

**CHAPTER 3525**  
**STATE BOARD OF EDUCATION**  
**HANDICAPPED CHILDREN**

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**3525.0200 DEFINITIONS FOR SPECIAL EDUCATION.**

Subpart 1 **Scope.** As used in parts 3525 0200 to 3525.4700, the terms defined in this part have the meanings given them.

Subp. 1a **Assessment.** "Assessment" means an individual educational evaluation of a pupil's performance or development conducted in accordance with recognized professional standards and the provisions of parts 3525.2500 to 3525.2800.

Subp 2 **Days.** "Days" means the days school is in session when used in parts 3525.1100 to 3525.3600 "Days" means calendar days when used in parts 3525 3700 to 3525 4700.

Subp. 3 [Repealed, 8 SR 596]

Subp 4 [Repealed, 8 SR 596]

Subp 5 [Repealed, 8 SR 596]

Subp. 6 [Repealed, 8 SR 596]

Subp. 6a. **Individual education program plan or IEP.** "Individual education program plan" or "IEP" means a written individualized educational plan developed for a pupil. It is based on an assessment of the pupil's performance utilizing licensed personnel, a determination of the pupil's needs in a team process, an identification of appropriate goals and objectives, a selection of teaching strategies designed to enhance learning, delivery of services in an environment which is conducive to learning, and periodic review and evaluation of the pupil's performance.

Subp. 7 [Repealed, 8 SR 596]

Subp. 7a. **Initial formal assessment.** "Initial formal assessment" means the first formal assessment of a pupil provided by the district proposing to conduct the assessment

Subp. 8. [Repealed, 8 SR 596]

Subp 8a **Initial placement.** "Initial placement" means the first special education placement and provision of instruction and related services by the district proposing the placement.

Subp. 8b. **Instruction.** "Instruction" means the action or practice of a teacher.

Subp. 9. [Repealed, 8 SR 596]

Subp. 9a **Management aide or aide.** "Management aide" or "aide" means a person who assists in the provision of special education under the direct supervision of regular teachers, teacher, or related services staff. The primary responsibilities of an aide are to provide physical management and to implement pupil behavior management techniques as determined by the team staff. This person may also provide incidental follow-up instruction and training in conjunction with the primary responsibilities and under the direct supervision of a teacher.

Subp. 10 **Nondiscrimination.** "Nondiscrimination" means a requirement that districts shall:

A: comply with the provisions of Minnesota Statutes, chapter 363 and not discriminate in any manner in the full use of or benefit from any services rendered by an educational institution because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability; and

B. provide procedures that ensure that, in accordance with recognized professional standards, testing and evaluation materials and procedures utilized for the purposes of identification, assessment, classification, educational program plan development, educational placement including special education services, program implementation, review and evaluation, notice and hearing are selected and administered so as not to be discriminatory including cultural discrimination. All such procedures and materials shall take into account the special limitations of handicapped persons and the racial or cultural differences presented by persons and must be justified on the basis of their usefulness in making educational program decisions which will serve the individual pupil.

Subp. 11 [Repealed, 8 SR 596]

Subp. 11a **Parent.** "Parent" or "parents" means the mother, father, guardian, conservator, or surrogate parent for a pupil under age 18. For a pupil over age 18, it means the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator. When the parents are separated or divorced, it means the parent who has the legal right, by court decree or agreement, to determine the pupil's education, even though the pupil may be living with the other parent.

Subp 12. [Repealed, 8 SR 596]

Subp. 13. [Repealed, 8 SR 596]

Subp. 14. [Repealed, 8 SR 596]

Subp. 15. [Repealed, 8 SR 596]

Subp. 15a. **Providing district.** "Providing district" means a district with the responsibility of providing instruction and related services to a pupil.

Subp 16. [Repealed, 8 SR 596]

Subp. 16a. **Pupil.** "Pupil" means a handicapped person eligible for special education according to Minnesota Statutes, sections 120.03 and 120.17. Persons who are pregnant or chemically dependent and do not have a handicapping condition are not handicapped.

