

Education Code: Prekindergarten - Grade 12

CHAPTER 120

**DEFINITIONS; ATTENDANCE; SPECIAL
EDUCATION; FEES**

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120.01 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.01 CITATION, EDUCATION CODE.

Chapters 120 to 129 may be cited as the education code.

History: *Ex1959 c 71 art 1 s 1; 1975 c 162 s 1*

120.011 PURPOSE STATEMENT.

In accordance with the responsibility vested in the legislature in the Minnesota Constitution, article XIII, section 1, the legislature declares that the purpose of public education in Minnesota is to help all individuals acquire knowledge, skills, and positive attitudes toward self and others that will enable them to solve problems, think creatively, continue learning, and develop maximum potential for leading productive, fulfilling lives in a complex and changing society.

History: *1985 c 240 s 1*

120.02 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.02 DEFINITIONS.

Subdivision 1. For the purposes of this chapter the words, phrases and terms defined in this section shall have the meanings respectively ascribed to them.

Subd. 2. "Commissioner" means the commissioner of education.

Subd. 3. "District" means a school district.

Subd. 4. "Board" means a school board.

Subd. 5. "County board" means a board of county commissioners.

Subd. 6. "Superintendent" means superintendent of the school district involved.

Subd. 7. [Repealed, 1975 c 162 s 42]

Subd. 8. "Department" means state department of education.

Subd. 9. "Auditor" means county auditor.

Subd. 10. [Repealed, 1975 c 162 s 42]

Subd. 11. [Repealed, 1978 c 706 s 69]

Subd. 12. "State board" means state board of education.

Subd. 13. A common district is any school district validly created and existing as a common school district or joint common school district as of July 1, 1957, or pursuant to the terms of the education code.

Subd. 14. An independent district is any school district validly created and existing as an independent, consolidated, joint independent, county or a ten or more township district as of July 1, 1957, or pursuant to the education code.

Subd. 15. A special district is a district established by a charter granted by the legislature or by a home rule charter including any district which is designated a special independent school district by the legislature.

Subd. 16. [Repealed, 1971 c 25 s 30]

Subd. 17. [Repealed, 1975 c 162 s 42]

Subd. 18. School district tax is the tax levied and collected to provide the amount of money voted or levied by the district or the board for school purposes.

History: Ex1959 c 71 art 1 s 2

120.021 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.023 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.03 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.03 HANDICAPPED CHILDREN, DEFINED.

Subdivision 1. Every child who has a hearing impairment, visual handicap, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning disability, or deaf/blind handicap and needs special instruction and services, as determined by the standards of the state board, is a handicapped child. In addition, every child under age five who needs special instruction and services, as determined by the standards of the state board, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a handicapped child.

Subd. 2. [Repealed, 1Sp1985 c 12 art 3 s 30]

Subd. 3. [Repealed, 1Sp1985 c 12 art 3 s 30]

Subd. 4. [Repealed, 1Sp1985 c 12 art 3 s 30]

Subd. 5. A child with a short-term or temporary physical or emotional illness or disability, as determined by the standards of the state board, is not a handicapped child.

History: Ex1959 c 71 art 1 s 3; 1969 c 981 s 1; 1975 c 432 s 7; 1981 c 358 art 3 s 1; 1Sp1985 c 12 art 3 s 1; 1987 c 398 art 3 s 1

120.04 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.04 MS 1967 [Repealed, 1969 c 981 s 7]

120.05 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.05 PUBLIC SCHOOLS.

Subdivision 1. [Repealed, 1989 c 329 art 9 s 34]

Subd. 2. **Definitions.** (1) Elementary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in grades

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1 through 6 or any portion thereof and staff meeting the standards established by the state board of education.

The state board of education shall not close a school or deny any state aids to a district for its elementary schools because of enrollment limitations classified in accordance with the provisions of subdivision 2, clause (1).

(2) Middle school means any school other than a secondary school giving an approved course of study in a minimum of three consecutive grades above 4th but below 10th with building, equipment, courses of study, class schedules, enrollment, and staff meeting the standards established by the state board of education.

(3) Secondary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in grades 7 through 12 or any portion thereof, and staff meeting the standards established by the state board of education.

(4) A vocational center school is one serving a group of secondary schools with approved areas of secondary vocational training and offering vocational secondary and adult programs necessary to meet local needs and meeting standards established by the state board of education.

History: *Ex1959 c 71 art 1 s 5; 1961 c 562 s 7; 1971 c 25 s 31; 1971 c 118 s 1; 1978 c 616 s 1; 1984 c 463 art 5 s 1; 1987 c 258 s 1*

120.06 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.06 ADMISSION TO PUBLIC SCHOOL.

Subdivision 1. Age limitations; pupils. All schools supported in whole or in part by state funds are public schools. Admission to a public school, except a technical college, is free to any person who resides within the district which operates the school, who is under 21 years of age, and who satisfies the minimum age requirements imposed by this section. Notwithstanding the provisions of any law to the contrary, the conduct of all students under 21 years of age attending a public secondary school shall be governed by a single set of reasonable rules and regulations promulgated by the school board. No person shall be admitted to any public school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a 1st grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that any school board may establish a policy for admission of selected pupils at an earlier age.

Subd. 2. [Repealed, 1981 c 358 art 7 s 31]

Subd. 2a. Education of homeless. Notwithstanding subdivision 1, a school district must not deny free admission to a homeless person of school age solely because the school district cannot determine that the person is a resident of the school district.

Subd. 3. Pupils, at least 21 years of age. In addition to those admitted under subdivision 1, admission to a public secondary school is free to a person who is eligible under this subdivision. In order to be eligible, a person must be:

- (1) at least 21 years of age;
- (2) a resident of the district where the secondary school is located; and
- (3) eligible under section 126.22, subdivision 2.

Free admission is limited to two school years or the equivalent, or until the pupil completes the courses required to graduate, whichever is less.

History: *Ex1959 c 71 art 1 s 6; 1967 c 173 s 1; 1974 c 529 s 1; 1984 c 463 art 5 s 2; 1Sp1985 c 12 art 7 s 2; 1987 c 258 s 12; 1988 c 718 art 6 s 1; 1989 c 246 s 2; 1989 c 329 art 7 s 1*

120.062 ENROLLMENT OPTIONS PROGRAM.

Subdivision 1. [Repealed, 1988 c 718 art 7 s 65]

Subd. 2. **Establishment.** An enrollment options program is established to enable any pupil to attend a school or program in a district in which the pupil does not reside, subject to the limitations in this section.

Subd. 3. **Closed districts.** A school board may, by resolution, determine that non-resident pupils may not attend any of its schools or programs according to this section.

Subd. 4. **Pupil application procedures.** In order that a pupil may attend a school or program in a nonresident district, the pupil's parent or guardian must submit an application to the nonresident district. Before submitting an application, the pupil and the pupil's parent or guardian must explore with a school guidance counselor, or other appropriate staff member employed by the district the pupil is currently attending, the pupil's academic or other reason for applying to enroll in a nonresident district. The pupil's application must identify the reason for enrolling in the nonresident district. The parent or guardian of a pupil must submit an application by January 1 for initial enrollment beginning the following school year. The application shall be on a form provided by the department of education. A particular school or program may be requested by the parent. Once enrolled in a nonresident district, the pupil may remain enrolled and is not required to submit annual or periodic applications. To return to the resident district or to transfer to a different nonresident district, the parent or guardian of the pupil must provide notice to the resident district or apply to a different nonresident district by January 1 for enrollment beginning the following school year.

Subd. 5. **Desegregation district transfers.** (a) This subdivision applies to a transfer into or out of a district that has a desegregation plan approved by the state board of education.

(b) An application to transfer may be submitted at any time for enrollment beginning at any time.

(c) The parent or guardian of a pupil who is a resident of a district that has a desegregation plan must submit an application to the resident district. If the district accepts the application, it must forward the application to the nonresident district.

(d) The parent or guardian of a pupil who applies for enrollment in a nonresident district that has a desegregation plan must submit an application to the nonresident district.

(e) Each district must accept or reject an application it receives and notify the parent or guardian in writing within 30 calendar days of receiving the application. A notification of acceptance must include the date enrollment can begin.

(f) If an application is rejected, the district must state the reason for rejection in the notification. If a district that has a desegregation plan rejects an application for a reason related to the desegregation plan, the district must state with specificity how acceptance of the application would result in noncompliance with state board rules with respect to the school or program for which application was made.

(g) If an application is accepted, the parent or guardian must notify the nonresident district in writing within 15 calendar days of receiving the acceptance whether the pupil intends to enroll in the nonresident district. Notice of intention to enroll obligates the pupil to enroll in the nonresident district, unless the school boards of the resident and nonresident districts agree otherwise. If a parent or guardian does not notify the nonresident district, the pupil may not enroll in that nonresident district at that time, unless the school boards of the resident and nonresident district agree otherwise.

