

CHAPTER 125A

**SPECIAL EDUCATION; EARLY CHILDHOOD
INTERVENTION SYSTEM; ACADEMIES FOR
THE DEAF AND BLIND; FUNDING**

125A.023	Coordinated interagency services.	125A.59	Interagency agreement to purchase used assistive technology devices.
125A.05	Method of special instruction.	125A.62	Duties of the board of the Minnesota State Academies.
125A.091	Alternative dispute resolution and due process hearings.	125A.63	Resource centers; deaf or hard of hearing and blind or visually impaired.
125A.12	Attendance in another district.	125A.64	Powers of board of the Minnesota State Academies.
125A.155	Special education reciprocity; commissioner duties.	125A.67	Staff of the academies.
125A.21	Third party payment.	125A.69	Admission standards.
125A.27	Definitions.	125A.70	Expense of pupils.
125A.28	State Interagency Coordinating Council.	125A.73	Duties of state departments.
125A.30	Interagency early intervention committees.	125A.744	Statewide data management system to maximize medical assistance reimbursement.
125A.32	Individualized family service plan.	125A.75	Special education program approval; aid payments; travel aid.
125A.35	Early intervention service dollars.	125A.76	Special education revenue.
125A.37	Payor of last resort.	125A.78	Alternative delivery base revenue adjustment.
125A.39	Local interagency agreements.	125A.79	Special education excess cost aid.
125A.44	Complaint procedure.		
125A.45	Interagency dispute procedure.		
125A.48	State interagency agreement.		
125A.50	Alternative delivery of specialized instructional services.		

125A.023 COORDINATED INTERAGENCY SERVICES.

[For text of subs. 1 to 3, see M.S.2002]

Subd. 4. **State Interagency Committee.** (a) The governor shall convene a 19-member interagency committee to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to 21 with disabilities. The commissioners of commerce, education, health, human rights, human services, economic security, and corrections shall each appoint two committee members from their departments; the Association of Minnesota Counties shall appoint two county representatives, one of whom must be an elected official, as committee members; and the Minnesota School Boards Association, the Minnesota Administrators of Special Education, and the School Nurse Association of Minnesota shall each appoint one committee member. The committee shall select a chair from among its members.

(b) The committee shall:

(1) identify and assist in removing state and federal barriers to local coordination of services provided to children with disabilities;

(2) identify adequate, equitable, and flexible funding sources to streamline these services;

(3) develop guidelines for implementing policies that ensure a comprehensive and coordinated system of all state and local agency services, including multidisciplinary assessment practices for children with disabilities ages three to 21;

(4) develop, consistent with federal law, a standardized written plan for providing services to a child with disabilities;

(5) identify how current systems for dispute resolution can be coordinated and develop guidelines for that coordination;

(6) develop an evaluation process to measure the success of state and local interagency efforts in improving the quality and coordination of services to children with disabilities ages three to 21;

(7) develop guidelines to assist the governing boards of the interagency early intervention committees in carrying out the duties assigned in section 125A.027, subdivision 1, paragraph (b); and

(8) carry out other duties necessary to develop and implement within communities a coordinated, multidisciplinary, interagency intervention service system for children with disabilities.

(c) The committee shall consult on an ongoing basis with the state Education Advisory Committee for Special Education and the governor's Interagency Coordinating Council in carrying out its duties under this section, including assisting the governing boards of the interagency early intervention committees.

Subd. 5. [Repealed, 1Sp2003 c 9 art 3 s 21]

[For text of subs 6 and 7, see M.S.2002]

History: 2003 c 130 s 12

125A.05 METHOD OF SPECIAL INSTRUCTION.

(a) As defined in this section, to the extent required by federal law as of July 1, 1999, 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 must remain with the district of the child's residence regardless of which method of providing special instruction and services is used. If a district other than a child's district of residence provides special instruction and services to the child, then the district providing the special instruction and services must notify the child's district of residence before the child's individual education plan is developed and must provide the district of residence an opportunity to participate in the plan's development. The district of residence must inform the parents of the child about the methods of instruction that are available.

History: 1Sp2003 c 9 art 12 s 12

125A.09 [Repealed, 1Sp2003 c 9 art 3 s 21]

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.

Subdivision 1. **District obligation.** A school district must use the procedures in federal law and state law and rule to reach decisions about the identification, evaluation, educational placement, manifestation determination, interim alternative

educational placement, or the provision of a free appropriate public education to a child with a disability.

Subd. 2. Prior written notice. A parent must receive prior written notice a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education to a child with a disability.

Subd. 3. Content of notice. The notice under subdivision 2 must:

- (1) describe the action the district proposes or refuses;
- (2) explain why the district proposes or refuses to take the action;
- (3) describe any other option the district considered and the reason why it rejected the option;
- (4) describe each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;
- (5) describe any other factor affecting the proposal or refusal of the district to take the action;
- (6) state that the parent of a child with a disability is protected by procedural safeguards and, if this notice is not an initial referral for evaluation, how a parent can get a description of the procedural safeguards; and
- (7) identify where a parent can get help in understanding this law.

