

CHAPTER 120

DEFINITIONS; ATTENDANCE; SPECIAL
EDUCATION; FEES; CQE

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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. It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and
- (7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

History: 1995 c 248 art 11 s 9

120.0112 STATE GOALS FOR SYSTEMIC CHANGE USING TECHNOLOGICAL ADVANCES.

The general framework outcomes for technology use in education are:

- (1) all Minnesota educational institutions, libraries, and communities will have access to local, state, and worldwide instructional resources databases;
- (2) development of policies and procedures that assure instructional resource availability to help students successfully achieve education excellence and state standards;
- (3) databases are accessible within each district and on the Internet; and
- (4) development of policies, procedures, and systems that stimulate and promote teacher and student curriculum and learning collaboration.

History: 1Sp1995 c 3 art 12 s 2

120.02 DEFINITIONS.

[For text of subd 1, see M.S.1994]

Subd. 2. "Commissioner" means the commissioner of children, families, and learning.

[For text of subs 3 to 6, see M.S.1994]

Subd. 8. "Department" means the department of children, families, and learning.

[For text of subs 9 to 18, see M.S.1994]

History: *1Sp1995 c 3 art 16 s 13*

120.062 ENROLLMENT OPTIONS PROGRAM.

[For text of subs 2 and 3, see M.S.1994]

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 children, families, and learning. 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 commissioner of children, families, and learning.

(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.

[For text of subs 6 and 7, see M.S.1994]

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 children, families, and learning 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.

[For text of subs 9 to 12, see M.S.1994]

History: 1Sp1995 c 3 art 16 s 13

120.064 RESULTS-ORIENTED CHARTER SCHOOLS.

Subdivision 1. Purposes. (a) 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.

(b) This section does not provide a means to keep open a school that otherwise would be closed. Applicants in these circumstances bear the burden of proving that conversion to a charter school fulfills a purpose specified in this subdivision, independent of the school's closing.

Subd. 2. Applicability. This section applies only to charter schools formed and operated under this section.

Subd. 3. Sponsor. A school board, community college, state university, technical college, or the University of Minnesota may sponsor one or more charter schools.

No more than a total of 40 charter schools may be authorized not more than three of which may be sponsored by public post-secondary institutions. The state board of education shall advise potential sponsors when the maximum number of charter 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 operate a charter school subject to approval by the state board of education. If a school board elects not to sponsor a charter school, the applicant may appeal the school board's decision to the state board of education if two members of the school board voted to sponsor the school. If the state board authorizes the school, the state board shall sponsor the school according to this section. The school shall be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.

(b) Before the operators may form and operate a school, the sponsor must file an affidavit with the state board of education stating its intent to authorize a charter school. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school. The state board must approve or disapprove the sponsor's proposed authorization within 60 days of receipt of the affidavit. Failure to obtain state board approval precludes a sponsor from authorizing the charter school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school shall hold an election for members of the school's board of directors in a timely manner after the school is operating. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors. A provisional board may operate before the election of the school's board of directors. Board of director meetings must comply with section 471.705.

(d) The granting or renewal of a charter by a sponsoring entity shall not be conditioned upon the bargaining unit status of the employees of the school.

Subd. 4a. Conversion of existing schools. A school board may convert one or more of its existing schools to charter schools under this section if 90 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 5. Contract. The sponsor's authorization for a charter school shall be in the form of a written contract signed by the sponsor and the board of directors of the charter school. The contract for a charter 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 charter school;
- (8) types and amounts of insurance coverage to be obtained by the charter school; and
- (9) the term of the contract, which may be up to three years.

Subd. 7. Public status; exemption from statutes and rules. A charter school is a public school and is part of the state's system of public education. Except as provided in this section, a charter school is exempt from all statutes and rules applicable to a school, a school board, or a school district, although it may elect to comply with one or more provisions of statutes or rules.

Subd. 8. Requirements. (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) The school must be located in the sponsoring district, unless another school board agrees to locate a charter school sponsored by another district in its boundaries. If a school

board denies a request to locate within its boundaries a charter school sponsored by another district, the sponsoring district may appeal to the state board of education. If the state board authorizes the school, the state board shall sponsor the school.

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

(d) Charter schools shall not be used as a method of providing education or generating revenue for students who are being home schooled.