(h) Within 15 calendar days of receiving the notice from the parent or guardian, the nonresident district shall notify the resident district in writing of the pupil's intention to enroll in the nonresident district.

(i) A pupil enrolled in a nonresident district under this subdivision is not required to make annual or periodic application for enrollment but may remain enrolled in the same district. A pupil may transfer to the resident district at any time.

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(j) A pupil enrolled in a nonresident district and applying to transfer into or out of a district that has a desegregation plan must follow the procedures of this subdivision. For the purposes of this type of transfer, "resident district" means the nonresident district in which the pupil is enrolled at the time of application.

(k) A district that has a desegregation plan approved by the state board of education must accept or reject each individual application in a manner that will enable compliance with its desegregation plan.

Subd. 6. Nonresident district procedures. A district that does not exclude nonresident pupils, according to subdivision 3, shall notify the parent or guardian in writing by February 1 whether the application has been accepted or rejected. If an application is rejected, the district must state in the notification the reason for rejection. The parent or guardian shall notify the nonresident district by February 15 whether the pupil intends to enroll in the nonresident district. Notice of intent to enroll in the nonresident district obligates the pupil to attend the nonresident district during the following school year, unless the school boards of the resident and the nonresident districts agree in writing to allow the pupil to transfer back to the resident district, or the pupil's parents or guardians change residence to another district. If a parent or guardian does not notify the nonresident district, the pupil may not enroll in that nonresident district during the following school year, unless the school boards of the resident and nonresident district agree otherwise. The nonresident district shall notify the resident district by March 1 of the pupil's intent to enroll in the nonresident district. The same procedures apply to a pupil who applies to transfer from one participating nonresident district to another participating nonresident district.

Subd. 7. Basis for decisions. The school board must adopt, by resolution, specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building. Standards may not include previous academic achievement, athletic or other extracurricular ability, handicapping conditions, proficiency in the English language, or previous disciplinary proceedings.

Subd. 8. [Repealed, 1989 c 329 art 9 s 33]

Subd. 8a. Waiver of deadlines. (a) Notwithstanding subdivision 4, upon agreement of the resident and nonresident school districts, a pupil may submit an application to a nonresident district after January 1 for enrollment beginning the following school year. The pupil, the pupil's parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 4 and 6, except that the application and notice deadlines do not apply.

(b) Notwithstanding subdivision 4, if as a result of an agreement under section 122.541 or 122.535 entered into after January 1 a pupil is assigned to a different school, the pupil may submit an application to a nonresident district after January 1 but before June 1 for enrollment beginning the following school year. The pupil, the pupil's parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 4 and 6, except that the application and notice deadlines do not apply.

Subd. 9. Transportation. If requested by the parent of a pupil, the nonresident district shall provide transportation within the district. The state shall pay transportation aid to the district according to section 124.225.

The resident district is not required to provide or pay for transportation between the pupil's residence and the border of the nonresident district. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government.

At the time a nonresident district notifies a parent or guardian that an application has been accepted under subdivision 5 or 6, the nonresident district must provide the parent or guardian with the following information regarding the transportation of nonresident pupils under this section:

(1) a nonresident district may transport a pupil within the pupil's resident district under this section only with the approval of the resident district; and

(2) a parent or guardian of a pupil attending a nonresident district under this section may appeal under section 123.39, subdivision 6, the refusal of the resident district to allow the nonresident district to transport the pupil within the resident district.

Subd. 10. **Credits toward graduation.** A nonresident district shall accept credits toward graduation that were awarded by another district. The nonresident district shall award a diploma to a nonresident pupil if the pupil meets its graduation requirements.

Subd. 11. **Information.** A district that does not exclude nonresident pupils according to subdivision 3 shall make information about the district, schools, programs, policies, and procedures available to all interested people.

Subd. 12. **General education aid.** Adjustments to general education aid, capital expenditure facilities aid, and equipment aid for the resident and nonresident districts shall be made according to sections 124A.036, subdivision 5, and 124.245, subdivision 6, respectively.

History: 1988 c 718 art 7 s 8; 1989 c 222 s 1,2; 1989 c 329 art 9 s 1-3; 1990 c 562 art 6 s 1,2

120.065 [Repealed, 1978 c 764 s 143]

120.07 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.07 MS 1976 [Repealed, 1978 c 764 s 143]

120.075 ATTENDANCE; PREVIOUS ENROLLMENT; FAMILIES.

Subdivision 1. Any pupil who, pursuant to the provisions of Minnesota Statutes 1976, section 120.065, or Minnesota Statutes, 1977 Supplement, section 123.39, subdivision 5a, was enrolled on either January 1, 1978, or April 5, 1978, in a school district of which the pupil was not a resident may continue in enrollment in that district.

Subd. 1a. Any pupil who, pursuant to section 123.39, subdivision 5, has continuously been enrolled since January 1, 1977, in a school district of which the pupil was not a resident may continue in enrollment in that district.

Subd. 2. Any child who was under school age on either January 1, 1978, or April 5, 1978, but who otherwise would have qualified pursuant to the provisions of Minnesota Statutes 1976, section 120.065, or Minnesota Statutes, 1977 Supplement, section 123.39, subdivision 5a, for enrollment in a school district of which the child was not a resident may enroll in that district.

Subd. 3. Any pupil enrolled on either January 1, 1978, or April 5, 1978, in a non-public school, as defined in section 123.932, subdivision 3, located in a district of which the pupil was not a resident who would otherwise have qualified for enrollment in that district as a resident pursuant to subdivision 1 may attend the public schools of that district.

Subd. 3a. Any child who was born on or before January 1, 1978 but who was adopted after January 1, 1978 and whose adoptive parent on January 1, 1978 owned property residence upon which would have qualified the child for enrollment pursuant to Minnesota Statutes 1976, section 120.065, in a school district of which the child was not a resident may enroll in that district. Any child who was born on or before January 1, 1978 but who was adopted after January 1, 1978 and whose adoptive parent on January 1, 1978 owned or was a tenant upon property so as to qualify a child for enrollment pursuant to Minnesota Statutes, 1977 Supplement, section 123.39, subdivision 5a, in a school district of which the child was not a resident may enroll in that district.

Subd. 4. Subdivisions 1, 1a, 2, 3 and 3a shall also apply to any brother or sister of a qualified pupil who is related to that pupil by blood, adoption or marriage and to any foster child of that pupil's parents. The enrollment of any pupil pursuant to subdivision 1, 2, 3 or 3a and of a brother or sister of that pupil or of a foster child of that pupil's parents pursuant to this subdivision shall remain subject to the provisions of Minnesota Statutes 1976, section 120.065 and Minnesota Statutes, 1977 Supplement, section 123.39, subdivision 5a, as they read on January 1, 1978.

Subd. 5. General education aid, capital expenditure facilities aid, capital expenditure equipment aid, and transportation aid attributable to pupils covered by programs under this section must be paid according to sections 124A.036, subdivision 5, 124.245, subdivision 6, and 124.225, subdivision 8l.

History: 1978 c 764 s 2; 1979 c 334 art 6 s 2; 1980 c 375 s 1; 1980 c 609 art 6 s 1-3; 1986 c 444; 1988 c 718 art 7 s 9-11; 1989 c 222 s 3

120.0751 STATE BOARD OF EDUCATION; ENROLLMENT EXCEPTIONS.

Subdivision 1. The state board of education may permit a pupil to enroll in a school district of which the pupil is not a resident under this section.

Subd. 2. The pupil or the pupil's parent or guardian shall make application to the state board, explaining the particular circumstances which make the nonresident district the appropriate district of attendance for the pupil. The application must be signed by the pupil's parent or guardian and the superintendent of the nonresident district.

Subd. 3. **Criteria for approval.** In approving or disapproving the application the state board shall consider the following:

(a) if the circumstances of the pupil are similar or analogous to the exceptions permitted by section 120.075, whether attending school in the district of residence creates a particular hardship for the pupil; or

(b) if the pupil has been continuously enrolled for at least two years in a district of which the pupil was not a resident because of an error made in good faith about the actual district of residence, whether attending school in the district of residence creates a particular hardship for the pupil. If the board finds that a good faith error was made and that attending school in the district of residence would create a particular hardship for the siblings of that pupil or foster children of that pupil's parents, it may separately approve an application for any or all of the siblings of the pupil who are related by blood, adoption, or marriage and for foster children of the pupil's parents.

Subd. 4. The state board of education shall render its decision in each case within 60 days of receiving the application in subdivision 2.

Subd. 5. The department of education shall provide the forms required by subdivision 2. The state board of education shall adopt the procedures necessary to implement this section.

Subd. 6. **Aid.** General education aid, capital expenditure facilities aid, capital expenditure equipment aid, and transportation aid for pupils covered by programs under this section must be paid according to sections 124A.036, subdivision 5, 124.245, subdivision 6, and 124.225, subdivision 8l.

