

tween adoptive parents and any other birth relative or foster parent, unless an action has been filed against the birth parent by a county under chapter 260. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests. The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the petitioners.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

(1) setting aside an adoption decree; or

(2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

(1) the modification is agreed to by the adoptive parent and the birth relative parties to the agreement; or

(2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

Sec. 8. Minnesota Statutes 1998, section 259.60, is amended by adding a subdivision to read:

Subd. 3. **POSTADOPTION REPORT.** If a child is adopted by a resident of this state under the laws of a foreign country or if a resident of this state brings a child into the state under an IR-3 or IR-4 visa issued for the child by the United States Immigration and Naturalization Service, the postadoption reporting requirements of the country in which the child was adopted, applicable at the time of the child's adoption, must be given full faith and credit by the courts of this state and apply to the adoptive placement of that child.

Presented to the governor April 30, 1999

Signed by the governor May 4, 1999, 11:24 a.m.

CHAPTER 123—S.F.No. 296

An act relating to education; modifying special education provisions; providing for rulemaking; amending Minnesota Statutes 1998, sections 121A.41, subdivision 10; 121A.43; 125A.023; 125A.027; 125A.03; 125A.07; 125A.08; 125A.09, subdivisions 1 and 6; 125A.10; 125A.18;

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125A.21, subdivision 2; 125A.24; 125A.30; 125A.33; 125A.44; 125A.52, subdivision 1; and 125A.75, subdivision 8; repealing Laws 1998, chapter 398, article 2, section 53; Minnesota Rules, part 3525.2470.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 121A.41, subdivision 10, is amended to read:

Subd. 10. **SUSPENSION.** "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a pupil student with a disability, school districts must comply with applicable federal law; the student's individual education plan team must meet immediately but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team shall at that meeting; conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

- (1) the parent requests a meeting;
- (2) the student is removed from the student's current placement for five or more consecutive days; or
- (3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

Sec. 2. Minnesota Statutes 1998, section 121A.43, is amended to read:

121A.43 EXCLUSION AND EXPULSION OF PUPILS WITH A DISABILITY.

When a pupil who has an individual education plan is excluded or expelled under sections 121A.40 to 121A.56 for misbehavior that is not a manifestation of the pupil's disability, the district shall continue to provide special education and related services after a period of suspension, if suspension is imposed. The district shall initiate a review of the student's individual education plan within five school days of and conduct a review of the relationship between the student's disability and the behavior subject to disciplinary

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action and determine the appropriateness of the student's education plan before commencing an expulsion, or exclusion, or a suspension.

Sec. 3. Minnesota Statutes 1998, section 125A.023, is amended to read:

125A.023 COORDINATED INTERAGENCY SERVICES.

Subdivision 1. **CITATION.** This section and section 125A.027 shall be cited as the "Interagency Services for Children with Disabilities Act."

Subd. 2. **PURPOSE.** It is the policy of the state to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to ~~22~~ 21 with disabilities.

Subd. 3. **DEFINITIONS.** For purposes of this section and section 125A.027, the following terms have the meanings given them:

(a) "Health plan" means:

(1) a health plan under section 62Q.01, subdivision 3;

(2) a county-based purchasing plan under section 256B.692;

(3) a self-insured health plan established by a local government under section 471.617; or

(4) self-insured health coverage provided by the state to its employees or retirees.

(b) For purposes of this section, "health plan company" means an entity that issues a health plan as defined in paragraph (a).

(c) "Individual interagency intervention plan" means a standardized written plan describing those programs or services and the accompanying funding sources available to eligible children with disabilities.

(d) "Interagency intervention service system" means a system that coordinates services and programs required in state and federal law to meet the needs of eligible children with disabilities ages three to ~~22~~ 21, including:

(1) services provided under the following programs or initiatives administered by state or local agencies:

(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 under United States Code, title 20, chapter 33, subchapter II, sections 1411 to 1420;

(iii) medical assistance under the Social Security Act, United States Code, title 42, chapter 7, subchapter XIX, section 1396, et seq.;

(iv) the Developmental Disabilities Assistance and Bill of Rights Act, United States Code, title 42, chapter 75, subchapter II, sections 6021 to 6030, Part B;

(v) the Head Start Act, United States Code, title 42, chapter 105, subchapter II, sections 9831 to 9852;