(e) The primary focus of a charter 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.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and shall comply with chapter 363 and section 126.21.

(h) A charter 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.

(i) A charter 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 121.904 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of children, families, and learning, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(j) A charter school is a school district for the purposes of tort liability under chapter 466.

Subd. 9. Admission requirements. A charter 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; or

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

A charter 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.

A charter 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. A charter 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. A charter school shall employ or 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 school 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 school 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. A charter 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. A charter 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.** A charter 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.** (a) By July 1 of each year, a charter school shall notify the district in which the school is located and the department of children, families, and learning if it will provide transportation for pupils enrolled at the school for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation shall be provided by the charter school within the district in which the charter school is located. The state shall pay transportation aid to the charter school according to section 124.248, subdivision 1a.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located 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 pupil enrolls in a charter school, the charter school shall provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the 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 charter 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.** A charter school may lease space from a board eligible to be a sponsor or other public or private nonprofit nonsectarian organization. If a charter school is unable to lease appropriate space from an eligible board or other public or private nonprofit nonsectarian organization, the school may lease space from another nonsectarian organization if the department of children, families, and learning, in consultation with the department of administration, approves the lease. If the school is unable to lease appropriate space from public or private nonsectarian organizations, the school may lease space from a sectarian organization if the leased space is constructed as a school facility and the department of children, families, and learning, in consultation with the department of administration, approves the lease.

Subd. 17. **Initial costs.** A sponsor may authorize a charter 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 sponsor, the operators, and the department of children, families, and learning must disseminate information to the public on how to form and operate a charter school and how to utilize the offerings of a charter school. Particular groups to be targeted include low-income families and communities, and students of color.

Subd. 19. **Leave to teach in a charter school.** If a teacher employed by a school district makes a written request for an extended leave of absence to teach at a charter 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 a charter school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of a charter 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 shall be separate from any other units within the sponsoring district, except that bargaining units may remain part of the appropriate unit within the sponsoring district, if the employees of the school, the board of directors of the school, the exclusive representative of the appropriate unit in the sponsoring district, and the board of the sponsoring district agree to include the employees in the appropriate unit of the sponsoring district.

Subd. 20a. Teachers retirement. Teachers in a charter school shall be public school teachers for the purposes of chapters 354 and 354a.

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 may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor 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 shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the sponsor 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 shall give reasonable notice to the charter school's board of directors of the hearing date. The sponsor 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. If the sponsor is a local school board, the school's board of directors may appeal the sponsor's decision to the state board of education.

(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.

Subd. 23. General authority. The board of directors of a charter 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 a charter 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: 1Sp1995 c 3 art 9 s 2; art 16 s 13

120.0751 COMMISSIONER OF CHILDREN, FAMILIES, AND LEARNING; ENROLLMENT EXCEPTIONS.

[For text of subs 1 to 6, see M.S.1994]

History: 1Sp1995 c 3 art 16 s 13

120.101 COMPULSORY INSTRUCTION.

[For text of subds 1 to 5, see M.S.1994]

Subd. 5a. Children under seven. Once a pupil under the age of seven is enrolled in kindergarten or a higher grade in a public school, the pupil is subject to the compulsory attendance provisions of this chapter and section 127.20, unless the school board of the district in which the pupil is enrolled has a policy that exempts children under seven from this subdivision.

In a school district in which children under seven are subject to compulsory attendance under this subdivision, paragraphs (a) to (c) apply.

(a) A parent or guardian may withdraw the pupil from enrollment in the school for good cause by notifying the school district. Good cause includes, but is not limited to, enrollment of the pupil in another school, as defined in subdivision 4, or the immaturity of the child.

(b) When the pupil enrolls, the enrolling official must provide the parent or guardian who enrolls the pupil with a written explanation of the provisions of this subdivision.

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

In a school district that had adopted a policy to exempt children under seven from this subdivision, the school district's chief attendance officer must keep the truancy enforcement authorities supplied with a copy of the school board's current policy certified by the clerk of the school board.

[For text of subd 5b, see M.S.1994]

Subd. 5c. Education records. A school district from which a student is transferring must transmit the student's educational records, within ten business days of a request, to the school district in which the student is enrolling. School districts must make reasonable efforts to determine the school district in which a transferring student is next enrolling in order to comply with this subdivision.

