

**CHAPTER 3540**  
**DEPARTMENT OF CHILDREN, FAMILIES,**  
**AND LEARNING**  
**NONPUBLIC SCHOOLS**

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**TEXTBOOKS, INDIVIDUALIZED INSTRUCTION  
MATERIALS, STANDARDIZED TESTS**

**3540.0200 DEFINITIONS.**

Subpart 1. **Eligible materials.** "Eligible materials" means textbooks, individualized instructional materials, and standardized tests. All textbooks and individualized instructional materials must be:

- A. designed primarily for use by individual students at their desks or in small groups, in a particular class or program in the school the pupil regularly attends;
- B. used by the student to reach certain educational objectives within a particular subject or course of study;
- C. secular, neutral, nonideological, and not capable of diversion for religious use;
- D. available and of benefit to Minnesota public school pupils; and
- E. not specifically excluded from eligibility by subpart 3.

Subp. 2. **Individualized instructional materials.** "Individualized instructional materials" means educational materials in addition to textbooks which fall into any of the following areas: published materials, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, filmstrips, prepared slides, prerecorded video programs, prerecorded tapes, cassettes and sound recordings, manipulative materials, desk charts, games, study prints and pictures, desk maps, models, learning kits, blocks or cubes, flashcards, individualized multimedia systems, prepared instructional computer software programs, and prerecorded film cartridges.

Subp. 3. **Ineligible materials.** "Ineligible materials" means, in addition to educational materials excluded from eligibility by subpart 1, the following materials: chemicals, wall maps, wall charts, pencils, pens or crayons, notebooks, blackboards, chalk and erasers, duplicating fluids, paper, 16mm films, unexposed films, blank tapes, cassettes or videotape, instructional equipment, reference materials, and teachers' aids.

Subp. 4. **Secular, neutral, and nonideological.** "Secular, neutral, and nonideological" materials are materials which are not regarded as religious, spiritual, or sacred, and present events, facts, and theories that pertain to religion or religious doctrine in an impartial manner.

Subp. 5. **Standardized tests.** "Standardized tests" means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

Subp. 6. **Textbook.** "Textbook" means any book, workbook, manual, or book substitute which a pupil uses as a text or text substitute, copies of which are used as a

principal source of study materials for a given class or group of students, and available for individual use of each pupil in the class or program.

**Statutory Authority:** *MS s 123.933*

#### **3540.0300 POLICY.**

In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks, individualized instructional materials, and standardized tests as provided by Minnesota Statutes, sections 123.931 to 123.947, shall be made available to pupils in nonpublic schools.

**Statutory Authority:** *MS s 123.933*

#### **3540.0400 STATE ADMINISTRATION OF FUNDS.**

The Department of Children, Families, and Learning shall administer funds allocated for the purchase of eligible materials to be loaned or provided to nonpublic school pupils. The Department of Children, Families, and Learning, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of eligible materials to be loaned or provided to nonpublic school pupils.

On or before March 1 the Department of Children, Families, and Learning shall determine, from the most recent data available, the allocation available per pupil for eligible materials to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for eligible materials by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. This amount shall then be increased by a percentage equal to the percentage increase in foundation aid, between the prior school year and the coming year. Pupils in grades one through 12 are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

**Statutory Authority:** *MS s 123.933*

**History:** *L 1995 1Sp3 art 16 s 13*

#### **3540.0500 TERMINATION OF ELIGIBILITY.**

Whenever the department receives information regarding improper use of eligible materials loaned under the program, it shall provide prompt written notification to the pupil, the pupil's parents or guardians, and the nonpublic school administrator of the alleged program abuse, and allow 30 calendar days from the date of mailing for written or oral response.

Following receipt of responses during the 30 day period, if it appears that materials may have been used contrary to law, the department shall institute Minnesota Statutes, chapter 14 contested case procedures. After due consideration of all evidence presented pursuant to those procedures, if the department determines that the materials have been used contrary to law, the department shall notify the pupil, the pupil's parents or guardians, nonpublic school administrator, and the public school district or intermediary service area that the eligibility of the pupil for all materials during the current school year is terminated, and the allocation for the current year for the nonpublic school must be reduced accordingly.

**Statutory Authority:** *MS s 123.933*

**3540.0600** [Repealed, L 1993 c 224 art 12 s 39]

**3540.0700** [Repealed, L 1993 c 224 art 12 s 39]

**3540.0800** [Repealed, L 1993 c 224 art 12 s 39]

**3540.0900** [Repealed, L 1993 c 224 art 12 s 39]

3540.1000 [Repealed, L 1993 c 224 art 12 s 39]

3540.1100 [Repealed, L 1993 c 224 art 12 s 39]

3540.1200 [Repealed, L 1993 c 224 art 12 s 39]

3540.1300 [Repealed, L 1993 c 224 art 12 s 39]

### HEALTH SERVICES FOR PUPILS ATTENDING NONPUBLIC SCHOOLS

#### 3540.1400 POLICY.

In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, health services as provided by Minnesota Statutes, sections 123.931 to 123.947 shall be made available to pupils in nonpublic schools.

