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## **723 LEGAL CONSULTATION AND DUE PROCESS COSTS**

### **I. PURPOSE**

The purpose of this policy is to outline circumstances when the Cooperative will assume responsibility for the payment of certain special education legal consultation fees and due process hearing costs for its member districts.

### **II. GENERAL STATEMENT OF POLICY**

It is the policy of the Cooperative to assume the responsibility for the payment of certain legal special education consultation and service fees and due process hearing costs as a general fund expenditure of the Cooperative. As an approved general fund expenditure the cost shall be billed to each member district on a formula share basis. Eligible expenditures may begin upon a member district or the Cooperative receiving a formal Request for Due Process Hearing or upon a member district or the Cooperative filing for a Due Process Hearing under the advice of their legal counsel and the director of special education.

Any and all services or expenditures covered by this policy must be authorized by the Director of Special Education and, where possible, be recommended by the Executive Advisory Committee and approved by the Joint Powers Board in advance. Prior to payment of the expenditure all other sources, including liability insurance, state and federal funding, shall be pursued.

Specific examples of eligible expenditures include, but are not limited to:

1. Telephone consultation on the legal implications of pending actions relative to a student with a disability or who may be determined to be eligible for special education services.
2. Review of records, development and transmittal of communications and consultation with specified persons relative to specific cases.
3. Representation on behalf of the member district and/or Cooperative as requested for specific cases.
4. Performance as a due process hearing officer in accordance with statutes and regulations.
5. Costs associated with the conduct of special education due process proceedings including document reproduction and recording and transcription of the proceeding.
6. Costs related to the involvement of Cooperative employees in their professional service role to the member district in preparation for or during the conduct of a special education or civil rights procedure.

7. Legal consultation relative to special education issues which may be relevant to the conduct of pending non-special education procedures or actions.

### **III. Limitations**

Legal consultation or representation costs accrued shall be limited to 50% of the legal fund balance for eligible expenditures. If there were to be more than one district requesting legal funds in a fiscal year, the costs would be reimbursed equally with the fund balance not to be expended below \$20,000. The Director shall be responsible for allocating individual student costs. No member district shall be responsible for formula share costs greater than \$15,000 in a fiscal year. Formula share maximums for other districts will be proportional. Legal costs for tuition students will be charged to their resident district.

Involvement of Cooperative staff or resources in litigation or actions within the member district not related to the implementation of the Total Special Education System shall be subject to full review prior to authorization. Such instances might include liability, grievance or arbitration actions not related to Cooperative staff. Costs related to personnel management and operations of the Cooperative or its fiscal agent programs shall be allocated to the Cooperative or the individual program as appropriate.

*Legal References:*

*Cross References:*