[For text of subds 6 to 10, see M.S.1994]

History: 1Sp1995 c 3 art 9 s 3,4

120.102 REPORTING.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. Reports to the state. A superintendent shall make an annual report to the commissioner of children, families, and learning. 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: 1Sp1995 c 3 art 16 s 13

120.103 ENFORCEMENT AND PROSECUTION.

[For text of subds 1 to 3, see M.S.1994]

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 children, families, and learning.

[For text of subs 5 and 6, see M.S.1994]

History: *1Sp1995 c 3 art 16 s 13*

120.1045 BACKGROUND CHECK.

Subdivision 1. **Background check required.** A school hiring authority shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all individuals who are offered employment in the school. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or cashier's check payable to the bureau of criminal apprehension for the fee for conducting the criminal history background check. A school may charge a person offered employment an additional fee of up to \$2 to cover the school's costs under this section. The superintendent shall perform the background check by retrieving criminal history data maintained in the criminal justice information system computers.

Subd. 2. **Conditional hiring; discharge.** A school hiring authority may hire an individual pending completion of a background check under subdivision 1 but shall notify the individual that the individual's employment may be terminated based on the result of the background check. A school hiring authority is not liable for failing to hire or for terminating an individual's employment based on the result of a background check under this section.

Subd. 3. **Exemption.** The requirements of this section do not apply to hiring authorities of home schools.

History: *1995 c 226 art 3 s 2*

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 children, families, and learning 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: *1Sp1995 c 3 art 16 s 13*

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 attendance officer shall also refer a habitual truant child as defined in section 260.015, subdivision 19, and the child's parent or legal guardian to appropriate services and procedures under chapter 260A, if available within the school district. Attendance officers or other designated school officials shall ensure that the notice required by section 260A.03 for a child who is a continuing truant is sent. The officer shall act under the general supervision of the district superintendent.

History: *1995 c 226 art 3 s 3*

120.17 CHILDREN WITH A DISABILITY.

[For text of subs 1 to 3, see M.S.1994]

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. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the school district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. 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, mediation, or other method of alternative dispute resolution that the parties agree to, if they object to any proposal of which they are notified pursuant to clause (a). The conciliation process or other form of alternative dispute resolution 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 or other alternative dispute resolu-

tion shall be deemed to be satisfied. Notwithstanding other law, in any proceeding following a conciliation conference, the school district must not offer a conciliation conference memorandum into evidence, except for any portions that describe the district's final proposed offer of service. Otherwise, with respect to forms of dispute resolution, mediation, or conciliation, Minnesota Rule of Evidence 408 applies. The department of children, families, and learning may reimburse the districts or directly pay the costs of lay advocates, not to exceed \$150 per dispute, used in conjunction with alternative dispute resolution.

(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.

Within five business days after the request for a hearing, or as directed by the hearing officer, the objecting party shall provide the other party with a brief written statement of particulars of the objection, the reasons for the objection, and the specific remedies sought. The other party shall provide the objecting party with a written response to the statement of objections within five business days of receipt of the statement.

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 children, families, and learning 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 department of children, families, and learning, 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 hearing review officer.

(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.

(m) A school district is not liable for harmless technical violations of this subdivision or rules implementing this subdivision if the school district can demonstrate on a case-by-case basis that the violations did not harm the student's educational progress or the parent or guardian's right to notice, participation, or due process.

(n) Within ten calendar days after appointment, the hearing officer shall schedule and hold a prehearing conference. At that conference, or later, the hearing officer may take any appropriate action that a court might take under Rule 16 of Minnesota Rules of Civil Procedure including, but not limited to, scheduling, jurisdiction, and listing witnesses including expert witnesses.

(o) A hearing officer or hearing review officer appointed under this subdivision shall be deemed to be an employee of the state under section 3.732 for the purposes of section 3.736 only.

(p) In order to be eligible for selection, hearing officers and hearing review officers shall participate in training and follow procedures as designated by the commissioner.