Subp. 17. [Repealed, 8 SR 596]

Subp. 17a. **Recognized professional standards.** "Recognized professional standards" means reasonable principles and concepts accepted by acknowledged experts that bear a direct relationship to the particular needs of the pupil.

Subp. 18 [Repealed, 8 SR 596]

Subp. 18a. **Regular education program.** "Regular education program" means the normal early childhood, elementary, secondary, or vocational education offerings, including instruction, training, aids, and services in the classroom or other appropriate places.

Subp. 18b. **Related services.** "Related services" means any specially designed services not provided by regular education or special education instruction to meet the unique needs of a pupil to benefit from the educational program. This includes psychological services, social worker services, occupational therapy, physical therapy, audiology, orientation and mobility training, health services, medical services for diagnostic purposes, music therapy, and other similar services.

Subp. 19. [Repealed, 8 SR 596]

Subp. 19a. **Resident district.** "Resident district" means the district in which the pupil's parent resides, if living, or the guardian, or the district designated by the commissioner as provided in Minnesota Statutes, section 120.17, subdivisions 6 and 8a. It does not mean the district in which a surrogate parent resides.

Subp. 20. [Repealed, 8 SR 596]

Subp. 20a. **Special education.** "Special education" means any specially designated instruction and related services or support services to meet the unique cognitive, affective, or psychomotor needs of a pupil as stated in the IEP.

Subp. 21. [Repealed, 8 SR 596]

Subp. 22. [Repealed, 8 SR 596]

Subp. 23 **Support services.** "Support services" means any specially designed services which assist in the delivery of instruction or related services to a pupil. This includes braillists, interpreter services, management aides, transportation, and other similar services.

Subp. 24 **Teacher.** "Teacher" means a person licensed according to parts 8700.5400 to 8700.5502, or successor rules, by the Board of Teaching to instruct pupils with specific handicapping conditions.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

3525.0500 [Repealed, 8 SR 596]

3525.0600 [Repealed, 8 SR 596]

3525.0900 [Repealed, 8 SR 596]

3525.1000 [Repealed, 8 SR 596]

## APPLICATIONS

### 3525.1100 DISTRICT SPECIAL EDUCATION PLAN.

Each district shall submit to the commissioner the district's plan for providing instruction and related services for all pupils as required by Minnesota Statutes, section 120.17. The plan may represent the plan of a single district or a plan for all of the member districts of a formal special education cooperative. The plan shall be considered as part of the annual school district application for program review, but will not be required to be resubmitted annually. If a cooperative changes administrative organization, it shall submit a revised plan. The new plan must be submitted prior to the beginning of the next school year. The plan shall include descriptions of the district's:

A. study procedures for the identification and assessment of pupils;

B. method of providing the instruction and related services for the identified pupils; and

C. administration and management plan to assure effective and efficient results of items A and B.

On or before January 1, 1978, and as soon as possible after receiving revised plans, the commissioner shall approve or implement appropriate procedures for modification of the district plan. The commissioner may grant the district a reasonable period of time to make necessary modifications of the plan if the commissioner has satisfactory assurances of compliance with standards for the education of pupils.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### **3525.1200 ANNUAL APPLICATION FOR PROGRAMS AND BUDGET.**

**Subpart 1. Regular school term.** Districts shall submit to the commissioner an annual application for the regular school term for program and budget approval necessary to determine the special education aids during the next school year. The commissioner shall approve, disapprove, or modify each application and notify each applying district of the action and the estimated level of education aid to be paid when the first aid payment is made.

**Subp. 2. Summer school term.** Districts shall submit separate applications for program and budget approval for summer school. The commissioner shall approve, disapprove, or modify each application and notify the district of the action and the estimated level of special education aid within 45 days.

**Subp. 3. Amended budget application.** Districts which desire to apply for additional state aid because program and budget modifications are necessary to meet changing needs of pupils shall make an amended application.