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- (vi) rehabilitation services provided under chapter 268A;
 - (vii) Juvenile Court Act services provided under sections 260.011 to 260.301;
 - (viii) the children's mental health collaboratives under section 245.493;
 - (ix) the family service collaboratives under section 124D.23;
 - (x) the family community support plan under section 245.4881, subdivision 4;
 - (xi) the MinnesotaCare program under chapter 256L;
 - (xii) the community health services grants under chapter 145;
 - (xiii) the Community Social Services Act funding under the Social Security Act, United States Code, title 42, sections 1397 to 1397f; and
 - (xiv) the community interagency transition committees under section 125A.22;
- (2) services provided under a health plan in conformity with an individual family service plan or an individual education plan; and
- (3) additional appropriate services that local agencies and counties provide on an individual need basis upon determining eligibility and receiving a request from the interagency early intervention committee and the child's parent.

(e) "Children with disabilities" has the meaning given in section 125A.02.

(f) A "standardized written plan" means those individual services or programs available through the interagency intervention service system to an eligible child other than the services or programs described in the child's individual education plan or the child's individual family service plan.

Subd. 4. STATE INTERAGENCY COMMITTEE. (a) The governor shall convene an 18-member interagency committee to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to 22 ~~21~~ with disabilities. The commissioners of commerce, children, families, and learning, 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 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 22 ~~21~~;

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(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 inter-agency efforts in improving the quality and coordination of services to children with disabilities ages three to ~~22~~ 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. **INTERVENTION DEMONSTRATION PROJECTS.** (a) The commissioner of children, families, and learning, based on recommendations from the state interagency committee, shall issue a request for proposals by January 1, 1999, for grants to the governing boards of interagency intervention committees under section 125A.027 or a combination of one or more counties and school districts to establish five voluntary interagency intervention demonstration projects. One grant shall be used to implement a coordinated service system for all eligible children with disabilities up to age five who received services under sections 125A.26 to 125A.48. One grant shall be used to implement a coordinated service system for a population of minority children with disabilities from ages 12 to ~~22~~ 21, who may have behavioral problems and are in need of transitional services. Each project must be operational by July 1, 1999. The governing boards of the interagency early intervention committees and the counties and school districts receiving project grants must develop efficient ways to coordinate services and funding for children with disabilities ages three to ~~22~~ 21, consistent with the requirements of this section and section 125A.027 and the guidelines developed by the state interagency committee under this section.

(b) The state interagency committee shall evaluate the demonstration projects and provide the evaluation results to interagency early intervention committees.

Subd. 6. **THIRD-PARTY LIABILITY.** Nothing in this section and section 125A.027 relieves a health plan company, third party administrator or other third-party payer of an obligation to pay for, or changes the validity of an obligation to pay for, services provided to children with disabilities ages three to ~~22~~ 21 and their families.

Subd. 7. **AGENCY OBLIGATION.** Nothing in this section and section 125A.027 removes the obligation of the state, counties, local school districts, a regional agency, or a local agency or organization to comply with any federal or state law that mandates responsibility for finding, assessing, delivering, assuring, or paying for education or related services for children with disabilities and their families.

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Sec. 4. Minnesota Statutes 1998, section 125A.027, is amended to read:

125A.027 INTERAGENCY EARLY INTERVENTION COMMITTEE RESPONSIBILITIES.

Subdivision 1. **ADDITIONAL DUTIES.** (a) The governing boards of the interagency early intervention committees are responsible for developing and implementing interagency policies and procedures to coordinate services at the local level for children with disabilities ages three to ~~22~~ 21 under guidelines established by the state interagency committee under section 125A.~~023~~, subdivision 4. Consistent with the requirements in this section and section 125A.023, the governing boards of the interagency early intervention committees shall organize as a joint powers board under section 471.59 or enter into an interagency agreement that establishes a governance structure.

(b) The governing board of each interagency early intervention committee as defined in section 125A.30, paragraph (a), which may include a juvenile justice professional, 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 use of funding by local agencies for these services;

(3) implement 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 ~~22~~ 21;

(4) use a standardized written plan for providing services to a child with disabilities developed under section 125A.023;

(5) access the coordinated dispute resolution system and incorporate the guidelines for coordinating services at the local level, consistent with section 125A.023;

(6) use the evaluation process to measure the success of the local interagency effort in improving the quality and coordination of services to children with disabilities ages three to ~~22~~ 21 consistent with section 125A.023;

(7) develop a transitional plan for children moving from the interagency early childhood intervention system under sections 125A.259 to 125A.48 into the interagency intervention service system under this section;

(8) coordinate services and facilitate payment for services from public and private institutions, agencies, and health plan companies; and

(9) share needed information consistent with state and federal data practices requirements.

Subd. 2. **APPROPRIATE AND NECESSARY SERVICES.** (a) Parents, physicians, other health care professionals including school nurses, and education and human services providers jointly must determine appropriate and necessary services for eligible children with disabilities ages three to ~~22~~ 21. The services provided to the child under this section must conform with the child's standardized written plan. The governing board of an interagency early intervention committee must provide those services contained in a child's individual education plan and those services for which a legal obligation exists.

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(b) Nothing in this section or section 125A.023 increases or decreases the obligation of the state, county, regional agency, local school district, or local agency or organization to pay for education, health care, or social services.

(c) A health plan may not exclude any medically necessary covered service solely because the service is or could be identified in a child's individual family service plan, individual education plan, a plan established under section 504 of the federal Rehabilitation Act of 1973, or a student's individual health plan. This paragraph reaffirms the obligation of a health plan company to provide or pay for certain medically necessary covered services, and encourages a health plan company to coordinate this care with any other providers of similar services. Also, a health plan company may not exclude from a health plan any medically necessary covered service such as an assessment or physical examination solely because the resulting information may be used for an individual education plan or a standardized written plan.

Subd. 3. **IMPLEMENTATION TIMELINE.** By July 1, 2000, all governing boards of interagency early intervention committees statewide must implement a coordinated service system for children up to age five with disabilities consistent with the requirements of this section and section 125A.023 and the evaluation results from the demonstration projects under section 125A.023, subdivision 5. Children with disabilities up to the age of ~~22~~ 21 shall be eligible for coordinated services and their eligibility to receive such services under this section shall be phased in over a four-year period as follows:

- (1) July 1, 2001, children up to age nine become eligible;
- (2) July 1, 2002, children up to age 14 become eligible; and
- (3) July 1, 2003, children up to age ~~22~~ 21 become eligible.

Sec. 5. Minnesota Statutes 1998, section 125A.03, is amended to read:

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.

(a) As defined in paragraph (b), ~~to the extent required in federal law as of July 1, 1999,~~ every district must provide special instruction and services, either within the district or in another district, for children with a disability who are residents of the district and who are disabled as set forth in section 125A.02.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until September July 1 after the child with a disability becomes ~~22~~ 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the state board must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

Sec. 6. Minnesota Statutes 1998, section 125A.07, is amended to read:

125A.07 RULES OF STATE BOARD.

(a) As defined in this paragraph, ~~but not to exceed the extent required by federal law as of July 1, 1999,~~ the state board must adopt rules relative to qualifications of essential

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personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and other necessary rules for instruction of children with a disability. These rules must provide standards and procedures appropriate for the implementation of and within the limitations of sections 125A.08 and 125A.09. These rules must also provide standards for the discipline, control, management, and protection of children with a disability. The state board must not adopt rules for pupils served primarily in the regular classroom establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The state board, in consultation with the departments of health and human services, must adopt permanent rules for instruction and services for children under age five and their families. These rules are binding on state and local education, health, and human services agencies. The state board must adopt rules to determine eligibility for special education services. The rules must include procedures and standards by which to grant variances for experimental eligibility criteria. The state board must, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the board must specify the program standards used to evaluate the request and the reasons for denying the request.

(b) As provided in this paragraph, ~~but not to exceed the extent required by federal law as of July 1, 1999,~~ the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the state board result in one or more of the following outcomes:

- (1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction;
- (2) consistent and uniform access to effective education programs for students with disabilities throughout the state;
- (3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced court actions related to the delivery of special education instruction and services for students with disabilities;
- (4) clear expectations for service providers and for students with disabilities;
- (5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;
- (6) greater focus for the state and local resources dedicated to educating students with disabilities; and
- (7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.

Sec. 7. Minnesota Statutes 1998, section 125A.08, is amended to read:

125A.08 SCHOOL DISTRICT OBLIGATIONS.