History: 1980 c 609 art 6 s 4; 1981 c 358 art 7 s 4; 1983 c 314 art 7 s 4; 1986 c 444; 1988 c 718 art 7 s 12,13; 1989 c 222 s 4

120.0752 AGREEMENTS BETWEEN SCHOOL BOARDS; ENROLLMENT EXCEPTIONS.

Subdivision 1. A pupil may enroll in a school district of which the pupil is not a resident under this section.

Subd. 2. The pupil's parent or guardian must receive the approval of the school board of the nonresident district and the school board of the resident district. The approval shall be on a form provided by the department of education. The superintendent of the nonresident district shall forward a copy of this form to the department of education within ten days of its approval. If the student withdraws from the nonresident district the superintendent of that district shall report the fact to the department of education.

Subd. 3. **11th and 12th grade students.** Notwithstanding subdivision 2, an 11th or 12th grade pupil who has been enrolled in a district and whose parent or guardian moves to another district, may continue to enroll in the nonresident district upon the approval of the school board of the nonresident district. The approval of the school board of the pupil's resident district is not required.

Subd. 4. General education aid, capital expenditure facilities aid, capital expenditure equipment aid, and transportation aid for pupils covered by programs under this section must be paid according to sections 124A.036, subdivision 5, 124.245, subdivision 6, and 124.225, subdivision 8l.

History: 1980 c 609 art 6 s 5; 1986 c 444; 1987 c 398 art 7 s 4; 1988 c 718 art 7 s 14-16; 1989 c 222 s 5

120.08 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.08 ATTENDANCE; SCHOOL IN ANOTHER STATE; SEVERANCE PAY.

Subdivision 1. Any person under 21 years of age residing in any district not maintaining a secondary school who has successfully completed the elementary school may, with the consent of the board of such district, attend any secondary school of a district in an adjoining state willing to admit the person, which secondary school is nearer to the place of residence than any duly established secondary school in Minnesota, the distances being measured by the usual traveled routes. Any tuition charged by the district so attended shall be paid to the district attended by the district in which the person resides. This tuition shall not be more than (a) such district charges nonresident pupils of that state, (b) the average maintenance cost exclusive of transportation per pupil unit in average daily membership in the school attended, nor (c) the tuition rate provided for in section 124.18, subdivision 2.

Any pupil attending a secondary school in an adjoining state for whom tuition is paid from district funds is entitled to transportation services in accordance with Minnesota Statutes.

Subd. 2. A school board of a district maintaining a secondary school may by a majority vote provide for the instruction of any resident pupil attending an elementary school, a middle school, or a secondary school in a school district in an adjoining state. Any charge for tuition or transportation, by the district in the adjoining state, shall be paid by the resident district. The pupil shall be considered a pupil of the resident district for the purposes of state aid.

Subd. 3. **Severance pay.** A district shall pay severance pay to a teacher who is:

- (1) placed on unrequested leave of absence by the district because the teacher's position is discontinued as a result of an agreement under this section; and
- (2) not employed by another district for the school year following the teacher's placement on unrequested leave of absence.

The severance pay shall be equivalent to the teacher's salary for one year and is subject to section 465.72. The district may levy according to section 275.125, subdivision 4, for the severance pay.

History: Ex1959 c 71 art 1 s 8; 1961 c 562 s 8; 1975 c 162 s 2; 1986 c 444; 1988 c 718 art 7 s 17; 1990 c 596 s 1,2

120.09 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.09 MS 1967 [Repealed, 1969 c 1082 s 2]

120.095 SCHOOL CENSUS.

Subdivision 1. Except as otherwise provided in this section, the school board of each district shall cause to be taken an enumeration, called the school census of all persons under 21 years of age on September 1 during the year the census is taken. The school census shall show the name and date of birth of each person required to be enumerated and the name and address of the person's parent, guardian, or other person having charge of such child, and such other data as the state board may require.

Subd. 2. The school census shall be taken by the clerk of the board, or by some other person appointed by the board. Such person taking such census shall certify to the board the correctness of the enumeration and the information therein contained. The board shall fix the compensation for such work. Each child shall be counted in only

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one district, being that in which the child resides on September 1 and the enumeration period shall be from September 1 through October 1.

Subd. 3. The school census shall be taken each year during the period September 1 through October 1 and reported in summary form to the department of education before October 15 of each census year in all districts except as follows:

In districts including cities of the first class and other school districts in which the district boundaries coincide with those of federal census tracts the decennial and mid-decade census tabulation made by the federal bureau of the census may be substituted for the prescribed enumeration.

Subd. 4. The school board of any district, at its option, may establish a permanent and continuing census or enumeration that will keep current the data required by subdivisions 1 to 3.

Subd. 5. The school census shall include an enumeration of children requiring special education by categories as designated by the state board and as required for reports deemed necessary by the commissioner of education.

Subd. 6. The school census shall include an enumeration of children of limited English proficiency residing within the district by primary language. In making this census the school board shall seek the assistance and cooperation of agencies, organizations or community groups, public or private, which might have information about students of limited English proficiency residing in the school district. As used in this subdivision, the following terms have the meanings given them:

(a) "Children of limited English proficiency" means children whose primary language is other than English or who come from home environments where the primary language is other than English and by reason thereof have difficulty reading, writing, speaking and understanding ordinary classroom instruction and have difficulty in performing ordinary classroom work in the English language; and

(b) "Primary language" means a language other than English which is the language normally used by the child or the language which is spoken in the child's home environment.

Subd. 7. The school census shall include an enumeration of American Indian children resident within the district. In making this census the school board shall seek the assistance and cooperation of agencies, organizations or community groups, public or private, which might have information about American Indian children residing in the school district.

History: 1969 c 1082 s 1; 1971 c 84 s 1,2; 1977 c 306 s 13; 1977 c 312 s 12; 1980 c 609 art 3 s 1; 1986 c 444

120.10 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.10 Subdivision 1. MS 1986 [Repealed, 1987 c 178 s 10]

Subd. 2. MS 1986 [Repealed, 1987 c 178 s 10]

Subd. 2a. MS 1984 [Repealed, 1986 c 472 s 5; 1987 c 178 s 10]

Subd. 2b. MS 1984 [Repealed, 1986 c 472 s 5; 1987 c 178 s 10]

Subd. 3. [Renumbered 120.101, subd 9]

Subd. 4. [Renumbered 120.101, subd 10]

120.101 COMPULSORY INSTRUCTION.

Subdivision 1. **Parental responsibility.** The parent of a child is primarily responsible for assuring that the child acquires knowledge and skills that are essential for effective citizenship.

Subd. 2. **Applicability.** This section and sections 120.102; 120.103; 120.11; 120.13; 120.14; 120.15; 120.16; 127.19; and 127.20 apply only to a child required to receive instruction according to subdivision 5 and to instruction that is intended to fulfill that requirement.

Subd. 3. **Parent defined.** In sections 120.101 to 120.103, "parent" means a parent, guardian, or other person having legal custody of a child.

Subd. 4. School defined. For the purpose of compulsory attendance, a "school" means a public school, as defined in section 120.05, or a nonpublic school, church or religious organization, or home-school in which a child is provided instruction in compliance with sections 120.101 and 120.102.

Subd. 5. Ages and terms. For the 1988-1989 school year and the school years thereafter, every child between seven and 16 years of age shall receive instruction for at least 170 days each year. For the 2000-2001 school year and later school years, every child between seven and 18 years of age shall receive instruction for at least 170 days each year. Every child under the age of seven who is enrolled in a half-day kindergarten, or a full-day kindergarten program on alternate days, or other kindergarten programs shall receive instruction at least equivalent to 170 half days. Except as provided in subdivision 5a, a parent may withdraw a child under the age of seven from enrollment at any time.

Subd. 5a. Optional board policy. A school board may require in a policy that once a pupil under the age of seven is enrolled in a public school, the pupil is subject to the compulsory attendance provisions of this chapter and to section 127.20. A dispute resolution process that involves a neutral third party facilitator for resolving disputes between parents and a school district must be included in a school board policy.

In a school district with the policy, paragraphs (a) to (d) apply.

(a) A parent or guardian may withdraw the pupil from enrollment in the school only for good cause determined by the school board or its designee; good cause includes, but is not limited to, enrollment of the pupil in another school, the developmental immaturity of the child, or significant family stress.

(b) When the pupil enrolls, the enrolling official must provide the parent or guardian who enrolls the pupil with a copy of the school board's current policy. At the time of enrollment, the enrolling parent or guardian must sign a receipt for the copy and a statement saying that they have read and understood the enrollment policy. The receipt and the signed statement must be filed with the pupil's school records.

(c) At all times, the school district's chief attendance officer must keep the truant enforcement authorities supplied with a copy of the school board's current policy certified by the clerk of the school board. A photocopy of the certified copy is prima facie evidence of the current policy in all courts and proceedings.

(d) A pupil under the age of seven who is withdrawn from enrollment in the public school is no longer subject to the compulsory attendance provisions of this chapter.

Subd. 6. Curriculum. Instruction must be provided in at least the following subject areas:

- (1) basic communication skills including reading and writing, literature, and fine arts;
- (2) mathematics and science;
- (3) social studies including history, geography, and government; and
- (4) health and physical education.

Instruction, textbooks, and materials must be in the English language. Another language may be used as set forth in section 126.07.

Subd. 7. Requirements for instructors. A person who is providing instruction to a child must meet at least one of the following requirements:

- (1) hold a valid Minnesota teaching license in the field and for the grade level taught;
- (2) be directly supervised by a person holding a valid Minnesota teaching license;
- (3) successfully complete a teacher competency examination;
- (4) provide instruction in a school that is accredited by an accrediting agency, recognized according to section 123.935, subdivision 7, or recognized by the state board of education;
- (5) hold a baccalaureate degree; or

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(6) be the parent of a child who is assessed according to the procedures in subdivision 8.

Any person providing instruction in a public school must meet the requirements of clause (1).

Subd. 8. Assessment of performance. (a) Each year the performance of every child who is not enrolled in a public school must be assessed using a nationally norm-referenced standardized achievement examination. The superintendent of the district in which the child receives instruction and the person in charge of the child's instruction must agree about the specific examination to be used and the administration and location of the examination.

(b) To the extent the examination in paragraph (a) does not provide assessment in all of the subject areas in subdivision 6, the parent must assess the child's performance in the applicable subject area. This requirement applies only to a parent who provides instruction and does not meet the requirements of subdivision 7, clause (1), (2), or (3).

(c) If the results of the assessments in paragraphs (a) and (b) indicate that the child's performance on the total battery score is at or below the 30th percentile or one grade level below the performance level for children of the same age, the parent shall obtain additional evaluation of the child's abilities and performance for the purpose of determining whether the child has learning problems.

(d) A child receiving instruction from a nonpublic school, person, or institution that is accredited by an accrediting agency, recognized according to section 123.935, subdivision 7, or recognized by the state board of education, is exempt from the requirements of this subdivision.

Subd. 9. Legitimate exemptions. A parent, guardian, or other person having control of a child may apply to a school district to have the child excused from attendance for the whole or any part of the time school is in session during any school year. Application may be made to any member of the board, a truancy officer, a principal, or the superintendent. The school board of the district in which the child resides may approve the application upon the following being demonstrated to the satisfaction of that board:

(1) That the child's bodily or mental condition is such as to prevent attendance at school or application to study for the period required; or

(2) That for the school years 1988-1989 through 1999-2000 the child has already completed the studies ordinarily required in the 10th grade and that for the school years beginning with the 2000-2001 school year the child has already completed the studies ordinarily required to graduate from high school; or

(3) That it is the wish of the parent, guardian, or other person having control of the child, that the child attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction conducted and maintained by some church, or association of churches, or any Sunday school association incorporated under the laws of this state, or any auxiliary thereof. This school for religious instruction shall be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, shall be conducted and maintained at public expense. However, a child may be absent from school on such days as the child attends upon instruction according to the ordinances of some church.

Subd. 10. Issuing and reporting excuses. The clerk or any authorized officer of the school board shall issue and keep a record of such excuses, under such rules as the board may from time to time establish.

History: *Ex 1959 c 71 art 1 s 10 subs 2,3; 1961 c 567 s 1; 1967 c 82 s 1; 1969 c 161 s 1,2; 1974 c 326 s 1; 1975 c 162 s 3; 1977 c 306 s 14; 1977 c 447 art 7 s 2,3; 1978 c 616 s 2; 1978 c 706 s 1; 1980 c 609 art 3 s 2; 1Sp1985 c 12 art 7 s 3; 1986 c 444; 1986 c 472 s 1-3; 1987 c 178 s 1,9; 1988 c 718 art 7 s 19,20; 1989 c 296 s 1,2*

120.102 REPORTING.

Subdivision 1. Reports to superintendent. The person in charge of providing

instruction to a child shall submit the following information to the superintendent of the district in which the child resides:

(1) by October 1 of each school year, the name, age, and address of each child receiving instruction;

(2) the name of each instructor and evidence of compliance with one of the requirements specified in section 120.101, subdivision 7;

(3) an annual instructional calendar showing that instruction will occur at least 170 days; and

(4) for each child instructed by a parent who meets only the requirement of section 120.101, subdivision 7, clause (6), a quarterly report card on the achievement of the child in each subject area required in section 120.101, subdivision 6.

Subd. 2. Availability of documentation. The person in charge of providing instruction to a child must make available documentation indicating that the subjects required in section 120.101, subdivision 6, are being taught. This documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement.

Subd. 3. Exemptions. A nonpublic school, person, or other institution that is accredited by an accrediting agency, recognized according to section 123.935, or recognized by the state board of education, is exempt from the requirements in subdivisions 1 and 2, except for the requirement in subdivision 1, clause (1).

Subd. 4. Reports to the state. A superintendent shall make an annual report to the commissioner of education. The report must include the following information:

(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;

(2) the number of children in clause (1) who are in compliance with section 120.101 and this section; and

(3) the names, ages, and addresses of children whom the superintendent has determined are not in compliance with section 120.101 and this section.

History: 1987 c 178 s 2

120.103 ENFORCEMENT AND PROSECUTION.

Subdivision 1. On-site visits. A superintendent or the superintendent's designee may make an annual on-site visit, at a mutually agreed upon time, to an unaccredited nonpublic school, home, or other institution where children are receiving instruction. Upon mutual agreement between the parties, the superintendent or the superintendent's designee may also visit an accredited nonpublic school, person, or other institution providing instruction. The purpose of these visits shall be limited to monitoring compliance with the requirements of section 120.101. If the superintendent determines that there is evidence of noncompliance with the requirements of sections 120.101 and 120.102, the superintendent may make additional visits during the school year.

Subd. 2. Alternative to visits. In lieu of the visit authorized in subdivision 1, a parent who is providing instruction may present the documentation required in section 120.102, subdivision 2, to the superintendent.

Subd. 3. Notice to parents. The superintendent shall notify the parent, in writing, if a child is alleged to be receiving instruction in violation of sections 120.101 and 120.102. The written notification shall include a list of the specific alleged violations.

Subd. 4. Fact-finding and mediation. If the specified alleged violations of the compulsory attendance requirements are not corrected within 15 days of receipt of the written notification, the superintendent shall request fact-finding and mediation services from the commissioner of education.

Subd. 5. Notice to county attorney. If the alleged violations are not corrected through the fact-finding and mediation process under subdivision 4, the superintendent shall notify the county attorney of the alleged violations. The superintendent shall notify the parents, by certified mail, of the superintendent's intent to notify the county attorney of the alleged violations.

Subd. 6. Criminal complaint; prosecution. The county attorney in the county in which the alleged violations have occurred has jurisdiction to conduct a prosecution for violations of section 120.101, 120.102, or 120.103. A criminal complaint may be filed in any court in the county exercising criminal jurisdiction and shall name the persons neglecting or refusing to comply with section 120.101, 120.102, or 120.103. After the complaint has been filed, a warrant shall be issued and proceedings in trial shall commence as provided by law in misdemeanor cases.

History: 1987 c 178 s 3

120.104 REPORT TO LEGISLATURE.

The commissioner of education shall report to the education committees of the legislature by February 1 of each even-numbered year on the implementation of the compulsory education requirements, including an assessment of the activities of the state board of education and the nonpublic education council relating to recognizing educational accrediting agencies.

History: 1987 c 178 s 4

120.105 EDUCATION STATEMENT.

Each year every school, as defined in section 120.101, subdivision 4, offering a kindergarten program must ensure that the school principal, kindergarten teacher, or other professional, discusses and distributes the following statement to every parent, guardian, or other person enrolling a child in kindergarten:

“The state of Minnesota requires that every child entering kindergarten this school year must graduate from high school or remain in high school or in an alternative program until age 18. Only those who have been accepted in the military or an institution of higher learning can leave school before they are 18 years old.”

The department of education must make appropriate provisions to accommodate those children who newly enroll in a public school after kindergarten. All other schools must make similar provisions.

History: 1988 c 718 art 7 s 18

120.106 ABSENCE FROM SCHOOL FOR RELIGIOUS OBSERVANCE.

Reasonable efforts must be made by a school district to accommodate any pupil who wishes to be excused from a curricular activity for a religious observance.

History: 1989 c 60 s 1

120.11 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.11 SCHOOL BOARDS AND TEACHERS, DUTIES.