**Statutory Authority:** *MS s 123.935*

#### 3540.1500 HEALTH SERVICES.

Health services shall not include the direct educational instruction of nonpublic pupils by health services personnel. Health services shall not include those services which are required under the special education law, Minnesota Statutes 1976, section 120.17, as amended, or which are eligible to receive reimbursement under the special education aid law, Minnesota Statutes 1976, section 124.32, as amended.

The public school district or intermediary service areas shall provide those specific health services which it offers to its public school pupils, provided the costs for such services do not exceed the amount allocated for health services by the Department of Children, Families, and Learning. Health services may be provided at the nonpublic school, a neutral site, or at the public school.

**Statutory Authority:** *MS s 123.935*

**History:** *L 1995 1Sp3 art 16 s 13*

#### 3540.1600 STATE ADMINISTRATION OF FUNDS.

**Subpart 1. Administration of funds.** The Department of Children, Families, and Learning shall administer funds for the provision of health services to nonpublic school pupils. The Department of Children, Families, and Learning, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of health services to nonpublic school pupils.

**Subp. 2. Computation of pupil allocation available.** On or before March 1 the Department of Children, Families, and Learning shall determine from the most recent data available the allocation available per pupil for health services to be used for the following school year. The allocation per pupil for health services shall be the average expenditure per public school pupil in average daily membership for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils. Pupils in grades one through 12 are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

**Subp. 3. Computation of actual allocation.** Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of health services the actual cost of the services provided during the school year. The actual allotment shall not exceed the pupil allocation available.

**Subp. 4. December 1 payment.** On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved budget.

Subp. 5. **Final payment.** On or before September 1 following the school year, the department shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

**Statutory Authority:** *MS s 123.935*

**History:** *L 1995 1Sp3 art 16 s 13*

**3540.1700** [Repealed, L 1993 c 224 art 12 s 39]

**3540.1800** [Repealed, L 1993 c 224 art 12 s 39]

**3540.1900** [Repealed, L 1993 c 224 art 12 s 39]

**3540.2000** [Repealed, L 1993 c 224 art 12 s 39]

**3540.2100** [Repealed, L 1993 c 224 art 12 s 39]

**3540.2200** [Repealed, L 1993 c 224 art 12 s 39]

**3540.2300** [Repealed, L 1993 c 224 art 12 s 39]

**3540.2400** [Repealed, L 1993 c 224 art 12 s 39]

#### GUIDANCE AND COUNSELING SERVICES

##### **3540.2500 POLICY.**

In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, guidance and counseling services as provided by Minnesota Statutes, sections 123.931 to 123.947, shall be made available to secondary pupils in nonpublic schools.

**Statutory Authority:** *MS s 123.935*

##### **3540.2600 SERVICES OFFERED.**

The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided guidance and counseling services. The public school district or intermediary service areas shall provide those specific guidance and counseling services which it offers to its public school secondary pupils, provided the costs for such services do not exceed the amount allocated for guidance and counseling services by the Department of Children, Families, and Learning. Guidance and counseling services may be provided to nonpublic school pupils only at a neutral site or at the public school.

**Statutory Authority:** *MS s 123.935*

**History:** *L 1995 1Sp3 art 16 s 13*

##### **3540.2700 STATE ADMINISTRATION OF FUNDS.**

Subpart 1. **Administration.** The Department of Children, Families, and Learning shall administer funds for the provision of guidance and counseling services to nonpublic school pupils. The Department of Children, Families, and Learning, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of guidance and counseling services to nonpublic school pupils.

Subp. 2. **Computation of pupil allocation available.** On or before March 1, the Department of Children, Families, and Learning shall determine from the most recent data available the allocation available per secondary pupil in average daily membership for guidance and counseling services to be used for the following school year. The allocation available per secondary pupil for guidance and counseling services shall be

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the average expenditure per public secondary school pupil for these services by those Minnesota public school districts which provide guidance and counseling services to public secondary school pupils. Pupils shall be counted as one pupil each.

Subp. 3. **Computation of actual allocation.** Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of guidance and counseling services the actual cost of the services provided in that school year. The actual allotment for guidance and counseling services for the nonpublic secondary pupils shall not exceed the total pupil allocation available.

Subp. 4. **December 1 payment.** On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved allocation.

Subp. 5. **Final payment.** On or before September 1, the Department of Children, Families, and Learning shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

**Statutory Authority:** *MS s 123.935*

**History:** *L 1995 1Sp3 art 16 s 13*

**3540.2800** [Repealed, L 1993 c 224 art 12 s 39]

**3540.2900** [Repealed, L 1993 c 224 art 12 s 39]

**3540.3000** [Repealed, L 1993 c 224 art 12 s 39]

**3540.3100** [Repealed, L 1993 c 224 art 12 s 39]

**3540.3200** [Repealed, L 1993 c 224 art 12 s 39]

**3540.3300** [Repealed, L 1993 c 224 art 12 s 39]

**3540.3400** [Repealed, L 1993 c 224 art 12 s 39]