(a) As defined in this section, ~~to the extent required by federal law as of July 1, 1999,~~ every district must ensure the following:

- (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 deter-

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mined 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 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 must be agreed upon through the development of an individual education plan. The plan must 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 must 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. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. 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 including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial assessment or reassessment, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) 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;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used 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

(7) 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.

(b) For paraprofessionals employed to work in programs for students with disabilities, the school board in each district shall ensure that:

(1) before or immediately upon employment, each paraprofessional develops sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs of the students with whom the paraprofessional works;

(2) annual training opportunities are available to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with

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whom the paraprofessional works, including understanding disabilities, following lesson plans, and implementing follow-up instructional procedures and activities; and

(3) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

Sec. 8. Minnesota Statutes 1998, section 125A.09, subdivision 1, is amended to read:

Subdivision 1. **DISTRICT OBLIGATION.** As defined in this section, ~~but not to exceed the extent required by federal law as of July 1, 1999,~~ every district must use the following procedures for decisions involving identification, assessment, and educational placement of children with a disability.

Sec. 9. Minnesota Statutes 1998, section 125A.09, subdivision 6, is amended to read:

Subd. 6. **IMPARTIAL DUE PROCESS HEARING.** Parents, guardians, and the district must have an opportunity to obtain an impartial due process hearing initiated and conducted by and in the 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.

A hearing officer may limit an impartial due process hearing to an amount of time sufficient for each party to present its case. The party requesting the hearing shall plead with specificity as to what issues are in dispute and all issues not pleaded with specificity are deemed waived. Parties must limit evidence to the issues specifically pleaded. A hearing officer, at the officer's discretion, may exclude cumulative evidence or may encourage parties to present only essential witnesses.

Within five business days after the request for a hearing, or as directed by the hearing officer, the objecting party must 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 must take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. Within ~~four~~ three business days of the receipt of the request for the hearing, if the parties have not agreed on the hearing officer,

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the board must request the commissioner to appoint a hearing officer from a list maintained for that purpose. If the parties have not agreed upon a hearing officer, and the board has not requested that a hearing officer be appointed by the commissioner within four business days after the receipt of the request, the commissioner shall appoint a hearing officer upon the request of either party. A retired judge, retired court referee, or retired federal magistrate judge who is otherwise qualified under this section and wishes to be a hearing officer may be put on the list. The board must include with the request the name of the person requesting the hearing, the name of the student, the attorneys involved, if any, and the date the hearing request was received. The hearing officer must not be a board member or employee of the district where the child resides or of the child's 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 that 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. Any party to a hearing, except an expedited hearing under federal law, may make and serve upon the opposing party and the commissioner a notice to remove a hearing officer appointed by the commissioner. The notice shall be served and filed within two business days after the party receives notice of the appointment of the hearing officer by the commissioner.

No such notice may be filed by a party against a hearing officer who has presided at a motion or any other proceeding of which the party had notice. A hearing officer who has presided at a motion or other proceeding may not be removed except upon an affirmative showing of prejudice on the part of the hearing officer.

After the party has once disqualified a hearing officer as a matter of right, that party may disqualify the substitute hearing officer only by making an affirmative showing of prejudice or bias to the commissioner, or to the chief administrative law judge if the hearing officer is an administrative law judge.

Upon the filing of a notice to remove or if a party makes an affirmative showing of prejudice against a substitute hearing officer, the commissioner shall assign any other hearing officer to hear the matter.

If the hearing officer requests an independent educational assessment of a child, the cost of the assessment must be at district expense. The proceedings must be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

Sec. 10. Minnesota Statutes 1998, section 125A.10, is amended to read:

125A.10 COORDINATING INTERAGENCY SERVICES.

If at the time of initial referral for an educational assessment, or a reassessment, the 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 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

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county. The individual education plan team and the county representative must 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 must 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. Any state, county, or city government agency responsible for providing services or resources to students with disabilities under this section is subject to the same dispute resolution systems as local school districts, and all such agencies must comply with corrective action requirements that ensue from these systems.

Sec. 11. Minnesota Statutes 1998, section 125A.18, is amended to read:

125A.18 SPECIAL INSTRUCTION; NONPUBLIC SCHOOLS.