Subd. 4. Understandable notice. (a) The written notice under subdivision 2 must be understandable to the general public and available in the parent's native language or by another communication form, unless it is clearly not feasible to do so.

(b) If the parent's native language or other communication form is not written, the district must take steps to ensure that:

- (1) the notice is translated orally or by other means to the parent in the parent's native language or other communication form;
- (2) the parent understands the notice; and
- (3) written evidence indicates the requirements in subdivision 2 are met.

Subd. 5. Initial action; parent consent. The district must not proceed with the initial evaluation 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. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

Subd. 6. Dispute resolution processes; generally. Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes under this section are provided at no cost to the parent.

Subd. 7. Conciliation conference. A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision 2. If the parent refuses district efforts to conciliate the dispute, the conciliation requirement is satisfied. Following a conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.

Subd. 8. Voluntary dispute resolution options. In addition to offering at least one conciliation conference, a district must inform a parent of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under federal

special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.

Subd. 9. Mediation. Mediation is a dispute resolution process that involves a neutral party provided by the state to assist a parent and a district in resolving disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. A mediation process is available as an informal alternative to a due process hearing but must not be used to deny or postpone the opportunity of a parent or district to obtain a due process hearing. Mediation is voluntary for all parties. All mediation discussions are confidential and inadmissible in evidence in any subsequent proceeding, unless the:

- (1) parties expressly agree otherwise;
- (2) evidence is otherwise available; or
- (3) evidence is offered to prove bias or prejudice of a witness.

Subd. 10. Mediated agreements. Mediated agreements are not admissible unless the parties agree otherwise or a party to the agreement believes the agreement is not being implemented, in which case the aggrieved party may enter the agreement into evidence at a due process hearing. The parties may request another mediation to resolve a dispute over implementing the mediated agreement. After a due process hearing is requested, a party may request mediation and the commissioner must provide a mediator who conducts a mediation session no later than the third business day after the mediation request is made to the commissioner.

Subd. 11. Facilitated team meeting. A facilitated team meeting is an IEP, IFSP, or IIP team meeting led by an impartial state-provided facilitator to promote effective communication and assist a team in developing an individualized education plan.

Subd. 12. Impartial due process hearing. (a) A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. The hearing must be held in the district responsible for ensuring that a free appropriate public education is provided according to state and federal law. The proceedings must be recorded and preserved, at state expense, pending ultimate disposition of the action.

(b) The due process hearing must be conducted according to the rules of the commissioner and federal law.

Subd. 13. Hearing officer qualifications. The commissioner must appoint an individual who is qualified under this subdivision to serve as a hearing officer. The hearing officer must:

- (1) be knowledgeable and impartial;
- (2) have no personal interest in or specific involvement with the student who is a party to the hearing;
- (3) not have been employed as an administrator by the district that is a party to the hearing;
- (4) not have been involved in selecting the district administrator who is a party to the hearing;
- (5) have no personal, economic, or professional interest in the outcome of the hearing other than properly administering federal and state laws, rules, and policies;
- (6) have no substantial involvement in developing state or local policies or procedures challenged in the hearing;
- (7) not be a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, or the department if the department is the service provider; and
- (8) not be a current employee or board member of a disability advocacy organization or group.

Subd. 14. Request for hearing. A request for a due process hearing must:

- (1) be in writing;
- (2) describe the nature of the dispute about providing special education services to the student including facts relating to the dispute; and
- (3) state, to the extent known, the relief sought.

Any school district administrator receiving a request for a due process hearing must immediately forward the request to the commissioner. Within two business days of receiving a request for a due process hearing, the commissioner must appoint a hearing officer. The commissioner must not deny a request for hearing because the request is incomplete. A party may disqualify a hearing officer only by affirmatively showing prejudice or bias to the commissioner or to the chief administrative law judge if the hearing officer is an administrative law judge. If a party affirmatively shows prejudice against a hearing officer, the commissioner must assign another hearing officer to hear the matter.

Subd. 15. Prehearing conference. A prehearing conference must be held within five business days of the date the commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by telephone. The hearing officer must create a written verbatim record of the prehearing conference which is available to either party upon request. At the prehearing conference, the hearing officer must:

- (1) identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;
- (2) set a scheduling order for the hearing and additional prehearing activities;
- (3) determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and
- (4) establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

Subd. 16. Burden of proof. The burden of proof at a due process hearing is on the district to demonstrate, by a preponderance of the evidence, that it is complying with the law and offered or provided a free appropriate public education to the child in the least restrictive environment. If the district has not offered or provided a free appropriate public education in the least restrictive environment and the parent wants the district to pay for a private placement, the burden of proof is on the parent to demonstrate, by a preponderance of the evidence, that the private placement is appropriate.