It shall be the duty of each board through its clerk or other authorized agent or employee, to report the names of children required to attend school, with excuses, if any, granted in such district, to the superintendent or principals thereof, within the first week of school. Subsequent excuses granted shall be forthwith reported in the same manner. The clerk or principal shall provide the teachers in the several schools supervised, with the necessary information for the respective grades of school, relating to the list of pupils with excuses granted. On receipt of the list of such pupils of school age and the excuses granted, the clerk or principals shall report the names of children not excused, who are not attending school, with the names and addresses of their parents, to the district superintendent within five days after receiving the report.

History: Ex1959 c 71 art 1 s 11; 1975 c 162 s 4; 1Sp1985 c 12 art 7 s 4; 1986 c 444

120.12 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.12 MS 1986 [Repealed, 1987 c 178 s 10]

120.13 [Repealed, 1989 c 329 art 9 s 34]

120.13 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.14 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.14 ATTENDANCE OFFICERS.

The board of any district may authorize the employment of attendance officers, who shall investigate truancy or nonattendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and district rules regarding school attendance. When any attendance officer learns of any case of habitual truancy or continued nonattendance of any child required to attend school the officer shall immediately notify the person having control of such child to forthwith send to and keep the child in school. The officer shall act under the general supervision of the district superintendent.

History: *Ex1959 c 71 art 1 s 14; 1978 c 616 s 3; 1986 c 444*

120.15 [Repealed, 1989 c 329 art 9 s 34]

120.15 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.16 [Repealed, 1989 c 329 art 9 s 34]

120.16 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.17 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.17 HANDICAPPED CHILDREN.

Subdivision 1. **Special instruction for handicapped children.** Every district shall provide special instruction and services, either within the district or in another district, for handicapped children who are residents of the district and who are handicapped as set forth in section 120.03. Special instruction and services must be provided from birth until September 1 after the handicapped child becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 126.22, subdivision 2. Local health, education, and social service agencies shall refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible handicapped children as determined by the state board shall cooperate with other districts to maintain a full range of programs for education and services for handicapped children. This subdivision does not alter the compulsory attendance requirements of section 120.101.

Subd. 1a. [Repealed, 1Sp1985 c 12 art 3 s 30]

Subd. 1b. **High school diploma.** Upon completion of secondary school or the equivalent, a handicapped pupil who satisfactorily attains the objectives in the pupil's individual education plan shall be granted a high school diploma that is identical to the diploma granted to a nonhandicapped pupil.

Subd. 2. **Method of special instruction.** Special instruction and services for handicapped children must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:

- (a) in connection with attending regular elementary and secondary school classes;
- (b) establishment of special classes;
- (c) at the home or bedside of the child;
- (d) in other districts;
- (e) instruction and services by special education cooperative centers established under this section, or in another member district of the cooperative center to which the resident district of the handicapped child belongs;
- (f) in a state residential school or a school department of a state institution approved by the commissioner;
- (g) in other states;
- (h) by contracting with public, private or voluntary agencies;

(i) for children under age five and their families, programs and services established through collaborative efforts with other agencies;

(j) for children under age five and their families, programs in which handicapped children are served with nonhandicapped children; and

(k) any other method approved by the commissioner.

Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

The primary responsibility for the education of a handicapped child shall remain with the district of the child's residence regardless of which method of providing special instruction and services is used. The district of residence must inform the parents of the child about the methods of instruction that are available.

Subd. 3. Rules of the state board. The state board shall promulgate rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules it deems necessary for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b. These rules shall also provide standards for the discipline, control, management and protection of handicapped children. The state board shall not adopt rules for pupils served in level 1, 2, or 3, as defined in Minnesota Rules, part 3525.2340, establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The state board, in consultation with the departments of health and human services, shall adopt permanent rules for instruction and services for children under age five and their families. The state board shall adopt rules to determine eligibility for special education services. The rules shall include procedures and standards by which to grant variances for experimental eligibility criteria. The state board shall, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the board shall specify the program standards used to evaluate the request and the reasons for denying the request.

Subd. 3a. School district obligations. Every district shall ensure that:

(1) all handicapped children are provided the special instruction and services which are appropriate to their needs. The student's needs and the special education instruction and services to be provided shall be agreed upon through the development of an individual education plan. The plan shall address the student's need to develop skills to live and work as independently as possible within the community. By grade 9 or age 14, the plan shall address the student's needs for transition from secondary services to post-secondary education and training, employment, and community living;

(2) handicapped children under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) handicapped children and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment and educational placement of handicapped children;

(4) to the maximum extent appropriate, handicapped children, including those in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(5) in accordance with recognized professional standards, testing and evaluation materials, and procedures utilized for the purposes of classification and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory; and

(6) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

Subd. 3b. Procedures for decisions. Every district shall utilize at least the following procedures for decisions involving identification, assessment, and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative;

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a). The conciliation process shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation shall be deemed to be satisfied;

(d) Parents, guardians, and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted by and in the school district responsible for assuring that an appropriate program is provided in accordance with state board rules, if the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child;

or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties

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unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

The local decision shall:

- (1) be in writing;
- (2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;
- (3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;
- (4) state the amount and source of any additional district expenditure necessary to implement the decision; and
- (5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the hearing review officer within 30 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district responsible for assuring that an appropriate program is provided in accordance with state board rules.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The hearing review officer shall issue a final decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

- (1) be in writing;
- (2) include findings and conclusions; and
- (3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(g) The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

(h) The commissioner of education, having delegated general supervision of special education to the appropriate staff, shall be the hearing review officer except for appeals in which:

- (1) the commissioner has a personal interest in or specific involvement with the student who is a party to the hearing;
- (2) the commissioner has been employed as an administrator by the district that is a party to the hearing;
- (3) the commissioner has been involved in the selection of the administrators of the district that is a party to the hearing;
- (4) the commissioner has a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies;
- (5) the appeal challenges a state or local policy which was developed with substantial involvement of the commissioner; or
- (6) the appeal challenges the actions of a department employee or official.

For any appeal to which the above exceptions apply, the state board of education shall name an impartial and competent hearing review officer.

In all appeals, the parent or guardian of the handicapped student or the district that is a party to the hearing may challenge the impartiality or competence of the proposed hearing review officer by applying to the state board of education.

(i) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in the child's current educational placement and shall not be denied initial admission to school.

(j) The child's school district of residence, a resident district, and providing district shall receive notice of and may be a party to any hearings or appeals under this subdivision.

Subd. 3c. [Repealed, 1981 c 358 art 3 s 20]

Subd. 4. Special instructions for nonresident children. When a school district provides instruction and services outside the district of residence, board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any handicapped child shall be the actual cost of providing special instruction and services to the child including a proportionate amount for capital outlay and debt service but not including any amount for transportation, minus the amount of special aid for handicapped children received on behalf of that child. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. The commissioner shall then set a date for a hearing, giving each board at least ten days' notice, and after the hearing the commissioner shall make an order fixing the tuition rate, which shall be binding on both school districts.

When a district provides instruction and services in a day program outside the district of residence, the district of residence shall be responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the district of residence, the nonresident district in which the child is placed shall be responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state shall pay transportation aid to that district.

For the purposes of this section, any school district may enter into an agreement, upon terms and conditions which are mutually agreed upon, to provide special instruction and services for handicapped children. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts. Each participating unit shall reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid, which shall be claimed in full by the employing district.

Subd. 4a. Attendance in another district. No resident of a district who is eligible for special instruction and services pursuant to this section shall be denied provision of this instruction and service because of attending a public school in another school district pursuant to section 123.39, subdivision 5, if the attendance is not subject to section 120.075, 120.0751, or 120.0752. If the pupil attends a public school located in a contiguous district and the district of attendance does not provide special instruction and services, the district of residence shall provide necessary transportation for the pupil between the boundary of the district of residence and the educational facility where special instruction and services are provided within the district of residence. The district of residence may provide necessary transportation for the pupil between its boundary and the school attended in the contiguous district, but shall not pay the cost of transportation provided outside the boundary of the district of residence.

Subd. 5. School of parents' choice. Nothing in this chapter shall be construed as preventing parents of a handicapped child from sending such child to a school of their choice, if they so elect, subject to admission standards and policies adopted according to chapter 128A, and all other provisions of chapters 120 to 129.

Subd. 5a. Summer programs. A district may provide summer programs for handicapped children living within the district and nonresident children temporarily placed

in the district pursuant to subdivision 6 or 7. Prior to March 31 or 30 days after the handicapped child is placed in the district, whichever is later, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to subdivision 6 or 7, of its intention to provide these programs. Notwithstanding any contrary provisions in subdivisions 6 and 7, the school district providing the special instruction and services shall apply for special education aid for the summer program. The unreimbursed actual cost of providing the program for nonresident handicapped children, including the cost of board and lodging, may be billed to the district of the child's residence and shall be paid by the resident district. Transportation costs shall be paid by the district responsible for providing transportation pursuant to subdivision 6 or 7 and transportation aid shall be paid to that district.