No resident of a district who is eligible for special instruction and services under this section may be denied instruction and service on a shared time basis consistent with section 126C.19, subdivision 4, because of attending a nonpublic school defined in section 123B.41, subdivision 9. If a resident pupil with a disability attends a nonpublic school located within the district of residence, the district must provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident pupil with a disability attends a nonpublic school located in another district and if no agreement exists under section 126C.19, subdivision 1 or 2, for providing special instruction and services on a shared time basis to that pupil by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence must provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the district boundary.

Parties serving students on a shared time basis have access to the due process hearing system described under United States Code, title 20, and the complaint system under Code of Federal Regulations, title 34, section 300.660-662. In the event it is determined under these systems that the nonpublic school or staff impeded the public school district's provision of a free appropriate education, the commissioner may withhold public funds available to the nonpublic school proportionally applicable to that student under section 123B.42.

Sec. 12. Minnesota Statutes 1998, section 125A.21, subdivision 2, is amended to read:

Subd. 2. **THIRD PARTY REIMBURSEMENT.** Beginning July 1, 1999 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.

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Districts shall request, but may not require, the child's parent or legal representative to sign a consent form, permitting the school district to apply for and receive reimbursement directly from the insurer or other similar third party, to the extent permitted by the insurer or other third party and subject to their networking credentialing, prior authorization, and determination of medical necessity criteria.

Sec. 13. Minnesota Statutes 1998, section 125A.24, is amended to read:

125A.24 PARENT ADVISORY ~~COMMITTEES~~ COUNCILS.

~~Provisions of Minnesota Rules, part 3525.1100, regarding parent advisory committees apply to local boards or cooperative boards carrying out the provisions of this section. In order to increase the involvement of parents of children with disabilities in district policymaking and decision making, school districts must have a special education advisory council that is incorporated into the district's special education system plan.~~

(1) This advisory council may be established either for individual districts or in cooperation with other districts who are members of the same special education cooperative.

(2) A district may set up this council as a subgroup of an existing board, council, or committee.

(3) At least half of the designated council members must be parents of students with a disability. The number of members, frequency of meetings, and operational procedures are to be locally determined.

Sec. 14. Minnesota Statutes 1998, section 125A.30, is amended to read:

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 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 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;

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(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 H, Public Law Number 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law Number 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, 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.

(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.

Sec. 15. Minnesota Statutes 1998, section 125A.33, is amended to read:

125A.33 SERVICE COORDINATION.

(a) The team developing the IFSP under section 125A.32 must select a service coordinator to carry out service coordination activities on an interagency basis. Service coor-

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dination must actively promote a family's capacity and competency to identify, obtain, coordinate, monitor, and evaluate resources and services to meet the family's needs. Service coordination activities include:

- (1) coordinating the performance of evaluations and assessments;
- (2) facilitating and participating in the development, review, and evaluation of individualized family service plans;
- (3) assisting families in identifying available service providers;
- (4) coordinating and monitoring the delivery of available services;
- (5) informing families of the availability of advocacy services;
- (6) coordinating with medical, health, and other service providers;
- (7) facilitating the development of a transition plan at least ~~six months~~ 90 days before the time the child is no longer eligible for early intervention services, if appropriate;
- (8) managing the early intervention record and submitting additional information to the local primary agency at the time of periodic review and annual evaluations; and
- (9) notifying a local primary agency when disputes between agencies impact service delivery required by an IFSP.

(b) A service coordinator must be knowledgeable about children and families receiving services under this section, requirements of state and federal law, and services available in the interagency early childhood intervention system.

Sec. 16. Minnesota Statutes 1998, section 125A.44, is amended to read:

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 H, Public Law Number 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.

Sec. 17. Minnesota Statutes 1998, section 125A.52, subdivision 1, is amended to read:

Subdivision 1. **EDUCATIONAL SCREENING.** Secure and nonsecure residential treatment facilities licensed by the department of human services or the department of

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corrections must 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, unless the facility determines that the juvenile has a current individual education plan and obtains a copy of it. The department must develop or identify an education screening tool for use in residential facilities. The tool must include a life skills development component.

Sec. 18. Minnesota Statutes 1998, section 125A.75, subdivision 8, is amended to read:

Subd. 8. **LITIGATION AND HEARING COSTS.** (a) For fiscal year 1999 and thereafter, the commissioner of children, families, and learning, 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 at the end of the school year an itemized list of unreimbursed actual costs for fees and other expenses under this paragraph. 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 from previous school years.