Subd. 3d. Interagency services. If at the time of initial referral for an educational assessment, or a reassessment, the school district determines that a child with disabilities who is age 3 through 21 may be eligible for interagency services, the district may request that the county of residence provide a representative to the initial assessment or reassessment team meeting or the first individual education plan team meeting following the assessment or reassessment. The district may request to have a county representative attend other individual education plan team meetings when it is necessary to facilitate coordination between district and county provided services. Upon request from a school district, the resident county shall provide a representative to assist the individual education plan team in determining the child's eligibility for existing health, mental health, or other support services administered or provided by the county. The individual education plan team and the county representative shall develop an interagency plan of care for an eligible child and the child's family to coordinate services required under the child's individual education plan with county services. The interagency plan of care shall include appropriate family information with the consent of the family, a description of how services will be coordinated between the district and county, a description of service coordinator responsibilities and services, and a description of activities for obtaining third-party payment for eligible services, including medical assistance payments.

[For text of subs 4 to 5a, see M.S.1994]

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:

(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 children, families, and learning 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 children, families, and learning 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. 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 children, families, and learning 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.

[For text of subds 8a to 15, see M.S.1994]

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 postschool outcomes. The summary must be disseminated to all adult services agencies involved in the planning and to the commissioner of children, families, and learning by October 1 of each year.

[For text of subd 18, see M.S.1994]

History: 1Sp1995 c 3 art 3 s 1-3; art 16 s 13

120.1701 INTERAGENCY EARLY CHILDHOOD INTERVENTION SYSTEM.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. State interagency coordinating council. An interagency coordinating council of at least 17, but not more than 25 members 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 children, families, and learning 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, five 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, children, families, and learning, health, human services, and economic security, 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 intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

Each year by June 1, the council shall recommend to the governor and the commissioners of children, families, and learning, health, human services, commerce, and economic security policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the state interagency coordinating council shall expire on June 30, 1997.

[For text of subd 4, see M.S.1994]

Subd. 5. Interagency early intervention committees. (a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, shall establish an interagency early intervention committee for children with disabilities under age five and their families. Committees shall include representatives of local and regional health, education, and county human service agencies; county boards; school boards; early childhood family education programs; parents of young children with disabilities under age 12; current service providers; and may also include representatives from other private or public agencies. The committee shall elect a chair from among its members and shall meet at least quarterly.

(b) The committee shall develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families of available programs and services;

(2) implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities and their families;

(3) establish and evaluate the identification, referral, child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies. Agencies are encouraged to develop individual family service plans for children with disabilities, age three and older;

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

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

(7) identify the current services and funding being provided within the community for children with disabilities under age five and their families;

(8) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law Number 89-313); and

(9) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public.

(c) The local committee shall also:

(1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families;

(2) review and comment on the early intervention section of the total special education system for the district, the county social service plan, the section or sections of the community health services plan that address needs of and service activities targeted to children with special health care needs, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities; and

(3) prepare a yearly summary on the progress of the community in serving young children with disabilities, and their families, including the expenditure of funds, the identification of unmet service needs identified on the individual family services plan and other individualized plans, and local, state, and federal policies impeding the implementation of this section.

(d) The summary must be organized following a format prescribed by the commissioner of the state lead agency and must be submitted to each of the local agencies and to the state interagency coordinating council by October 1 of each year.

The departments of children, families, and learning, health, and human services must provide assistance to the local agencies in developing cooperative plans for providing services.

[For text of subs 6 to 19, see M.S.1994]

Subd. 20. Due process hearings. By July 1, 1994, the departments of children, families, and learning, health, and human services shall develop procedures for hearings.

Subd. 21. Data collection. By July 1, 1994, the departments of children, families, and learning, health, and human services shall develop a plan to collect data about which early intervention services are being provided to children and families eligible under the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and sources of payment for those services.

Subd. 22. State interagency agreement. (a) The commissioners of the departments of children, families, and learning, health, and human services shall enter into an agreement to implement this section and Part H, Public Law Number 102-119, and as required by Code of Federal Regulations, title 34, section 303.523, to promote the development and implementation of interagency, coordinated, multidisciplinary state and local early childhood intervention service systems for serving eligible young children with disabilities, birth through age two, and their families. The agreement must be reviewed annually.