Subd. 6. Placement in another district; responsibility. The responsibility for special instruction and services for a handicapped child temporarily placed in another district for care and treatment shall be determined in the following manner:

(a) The school district of residence of a child shall be the district in which the child's parent resides, if living, or the child's guardian, or the district designated by the commissioner of education if neither parent nor guardian is living within the state.

(b) When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation and an appropriate educational program for the child. The district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district.

(c) When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation within the district while the child is attending the educational program; and shall bill the district of the child's residence for the actual cost of providing the program, as outlined in subdivision 4, except that the board, lodging, and treatment costs incurred in behalf of a handicapped child placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than for making provision for the child's special educational needs shall not become the responsibility of either the district providing the instruction or the district of the child's residence.

(d) The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education aid for the child as provided by law. Transportation costs shall be paid by the district responsible for providing the transportation and the state shall pay transportation aid to that district.

Subd. 7. Placement in state institution; responsibility. Responsibility for special instruction and services for a handicapped child placed in a state institution on a temporary basis shall be determined in the following manner:

(a) The legal residence of such child shall be the school district in which the child's parent resides, if living, or the child's guardian.

(b) When the educational needs of such child can be met through the institutional program, the costs for such instruction shall be paid by the department to which the institution is assigned.

(c) When it is determined that such child can benefit from public school enrollment, provision for such instruction shall be made in the following manner:

(1) determination of eligibility for special instruction and services shall be made by the commissioner of education and the commissioner of the department responsible for the institution;

(2) the school district where the institution is located shall be responsible for providing transportation and an appropriate educational program for the child and shall

make a tuition charge to the child's district of residence for the actual cost of providing the program;

(3) the district of the child's residence shall pay the tuition and other program costs excluding transportation costs and may claim general education aid for the child. Transportation costs shall be paid by the district where the institution is located and the state shall pay transportation aid to that district.

Subd. 7a. Attendance at school for the handicapped. Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota state academy for the deaf or the Minnesota state academy for the blind shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which the child's parent or guardian resides.

(b) When it is determined pursuant to section 128A.05, subdivision 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged shall not exceed the basic revenue of the district for that child, for the amount of time the child is in the program. For purposes of this subdivision, "basic revenue" has the meaning given it in section 124A.22, subdivision 2. The district of the child's residence shall pay the tuition and may claim general education aid for the child. The district of the child's residence shall not receive aid pursuant to section 124.32, subdivision 5, for tuition paid pursuant to this subdivision. All tuition received by the state board shall be deposited in the state treasury.

(c) When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

(d) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause (c) for providing appropriate educational programs to pupils attending the applicable school.

(e) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to supply staff from the Minnesota state academy for the deaf and the Minnesota state academy for the blind to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

Subd. 8. [Repealed, 1973 c 683 s 30]

Subd. 8a. Residence of child under special conditions. The legal residence of a handicapped child placed in a foster facility for care and treatment when: (1) parental rights have been terminated by court order; (2) parent or guardian is not living within the state; or (3) no other school district residence can be established, shall be the school district in which the child resides. The school board of the district of residence shall provide the same educational program for such child as it provides for all resident handicapped children in the district.

Subd. 9. Special instruction. No resident of a district who is eligible for special instruction and services pursuant to this section shall be denied provision of this instruction and service on a shared time basis because of attendance at a nonpublic

school defined in section 123.932, subdivision 3. If a resident handicapped pupil attends a nonpublic school located within the district of residence, the district shall provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident handicapped pupil attends a nonpublic school located in a district contiguous to the district of residence and if no agreement exists pursuant to section 124A.034, subdivision 1 or 1a, for the provision of special instruction and services on a shared time basis to that pupil by the district of attendance, the district of residence shall provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility where the special instruction and services are provided within the district of residence. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school shall pay the cost of transportation provided outside the district boundary.

Subd. 10. Nonresident education; billing. All tuition billing for the education of nonresident children pursuant to this section shall be done on uniform forms prescribed by the commissioner. The billing shall contain an itemized statement of costs which are being charged to the district of residence. One copy of each such billing shall be filed with the commissioner.

Subd. 11. Transportation aid agreements. Notwithstanding the provisions of subdivisions 4, 5a, and 6, when a child receives special instruction and services in a day program outside the resident district, the resident district and the nonresident district where the child is placed may enter into an agreement providing for the nonresident district to pay the cost of any particular transportation categories specified in section 124.225, subdivision 1, and claim transportation aid for those categories. In this case, the nonresident district may not obtain any payment from the resident district for the categories covered by the agreement.

Subd. 11a. State interagency coordinating council. An interagency coordinating council of 15 members is established. The members and the chair shall be appointed by the governor. The council shall be composed of at least three parents of children under age seven with handicaps, three representatives of public or private providers of services for children under age five with handicaps, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education, at least one representative of advocacy organizations for children with handicaps, at least one representative of a school district or a school district cooperative, and other members knowledgeable about children under age five with handicaps. Section 15.059, subdivisions 2 to 5, apply to the council. The council shall meet at least quarterly. A representative of each of the commissioners of education, health, and human services shall attend council meetings as a nonvoting member of the council.

The council shall address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with handicaps and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with handicaps and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services, and to facilitate payment for services from public and private sources. Appropriate services must be determined in consultation with parents, physicians, and other educational, medical, health, and human services providers. Appropriate services include family education and counseling, home visits, occupational and physical therapy, speech pathology, audiology, psychological ser-

vices, case management, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable children with handicaps to benefit from early intervention services. School districts must be the primary agency in this cooperative effort.

Each year by January 15 the council shall submit its recommendations to the education committees of the legislature, the governor, and the commissioners of education, health, and human services.

Subd. 12. Interagency early intervention committee. A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish an interagency early intervention committee for handicapped children under age five and their families. Members of the committee shall be representatives of local and regional health, education, and county human service agencies; county boards; school boards; early childhood family education programs; current service providers; parents of young handicapped children; and other private or public agencies. The committee shall elect a chair from among its members and shall meet at least quarterly. The committee shall perform the following ongoing duties:

(1) identify current services and funding being provided within the community for handicapped children under the age of five and their families;

(2) establish and evaluate the identification, referral, and community learning systems to recommend, where necessary, alterations and improvements;

(3) facilitate the development of individual education plans and individual service plans when necessary to appropriately serve handicapped children under the age of five and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(4) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(5) review and comment on the early intervention section of the total special education system for the district and the county social services plan; and

(6) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services.

The departments of education, health, and human services are encouraged to provide assistance to the local agencies in developing cooperative plans for providing services.

Subd. 13. [Repealed, 1987 c 398 art 3 s 41]

Subd. 14. Maintenance of effort. A county human services agency or county board shall continue to provide services set forth in their county social service agency plan for handicapped children under age five and their families or as specified in the individual service plan and individual habilitation plan of each child. Special instruction and services for which a handicapped child is eligible under this section are not the responsibility of the local human services agency or county board. It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services not required under this section and to facilitate payment for services from public and private sources. School districts and counties are encouraged to enter into agreements to cooperatively serve and provide funding for handicapped children under age five and their families.

Subd. 15. Third party payment. Nothing in this section relieves an insurer or similar third party from an otherwise valid obligation to pay, or changes the validity of an obligation to pay, for services to a handicapped child.

Subd. 16. Community transition interagency committee. A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish a community transition interagency committee for handicapped youth, beginning at grade 9 or age equivalent, and their families. Members of the committee shall consist of representatives from special education; vocational and regular education; community education; post-

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secondary education and training institutions; parents of handicapped youth; local business or industry; rehabilitation services; county social services; health agencies; and additional public or private adult service providers as appropriate. The committee shall elect a chair and shall meet regularly. The committee shall:

(1) identify current services, programs, and funding sources provided within the community for secondary and post-secondary aged handicapped youth and their families;

(2) facilitate the development of multiagency teams to address present and future transition needs of individual students on their individual education plans;

(3) develop a community plan to include mission, goals, and objectives, and an implementation plan to assure that transition needs of handicapped individuals are met;

(4) recommend changes or improvements in the community system of transition services;

(5) exchange agency information such as appropriate data, effectiveness studies, special projects, exemplary programs, and creative funding of programs; and

(6) prepare a yearly summary assessing the progress of transition services in the community and disseminate it to all adult services agencies involved in the planning and to the commissioner of education by September 1 of each year.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3*

120.171 [Repealed, 1979 c 334 art 3 s 19]

120.172 LEGISLATIVE COMMITMENT TO CONCILIATION.

Subdivision 1. Policy statement. The legislature finds that conciliation conferences pursuant to section 120.17 serve better than formal hearings to promote communications between parents and school staff and to reach prompt, shared decisions about educational programs for handicapped children. Further, the legislature urges the United States department of education and the United States office of civil rights to acknowledge that the conciliation conference process violates no federal statute or regulation.

