

CHAPTER 3525
DEPARTMENT OF EDUCATION
CHILDREN WITH A DISABILITY

3525.0210	DEFINITIONS.	3525.2810	DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM PLAN.
3525.1100	STATE AND DISTRICT RESPONSIBILITY FOR TOTAL SPECIAL EDUCATION SYSTEM.	3525.2900	TRANSITION AND BEHAVIORAL INTERVENTION PLANNING.
3525.2710	EVALUATIONS AND REEVALUATIONS.		

3525.0210 DEFINITIONS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 6. [Repealed, L 2009 c 96 art 3 s 22]

[For text of subps 7 and 8, see M.R.]

Subp. 9. [Repealed, L 2009 c 96 art 3 s 22]

[For text of subps 10 to 12, see M.R.]

Subp. 13. [Repealed, L 2009 c 96 art 3 s 22]

[For text of subps 14 to 16, see M.R.]

Subp. 17. [Repealed, L 2009 c 96 art 3 s 22]

[For text of subps 18 to 28, see M.R.]

Subp. 29. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 30. [Repealed, L 2009 c 96 art 3 s 22]

[For text of subps 31 to 45, see M.R.]

Subp. 46. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 47. [Repealed, L 2009 c 96 art 3 s 22]

[For text of subp 48, see M.R.]

History: L 2009 c 96 art 3 s 22

3525.1100 STATE AND DISTRICT RESPONSIBILITY FOR TOTAL SPECIAL EDUCATION SYSTEM.

[For text of subp 1, see M.R.]

Subp. 2. **District responsibility.** A district shall submit to the commissioner the district's plan for providing instruction and related services upon request for all pupils as required by Minnesota Statutes, sections 125A.03 to 125A.24. The plan may be for a single district or for the member districts of a formal special education cooperative. The plan shall be considered as part of the annual school district application for program review, but will not be required to be resubmitted annually. If a cooperative changes administrative organization, it shall submit a revised plan. The new plan must be submitted before the beginning of the next school year. The plan shall include descriptions of the district's:

[For text of items A to E, see M.R.]

F. [Repealed, L 2009 c 96 art 3 s 22]

History: L 2009 c 96 art 3 s 22

3525.2710 EVALUATIONS AND REEVALUATIONS.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Evaluation procedures.** Evaluations and reevaluations shall be conducted according to the following procedures:

A. The district shall provide notice to the parents of a pupil, according to Code of Federal Regulations, title 34, sections 300.500 to 300.505, that describes any evaluation procedures the district proposes to conduct.

B. In conducting the evaluation, the district shall:

(1) use a variety of evaluation tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that are designed to assist in determining whether the child is a pupil with a disability and the content of the pupil's individualized education program, including information related to enabling the pupil to be involved in and progress in the general curriculum or, for preschool pupils, to participate in appropriate activities;

(2) not use any single procedure as the sole criterion for determining whether a child is a pupil with a disability or determining an appropriate education program for the pupil; and

(3) use technically sound instruments that are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

C. Each district shall ensure that:

(1) tests and other evaluation materials used to evaluate a child under this part are selected and administered so as not to be discriminatory on a racial or cultural basis, and are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so;

(2) materials and procedures used to evaluate an English learner are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education and related services, rather than measure the child's English language skills;

(3) any standardized tests that are given to the child have been validated for the specific purpose for which they are used, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of such tests;

(4) the child is evaluated in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) evaluation tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil are provided;

(6) if an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report;

(7) tests and other evaluation materials include those tailored to evaluate specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;

(8) tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure; and

(9) in evaluating each pupil with a disability, the evaluation is sufficiently comprehensive to identify all of the pupil's special education and related services needs,

3525.2710 CHILDREN WITH A DISABILITY

126

whether or not commonly linked to the disability category in which the pupil has been classified.

D. Upon completion of administration of tests and other evaluation materials, the determination of whether the child is a pupil with a disability as defined in Minnesota Statutes, section 125A.02, shall be made by a team of qualified professionals and the parent of the pupil in accordance with item E, and a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

E. In making a determination of eligibility under item D, a child shall not be determined to be a pupil with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency, and the child does not otherwise meet eligibility criteria under parts 3525.1325 to 3525.1351.

[For text of subps 4 to 6, see M.R.]

History: L 2012 c 239 art 1 s 33

3525.2810 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM PLAN.

Subpart 1. **Definitions.** As used in parts 3525.0210 to 3525.4770, the terms defined in this part have the meanings given them.

A. "Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

[For text of subitems (1) to (10), see M.R.]

(11) any documentation required in Minnesota Statutes, section 125A.0942.

[For text of item B, see M.R.]

Subp. 2. **Development of IEP.**

A. In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil, the results of the initial evaluation or most recent evaluation of the pupil, and, as appropriate, the results of the pupil's performance on any general state or districtwide assessment program.

B. The IEP team shall:

(1) in the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior;

(2) in the case of an English learner, consider the language needs of the pupil as such needs relate to the pupil's IEP;

(3) in the case of a pupil who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the pupil's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the pupil;

(4) consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode; and

(5) consider whether the pupil requires assistive technology devices and services.

C. If, in considering the special factors described in items A and B, the IEP team determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP.

D. The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the development of the IEP of the pupil, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with subpart 1, item A, subitem (3).

[For text of subps 3 to 5, see M.R.]

History: *L 2009 c 96 art 3 s 22; L 2012 c 239 art 1 s 33*

3525.2900 TRANSITION AND BEHAVIORAL INTERVENTION PLANNING.

Subpart 1. [Repealed, 26 SR 657]

Subp. 2. [Repealed, 16 SR 1543]

Subp. 3. [Repealed, 26 SR 657]

Subp. 4. [Repealed, 16 SR 1543]

Subp. 4. **Transition planning.** By grade nine or age 14, whichever comes first, the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment, and community living.

A. For each pupil, the district shall conduct an evaluation of secondary transition needs and plan appropriate services to meet the pupil's transition needs. The areas of evaluation and planning must be relevant to the pupil's needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. To appropriately evaluate and plan for a pupil's secondary transition, additional IEP team members may be necessary and may include vocational education staff members and other community agency representatives as appropriate.

B. Secondary transition evaluation results must be documented as part of an evaluation report. Current and secondary transition needs, goals, and instructional and related services to meet the pupil's secondary transition needs must be considered by the team with annual needs, goals, objectives, and services documented on the pupil's IEP.

Subp. 5. [Repealed, 16 SR 1543]

Subp. 5. [Repealed, L 2009 c 96 art 3 s 22]

History: *L 2009 c 96 art 3 s 22*