**Subp. 4. District compliance.** Districts shall assure that they are in compliance with state and federal statutes and rules relating to the education of pupils.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### **3525.1300 [Repealed, 8 SR 596]**

### **3525.1310 STATE AID FOR SPECIAL EDUCATION PERSONNEL.**

Salaries for essential personnel who are teachers, related services and support services staff members, directors, and supervisors are reimbursable for the following activities:

- A. child find and pupil identification;
- B. necessary short-term activities to determine whether referrals for assessments shall be made;
- C. assessment and IEP planning for individual pupils;
- D. instruction or related and support services to pupils who have an IEP;
- E. necessary follow-up activities after termination from special education;
- F. parental involvement and due process;
- G. personnel development;
- H. special education curriculum development;
- I. special education program evaluation;
- J. supervision and administration of the total special education system;
- K. school psychological services and school social worker services provided alone or in conjunction with the instructional program;
- L. other related services provided in conjunction with the instructional program.

**Statutory Authority:** *MS s 120 17 subd 3*

**History:** *8 SR 596*

### 3525.1320 EXPERIMENTAL PROPOSAL.

Subpart 1. **General requirements.** The State Board of Education shall approve or disapprove a district's experimental proposal for exemption from its rules. No exemption shall be given from federal regulations, Minnesota Statutes, part 3525.1500, subpart 1, and part 3525.2350, subpart 2. A proposal shall be designed to accomplish at least one of the following:

- A. improved instructional quality;
- B. increase cost effectiveness, or
- C. make better use of community resources or available technology.

Subp. 2. **Proposal requirements.** When a district applies for exemption it shall submit a proposal which sets forth:

- A. the proposal's goals and objectives;
- B. the method by which the proposal will improve effectiveness and efficiency;
- C. annual review procedures for up to three years;
- D. rules from which it seeks exemption;
- E. evidence that the district staff and parents, who would be affected, participated in the development and will participate in the annual review of the proposal, and that the proposal has the approval of the district school board;

F. evidence that the parents whose children would be involved will be fully informed at the team meeting and will have the opportunity to approve or disapprove placement in the experimental program; and

G. the annual evaluation procedures to be used to demonstrate attainment of the proposal goals and objectives, and the effectiveness of the proposal.

Subp 3 **Three-year review.** The state board shall approve, disapprove, or modify continuation of the experimental proposal after three years.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

## FACILITIES AND STAFF

### 3525.1400 FACILITIES.

Classrooms and other facilities in which pupils receive instruction, related services, and support services shall: be accessible as defined in Code of Federal Regulations, title 34, section 104; be essentially equivalent to the regular education program; provide an atmosphere that is conducive to learning; and meet the pupils' special physical, sensory, and emotional needs.

The necessary special equipment and instructional materials shall be supplied to provide instruction, related services, and support services.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### 3525.1500 STAFF.

Subpart 1. **Teachers.** Every teacher shall hold a license appropriate to the handicapping condition of the pupil taught except as designated in part 3525.2350.

Subp. 2. **Directors.** Every director and assistant director shall hold an appropriate supervisory license for general special education or supervisory license for one or more program areas.

Subp. 3. **Other supervisory personnel.** Every supervisor shall hold either an appropriate supervisory license for one or more program areas coordinated or supervised, or an appropriate license for general special education supervision.

Subp. 4. **Related services staff.** Every related services staff member shall hold an appropriate license issued by the Board of Teaching or the State Board of Education. When such license is not available, related services staff shall meet recognized professional standards which shall be documented by the district.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

### 3525.1510 PERSONNEL VARIANCES.

A district may apply to the commissioner of education for and the commissioner shall grant a variance from part 3525.1500, subparts 1 to 3 with regard to its employees for one year or less when:

A. the district has made documented attempts to employ an appropriately licensed person and none are available; and

B. the person who will be employed holds any license issued by the Board of Teaching or the State Board of Education.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

### 3525.1550 CONTRACTED SERVICES.

When contracting for assessments, instruction, or related services, a district shall contract with personnel who hold licenses issued by the Board of Teaching or State Board of Education. If either board does not issue a license for a necessary related service, the district shall contract with personnel who are members in good standing of professional organizations which regulate the conduct of its members and set standards for that profession.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

3525.1700 [Repealed, 8 SR 596]

3525.1800 [Repealed, 8 SR 596]

3525.1900 [Repealed, 8 SR 596]

3525.2000 [Repealed, 8 SR 596]

3525.2100 [Repealed, 8 SR 596]

3525.2200 [Repealed, 8 SR 596]

## TREATMENT PROGRAMS AND LEVELS OF SERVICE

### 3525.2320 PUPILS PLACED FOR CARE AND TREATMENT:

Subpart 1. **Handicapped pupil placement; when district services required.** A district must provide regular education, instruction, and related services in a facility or home to a pupil placed there for care and treatment. The services must be provided to a pupil who is:

A. prevented from attending the usual school site for 15 consecutive days; or

B. other health-impaired and predicted by the team to be absent from the usual school site for 15 intermittent days.

The services must be provided as required by the pupil's IEP, and to the extent that treatment considerations allow the pupil to participate. The services also must be provided for each day the pupil would otherwise attend the usual school site.

**Subp. 2. Handicapped pupil placement; minimum hours of service required.** The team must predict how long the pupil will be restricted because of treatment from leaving the facility or home on a daily basis. If the prediction is for a restricted period of more than 175 days or its equivalent, exclusive of summer school, an average of at least three hours of services must be provided. If the predicted restricted period is 175 days, or its equivalent, exclusive of summer school, or shorter, an average of at least one hour of services must be provided.

**Subp. 3. Handicapped pupil; consideration of school site placement.** If the team concludes a pupil can benefit from an average of more than three hours of services, it must consider placement at a school site.

**Subp. 4. Handicapped pupil placement; due process required.** The district shall comply with the due process procedures of parts 3525.2500 to 3525.4700.

**Subp. 5. Handicapped pupil placement; notice; team meeting.** The placing agency or the providing district shall hold a team meeting as soon as possible after a pupil has been placed for care and treatment. At least the following persons shall receive written notice to attend: the person or agency placing the pupil, the resident district, the appropriate teachers and related services staff from the providing district, the parents, and, when appropriate, the pupil. This team meeting may be held in conjunction with a meeting called by the placing agency according to Minnesota Statutes, section 124.2133, subdivision 4.

**Subp. 6. Handicapped pupil placement; IEP required.** The IEP developed by the team shall include the provisions of part 3525.2900, the location of the instruction and related services, the projected duration of the instruction and related services, and provisions for coordinating the care and treatment and the instruction and related services.

**Subp. 7. Handicapped pupil placement; notice of anticipated return.** When possible, a notice of discharge from the facility and anticipated return to the resident district shall be given by the providing district to the resident district.

**Subp. 8. Handicapped pupil placement; aid for special education only.** When regular education, instruction, and related services are provided, only the special education portion shall be reimbursed with special education aid. When placement is made by a noneducational agency, the cost of care and treatment for which a child is placed shall not be reimbursed with special education aid, nor is such expense assessable against the resident district.

**Subp. 9. Nonhandicapped pupil placement.** Nonhandicapped pupils who are anticipated to be absent 15 consecutive or intermittent days or more and who are suspected to have a handicapping condition shall receive an assessment.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### **3525.2330 EARLY CHILDHOOD PROGRAM ALTERNATIVES.**

**Subpart 1. Instruction and related services required.** If a district provides permissive special education to pupils under four years old, the pupils shall be provided instruction and related services in one or more early childhood program alternatives. If pupils are four years old but less than seven years old on September 1 of any year, the district shall provide services in one or more early childhood program alternatives or in one or more school-age levels of service in part 3525.2340, subpart 2.

**Subp. 2. Program alternatives.** The following are early childhood program alternatives:

A. A consultation and indirect services program includes ongoing progress review, cooperative planning, demonstration teaching, modification and adaptation of the curriculum, supportive materials, and equipment. The services are provided to teachers, related services staff, support staff, parents, and public and nonpublic agencies to the extent that the services are related to the pupil's special education.

B. In a center-based program, a pupil is enrolled in a district-operated center and receives instruction and related services at the center.

C. In a home-based program, a pupil receives special education in the home.

Subp. 3. **Case loads for early childhood program alternatives.** The following table sets forth the maximum number of pupils that may be assigned to a teacher's case load for the early childhood program alternatives. "Case load" means the number of pupils taught.