Subd. 2. State plan. The state board of education shall not adopt any provision in the state plan for special education which reduces the opportunities for parents and school districts to resolve their differences through conciliation.

Subd. 3. [Repealed, 1Sp1985 c 12 art 3 s 30]

History: *1981 c 358 art 3 s 8*

120.18 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.18 MS 1967 [Repealed, 1969 c 981 s 7]

120.181 TEMPORARY PLACEMENTS FOR CARE AND TREATMENT OF NONHANDICAPPED PUPILS.

The responsibility for providing instruction and transportation for a nonhandicapped pupil who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the state board, and who is temporarily placed for care and treatment for that illness or disability, shall be determined in the following manner:

(a) The school district of residence of the pupil shall be the district in which the pupil's parent or guardian resides or the district designated by the commissioner of education if neither parent nor guardian is living within the state.

(b) Prior to the placement of a pupil for care and treatment, the district of residence shall be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, shall notify the district of residence of the emergency placement within 15 days of the placement.

(c) When a nonhandicapped pupil is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence shall provide instruction and necessary transportation for the pupil. The district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district.

(d) When a nonhandicapped pupil is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed shall provide instruction for the pupil and necessary transportation within that district while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district shall bill the district of residence for the actual cost of providing the instruction, excluding transportation costs.

(e) The district of residence shall receive general education aid for the pupil and pay tuition and other instructional costs, excluding transportation costs, to the district providing the instruction. Transportation costs shall be paid by the district providing the transportation and the state shall pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision shall be included in the handicapped transportation category.

History: 1982 c 548 art 1 s 1; 1988 c 486 s 6

120.182 SPECIAL EDUCATION DIRECTOR.

The authority for the selection and employment of the director of a special education cooperative established pursuant to section 120.17 or 471.59 shall be vested in the governing board of the cooperative. Notwithstanding the provisions of section 125.12, subdivision 6a or 6b, no individual shall have a right to employment as a director based on seniority or order of employment by the cooperative.

History: 1983 c 314 art 7 s 5

120.183 INTERAGENCY OFFICE ON TRANSITION SERVICES.

The commissioner of education shall establish an interagency office on transition services to:

(1) gather and coordinate data on transition services for secondary age handicapped pupils;

(2) provide information, consultation, and technical assistance to state and local agencies involved in the delivery of services to handicapped pupils in transition from secondary school programs to employment and post-secondary training programs;

(3) assist agencies in establishing local interagency agreements to assure the necessary services for efficient and appropriate transition from school to work or post-secondary training programs; and

(4) assist regions and local areas in planning interagency in-service training to develop and improve transition services.

History: 1Sp1985 c 12 art 3 s 9

120.19-120.38 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

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120.41-120.43 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.44 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26; 1961 c 446 s 2; 1961 c 567 s 2 subd 2]

120.46 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.51-120.57 MS 1957 [Repealed, 1959 c 687 s 13; Ex1959 c 27 s 13; Ex1959 c 71 art 8 s 26]

120.58 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.59 FLEXIBLE SCHOOL YEAR PROGRAMS; PURPOSE.

The purpose of sections 120.59 to 120.67 is to authorize school districts to evaluate, plan and employ the use of flexible school year programs. It is anticipated that the open selection of the type of flexible school year operation from a variety of alternatives will allow each district which seeks to utilize this concept to suitably fulfill the educational needs of its pupils. These alternatives shall include but not be limited to various 45-15 plans, four-quarter plans, quinmester plans, extended school year plans, flexible all-year plans, and four-day week plans.

History: 1974 c 326 s 2

120.60 DEFINITION.

"Flexible school year program" means any school district plan approved by the state board of education which utilizes school buildings and facilities during the entire year and/or which provides forms of optional scheduling of pupils and school personnel during the school year in elementary and secondary schools or residential facilities for handicapped children.

History: 1974 c 326 s 3

120.61 ESTABLISHMENT OF PROGRAM.

The school board of any district, with the approval of the state board of education, may establish and operate a flexible school year program in one or more of the schools or residential facilities for handicapped children within the district.

History: 1974 c 326 s 4

120.62 DIVISION OF CHILDREN INTO GROUPS.

The school board of any district operating a flexible school year program in one or more of the schools within the district shall divide the students of each selected school into as many groups as necessary to accommodate this program. Students of the same family shall be placed in the same group unless one or more of these students is enrolled in a special education class or unless the parent or guardian of these students requests that the students be placed in different groups. No school board shall discriminate on the basis of race, color, creed, religion, marital status, status with regard to public assistance, sex, or national origin when assigning pupils to attendance groups pursuant to this section.

History: 1974 c 326 s 5

120.63 HEARING.

Prior to implementing a flexible school year program in any school of the district, the school board shall negotiate with the teachers, principals, assistant principals, supervisory personnel and employees of the school to the extent required by the public employment labor relations act, and shall consult with the parents of pupils who would be affected by the change, and with the community at large. These procedures shall include at least three informational meetings for which the board has given published notice to the teachers and employees and to the parents of pupils affected.

History: 1974 c 326 s 6

120.64 ASSIGNMENT OF TEACHERS.

Subdivision 1. In school districts where a flexible school year program is implemented in fewer than all of the schools maintained by the school district, the board of the school district shall make every reasonable effort to assign qualified teachers who prefer the regular school schedule to schools of the same level retaining the regular school schedule.

Subd. 2. A full-time classroom teacher currently employed by a school district which converts to a flexible school year program shall not, without the teacher's written consent, be required to teach under this program (1) more or less than the number of scheduled days or their equivalent the schools of the district were maintained during the year preceding implementation of the flexible school year program; (2) in a period of the calendar year substantially different from the period in which the teacher taught during the year preceding implementation of the flexible year program.

Subd. 3. In no event shall a teacher's continuing contract rights to a position held the year preceding implementation of a flexible school year program or teaching experience earned during a probationary period the year preceding implementation be lost or impaired upon adoption of a flexible school year program. If the year of teaching preceding implementation was the end of a probationary period, the continuing contract right to a full year's contract which normally would be acquired for the next succeeding school year shall be acquired in the year of adoption of the flexible program.

Subd. 4. Any school district operating a flexible school year program shall enter into one contract governing the entire school year with each teacher employed in a flexible program. If individual teachers contract to teach less than a period of 175 days during a school year, each 175 days of employment accrued during any five-year period after the adoption of a flexible year program shall be deemed consecutive and shall constitute a full year's employment for purposes of establishing and retaining continuing contract rights to a full school year position pursuant to sections 125.12, subdivisions 3 and 4, and 125.17, subdivisions 2 and 3. A teacher who has not been discharged or advised of a refusal to renew the teacher's contract by the applicable date, as specified in section 125.12 or 125.17, in the year in which the teacher will complete the requisite number of days for securing a continuing contract shall have a continuing full school year contract with the district.

Subd. 5. Continuing contract rights established pursuant to this section shall not be impaired or lost by the termination of a flexible school year program.

History: 1974 c 326 s 7; 1978 c 764 s 6; 1986 c 444

120.65 ESTABLISHMENT AND APPROVAL.

The state board of education shall:

- (1) Establish standards and requirements for the qualification of school districts which may operate on a flexible school year basis;
- (2) Establish standards and evaluation criteria for flexible school year programs;
- (3) Prepare and distribute all necessary forms for application by any school district for state authorization for a flexible school year program;
- (4) Review the proposed flexible school year program of any qualified school district as to conformity to standards and the evaluation of appropriateness of priorities, workability of procedure and overall value;
- (5) Approve or disapprove proposed flexible school year programs.

History: 1974 c 326 s 8

120.66 POWERS AND DUTIES OF THE STATE BOARD.

Subdivision 1. The state board of education shall:

- (1) Promulgate rules necessary to the operation of sections 120.59 to 120.67;
- (2) Cooperate with and provide supervision of flexible school year programs to determine compliance with the provisions of sections 120.59 to 120.67, the state board standards and qualifications, and the proposed program as submitted and approved;

(3) Provide any necessary adjustments of (a) attendance and membership computations and (b) the dates and percentages of apportionment of state aids;

(4) Consistent with the definition of "average daily membership" in section 124.17, subdivision 2, furnish the board of a district implementing a flexible school year program with a formula for computing average daily membership. This formula shall be computed so that tax levies to be made by the district, state aids to be received by the district, and any and all other formulas based upon average daily membership are not affected solely as a result of adopting this plan of instruction.

Subd. 2. Sections 120.59 to 120.67 shall not be construed to authorize the state board to require the establishment of a flexible school year program in any district in which the school board has not voted to establish, maintain, and operate such a program.