(b) ~~For fiscal year 1999 and thereafter, a school district, to the extent to which it prevails under United States Code, title 20, section 1415(i)(3)(B)(D) and Rule 68 of the Federal Rules of Civil Procedure, shall receive state aid equal to 50 percent of the total actual cost of attorney fees incurred after a request for a due process hearing under section 125A.09, subdivisions 6, 9, and 11, is served upon the parties. A district is eligible for reimbursement for attorney fees under this paragraph only if:~~

(1) a court of competent jurisdiction determines that the parent is not the prevailing party under United States Code, title 20, section 1415(i)(3)(B)(D), or the parties stipulate that the parent is not the prevailing party;

(2) the district has made a good faith effort to resolve the dispute through mediation, but the obligation to mediate does not compel the district to agree to a proposal or make a concession; and

(3) the district made an offer of settlement under Rule 68 of the Federal Rules of Civil Procedure.

To receive aid, a school district that meets the criteria of this paragraph shall submit to the commissioner at the end of the school year an itemized list of unreimbursed actual attorney fees associated with a due process hearing under section 125A.09, subdivisions 6, 9, and 11. Aid under this paragraph for each school district is based on unreimbursed actual attorney fees submitted by the district from previous school years.

(c) For fiscal year 1999 and thereafter, a school district is eligible to receive state aid for 50 percent of the total actual cost of attorney fees it incurs in appealing to a court of competent jurisdiction the findings, conclusions, and order of a due process hearing under section 125A.09, subdivisions 6, 9, and 11. The district is eligible for reimbursement under this paragraph only if the commissioner authorizes the reimbursement after evaluating the merits of the case. In a case where the commissioner is a named party in the

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litigation, the commissioner of the bureau of mediation services shall make the determination regarding reimbursement. The commissioner's decision is final.

(d) The commissioner shall provide districts with a form on which to annually report litigation costs under this section and shall base aid estimates on those reports.

Sec. 19. SPECIAL EDUCATION RULES.

Beginning no later than July 1, 1999, the commissioner shall amend Minnesota Rules, chapter 3525, for special education using the expedited process under Minnesota Statutes 1998, section 14.389. In addition to technical changes, corrections, clarifications, and similarly needed revisions, specific rules shall be modified or repealed as indicated below:

- (1) repeal Minnesota Rules, part 3525.0200, subpart 6a, on definition of IEP;
- (2) repeal Minnesota Rules, part 3525.0200, subpart 11a, on definition of parent;
- (3) amend Minnesota Rules, part 3525.0750, to include children enrolled in non-public schools for child find purposes;
- (4) amend Minnesota Rules, part 3525.0800, subpart 8, on district responsibility for choice options in accordance with legislation;
- (5) amend Minnesota Rules, part 3525.0800, subpart 9, on district responsibility for upper age limit in accordance with legislation;
- (6) repeal Minnesota Rules, part 3525.1150;
- (7) amend Minnesota Rules, part 3525.1310, to add program coordination and due process facilitation to list of reimbursable activities;
- (8) amend Minnesota Rules, part 3525.1325, to revise eligibility criteria for autism to reflect professional standards;
- (9) amend Minnesota Rules, part 3525.1327, to make minor revisions necessary to update eligibility criteria for deaf-blindness;
- (10) amend Minnesota Rules, part 3525.1331, to make minor revisions necessary to update eligibility criteria for deaf and hard-of-hearing;
- (11) amend Minnesota Rules, part 3525.1333, to revise eligibility criteria for cognitive impairment to reflect professional standards;
- (12) amend Minnesota Rules, part 3525.1335, to revise eligibility criteria for other health-impaired to reflect professional standards;
- (13) amend Minnesota Rules, part 3525.1337, to make minor revisions necessary to update eligibility criteria for physical impairment;
- (14) amend Minnesota Rules, part 3525.1341, to make minor revisions necessary to update eligibility criteria for specific learning disability;
- (15) amend Minnesota Rules, part 3525.1343, to make minor revisions necessary to update eligibility criteria for speech and language impairments;
- (16) amend Minnesota Rules, part 3525.1345, to make minor revisions necessary to update eligibility criteria for blind and vision impaired;

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(17) amend Minnesota Rules, part 3525.1350, to make minor revisions necessary to update eligibility criteria for early childhood: special education;