Consultation and indirect services program	24
Center-based program	
Deaf/blind, autistic, or severely multiply handicapped	
One class, with one aide	4
One class, with two aides	6
More than one class, with one aide	8
More than one class, with two aides	12
All other disabilities	
One class, with one aide	8
More than one class, with one aide	16
Home-based program	12

Subp. 4. **Early childhood teams.** A district may assign one full-time teacher, one full-time related services staff member, and one full-time aide as a team per class in an early childhood center-based program. Other related and support services shall also be provided as appropriate. The district may assign for one class not more than an average of eight pupils per teacher and related services staff nor more than 16 pupils to an individual team.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

### 3525.2340 SCHOOL-AGE LEVELS OF SERVICE.

Subpart 1. **Instruction and related services required.** If a pupil is school-age and is not provided instruction and related services in an early childhood program alternative, the pupil shall be provided instruction and related services in one or more levels of service.

Subp. 2. **Levels of service.** The following are levels of service:

A. In level 1 a nonhandicapped pupil is placed in a regular classroom and does not receive special education, or is not enrolled in school. This level includes assessment services, monitoring, observation, and follow-up.

B. In level 2 a pupil is placed in a regular classroom. Instruction and related services are provided indirectly through the regular teacher, teachers, parents, or other persons who have direct contact with the pupil. The consultation and indirect services include ongoing progress review; cooperative planning; demonstration teaching; modification and adaptation of the curriculum, supportive materials, and equipment; and direct contact with the pupil for monitoring, observation, and follow-up.



C In level 3 a pupil receives direct instruction from a teacher, or related services from a related services staff member for less than one-half of the day. Consultation and indirect services are included

D. In level 4 a pupil receives direct instruction from a teacher for one-half day to less than full time. Consultation and indirect services are included.

E. In level 5 a pupil receives full-time direct instruction from a teacher within a district building, day school, or special station or facility. Integrated activities solely for socialization or enrichment, and related services are excluded when determining full time. Consultation and indirect services are included.

F In level 6 a pupil is placed in a residential facility and receives direct instruction from a teacher. Consultation and indirect services are included.

Subp. 3. **Case loads for school-age levels of service.** The following table sets forth by levels of service the maximum number of school-age pupils that may be assigned to a teacher. "Case load" means the number of pupils taught

Level 2

Speech and language handicapped and developmental adaptive physical education	60
All other disabilities	30

Level 3

Speech and language handicapped and developmental adaptive physical education	40
All other disabilities	18

Level 4

Deaf/blind, autistic, or severely multiply handicapped	3
With one aide	6
Mildly mentally handicapped or specific learning disabled	12
With one aide	15
All other disabilities	8
With one aide	10
With two aides	12

Levels 5 and 6

Deaf/blind, autistic, or severely multiply handicapped	
With one aide	4
With two aides	6
All other disabilities	
With one aide	8

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

**3525.2350 MULTIDISABILITY TEAM TEACHING.**

Subpart 1. **Team staff.** A district may assign one or more full-time teachers and up to an equal number of full-time related services staff as a team to provide instruction and related services to school-age pupils. Other related and support services shall also be provided as appropriate.

Subp. 2. **License requirement.** There must be a teacher on the team who is licensed in the disability area of each pupil served by the team.

Subp. 3. **Team member responsibility.** The team member licensed in a pupil's disability shall be responsible for that pupil's reassessment, IEP development and coordination, periodic and annual reviews, and ongoing consultation and indirect services as defined in part 3525.2340, subpart 2, item B, to the teacher providing instruction. The frequency and progress documentation of the specific consultation and indirect services shall be included in the pupil's IEP.

Subp. 4. **Implementation.** Pupils may receive instruction and related services from any or all of the team members with appropriate skills. The instruction and related services provided by each team member shall be included in the IEP. Team teaching may be implemented in one or more levels of service.

