

Education Code: Prekindergarten - Grade 12

CHAPTER 120

DEFINITIONS; ATTENDANCE; SPECIAL
EDUCATION; FEES; CQE

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120.01 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]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120.011 [Repealed, 1991 c 265 art 7 s 43]

MISSION, DEFINITIONS**120.0111 MISSION STATEMENT.**

The mission of public education in Minnesota, a system for lifelong learning, is to ensure individual academic achievement, an informed citizenry, and a highly productive work force. This system focuses on the learner, promotes and values diversity, provides participatory decision-making, ensures accountability, models democratic principles, creates and sustains a climate for change, provides personalized learning environments, encourages learners to reach their maximum potential, and integrates and coordinates human services for learners.

History: *1991 c 265 art 7 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120.02 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]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 [Repealed, 1975 c 162 s 42]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 [Repealed, 1975 c 162 s 42]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 [Repealed, 1978 c 706 s 69]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 CHILDREN WITH A DISABILITY, DEFINED.

Subdivision 1. Every child who has a hearing impairment, visual disability, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning disability, or deaf/blind disability and needs special instruction and services, as determined by the standards of the state board, is a child with a disability. 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 child with a disability.

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 child with a disability.

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; 1991 c 265 art 3 s 38*

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- 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 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*

SCHOOL ATTENDANCE

- 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;

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- (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 15 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 15 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.

(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 15 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 March 1 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 15 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, disabling conditions, proficiency in the English language, or previous disciplinary proceedings.

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

Subd. 8a. Exceptions to deadlines. Notwithstanding subdivision 4, the following pupil application procedures apply:

(a) Upon agreement of the resident and nonresident school districts, a pupil may submit an application to a nonresident district after January 15 for enrollment beginning the following school year.

(b) If, as a result of entering into, modifying, or terminating an agreement between school boards, a pupil is assigned after December 1 to a different school for enrollment beginning at any time, the pupil, the pupil's siblings, or any other pupil residing in the pupil's residence may submit an application to a nonresident district at any time before July 1 for enrollment beginning the following school year.

(c) A pupil who becomes a resident of a school district after December 1 may submit an application to a nonresident district on January 15 or any time after that date for enrollment beginning any time before the following December 1.

(d) If the commissioner of education and the commissioner of human rights determine that the policies, procedures, or practices of a school district are in violation of Title VI of the Civil Rights Act of 1964 (Public Law Number 88-352) or chapter 363, any pupil in the district may submit an application to a nonresident district at any time for enrollment beginning at any time.

For exceptions under this subdivision, the applicant, the applicant'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. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

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; 1991 c 130 s 1,2; 1991 c 265 art 2 s 1; art 3 s 38; art 9 s 1; 1992 c 499 art 9 s 1

120.0621 ENROLLMENT OPTIONS PROGRAMS IN BORDER STATES.

Subdivision 1. Options for enrollment in adjoining states. Minnesota pupils and pupils residing in adjoining states may enroll in school districts in the other state according to:

- (1) section 120.08, subdivision 2; or
- (2) this section.

Subd. 2. Pupils in Minnesota. A Minnesota resident pupil may enroll in a school district in an adjoining state if the district is located in a county that borders Minnesota.

Subd. 3. Pupils in bordering states. A non-Minnesota pupil who resides in an adjoining state in a county that borders Minnesota may enroll in a Minnesota school district if either the school board of the district in which the pupil resides or state in which the pupil resides pays tuition to the school district in which the pupil is enrolled. The tuition must be an amount that is at least comparable to the tuition specified in section 120.08, subdivision 1.

Subd. 4. Procedural requirements. Except as otherwise provided in this section, the rights and duties set forth in section 120.062 apply to pupils, parents, and school districts if a pupil enrolls in a nonresident district according to this section.

Subd. 5. **Aid adjustments.** The state of Minnesota shall make adjustments to general education aid, capital expenditure facilities aid, and capital expenditure equipment aid according to sections 124A.036, subdivision 5, and 124.245, subdivision 6, respectively, for the resident district of a Minnesota pupil enrolled in another state according to this section. The state of Minnesota shall reimburse the nonresident district, according to section 120.08, subdivision 1, in which a Minnesota pupil is enrolled according to this section.

Subd. 6. **Effective if reciprocal.** This section is effective with respect to South Dakota upon enactment of provisions by South Dakota that are essentially similar to the rights and duties of pupils residing in districts located in all South Dakota counties that border Minnesota. After July 1, 1993, this section is effective with respect to any other bordering state upon enactment of provisions by the bordering state that are essentially similar to the rights and duties of pupils residing in and districts located in all counties that border Minnesota.

History: 1991 c 265 art 9 s 2

120.064 OUTCOME-BASED SCHOOLS.

Subdivision 1. **Purposes.** The purpose of this section is to:

- (1) improve pupil learning;
- (2) increase learning opportunities for pupils;
- (3) encourage the use of different and innovative teaching methods;
- (4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;
- (5) establish new forms of accountability for schools; or
- (6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

Subd. 2. **Applicability.** This section applies only to outcome-based schools formed and operated under this section.

Subd. 3. **Sponsor.** (a) A school board may sponsor an outcome-based school.

(b) A school board may authorize a maximum of two outcome-based schools. No more than a total of eight outcome-based schools may be authorized. The state board of education shall advise potential sponsors when the maximum number of outcome-based schools has been authorized.

Subd. 4. **Formation of school.** (a) A sponsor may authorize one or more licensed teachers under section 125.05, subdivision 1, to form and operate an outcome-based school subject to approval by the state board of education. The teachers shall organize and operate a school as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.

(b) Before a teacher may begin to form and operate a school, the sponsor must file an affidavit with the state board of education stating its intent to authorize an outcome-based school. The affidavit must state the terms and conditions under which the sponsor would authorize an outcome-based school. The state board must approve or disapprove the sponsor's proposed authorization within 30 days of receipt of the affidavit. Failure to obtain state board approval precludes a sponsor from authorizing the outcome-based school that was the subject of the affidavit.

(c) The teachers authorized to organize and operate a school shall hold an election for members of the school's board of directors. All staff members employed at the school and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school must be a majority of the members of the board of directors.

(d) The sponsor's authorization for an outcome-based school shall be in the form of a written contract signed by the sponsor and the board of directors of the outcome-based school.

Subd. 5. **Contract.** The contract for an outcome-based school shall be in writing and contain at least the following:

- (1) a description of a program that carries out one or more of the purposes in subdivision 1;
- (2) specific outcomes pupils are to achieve under subdivision 10;
- (3) admission policies and procedures;
- (4) management and administration of the school;
- (5) requirements and procedures for program and financial audits;
- (6) how the school will comply with subdivisions 8, 13, 15, and 21;
- (7) assumption of liability by the outcome-based school;
- (8) types and amounts of insurance coverage to be obtained by the outcome-based school; and
- (9) the term of the contract which may be up to three years.

Subd. 6. Advisory committee. (a) The state board of education shall appoint an advisory committee comprised of ten members. At least two members shall be African American, two members shall be American Indian, two members shall be Asian Pacific American, and two members shall be Hispanic. One of each of the two members shall reside within the seven-county metropolitan area and one shall reside within Minnesota but outside of the seven-county metropolitan area. In addition, at least one of each of the two members shall be a parent of a child in any of the grades kindergarten through 12. As least five of the ten members shall have family incomes that would make them eligible for free or reduced school lunches.

(b) Each sponsor listed in subdivision 3 shall request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately Caucasian to establish an outcome-based school in which one-half or more of the pupils are expected to be non-Caucasian.

(c) Each sponsor listed in subdivision 3 may request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately non-Caucasian if requested to do so by the individual or organization.

Subd. 7. Exemption from statutes and rules. Except as provided in this section, an outcome-based school is exempt from all statutes and rules applicable to a school board or school district, although it may elect to comply with one or more provisions of statutes or rules.

Subd. 8. Requirements. (a) An outcome-based school shall meet the same health and safety requirements required of a school district.

(b) The school must be located in Minnesota. Its specific location may not be prescribed or limited by a sponsor or other authority except a zoning authority.

(c) The school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize an outcome-based school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) The primary focus of the school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(e) The school may not charge tuition.

(f) The school is subject to and shall comply with chapter 363 and section 126.21.

(g) The school is subject to and shall comply with the pupil fair dismissal act, sections 127.26 to 127.39, and the Minnesota public school fee law, sections 120.71 to 120.76.

(h) The school is subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit must be consistent with the requirements of sections 121.901 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of education, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(i) The school is a school district for the purposes of tort liability under chapter 466.

Subd. 9. Admission requirements. The school may limit admission to:

(1) pupils within an age group or grade level;

(2) people who are eligible to participate in the high school graduation incentives program under section 126.22;

(3) pupils who have a specific affinity for the school's teaching methods, the school's learning philosophy, or a subject such as mathematics, science, fine arts, performing arts, or a foreign language; or

(4) residents of a specific geographic area if the percentage of the population of non-Caucasian people in the geographic area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, as long as the school reflects the racial and ethnic diversity of that area.

The school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils shall be accepted by lot.

The school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

Subd. 10. Pupil performance. An outcome-based school must design its programs to at least meet the outcomes adopted by the state board of education. In the absence of state board requirements, the school must meet the outcomes contained in the contract with the sponsor. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the state board.

Subd. 11. Employment and other operating matters. The school's board of directors shall employ and contract with necessary teachers, as defined by section 125.03, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The board may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and nonlicensed employees.

The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

Subd. 12. Pupils with a disability. The school must comply with sections 120.03 and 120.17 and rules relating to the education of pupils with a disability as though it were a school district.

Subd. 13. Length of school year. An outcome-based school shall provide instruction each year for at least the number of days required by section 120.101, subdivision 5. It may provide instruction throughout the year according to sections 120.59 to 120.67 or 121.585.

Subd. 14. Reports. An outcome-based school must report at least annually to its sponsor and the state board of education the information required by the sponsor or the state board. The reports are public data under chapter 13.

Subd. 15. Transportation. Transportation for pupils enrolled at a school shall be provided by the district in which the school is located, according to sections 120.062, subdivision 9, and 123.39, subdivision 6, for a pupil residing in the same district in which the outcome-based school is located. Transportation may be provided by the district in which the school is located, according to sections 120.062, subdivision 9, and 123.39, subdivision 6, for a pupil residing in a different district.

Subd. 16. Leased space. The school may lease space from a board eligible to be a sponsor or other public or private nonprofit nonsectarian organization.

Subd. 17. Initial costs. A sponsor may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. A sponsor may not authorize a school before the state board of education has approved the authorization.

Subd. 18. Disseminate information. The department of education must dissemi-

nate information to the public, directly and through sponsors, on how to form and operate an outcome-based school and how to utilize the offerings of an outcome-based school.

Subd. 19. Leave to teach in a school. If a teacher employed by a school district makes a written request for an extended leave of absence to teach at an outcome-based school, the school district must grant the leave. The school district must grant a leave for any number of years requested by the teacher, and must extend the leave at the teacher's request. The school district may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. Except as otherwise provided in this subdivision and except for section 125.60, subdivision 6a, the leave is governed by section 125.60, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the teachers' retirement association account by paying both the employer and employee contributions based upon the annual salary of the teacher for the last full pay period before the leave began. The retirement association may impose reasonable requirements to efficiently administer this subdivision.

Subd. 20. Collective bargaining. Employees of the board of directors of the school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of the school is a public employer, for the purposes of chapter 179A, upon formation of one or more bargaining units at the school. Bargaining units at the school are separate from any other units.

Subd. 21. Causes for nonrenewal or termination. (a) The duration of the contract with a sponsor shall be for the term contained in the contract according to subdivision 5. The sponsor, subject to state board of education approval, may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor or the state board may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the sponsor, or the state board if the state board is acting to terminate a contract, shall notify the board of directors of the school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the school's board of directors may request in writing an informal hearing before the sponsor or the state board within 14 days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor or the state board shall give reasonable notice to the school's board of directors of the hearing date. The sponsor or the state board shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year.

(b) A contract may be terminated or not renewed upon any of the following grounds:

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;
- (3) for violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed, the school shall be dissolved according to the applicable provisions of chapter 308A or 317A.

Subd. 22. Pupil enrollment. If a contract is not renewed or is terminated according to subdivision 21, a pupil who attended the school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 120.062 at any time. Applications and notices required by section 120.062 shall be processed and provided in a prompt manner. The application and notice deadlines in section 120.062 do not apply under these circumstances.

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Subd. 23. **General authority.** The board of directors of an outcome-based school may sue and be sued. The board may not levy taxes or issue bonds.

Subd. 24. **Immunity.** The state board of education, members of the state board, a sponsor, members of the board of a sponsor in their official capacity, and employees of a sponsor are immune from civil or criminal liability with respect to all activities related to an outcome-based school they approve or sponsor. The board of directors shall obtain at least the amount of and types of insurance required by the contract, according to subdivision 5.

History: 1991 c 265 art 3 s 38; art 9 s 3; 1992 c 499 art 12 s 1

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 nonresident school board shall notify the resident school board of the approval.

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; 1991 c 130 s 3

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 placed on unrequested leave of absence by the district as a result of an agreement under this section. A teacher is eligible under this subdivision if the teacher:

- (1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent;
- (2) has a continuing contract with the district according to section 125.12, subdivision 4.

The amount of severance pay shall be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 125.12, subdivision 6a or 6b. If the teacher receives

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severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay is subject to section 465.72. The district may levy annually according to section 124.912, subdivision 1, 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; 1991 c 130 s 37; 1991 c 265 art 6 s 1; 1992 c 499 art 12 s 29*

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 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 classwork 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. MS 1986 [Renumbered 120.101, subd 9]

Subd. 4. MS 1986 [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.

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(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. 5b. Instructional days. Every child required to receive instruction according to subdivision 5 shall receive instruction for at least the number of days per year required in the following schedule:

- (1) 1995-1996, 172;
- (2) 1996-1997, 174;
- (3) 1997-1998, 176;
- (4) 1998-1999, 178;
- (5) 1999-2000, 180;
- (6) 2000-2001, 182;
- (7) 2001-2002, 184;
- (8) 2002-2003, 186;
- (9) 2003-2004, 188; and
- (10) 2004-2005, and later school years, 190.

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
- (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 truant 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: *Ex1959 c 71 art 1 s 10 subds 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; 1991 c 265 art 7 s 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

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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 [Repealed, 1991 c 265 art 11 s 26]

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; 1991 c 265 art 9 s 75; 1992 c 499 art 12 s 28

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

120.13 MS 1988 [Repealed, 1989 c 329 art 9 s 34]

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

120.15 MS 1988 [Repealed, 1989 c 329 art 9 s 34]

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

120.16 MS 1988 [Repealed, 1989 c 329 art 9 s 34]

SPECIAL EDUCATION

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

120.17 CHILDREN WITH A DISABILITY.

Subdivision 1. **Special instruction for children with a disability.** Every district shall provide special instruction and services, either within the district or in another district, for children with a disability who are residents of the district and who are disabled as set forth in section 120.03. Special instruction and services must be provided from birth until September 1 after the child with a disability 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 children with a disability as determined by the state board shall cooperate with other districts to maintain a full range of programs for education and services for children with a disability. 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 pupil with a disability 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 pupil without a disability.

Subd. 2. **Method of special instruction.** (a) Special instruction and services for children with a disability 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:

- (1) in connection with attending regular elementary and secondary school classes;
- (2) establishment of special classes;
- (3) at the home or bedside of the child;
- (4) in other districts;
- (5) 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 child with a disability belongs;
- (6) in a state residential school or a school department of a state institution approved by the commissioner;
- (7) in other states;
- (8) by contracting with public, private or voluntary agencies;
- (9) for children under age five and their families, programs and services established through collaborative efforts with other agencies;
- (10) for children under age five and their families, programs in which children with a disability are served with children without a disability; and
- (11) any other method approved by the commissioner.

(b) 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.

(c) The primary responsibility for the education of a child with a disability 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.

(d) Paragraphs (e) to (i) may be cited as the "blind persons' literacy rights and education act."

(e) The following definitions apply to paragraphs (f) to (i).

"Blind student" means an individual who is eligible for special educational services and who:

- (1) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than 20 degrees; or

(2) has a medically indicated expectation of visual deterioration.

“Braille” means the system of reading and writing through touch commonly known as standard English Braille.

“Individualized education plan” means a written statement developed for a student eligible for special education and services pursuant to this section and section 602(a)(20) of part A of the Individuals with Disabilities Education Act, United States Code, title 20, section 1401(a).

(f) In developing an individualized education plan for each blind student the presumption must be that proficiency in Braille reading and writing is essential for the student to achieve satisfactory educational progress. The assessment required for each student must include a Braille skills inventory, including a statement of strengths and deficits. Braille instruction and use are not required by this paragraph if, in the course of developing the student’s individualized education program, team members concur that the student’s visual impairment does not affect reading and writing performance commensurate with ability. This paragraph does not require the exclusive use of Braille if other special education services are appropriate to the student’s educational needs. The provision of other appropriate services does not preclude Braille use or instruction. Instruction in Braille reading and writing shall be available for each blind student for whom the multidisciplinary team has determined that reading and writing is appropriate.

(g) Instruction in Braille reading and writing must be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student’s peers of comparable ability and grade level.

(h) The student’s individualized education plan must specify:

(1) the results obtained from the assessment required under paragraph (f);

(2) how Braille will be implemented through integration with other classroom activities;

(3) the date on which Braille instruction will begin;

(4) the length of the period of instruction and the frequency and duration of each instructional session;

(5) the level of competency in Braille reading and writing to be achieved by the end of the period and the objective assessment measures to be used; and

(6) if a decision has been made under paragraph (f) that Braille instruction or use is not required for the student:

(i) a statement that the decision was reached after a review of pertinent literature describing the educational benefits of Braille instruction and use; and

(ii) a specification of the evidence used to determine that the student’s ability to read and write effectively without Braille is not impaired.

(i) Instruction in Braille reading and writing is a service for the purpose of special education and services under this section.

(j) Paragraphs (c) to (i) shall not be construed to supersede any rights of a parent or guardian of a child with a disability under federal or state law.

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 children with a disability. 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 children with a disability. 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 students with disabilities 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, community participation, recreation, and leisure and home living. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;

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

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

(4) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability 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 children with a disability 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 children with a disability:

(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 (e) 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) The commissioner shall establish a mediation process to assist parents, school districts, or other parties to resolve disputes arising out of the identification, assessment, or educational placement of children with a disability. The mediation process must be offered as an informal alternative to the due process hearing provided under clause (e), but must not be used to deny or postpone the opportunity of a parent or guardian to obtain a due process hearing.

(e) 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.

(f) The decision of the hearing officer pursuant to clause (e) 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 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 (g).

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.

(g) Any local decision issued pursuant to clauses (e) and (f) 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 independent 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.

(h) 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.

(i) The commissioner of education shall select an individual who has the qualifications enumerated in this paragraph to serve as the hearing review officer:

- (1) the individual must be knowledgeable and impartial;
- (2) the individual must not have a personal interest in or specific involvement with the student who is a party to the hearing;
- (3) the individual must not have been employed as an administrator by the district that is a party to the hearing;
- (4) the individual must not have been involved in the selection of the administrators of the district that is a party to the hearing;
- (5) the individual must not have 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;
- (6) the individual must not have substantial involvement in the development of a state or local policy or procedures that are challenged in the appeal; and
- (7) the individual is not a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, the state department of education, the state board of education, or a parent advocacy organization or group.

(j) In all appeals, the parent or guardian of the pupil with a disability 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.

(k) 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.

(l) 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 child with a disability 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 children with a disability 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 children with a disability. 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 child with a disability 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 children with a disability 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 child with a disability 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 children with a disability, 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 child with a disability temporarily placed in another district for care and treatment shall be determined in the following manner:

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(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 child with a disability 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 child with a disability 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 disabled. 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. Tuition received by the state board, except for tuition received under clause (c), shall be deposited in the state treasury as provided in clause (g).

(c) In addition to the tuition charge allowed in clause (b), the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, if that aide is required by the child's individual education plan. Tuition received under this clause must be used by the academies to provide the required service.

(d) 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 children with a disability 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.

(e) Notwithstanding the provisions of clauses (b) and (d), 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 (d) for providing appropriate educational programs to pupils attending the applicable school.

(f) Notwithstanding the provisions of clauses (b) and (d), 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.

(g) On May 1 of each year, the state board shall count the actual number of Minnesota resident kindergarten and elementary students and the actual number of Minnesota resident secondary students enrolled and receiving education services at the Minnesota state academy for the deaf and the Minnesota state academy for the blind. The state board shall deposit in the state treasury an amount equal to all tuition received less:

(1) the total number of students on May 1 less 175, times the ratio of the number of kindergarten and elementary students to the total number of students on May 1, times the general education formula allowance; plus

(2) the total number of students on May 1 less 175, times the ratio of the number of secondary students on May 1 to the total number of students on May 1, times 1.3, times the general education formula allowance.

(h) The sum provided by the calculation in clause (g), subclauses (1) and (2), must be deposited in the state treasury and credited to the general operation account of the academy for the deaf and the academy for the blind.

(i) There is annually appropriated to the department of education for the Faribault academies the tuition amounts received and credited to the general operation account of the academies under this section. A balance in an appropriation under this paragraph does not cancel but is available in successive fiscal years.

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

Subd. 8a. **Residence of child under special conditions.** The legal residence of a child with a disability 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;
- (3) no other school district residence can be established; or
- (4) parent or guardian having legal custody of the child is an inmate of a Minnesota correctional facility or is a resident of a halfway house under the supervision of the commissioner of corrections;

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 children with a disability 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 pupil with a disability 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 pupil with a disability 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 at least 15 members but not more than 25 is established, in compliance with Public Law Number 102-119, section 682. The members shall be appointed by the governor. Council members shall elect the council chair. The representative of the commissioner of education may not serve as the chair. The council shall be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, three representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations

for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, education, health, human services, and jobs and training, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council shall meet at least quarterly.

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 disabilities 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 disabilities 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 information 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.

Each year by June 1, the council shall recommend to the governor and the commissioners of education, health, human services, commerce, and jobs and training policies for a comprehensive and coordinated system.

Subd. 11b. Responsibilities of county boards and school districts. 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 services, case management, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable children with disabilities to benefit from early intervention services. School districts must be the primary agency in this cooperative effort.

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 children with a disability 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 children with a disability; 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 children with a disability 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 children with a disability 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 children with a disability under age five and their families or as specified in the individual service plan of each child. Special instruction and services for which a child with a disability 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 children with a disability 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 child with a disability.

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 youth with disabilities, 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-secondary education and training institutions; adults with disabilities who have received transition services if such persons are available; parents of youth with disabilities; 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 youth with disabilities 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 individuals with disabilities 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) following procedures determined by the commissioner, prepare a yearly summary assessing the progress of transition services in the community including follow-up of individuals with disabilities who were provided transition services to determine post-school outcomes. The summary must be disseminated to all adult services agencies involved in the planning and to the commissioner of education by October 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; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1*

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 children with a disability. 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; 1991 c 265 art 3 s 38

120.173 ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.

Subdivision 1. Commissioner approval. The commissioner of education may approve applications from school districts to provide prevention services as an alternative to special education and other compensatory programs during three school years. A district with an approved program may provide instruction and services in a regular education classroom to eligible pupils. Pupils eligible to participate in the program are low-performing pupils who, based on documented experience, the professional judgment of a classroom teacher, or a team of licensed professionals, would eventually qualify for special education instruction or related services under section 120.17 if the intervention services authorized by this section were unavailable. Pupils may be provided services during extended school days and throughout the entire year.

Subd. 2. Application contents. The application must set forth:

(1) instructional services available to eligible pupils under section 124.311, subdivision 3, and pupils with a disability under section 120.03;

(2) criteria to select pupils for the program and the assessment procedures to determine eligibility;

(3) involvement in the program of parents of pupils in the program, parent advocates, and community special education advocates;

(4) accounting procedures to document that federal special education money is used to supplement or increase the level of special education instruction and related services provided with state and local revenue, but in no case to supplant the state and local revenue, and that districts are expending at least the amount for special education instruction and related services required by federal law;

(5) the role of regular and special education teachers in planning and implementing the program; and

(6) other information requested by the commissioner.

Subd. 3. Evaluation. The application shall also set forth the review and evaluation procedures to be used by the district addressing at least the following:

(1) the number of pupils with and without a disability served;

(2) the impact of the program on the academic progress and social adjustment of the pupils;

(3) the level of satisfaction teachers, parents, and pupils have with the program;

(4) the effect of the program on the number of referrals for special education, federal chapter 1, and other programs;

(5) the amount of time spent by teachers on procedural activities;

(6) the increased amount of time the pupil is in a regular education classroom; and

(7) cost implications.

Subd. 4. **Review for excess expenditures.** The commissioner shall review each application to determine whether the personnel, equipment, supplies, residential aid, and summer school are necessary to meet the district's obligation to provide special instruction and services to children with a disability according to section 120.17. The commissioner shall not approve revenue for any expenditures determined to be unnecessary.

Subd. 5. **Annual report.** Each year the district must submit to the commissioner a report containing the information described in subdivision 3 and section 124.311, subdivision 7.

Subd. 6. **Pupil rights.** A pupil participating in the program must be individually evaluated according to the pupil's actual abilities and needs. A pupil who is eligible for services under section 120.17 is entitled to procedural protections provided under Public Law Number 94-142 in any matter that affects the identification, evaluation, placement, or change in placement of a pupil. The district must ensure the protection of a pupil's civil rights, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district to become ineligible to participate in the program. Notwithstanding rules of the state board of education, a pupil's rights under this section cannot be waived by the state board.

History: 1991 c 265 art 3 s 3,38

120.18 MS 1957 [Repealed, Ex 1959 c 71 art 8 s 26]

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

120.181 PLACEMENT OF NONHANDICAPPED; EDUCATION AND TRANSPORTATION.

The responsibility for providing instruction and transportation for a pupil without a disability 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 as provided in this section.

(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 pupil without a disability 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. The district of placement may contract with a facility to provide instruction by teachers licensed by the state board of teaching.

(d) When a pupil without a disability 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 for the regular school year and for summer school, excluding transportation costs. When a pupil without a disability is temporarily placed in a

residential program outside the district of residence, the administrator of the court placing the pupil shall send timely written notice of the placement to the district of residence. The district of placement may contract with a residential facility to provide instruction by teachers licensed by the state board of teaching.

(e) The district of residence shall include the pupil in its residence count of pupil units and pay tuition as provided in section 124.18 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; 1991 c 265 art 3 s 4,38; 1992 c 499 art 3 s 8

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 pupils with a disability;
- (2) provide information, consultation, and technical assistance to state and local agencies involved in the delivery of services to pupils with a disability 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; 1991 c 265 art 3 s 38

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

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 PURPOSE OF FLEXIBLE LEARNING YEAR PROGRAMS.

The purpose of sections 120.59 to 120.67 is to authorize districts to evaluate, plan and employ the use of flexible learning year programs. It is anticipated that the open selection of the type of flexible learning 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 learning year plans, flexible all-year plans, and four-day week plans.

History: 1974 c 326 s 2; 1991 c 265 art 9 s 4

120.60 DEFINITION OF FLEXIBLE LEARNING YEAR.

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

History: 1974 c 326 s 3; 1991 c 265 art 3 s 38; art 9 s 5

120.61 ESTABLISHMENT OF FLEXIBLE LEARNING YEAR PROGRAM.

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

History: 1974 c 326 s 4; 1991 c 265 art 3 s 38; art 9 s 6

120.62 DIVISION OF CHILDREN INTO GROUPS.

The board of any district operating a flexible learning year program in one or more of the facilities within the district shall divide the students of each selected facility 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 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; 1991 c 265 art 9 s 7

120.63 PUBLIC HEARING BEFORE IMPLEMENTATION.

Prior to implementing a flexible learning year program in any facility of the district, the board shall negotiate with the teachers, principals, assistant principals, supervisory personnel and employees 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; 1991 c 265 art 9 s 8

120.64 ASSIGNMENT OF TEACHERS.

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

Subd. 2. A full-time teacher currently employed by a district which converts to a flexible learning 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 facilities of the district were maintained during the year preceding implementation of the flexible learning 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 learning 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 learning year program or teaching experience earned during a probationary period the year preceding implementation be lost or impaired upon adoption of a flexible learning 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 learning year shall be acquired in the year of adoption of the flexible program.

Subd. 4. Any district operating a flexible learning year program shall enter into one contract governing the entire learning year with each teacher employed in a flexible program. If individual teachers contract to teach less than a period of 175 days during a learning year, each 175 days of employment accrued during any five-year period after the adoption of a flexible learning 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 learning 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 learning 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 learning year program.

History: 1974 c 326 s 7; 1978 c 764 s 6; 1986 c 444; 1991 c 265 art 9 s 9

120.65 ESTABLISHMENT AND APPROVAL.

The state board of education shall:

- (1) establish standards and requirements for the qualification of districts which may operate on a flexible learning year basis;
- (2) establish standards and evaluation criteria for flexible learning year programs;
- (3) prepare and distribute all necessary forms for application by any district for state authorization for a flexible learning year program;
- (4) review the proposed flexible learning year program of any qualified 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 learning year programs.

History: 1974 c 326 s 8; 1991 c 265 art 9 s 10

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 learning 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 learning 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 learning year program in any district in which the board has not voted to establish, maintain, and operate such a program.

History: 1974 c 326 s 9; 1978 c 706 s 3; 1991 c 265 art 9 s 11

120.67 TERMINATION OF PROGRAM.

The board of any district, with the approval of the state board of education, may terminate a flexible learning year program in one or more of the day or residential facilities for children with a disability 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; 1991 c 265 art 3 s 38; art 9 s 12

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

PUBLIC SCHOOL FEE LAW

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;
- (f) fees specifically permitted by any other statute, including but not limited to section 171.04, subdivision 1, 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 124.226, subdivision 5, 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; 1991 c 130 s 37; 1992 c 499 art 12 s 29

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 124.226, subdivision 5.

Subd. 2. No pupil's rights or privileges, including the receipt of grades or diplomas 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; 1991 c 130 s 37; 1992 c 499 art 12 s 29

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. MS 1981 SUPP [Repealed, 1982 c 563 s 17]

Subd. 2. MS 1980 [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 MS 1990 [Renumbered 124.078]

120.85 MS 1990 [Renumbered 124.079]

120.90 PRODUCTS FROM COUNCIL ON QUALITY EDUCATION MONEY.

Subdivision 1. **Copyright, sale, labels.** Products of projects and programs developed with a grant or loan from the council on quality education, including curriculum and instructional materials, computer and telecommunications software, and associated manuals and reports, may be copyrighted by the department in the name of the state and may be sold. The state shall sell the products at prices that do not exceed the cost of reproduction and distribution. Products sold shall be clearly labeled as products developed pursuant to a grant or loan from the council on quality education.

Subd. 2. [Repealed, 1991 c 265 art 8 s 20]

History: 1983 c 314 art 9 s 6; 1984 c 463 art 7 s 18,19; 1987 c 398 art 8 s 31,32; 1Sp1987 c 4 art 1 s 4,11; 1991 c 130 s 37