Subd. 17. Admissible evidence. The hearing officer may admit all evidence that possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in conducting their serious affairs. The hearing officer must give effect to the rules of privilege recognized by law and exclude evidence that is incompetent, irrelevant, immaterial, or unduly repetitious.

Subd. 18. Hearing officer authority. (a) A hearing officer must limit an impartial due process hearing to the time sufficient for each party to present its case.

(b) A hearing officer must establish and maintain control and manage the hearing. This authority includes, but is not limited to:

- (1) requiring attorneys representing parties at the hearing, after notice and an opportunity to be heard, to pay court reporting and hearing officer costs, or fines payable to the state, for failing to: (i) obey scheduling or prehearing orders, (ii) appear, (iii) be prepared, or (iv) participate in the hearing process in good faith;
- (2) administering oaths and affirmations;
- (3) issuing subpoenas;
- (4) determining the responsible and providing districts and joining those districts, if not already notified, in the proceedings;

(5) making decisions involving identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability; and

(6) ordering an independent educational evaluation of a child at district expense.

Subd. 19. Expedited due process hearings. A parent has the right to an expedited due process hearing when there is a dispute over a manifestation determination or a proposed or actual placement in an interim alternative educational setting. A district has the right to an expedited due process hearing when proposing or seeking to maintain placement in an interim alternative educational setting. A hearing officer must hold an expedited due process hearing and must issue a decision within ten calendar days of the request for a hearing. A hearing officer may extend by up to five additional calendar days the time for issuing a decision in an expedited due process hearing. All policies in this section apply to expedited due process hearings to the extent they do not conflict with federal law.

Subd. 20. Hearing officer's decision; time period. (a) The hearing officer must issue a decision within 45 calendar days of the date on which the commissioner receives the request for a due process hearing. A hearing officer is encouraged to accelerate the time line to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute. A hearing officer may not extend the time beyond the 45-day period unless requested by either party for good cause shown on the record. Extensions of time must not exceed a total of 30 calendar days unless both parties and the hearing officer agree or time is needed to complete an independent educational evaluation. Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

(b) The hearing officer's decision must:

(1) be in writing;

(2) state the controlling and material facts upon which the decision is made in order to apprise the reader of the basis and reason for the decision; and

(3) be based on local standards, state statute, the rules of the commissioner, and federal law.

Subd. 21. Compensatory educational services. The hearing officer may require the resident or responsible district to provide compensatory educational services to the child if the hearing officer finds that the district has not offered or made available to the child a free appropriate public education in the least restrictive environment and the child suffered a loss of educational benefit. Such services take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding must be based on a present determination of whether the child has suffered a loss of educational benefit.

Subd. 22. Child's educational placement during a due process hearing. (a) Until a due process hearing under this section is completed or the district and the parent agree otherwise, the child must remain in the child's current educational placement and must not be denied initial admission to school.

(b) Until an expedited due process hearing challenging an interim alternative educational placement is completed, the child must remain in the interim alternative educational setting until the decision of the hearing officer or the expiration of the 45 days permitted for an interim alternative educational setting, whichever occurs first, unless the parent and district agree otherwise.

Subd. 23. Implementation of hearing officer order. (a) That portion of a hearing officer's decision granting relief requested by the parent must be implemented upon issuance.

(b) Except as provided under paragraph (a) or the district and parent agree otherwise, following a hearing officer's decision granting relief requested by the district, the child must remain in the current educational placement until the time to request

judicial review under subdivision 24 expires or, if judicial review is requested, at the time the Minnesota Court of Appeals or the federal district court issues its decision, whichever is later.

Subd. 24. Review of hearing officer decisions. The parent or district may seek review of the hearing officer's decision in the Minnesota Court of Appeals or in the federal district court, consistent with federal law. A party must appeal to the Minnesota Court of Appeals within 60 days of receiving the hearing officer's decision.

Subd. 25. Enforcement of orders. The commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer orders.

Subd. 26. Hearing officer and person conducting alternative dispute resolution are state employees. A hearing officer or person conducting alternative dispute resolution under this section is an employee of the state under section 3.732 for purposes of section 3.736 only.

Subd. 27. Hearing officer training. A hearing officer must participate in training and follow procedures established by the commissioner.

Subd. 28. District liability. A district is not liable for harmless technical violations of this section or rules implementing this section if the school district can demonstrate on a case-by-case basis that the violations did not harm a student's educational progress or the parent's right to notice, participation, or due process.

History: *1Sp2003 c 9 art 3 s 9*

125A.12 ATTENDANCE IN ANOTHER DISTRICT.

No resident of a district who is eligible for special instruction and services pursuant to this section may be denied provision of this instruction and service because of attending a public school in another district pursuant to section 123B.88, subdivision 5, if the attendance is not subject to section 124D.06 or 124D.08. 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 must 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 must not pay the cost of transportation provided outside the boundary of the district of residence.

History: *1Sp2003 c 9 art 12 s 13*

125A.155 SPECIAL EDUCATION RECIPROCITY; COMMISSIONER DUTIES.

The commissioner of education must develop a special education reciprocity agreement form. The reciprocity form must specify the procedures used to calculate special education tuition charges for both Minnesota students that are served in other states and for out-of-state students who are served in Minnesota. The commissioner shall attempt to enter into reciprocity agreements with any state that sends students to Minnesota and any state that provides services to Minnesota students.

History: *2003 c 130 s 12*

125A.21 THIRD PARTY PAYMENT.

[For text of subd 1, see M.S.2002]

Subd. 2. Third party reimbursement. (a) Beginning July 1, 2000, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type that may be reimbursable, and shall request, but may not require, updated information after that as needed.

(b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health coverage, a district shall provide an initial written notice to the enrolled child's parent or legal representative of its intent to seek reimbursement from medical assistance or MinnesotaCare for the individual education plan health-related services provided by the district.

(c) The district shall give the parent or legal representative annual written notice of:

(1) the district's intent to seek reimbursement from medical assistance or MinnesotaCare for individual education plan health-related services provided by the district;

(2) the right of the parent or legal representative to request a copy of all records concerning individual education plan health-related services disclosed by the district to any third party; and

(3) the right of the parent or legal representative to withdraw consent for disclosure of a child's records at any time without consequence.

The written notice shall be provided as part of the written notice required by Code of Federal Regulations, title 34, section 300.504.

(d) In order to access the private health care coverage of a child who is covered by private health care coverage in whole or in part, a district must:

(1) obtain annual written informed consent from the parent or legal representative, in compliance with subdivision 5; and

(2) inform the parent or legal representative that a refusal to permit the district or state Medicaid agency to access their private health care coverage does not relieve the district of its responsibility to provide all services necessary to provide free and appropriate public education at no cost to the parent or legal representative.

(e) If the commissioner of human services obtains federal approval to exempt covered individual education plan health-related services from the requirement that private health care coverage refuse payment before medical assistance may be billed, paragraphs (b), (c), and (d) shall also apply to students with a combination of private health care coverage and health care coverage through medical assistance or MinnesotaCare.

(f) In the event that Congress or any federal agency or the Minnesota legislature or any state agency establishes lifetime limits, limits for any health care services, cost-sharing provisions, or otherwise provides that individual education plan health-related services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the amendments to this subdivision adopted in 2002 are repealed on the effective date of any federal or state law or regulation that imposes the limits. In that event, districts must obtain informed consent consistent with this subdivision as it existed prior to the 2002 amendments and subdivision 5, before seeking reimbursement for children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health care coverage.

[For text of subs 3 to 7, see M.S.2002]

History: 1Sp2003 c 9 art 3 s 10

125A.27 DEFINITIONS.

[For text of subs 1 to 6, see M.S.2002]

Subd. 7. Early intervention system. "Early intervention system" means the total effort in the state to meet the needs of eligible children and their families, including, but not limited to:

(1) any public agency in the state that receives funds under the Individuals with Disabilities Education Act, United States Code, title 20, sections 1471 to 1485 (Part C, Public Law 102-119);

(2) other state and local agencies administering programs involved in the provision of early intervention services, including, but not limited to:

(i) the Maternal and Child Health program under title V of the Social Security Act, United States Code, title 42, sections 701 to 709;

(ii) the Individuals with Disabilities Education Act, United States Code, title 20, sections 1411 to 1420 (Part B);

(iii) medical assistance under the Social Security Act, United States Code, title 42, section 1396 et seq.;

(iv) the Developmental Disabilities Assistance and Bill of Rights Act, United States Code, title 42, sections 6021 to 6030 (Part B); and

(v) the Head Start Act, United States Code, title 42, sections 9831 to 9852; and

(3) services provided by private groups or third-party payers in conformity with an individualized family service plan.

Subd. 8. **Eligibility for Part C.** "Eligibility for Part C" means eligibility for early childhood special education under section 125A.02 and Minnesota Rules, part 3252.2335, subpart 1, items A and B.

[For text of subds 9 to 19, see M.S.2002]

History: *1Sp2003 c 9 art 10 s 13*

125A.28 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 102-119, section 682. The members must be appointed by the governor. Council members must elect the council chair. The representative of the commissioner may not serve as the chair. The council must 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, local Head Start 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, a representative from the state agency responsible for child care, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council must meet at least quarterly.

The council must 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.

By September 1, the council must recommend to the governor and the commissioners of education, 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 expires on June 30, 2005.

History: *1Sp2003 c 9 art 3 s 11*

125A.30 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, must establish an Interagency Early Intervention Committee for children with disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local health, education, and county human service agencies, county boards, school boards, early childhood family education programs, Head Start, parents of young children with disabilities under age 12, child care resource and referral agencies, school readiness programs, current service providers, and may also include representatives from other private or public agencies and school nurses. The committee must elect a chair from among its members and must meet at least quarterly.

(b) The committee must 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;

(5) encourage agencies to develop individual family service plans for children with disabilities, age three and older;

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

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

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

(9) 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 C, Public Law 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law 89-313); and

(10) 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; and

(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, the section on children with special needs in the county child care fund plan, sections in Head Start plans on coordinated planning and services for children with special needs, any relevant portions of early childhood education plans, such as early childhood family education or school readi-

ness, or other applicable coordinated school and community plans for early childhood programs and services, 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.

History: *1Sp2003 c 9 art 3 s 12; art 10 s 13*

125A.32 INDIVIDUALIZED FAMILY SERVICE PLAN.

(a) A team must participate in IFSP meetings to develop the IFSP. The team shall include:

- (1) a parent or parents of the child;
- (2) other family members, as requested by the parent, if feasible to do so;
- (3) an advocate or person outside of the family, if the parent requests that the person participate;
- (4) the service coordinator who has been working with the family since the initial referral, or who has been designated by the public agency to be responsible for implementation of the IFSP; and
- (5) a person or persons involved in conducting evaluations and assessments.

(b) The IFSP must include:

- (1) information about the child's developmental status;
- (2) family information, with the consent of the family;
- (3) major outcomes expected to be achieved by the child and the family that include the criteria, procedures, and timelines;
- (4) specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes;
- (5) payment arrangements, if any;
- (6) medical and other services that the child needs, but that are not required under the Individual with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 102-119) including funding sources to be used in paying for those services and the steps that will be taken to secure those services through public or private sources;
- (7) dates and duration of early intervention services;
- (8) name of the service coordinator;
- (9) steps to be taken to support a child's transition from early intervention services to other appropriate services; and
- (10) signature of the parent and authorized signatures of the agencies responsible for providing, paying for, or facilitating payment, or any combination of these, for early intervention services.

History: *1Sp2003 c 9 art 10 s 13*

125A.35 EARLY INTERVENTION SERVICE DOLLARS.

Subdivision 1. **Lead agency; allocation of resources.** The state lead agency must administer the early intervention account that consists of federal allocations. The Part C state plan must state the amount of federal resources in the early intervention account available for use by local agencies. The state lead agency must distribute the funds to the local primary agency based on a December 1 count of the prior year of Part C eligible children for the following purposes:

- (1) as provided in Code of Federal Regulations, title 34, part 303.425, to arrange for payment for early intervention services not elsewhere available, or to pay for services during the pendency of a conflict procedure, including mediation, complaints, due process hearings, and interagency disputes; and
- (2) to support interagency child find system activities.

[For text of subd 2, see M.S.2002]

Subd. 3. **Discretionary funding.** Nothing in this subdivision limits the state lead agency's authority to allocate discretionary federal funds for any purpose consistent with the Individuals with Disabilities Education Act, United States Code, title 20, sections 1471 to 1485 (Part C, Public Law 102-119) and regulations adopted under United States Code, title 20, sections 1471 to 1485.

[For text of subds 4 to 6, see M.S.2002]

History: 1Sp2003 c 9 art 10 s 13

125A.37 PAYOR OF LAST RESORT.

The state lead agency must maintain a reserve account from federal sources to pay for services in dispute or to pay for early intervention services when local agencies have exhausted all other public and private funds available for Part C eligible children.

History: 1Sp2003 c 9 art 10 s 13

125A.39 LOCAL INTERAGENCY AGREEMENTS.

School boards and the county board may enter into agreements to cooperatively serve and provide funding for children with disabilities, under age five, and their families within a specified geographic area.

The local interagency agreement must address, at a minimum, the following issues:

- (1) responsibilities of local agencies on local interagency early intervention committees (IEIC's), consistent with section 125A.38;
- (2) assignment of financial responsibility for early intervention services;
- (3) methods to resolve intraagency and interagency disputes;
- (4) identification of current resources and recommendations about the allocation of additional state and federal early intervention funds under the auspices of United States Code, title 20, section 1471 et seq. (Part C, Public Law 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law 89-313);
- (5) data collection; and
- (6) other components of the local early intervention system consistent with Public Law 102-119.

History: 1Sp2003 c 9 art 10 s 13

125A.44 COMPLAINT PROCEDURE.

(a) An individual or organization may file a written signed complaint with the commissioner of the state lead agency alleging that one or more requirements of the Code of Federal Regulations, title 34, part 303, is not being met. The complaint must include:

- (1) a statement that the state has violated the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 102-119) or Code of Federal Regulations, title 34, section 303; and
- (2) the facts on which the complaint is based.

(b) The commissioner of the state lead agency shall receive and coordinate with other state agencies the review and resolution of a complaint within 60 calendar days according to the state interagency agreement required under section 125A.48. The development and disposition of corrective action orders for nonschool agencies shall be determined by the State Agency Committee (SAC). Failure to comply with corrective orders may result in fiscal actions or other measures.

History: 1Sp2003 c 9 art 10 s 13

125A.45 INTERAGENCY DISPUTE PROCEDURE.

(a) A dispute between a school board and a county board that is responsible for implementing the provisions of section 125A.29 regarding early identification, child and

family assessment, service coordination, and IFSP development and implementation must be resolved according to this subdivision when the dispute involves services provided to children and families eligible under the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 102-119).

(b) A dispute occurs when the school board and county board are unable to agree as to who is responsible to coordinate, provide, pay for, or facilitate payment for services from public and private sources.

(c) Written and signed disputes must be filed with the local primary agency.

(d) The local primary agency must attempt to resolve the matter with the involved school board and county board and may request mediation from the commissioner of the state lead agency for this purpose.

(e) When interagency disputes have not been resolved within 30 calendar days, the local primary agency must request the commissioner of the state lead agency to review the matter with the commissioners of health and human services and make a decision. The commissioner must provide a consistent process for reviewing those procedures. The commissioners' decision is binding subject to the right of an aggrieved party to appeal to the state Court of Appeals.

(f) The local primary agency must ensure that eligible children and their families receive early intervention services during resolution of a dispute. While a local dispute is pending, the local primary agency must either assign financial responsibility to an agency or pay for the service from the early intervention account under section 125A.35. If in resolving the dispute, it is determined that the assignment of financial responsibility was inappropriate, the responsibility for payment must be reassigned to the appropriate agency and the responsible agency must make arrangements for reimbursing any expenditures incurred by the agency originally assigned financial responsibility.

History: *1Sp2003 c 9 art 10 s 13*

125A.47 [Repealed, 1Sp2003 c 9 art 3 s 21]

125A.48 STATE INTERAGENCY AGREEMENT.

(a) The commissioners of the Departments of Education, Health, and Human Services must enter into an agreement to implement this section and Part H, Public Law 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 must 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 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 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: 2003 c 130 s 12

125A.50 ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.

[For text of subs 1 to 5, see M.S.2002]

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 sections 125A.03 to 125A.24 and 125A.65 is entitled to procedural protections provided under United States Code, title 20, section 33, 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 Department of Education, a pupil's rights under this section cannot be waived by the commissioner.

History: 2003 c 130 s 12

125A.59 INTERAGENCY AGREEMENT TO PURCHASE USED ASSISTIVE TECHNOLOGY DEVICES.

[For text of subd 1, see M.S.2002]

Subd. 2. **Liability for used equipment.** The Department of Economic Security and the Department of Education are not liable for any nonconformities in the equipment after it is purchased by the Department of Economic Security, or for injuries arising out of the use of the assistive technology device. This section does not foreclose the child's right to bring suit against the manufacturer, assistive device lessor, or assistive device dealer for nonconformities in or injuries arising out of the use of the assistive technology device.

[For text of subd 3, see M.S.2002]

History: 2003 c 130 s 12

125A.62 DUTIES OF THE BOARD OF THE MINNESOTA STATE ACADEMIES.

Subdivision 1. **Governance.** The board of the Minnesota State Academies shall govern the State Academies for the Deaf and the State Academy for the Blind. The board must promote academic standards based on high expectation and an assessment system to measure academic performance toward the achievement of those standards. The board must focus on the academies' needs as a whole and not prefer one school over the other. The board of the Minnesota State Academies shall consist of nine persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. One member must be from the seven-county metropolitan area, one member must be from greater Minnesota, and one member may be appointed at-large. The board must be composed of:

- (1) one present or former superintendent of an independent school district;
- (2) one present or former special education director;
- (3) the commissioner of education or the commissioner's designee;
- (4) one member of the blind community;
- (5) one member of the deaf community;
- (6) two members of the general public with business, administrative, or financial expertise;
- (7) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Deaf; and
- (8) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Blind.

[For text of subs 2 to 8, see M.S.2002]

History: 2003 c 130 s 12

125A.63 RESOURCE CENTERS; DEAF OR HARD OF HEARING AND BLIND OR VISUALLY IMPAIRED.

Subdivision 1. **Also for multiply disabled.** Resource centers for the deaf or hard of hearing, and the blind or visually impaired, each also serving multiply disabled pupils, are transferred to the Department of Education.

[For text of subs 2 to 4, see M.S.2002]

History: 2003 c 130 s 12

125A.64 POWERS OF BOARD OF THE MINNESOTA STATE ACADEMIES.

[For text of subd 1, see M.S.2002]

Subd. 2. **Get help from department.** The board of the Minnesota State Academies may require the Department of Education to provide program leadership, program monitoring, and technical assistance at the academies.

[For text of subs 3 to 6, see M.S.2002]

History: 2003 c 130 s 12

125A.67 STAFF OF THE ACADEMIES.

[For text of subd 1, see M.S.2002]

Subd. 2. **Teacher standards.** A teacher or administrator at the academies is subject to the licensure standards of the Board of Teaching or the commissioner of education.

[For text of subs 3 to 7, see M.S.2002]

History: 2003 c 130 s 12

125A.69 ADMISSION STANDARDS.

[For text of subs 1 to 3, see M.S.2002]

Subd. 4. **Compulsory attendance.** The compulsory attendance provisions of section 120A.22 apply to attendance at the academies. Attendance may be excused under that section by the commissioner of education or a designee. A person who fails to comply with section 120A.22 is subject to section 120A.26. The academies' administrator must exercise the duties imposed on a superintendent by section 120A.26. Attendance at the Academy for the Deaf or the Academy for the Blind fulfills the requirements of sections 125A.03 to 125A.24 and 125A.65. The academies are subject to sections 121A.40 to 121A.45, the Pupil Fair Dismissal Act of 1970, as amended.

History: 2003 c 130 s 12

125A.70 EXPENSE OF PUPILS.

[For text of subd 1, see M.S.2002]

Subd. 2. **Local social services agency.** If the person liable for support of a pupil cannot support the pupil, the local social services agency of the county of the pupil's residence must do so. The commissioner of education must decide how much the local social services agency must pay. The board of the Minnesota State Academies must adopt rules that tell how the commissioner is to fix the amount. The local social services agency must make the payment to the superintendent of the school district of residence.

[For text of subd 3, see M.S.2002]

History: 2003 c 130 s 12

125A.73 DUTIES OF STATE DEPARTMENTS.

Subdivision 1. **Department of Education.** The Department of Education must assist the board of the Minnesota State Academies in preparing reports on the academies.

[For text of subd 2, see M.S.2002]

History: 2003 c 130 s 12

125A.744 STATEWIDE DATA MANAGEMENT SYSTEM TO MAXIMIZE MEDICAL ASSISTANCE REIMBURSEMENT.

[For text of subd 1, see M.S.2002]

Subd. 2. **Statewide data management system.** The commissioner of education, in cooperation with the commissioner of human services, shall develop a statewide data management system using the educational data reporting system or other existing data management system for school districts and cooperative units to use to maximize medical assistance reimbursement for health and health-related services provided under individual education plans and individual family service plans. The system must be appropriately integrated with state and local existing and developing human services and education data systems. The statewide data management system must enable school district and cooperative unit staff to:

- (1) establish medical assistance billing systems or improve existing systems;
- (2) understand the appropriate medical assistance billing codes for services provided under individual education plans and individual family service plans;
- (3) comply with the Individuals with Disabilities Education Act, Public Law 105-17;
- (4) contract with billing agents; and
- (5) carry out other activities necessary to maximize medical assistance reimbursement.

[For text of subd 3, see M.S.2002]

History: 2003 c 130 s 12

125A.75 SPECIAL EDUCATION PROGRAM APPROVAL; AID PAYMENTS; TRAVEL AID.

[For text of subs 1 to 3, see M.S.2002]

Subd. 4. **Program and aid approval.** Before June 1 of each year, each district providing special instruction and services to children with a disability must submit to the commissioner an application for approval of these programs and their budgets for the next fiscal year. The application must include an enumeration of the costs proposed as eligible for state aid pursuant to this section and of the estimated number and grade level of children with a disability in the district who will receive special instruction and

services during the regular school year and in summer school programs during the next fiscal year. The application must also include any other information deemed necessary by the commissioner for the calculation of state aid and for the evaluation of the necessity of the program, the necessity of the personnel to be employed in the program, for determining the amount which the program will receive from grants from federal funds, or special grants from other state sources, and the program's compliance with the rules and standards of the Department of Education. The commissioner shall review each application to determine whether the program and the personnel to be employed in the program are actually necessary and essential to meet the district's obligation to provide special instruction and services to children with a disability pursuant to sections 125A.03 to 125A.24, 125A.259 to 125A.48, and 125A.65. The commissioner shall not approve aid pursuant to this section for any program or for the salary of any personnel determined to be unnecessary or unessential on the basis of this review. The commissioner may withhold all or any portion of the aid for programs which receive grants from federal funds, or special grants from other state sources. By August 31 the commissioner shall approve, disapprove, or modify each application, and notify each applying district of the action and of the estimated amount of aid for the programs. The commissioner shall provide procedures for districts to submit additional applications for program and budget approval during the fiscal year, for programs needed to meet any substantial changes in the needs of children with a disability in the district. Notwithstanding the provisions of section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid pursuant to this section without proceeding according to section 127A.42 at any time the commissioner determines that the program does not comply with rules of the Department of Education or that any facts concerning the program or its budget differ from the facts in the district's approved application.

