be addressed, shall be forwarded by the agency initiating the dispute to the non-initiating party.
- If the issue is not resolved within 5 business days, the agency initiating the dispute shall request that the outside party be contacted to schedule a meeting between the agencies.
- No later than sixty (60) calendar days from the date mediator is contacted, a resolution plan between the two agencies will be developed.
- The responsible (Name) CMHA and (Name) COE personnel services shall be responsible for assuring the agreements included in the resolution plan are implemented.
- The costs for this service shall be shared equally between the (Name) CMHA and (Name) COE.

14. The signatories of this MOU or their designee shall be responsible for assuring the agreements included in the resolution plan are implemented.

Neither party shall be deemed to be in default of the terms of this MOU if either party is prevented from performing the terms of this Agreement by causes beyond its control, including without being limited to: acts of God; any laws and/or regulations of State or Federal government; or any catastrophe resulting from flood, fire, explosion, or other causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other parties written notice of the cause for delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume performance of the terms of this MOU.

Neither party shall be liable for any excess costs if the failure to perform the MOU arises from any of the contingencies listed above.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized officers in the County of _____, California.

This Agreement is entered into this ____ day of _____ 2007 by and between the undersigned parties.

COUNTY MENTAL HEALTH AGENCY

Name and Title

Dated:

COUNTY OFFICE OF EDUCATION

Name and Title

Dated: