

Board of Education

Follow-Up Budget Questions - Special Education Legal Services Questions

6/9/2021

Question: Legal Fees – How is the estimated cost established? Are there settlements and anticipated services? What’s being done to prevent the potential legal jeopardy for special needs students? (Ms. Barrett)

Response: Across the nation and the State of Maryland, the cost of legal fees for special education have increased significantly. The attorneys assigned to cases across the state, and FCPS, are veteran attorneys with a vast amount of experience in special education case law. As such, the cost rate for these attorneys are much higher than most other lawyers. Additionally, legal fees have increased over the past several years. Some local school systems have gone to add an attorney specifically dedicated for special education due to the increased needs and litigation, including Baltimore City, Baltimore County, Montgomery County, Somerset County, and the MD Department of Labor and Corrections. Washington County has also recently secured a second attorney for their school system.

The estimated cost is based on historical trends for legal expenses in the Office of Special Education, along with litigation in process and estimations of costs. The COVID-19 pandemic has created a substantial increase in legal expenses. This is not unique to FCPS, but is a trend seen across the state. To mitigate against potential legal jeopardy, the Office of Special Education is training IEP teams on recovery/compensatory service efforts for students that have exhibited learning loss due to the COVID-19 pandemic. These services will be in addition to any services a student currently receives within their IEP.

Special Education Legal Fees:

Special Education is projecting to spend \$900,000 in legal fees in FY2021.

Below are the allocations we have **budgeted** for special education only:

Recovery/Compensatory Services - \$6.7 Million

ESSER I - \$1,289,543

ESSER II - \$5,381,725

*Transportation is not included in these numbers.

The attorney position is being paid for from the ESSER II funds for FY22 and FY23. In FY24, we hope that legal fees will subside to pre-pandemic amounts and the savings in legal fees will offset the cost of the position in the general fund.