[For text of subs 5 to 7, see M.S.2002]

Subd. 8. Litigation and hearing costs. (a) For fiscal year 1999 and thereafter, the commissioner of education, or the commissioner's designee, shall use state funds to pay school districts for the administrative costs of a due process hearing incurred under section 125A.09, subdivisions 6, 10, and 11, including hearing officer fees, court reporter fees, mileage costs, transcript costs, interpreter and transliterator fees, independent evaluations ordered by the hearing officer, and rental of hearing rooms, but not including district attorney fees. To receive state aid under this paragraph, a school district shall submit to the commissioner by August 1 an itemized list of unreimbursed actual costs for fees and other expenses under this paragraph incurred after June 30, 1998, for hearings completed during the previous fiscal year. State funds used for aid to school districts under this paragraph shall be based on the unreimbursed actual costs and fees submitted by a district.

(b) The commissioner shall provide districts with a form on which to annually report litigation costs under this section and shall base aid estimates on preliminary reports submitted by the district during the current fiscal year.

History: 2003 c 130 s 12

125A.76 SPECIAL EDUCATION REVENUE.

Subdivision 1. Definitions. For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" for fiscal year 1998 and later fiscal years means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing direct services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers

and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individual education plans.

(d) "Average daily membership" has the meaning given it in section 126C.05.

(e) "Program growth factor" means 1.046 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

[For text of subs 2 and 3, see M.S.2002]

Subd. 4. State total special education aid. The state total special education aid for fiscal year 2004 equals \$530,642,000. The state total special education aid for fiscal year 2005 equals \$529,164,000. The state total special education aid for later fiscal years equals:

(1) the state total special education aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

Subd. 5. School district special education aid. (a) A school district's special education aid for fiscal year 2000 and later equals the state total special education aid, minus the amount determined under paragraphs (b) and (c), times the ratio of the district's adjusted special education base revenue to the state total adjusted special education base revenue. If the commissioner of education modifies its rules for special education in a manner that increases a district's special education obligations or service requirements, the commissioner shall annually increase each district's special education aid by the amount necessary to compensate for the increased service requirements. The additional aid equals the cost in the current year attributable to rule changes not reflected in the computation of special education base revenue, multiplied by the appropriate percentages from subdivision 2.

(b) Notwithstanding paragraph (a), if the special education base revenue for a district equals zero, the special education aid equals the amount computed according to subdivision 2 using current year data.

(c) Notwithstanding paragraphs (a) and (b), if the special education base revenue for a district is greater than zero, and the base year amount for the district under subdivision 2, paragraph (a), clause (7), equals zero, the special education aid equals the sum of the amount computed according to paragraph (a), plus the amount computed according to subdivision 2, paragraph (a), clause (7), using current year data.

(d) A charter school under section 124D.10 shall generate state special education aid based on current year expenditures for its first four years of operation and only in its fifth and later years shall paragraphs (a), (b), and (c) apply.

[For text of subd 7, see M.S.2002]

History: 2003 c 130 s 12; 1Sp2003 c 9 art 3 s 13,14

125A.78 ALTERNATIVE DELIVERY BASE REVENUE ADJUSTMENT.

[For text of subd 1, see M.S.2002]

Subd. 2. Base revenue adjustment. For the third fiscal year after approval of a district's application, and thereafter, the special education base revenue under section 125A.76, subdivision 1, must be computed based on activities defined as reimbursable under Department of Education rules for special education and nonspecial education students, and additional activities as detailed and approved by the commissioner.

[For text of subd 3, see M.S.2002]

History: 2003 c 130 s 12

125A.79 SPECIAL EDUCATION EXCESS COST AID.

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, and equipment under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" means for fiscal year 1996, the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivision 7, plus the total referendum revenue according to section 126C.17, subdivision 4. For fiscal years 1997 and later, "general revenue" means the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivisions 7 and 8, plus the total referendum revenue minus transportation sparsity revenue minus total operating capital revenue.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.02 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

Subd. 2. [Repealed, 1Sp2003 c 9 art 3 s 21]

Subd. 4. **Tuition.** Notwithstanding sections 125A.03 to 125A.24 and 125A.65, for children who are nonresidents of Minnesota, receive services under section 125A.76, subdivisions 1 and 2, and are placed in the serving school district by court action, the serving school district shall submit unreimbursed tuition bills for eligible services to the Department of Education instead of the resident school district. To be eligible for reimbursement, the serving school district, as part of its child intake procedures, must demonstrate good faith effort to obtain from the placing agency a financial commitment to pay tuition costs.

[For text of subd 5, see M.S.2002]

Subd. 6. **State total special education excess cost aid.** The state total special education excess cost aid for fiscal year 2004 equals \$92,067,000. The state total special education aid for fiscal year 2005 equals \$91,811,000. The state total special education excess cost aid for fiscal year 2006 and later fiscal years equals:

(1) the state total special education excess cost aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

[For text of subds 7 and 8, see M.S.2002]

History: 2003 c 130 s 12; 1Sp2003 c 9 art 3 s 15,16