(18) amend Minnesota Rules, part 3525.1352, to make minor revisions necessary to update eligibility criteria for developmental adapted physical education: special education;

(19) amend Minnesota Rules, part 3525.1354, to repeal subpart 2 to drop documentation requirement on override decisions;

(20) repeal Minnesota Rules, part 3525.1356, on exit procedures;

(21) amend Minnesota Rules, part 3525.2335, to make minor revisions to update standards for early childhood program options, and repeal subpart 2, item C;

(22) amend Minnesota Rules, part 3525.2340, to revise caseload standard for young children to clarify how caseload is determined and to reflect supervision and safety needs of very small children in various settings;

(23) amend Minnesota Rules, part 3525.2405, to repeal subparts 2 and 3 on reimbursement standards for directors of special education;

(24) repeal Minnesota Rules, part 3525.2420, on variance request for director of special education;

(25) repeal Minnesota Rules, part 3525.2650, as duplicative notice requirements;

(26) repeal Minnesota Rules, part 3525.3000, on periodic reviews and documentation requirement;

(27) repeal Minnesota Rules, part 3525.3150, as duplicative diploma requirements;

(28) repeal Minnesota Rules, part 3525.3200, as duplicative notice requirement;

(29) amend Minnesota Rules, part 3525.3500, to repeal duplicative notice requirements and mandate for districts to initiate a hearing when refusing request for assessment; and

(30) amend Minnesota Rules, parts 3525.3800 to 3525.4700, on due process hearings to make them compatible with state and federal legislation.

The rules that must be repealed under this section remain in effect until repealed through the rulemaking process.

Sec. 20. SPECIAL EDUCATION RULES.

The commissioner shall adopt rules to update Minnesota Rules, chapter 3525, for special education. Provisions of this chapter that exceed federal requirements are deemed valid for the purposes of providing special instruction and services to children with a disability. In addition to technical changes, corrections, clarifications, and similarly needed revisions, specific rules shall be modified or repealed as indicated below:

(1) Minnesota Rules, part 3525.0200, add definition of caseload;

(2) revise Minnesota Rules, part 3525.0550, to update role of IEP manager;

(3) repeal Minnesota Rules, part 3525.1100, subpart 2, item D, on parent advisory council as duplicative;

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(4) Minnesota Rules, part 3525.1329, amend eligibility criteria for emotional or behavior disorders so that the standards reflect severe emotional disorder and professional standards;

(5) amend Minnesota Rules, part 3525.2325, to revise outdated standards for students placed for care and treatment to be compatible with related legislation;

(6) repeal Minnesota Rules, part 3525.2550, on conduct before assessment except for subpart 2, item C;

(7) add a rule to make the responsibilities of the IEP team for assessment, IEP development, and placement decisions consistent with federal requirements;

(8) repeal Minnesota Rules, part 3525.2750, on educational assessment as duplicative;

(9) repeal Minnesota Rules, part 3525.2900, on IEP development and content except subparts 4 and 5 on regulated interventions; and

(10) repeal Minnesota Rules, part 3525.3300, except item B, on contents of notice as duplicative.

The rules that must be repealed under this section remain in effect until repealed through the rulemaking process.

Sec. 21. REPEALER.

Laws 1998, chapter 398, article 2, section 53, and Minnesota Rules, part 3525.2470, are repealed.

Sec. 22. EFFECTIVE DATE.

Sections 1, 2, 5 to 18, 20, and 21 are effective July 1, 1999, except that the requirement under section 3 to provide special instruction and services until the child with a disability becomes 21 years old, instead of 22 years old, is effective July 1, 2002. Sections 3 and 4 are effective July 1, 2002. Section 19 is effective the day following final enactment.

Presented to the governor April 30, 1999

Signed by the governor May 4, 1999, 11:26 a.m.

CHAPTER 124—H.F.No. 92

An act relating to drivers' licenses; modifying required content of petition for seeking judicial review of driver's license revocation for violating implied consent law; allowing judges to order additional discovery in that proceeding; amending Minnesota Statutes 1998, section 169.123, subdivision 5c.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 169.123, subdivision 5c, is amended to read:

Subd. 5c. **PETITION FOR JUDICIAL REVIEW.** (a) Within 30 days following receipt of a notice and order of revocation or disqualification pursuant to this section, a

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