Subp. 5. **Case loads.** The total case load assigned to the team shall not exceed the case loads at the appropriate level of service set forth in part 3525.2340, subpart 3, times the full-time teachers and related services staff members assigned to the team. In counting the total case load for the team, case loads for speech and language handicapped and developmental adaptive physical education shall be excluded. An aide or aides shall be a part of the team when designated in part 3525.2340, subpart 3, but shall not be counted when determining case loads for related services staff members

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

### 3525.2360 SINGLE DISABILITY CASE MANAGEMENT SERVICES.

Subpart 1. **Services included.** Case management may include: initial screening and assessment; development, coordination, and implementation of the individual IEP; compliance with procedural requirements, communication coordination among home, regular, and special education programs; placement facilitation; and coordination and scheduling of team meetings, periodic reviews, and follow-up reviews. It does not include direct instruction to pupils.

Subp. 2. **Teacher assignment.** A district may assign a teacher to perform case management for school-age pupils who are in levels 3, 4, 5, and 6 services and who all have the same disability.

Subp. 3. **Team assignment.** A district may assign one case management teacher and up to five teachers as a team. All teachers shall be licensed in the same disability.

Subp. 4. **Case load.** The total case load assigned to the team shall not exceed the case loads at the appropriate level of service set forth in part 3525.2340, subpart 3, times the full-time teachers assigned to the team.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

### 3525.2370 PUPIL PERFORMANCE PLAN.

A district shall be exempted from the case loads for levels 2, 3, and 4 services when a pupil performance plan is established and approved by the State Board of Education or its designee. The plan must contain all of the following:

A. development of IEP's for all pupils in levels 2, 3, and 4 based on district-wide performance expectations for all handicapped and nonhandicapped pupils;

B. implementation of a system to measure ongoing pupil performance with individual pupil performance being reviewed at least monthly; and

C. criteria for the modification of instruction, related services, and support services to meet the changing pupil needs indicated in the pupil

performance measurement system.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

### 3525.2380 CONSIDERATIONS WHEN DETERMINING RATIOS.

Subpart 1. **Variations.** The district may apply to the State Board of Education or its designee for a variance from the case loads in parts 3525.2330, 3525.2340, and 3525.2360. The state board or its designee shall grant a variance for less than 90 days when it is demonstrated that unanticipated special education enrollment increases have occurred.

Subp. 2. **Method of counting pupils.** For the purposes of the case loads in parts 3525.2330, 3525.2340, and 3525.2360, each pupil receiving instruction or level 2 services shall be counted as one pupil in the teacher's case load.

Subp. 3. **Reduction of ratios.** The district shall reduce the teacher to pupil case loads to the extent necessary, to ensure the provision of services delineated in each pupil's IEP, if a teacher;

- A. is assigned to more than one early childhood program alternative;
- B. is assigned to pupils in more than one level of service;
- C. is serving pupils representing a significant range of severity of problems; or
- D. is providing instruction at more than one building.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

3525.2400 [Repealed, 8 SR 596]

## SUPERVISION

### 3525.2405 DIRECTORS.

Subpart 1. **Director requirement.** The school board in every district shall employ, either singly or cooperatively, a director of special education to be responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration in the district's total special education system. Cooperative employment of a director may be through a host district, joint powers agreement, or an educational cooperative service unit.

Subp. 2. **Reimbursement for full-time director.** Conditions for special education reimbursement of one full-time director of special education include:

- A. enrollment of 5,000 or more in public and nonpublic schools within one district;
- B. enrollment of 4,000 or more in public and nonpublic schools in a group of two or more districts cooperating to provide special education;
- C. eight or more districts cooperating to provide special education through a host district, joint powers agreement, or educational cooperative service unit; or
- D. districts numbered 287, 916, 917, or other similarly legislated multidistricts.

Subp. 3. **Reimbursement for part-time director.** Conditions for special education reimbursement of a part-time director of special education include an enrollment of 2,000 in public and nonpublic schools within a district or group of districts cooperating to provide special education or any cooperative having between five and seven districts cooperating to provide special education through a host district, joint powers agreement, or educational cooperative service unit. The maximum reimbursement shall equal the ratio of the actual enrollment to

5,000 within a district or 4,000 in a group of cooperating districts, as applicable, but not less than one-half. A part-time director must be assigned duties other than direct instruction for unreimbursed time.

