

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.

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 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

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