(b) The state interagency agreement shall outline at a minimum the conditions, procedures, purposes, and responsibilities of the participating state and local agencies for the following:

- (1) membership, roles, and responsibilities of a state interagency committee for the oversight of priorities and budget allocations under Part H, Public Law Number 102-119, and other state allocations for this program;
- (2) child find;
- (3) establishment of local interagency agreements;
- (4) review by a state interagency committee of the allocation of additional state and federal early intervention funds by local agencies;
- (5) fiscal responsibilities of the state and local agencies;
- (6) intraagency and interagency dispute resolution;
- (7) payor of last resort;
- (8) maintenance of effort;
- (9) procedural safeguards, including mediation;
- (10) complaint resolution;
- (11) quality assurance;
- (12) data collection;
- (13) an annual summary to the state interagency coordinating council regarding conflict resolution activities including disputes, due process hearings, and complaints; and
- (14) other components of the state and local early intervention system consistent with Public Law Number 102-119.

Written materials must be developed for parents, IEIC's, and local service providers that describe procedures developed under this section as required by Code of Federal Regulations, title 34, section 303.

History: *1Sp1995 c 3 art 16 s 13*

120.173 ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.

Subdivision 1. Commissioner approval. The commissioner of children, families, and learning 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.

[For text of subs 2 to 6, see M.S.1994]

History: *1Sp1995 c 3 art 16 s 13*

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 children, families, and learning 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: *1Sp1995 c 3 art 16 s 13*

120.1811 RESIDENTIAL TREATMENT FACILITIES; EDUCATION.

Subdivision 1. Educational screening. Secure and nonsecure residential treatment facilities licensed by the department of human services or the department of corrections shall screen each juvenile who is held in a facility for at least 72 hours, excluding weekends or holidays, using an educational screening tool identified by the department of children, families, and learning, unless the facility determines that the juvenile has a current individual education plan and obtains a copy of it. The department of children, families, and learning shall develop or identify an education screening tool for use in residential facilities. The tool must include a life skills development component.

Subd. 2. Rulemaking. The state board of education may, in consultation with the commissioners of corrections and human services, make or amend rules relating to education programs in residential treatment facilities, if necessary, to implement this section.

History: *1995 c 226 art 3 s 4; 1Sp1995 c 3 art 16 s 13*

120.183 INTERAGENCY OFFICE ON TRANSITION SERVICES.

The commissioner of children, families, and learning 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: *1Sp1995 c 3 art 16 s 13*

120.73 AUTHORIZED FEES.

[For text of subs 1 to 2a, see M.S.1994]

Subd. 2b. School uniforms. Notwithstanding section 120.74, a school board may require students to furnish or purchase clothing that constitutes a school uniform if the board has adopted a uniform requirement or program for the student's school. In adopting a uniform requirement, the board shall promote student, staff, parent, and community involvement in the program and account for the financial ability of students to purchase uniforms.

[For text of subs 3 and 4, see M.S.1994]

History: *1995 c 226 art 3 s 5*

120.74 PROHIBITED FEES.

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

- (1) textbooks, workbooks, art materials, laboratory supplies, towels;
 - (2) supplies necessary for participation in any instructional course except as authorized in sections 120.73 and 120.75;
 - (3) field trips which are required as a part of a basic education program or course;
 - (4) graduation caps, gowns, any specific form of dress necessary for any educational program, and diplomas;
 - (5) instructional costs for necessary school personnel employed in any course or educational program required for graduation;
 - (6) library books required to be utilized for any educational course or program;
 - (7) admission fees, dues, or fees for any activity the pupil is required to attend;
 - (8) any admission or examination cost for any required educational course or program;
 - (9) locker rentals;
 - (10) transportation of pupils (i) for which state transportation aid is authorized pursuant to section 124.223 or (ii) for which a levy is authorized under section 124.226, subdivision 5.
- (b) Notwithstanding paragraph (a), clauses (1) and (6), a school board may charge fees for textbooks, workbooks, and library books, lost or destroyed by students. The board must annually notify parents or guardians and students about its policy to charge a fee under this paragraph.

[For text of subd 2, see M.S.1994]

History: *1Sp1995 c 3 art 9 s 5*

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, or such notice as is otherwise required for a regular school board meeting given three weeks prior to the hearing on the proposed adoption of the policy.

History: *1Sp1995 c 3 art 9 s 6*