



Legal Risk Pool

Issue

The originally conceived sources of revenue to the Legal Risk Pool have been highly variable from year to year. More importantly, the amount of revenue from these sources is expected to diminish relative to the overall number of pupils and families in the SELPA. Total claims were relatively steady for four years but have increased dramatically over the past two years. In its current configuration, the Legal Risk Pool is not predicted to provide its intended protection beyond 2019-20.

Background

CEO Council established the Legal Risk Pool in 2013-14. Current funding for the pool comes from two sources:

1. Funding from Charter SELPA Partners in the process of building programs that are not yet able to fully expend the allocation of state dollars (greater than 25% unspent).
2. Funding from Charter SELPA Partners that close operations but fail to submit documentation allowing for release of state funds being held.

Reimbursement from the pool is limited to legal fees incurred in conjunction with a case involving a due process filing. Currently, 60% of legal fees are reimbursable up to a maximum claim of \$30,000, which translates into a maximum reimbursement amount of \$18,000 (60% of \$30,000).

Analysis

The chart below shows the recent history of the pool and the initial budget for 2019-20.

Charter SELPA Risk Pool	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20 (Projected)
	A	B	C	D	E	F	G
1 EDCOE One Time Contribution	100,000						
2 Transfer from Modified Funding/Reserve	511,808	291,849	145,392	167,776	111,371	262,579	131,417
3 Forfeited State Funds	50,997	4,734	(30,406)	850,872	5,189	26,862	
4 Cancelled PY Pending Awards						37,559	
5 PY Adjustments to Modified Funding/Reserve	(1,199)						
6 Transfer from Set Aside	82,735	6,426	-	52,716	-	-	
7 Transfer from Set Aside-Interest			962	1,913	-	-	
8 Internal Acct Adjustments	2,426	(2,426)					
9 Total Revenue	746,767	300,583	115,948	1,073,277	116,560	327,000	131,417
10							
11 Total Awards	81,704	79,976	44,121	85,544	237,088	384,019	400,000
12 Pending Awards					126,753	-	
13 Contribution to Rate Smoothing Pool						500,000	
14 Contribution to New Set Aside				200,000		-	
15 Contribution to MH Funding	600,000						
16 Return of MH Funding	(467,120)	448,435		18,685	-	-	
17 Total Expenditures	214,584	528,411	44,121	304,229	363,841	884,019	400,000
18 Income Less Expenditures		(227,828)	71,827	769,048	(247,281)	(557,019)	(268,583)
19 Beginning Balance	-	532,183	304,355	376,182	1,145,230	897,949	340,930
20 Ending Balance	532,183	304,355	376,182	1,145,230	897,949	340,930	72,347

With projected revenue of \$131K (cell G2) and only a modest increase in claims to \$400K (cell G9), the ending balance is estimated to be only \$72K (cell M20). This would not be sufficient to cover another year of claims.

Recommendation

Current realities:

- The two revenue sources to the pool (unspent funds and unclaimed funding) are essentially the only way to fund the Legal Risk Pool without reducing revenue to SELPA partners in some fashion.
- The average claim amount over the past six years is well-below the \$18,000 maximum at \$7,200. Therefore, even cutting in half the maximum allowed would do little to preserve the pool.
- With revenue and the maximum claim amount eliminated as immediate alternatives to preserve the pool, the only remaining parameter to alter is the 60% reimbursement percentage.

Given the current realities, it is recommended that action be taken to ensure the Legal Risk Pool's viability for the current year by recommending to CEO Council a reduction in the reimbursement percentage for 2019-20 to 50%. This will ensure sufficient resources to pay current year claims and allow time for:

- Anticipated changes to the state special education funding model to become clearer; and
- Working with Executive Committee on how to potentially restructure or eliminate the pool beginning in 2020-21.