History: 1974 c 326 s 9; 1978 c 706 s 3

120.67 TERMINATION OF PROGRAM.

The school board of any district, with the approval of the state board of education, may terminate a flexible school year program in one or more of the schools or residential facilities for handicapped children within the district. This section shall not be construed to permit an exception to section 120.101 or 124.19.

History: 1974 c 326 s 10; 1989 c 209 art 2 s 1

120.68 [Repealed, 1Sp1985 c 12 art 7 s 33]

120.71 MINNESOTA PUBLIC SCHOOL FEE LAW, CITATION.

Sections 120.71 to 120.76 may be cited as "the Minnesota public school fee law."

History: 1974 c 561 s 1

120.72 GENERAL POLICY.

It is the policy of the state of Minnesota that public school education shall be free and no pupil shall be denied an education because of economic inability to furnish educational books and supplies necessary to complete educational requirements necessary for graduation. Any practice leading to suspension, coercion, exclusion, withholding of grades or diplomas, or discriminatory action based upon nonpayment of fees denies pupils their right to equal protection and entitled privileges. It is recognized that school boards do have the right to accept voluntary contributions and to make certain charges and to establish fees in areas considered extra curricular, noncurricular or supplementary to the requirements for the successful completion of a class or educational program. No public school board may require, except as authorized by sections 120.73 and 120.75, the payment of fees.

History: 1974 c 561 s 2

120.73 AUTHORIZED FEES.

Subdivision 1. A school board is authorized to require payment of fees in the following areas:

- (a) in any program where the resultant product, in excess of minimum requirements and at the pupil's option, becomes the personal property of the pupil;
- (b) admission fees or charges for extra curricular activities, where attendance is optional;
- (c) a security deposit for the return of materials, supplies, or equipment;
- (d) personal physical education and athletic equipment and apparel, although any pupil may personally provide it if it meets reasonable requirements and standards relating to health and safety established by the school board;
- (e) items of personal use or products which a student has an option to purchase such as student publications, class rings, annuals, and graduation announcements;

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- (f) fees specifically permitted by any other statute, including but not limited to section 171.04, clause (1);
- (g) field trips considered supplementary to a district educational program;
- (h) any authorized voluntary student health and accident benefit plan;
- (i) for the use of musical instruments owned or rented by the district, a reasonable rental fee not to exceed either the rental cost to the district or the annual depreciation plus the actual annual maintenance cost for each instrument;
- (j) transportation of pupils to and from extra curricular activities conducted at locations other than school, where attendance is optional;
- (k) transportation of pupils to and from school for which aid is not authorized under section 124.223, subdivision 1, and for which levy is not authorized under section 275.125, subdivision 5e, if a district charging fees for transportation of pupils establishes guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay;
- (l) motorcycle classroom education courses conducted outside of regular school hours; provided the charge shall not exceed the actual cost of these courses to the school district.

Subd. 2. Students may be required to furnish personal or consumable items including pencils, paper, pens, erasers and notebooks.

Subd. 2a. Students may be required to furnish their own transportation to and from an instructional community-based employment station which is part of an approved occupational experience secondary vocational program. As an alternative, a school board may require the payment of reasonable fees for transportation to and from these instructional community-based employment stations. This subdivision shall only be applied to students who receive remuneration for their participation in these programs.

Subd. 3. Sections 120.71 to 120.76 shall not preclude the operation of a school store wherein pupils may purchase school supplies and materials.

Subd. 4. A school board may waive any such deposit or fee if any pupil or the pupil's parent or guardian is unable to pay it.

History: 1974 c 561 s 3; 1976 c 271 s 19; 1978 c 764 s 7; 1986 c 444; 1988 c 718 art 2 s 1; 1990 c 562 art 2 s 1

120.74 PROHIBITED FEES.

Subdivision 1. A school board is not authorized to charge fees in the following areas:

- (a) Textbooks, workbooks, art materials, laboratory supplies, towels;
- (b) Supplies necessary for participation in any instructional course except as authorized in sections 120.73 and 120.75;
- (c) Field trips which are required as a part of a basic education program or course;
- (d) Graduation caps, gowns, any specific form of dress necessary for any educational program, and diplomas;
- (e) Instructional costs for necessary school personnel employed in any course or educational program required for graduation;
- (f) Library books required to be utilized for any educational course or program;
- (g) Admission fees, dues, or fees for any activity the pupil is required to attend;
- (h) Any admission or examination cost for any required educational course or program;
- (i) Locker rentals;
- (j) Transportation of pupils (1) for which state transportation aid is authorized pursuant to section 124.223 or (2) for which a levy is authorized under section 275.125, subdivision 5e.

Subd. 2. No pupil's rights or privileges, including the receipt of grades or diplomas

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may be denied or abridged for nonpayment of fees; but this provision shall not prohibit a school district from maintaining any action provided by law for the collection of such fees authorized by sections 120.73 and 120.75.

History: 1974 c 561 s 4; 1976 c 271 s 20; 1988 c 718 art 2 s 2

120.75 HEARING.

Subdivision 1. Prior to the initiation of any fee not authorized or prohibited by sections 120.73 and 120.74, the local school board shall hold a public hearing within the district upon three weeks published notice in the district's official newspaper. The local school board shall notify the state board of any fee it proposes to initiate under this section. If within 45 days of this notification, the state board does not disapprove the proposed fee, the local school board may initiate the proposed fee.

Subd. 2. The state board pursuant to the administrative procedure act, sections 14.001 to 14.69, and consistent with the general policy of section 120.72 shall have the power to specify further authorized and prohibited fees and to adopt rules for the purposes of sections 120.71 to 120.76.

History: 1974 c 561 s 5; 1982 c 424 s 130; 1985 c 248 s 70; 1987 c 384 art 2 s 1; 1990 c 422 s 10

120.76 POST-SECONDARY INSTRUCTIONAL PROGRAMS.

Sections 120.71 to 120.76 shall not be construed to prohibit a school board from charging reasonable fees for goods and services provided in connection with any post-secondary instructional program, including but not limited to vocational technical, veteran farmer cooperative training, and community education programs, and continuing education and evening school programs other than those conducted pursuant to section 124.26.

History: 1974 c 561 s 6; 1975 c 432 s 11; 1980 c 609 art 4 s 22

120.77 [Repealed, 1989 c 329 art 9 s 34]

120.78 Subdivision 1. [Repealed, 1982 c 563 s 17]

Subd. 2. [Repealed, 1981 c 358 art 7 s 31]

120.80 EARLY GRADUATION.

Subdivision 1. Notwithstanding any law to the contrary, any secondary school student who has completed all required courses may, with the approval of the student, the student's parent or guardian, and local school officials, graduate prior to the completion of the school year. General education revenue attributable to the student must be paid as though the student was in attendance for the entire year.

Subd. 2. The commissioner shall promulgate rules setting forth the standards for application for and approval of this early graduation procedure.

History: 1974 c 521 s 7; 1975 c 432 s 12; 1979 c 334 art 1 s 1; 1983 c 216 art 1 s 24; 1983 c 314 art 1 s 22; 1985 c 248 s 70; 1986 c 444; 1988 c 486 s 7

120.801 [Repealed, 1984 c 619 s 17]

120.802 [Repealed, 1984 c 619 s 17]

120.803 [Repealed, 1984 c 619 s 17]

120.804 [Repealed, 1984 c 619 s 17]

120.805 [Repealed, 1984 c 619 s 17]

120.806 [Repealed, 1984 c 619 s 17]

120.81 [Repealed, 1984 c 619 s 17]

120.82 [Repealed, 1983 c 258 s 72]

120.83 [Repealed, 1984 c 619 s 17]

120.84 PERMANENT SCHOOL FUND ADVISORY COMMITTEE.

A state permanent school fund advisory committee is established to advise the department of natural resources on the management of permanent school fund land, which is held in trust for the school districts of the state. The advisory committee shall consist of the following persons or their designees: the chairs of the education committees of the legislature, the chairs of the senate committee on finance and house committee on appropriations, the commissioner of education, one superintendent from a nonmetropolitan district, and one superintendent from a metropolitan area district. The school district superintendents shall be appointed by the commissioner of education.

The advisory committee shall review the policies of the department of natural resources on management of school trust fund lands and shall recommend necessary changes in policy and implementation in order to ensure provident utilization of the permanent school fund lands.

History: 1982 c 548 art 4 s 2; 1986 c 444

120.85 GOAL OF THE PERMANENT SCHOOL FUND.

The legislature intends that it is the goal of the permanent school fund to secure the maximum long-term economic return from the school trust lands consistent with the fiduciary responsibilities imposed by the trust relationship established in the Minnesota Constitution, with sound natural resource conservation and management principles, and with other specific policy provided in state law.

History: 1985 c 116 s 2