**Subp. 4 Base years for reimbursement.** Reimbursement for the 1984-1985 through 1986-1987 school years shall be based on the 1982-1983 enrollment as reported to the State Department of Education. The enrollment year, as the basis for reimbursement, shall be changed every fourth year. When a district or cooperative has an increase or decrease in enrollment of ten percent or more, the district or cooperative shall have its reimbursement recalculated based on the actual enrollment for that year. The district must notify the State Department of Education of the increase by July 1 prior to the school year for which the adjustment is sought.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### **3525.2410 ASSISTANT DIRECTORS.**

Districts which employ full-time directors may employ and receive reimbursement for assistant directors of special education to assist in program supervision, development, coordination, and evaluation; and inservice training in the district's total special education system.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### **3525.2415 OTHER SUPERVISORY PERSONNEL.**

Districts may employ and receive reimbursement for supervisors to coordinate or supervise program development, evaluation, and implementation; and inservice training.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

### **3525.2420 VARIANCE.**

A district may apply to the commissioner of education for a variance from the mandatory employment of a director and conditions for reimbursements. The commissioner shall grant a variance from part 3525.2405 when:

A. the growth patterns of a district or cooperative demonstrate that the public and nonpublic school enrollment will increase over the minimum in the next two years;

B. when districts cannot efficiently cooperate due to geographical isolation; or

C. the variance will result in a decrease in combined state and local costs and better delivery of instruction and related services to pupils

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

## **SURROGATE PARENTS**

### **3525.2430 DEFINITION.**

A surrogate parent is a person appointed by the providing district to ensure, by intervening on behalf of a pupil, that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interest exists.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**3525.2435 HANDICAPPED CHILDREN****3525.2435 EFFORT TO LOCATE PARENT.**

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**3525.2440 SURROGATE PARENT APPOINTMENT.**

The district shall appoint the surrogate parent when:

- A. the parent, guardian, or conservator is unknown or unavailable;
- B. parental rights have been terminated;
- C. the pupil has reached the age of majority, continues to be eligible for public education, and is not represented by a parent; or
- D. the parent requests in writing the appointment of a surrogate parent. The request may be revoked in writing at any time

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**3525.2445 CONSULTATION WITH COUNTY WELFARE.**

The district shall consult the county welfare office before appointing the surrogate parent when a pupil is the ward of the commissioner of public welfare.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**3525.2450 REMOVAL OF SURROGATE PARENT.**

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

- A. failure to perform the duties required in the team meeting and IEP process and those cited in Code of Federal Regulations, title 34, section 300, a federal regulation to implement part B of the Education of the Handicapped Act;
- B. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514 (c)(2);
- C. actions that threaten the well-being of the assigned pupil;
- D. failure to appear to represent the pupil; or
- E. change in eligibility for special education.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**3525.2455 SURROGATE PARENT KNOWLEDGE AND SKILLS.**

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

- A. state and federal requirements;
- B. district structure and procedures;
- C. nature of the pupil's disability and needs, and
- D. an ability to effectively advocate an appropriate educational program for the pupil.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**STUDENT DISCIPLINARY PROCEEDINGS****3525.2470 SUSPENSION, EXCLUSION, AND EXPULSION.**

Subpart 1 **Pupil Fair Dismissal Act.** The Pupil Fair Dismissal Act shall apply to all pupils.

Subp. 2. **Team meeting required.** A team meeting shall be held prior to exclusion or expulsion of a pupil. Within five school days of a suspension, a team meeting shall occur. The team shall:

A. determine whether the misconduct is related to the handicapping condition;

B. review any assessments and determine the need for further assessment; and

C. review the IEP and amend the goals and objectives or develop an alternative IEP program.

Subp. 3 **Exclusion and expulsion.** A pupil may be placed, through a team meeting and the IEP, in a more restrictive alternative but shall not be excluded or expelled when the misconduct is related to the pupil's handicapping condition. When it is determined in a team meeting or a Pupil Fair Dismissal Act proceeding that a pupil's misconduct is related to the pupil's handicapping condition, then the assessment, IEP, and least restrictive alternative shall be reviewed according to the provisions of parts 3525.0200 to 3525.4700.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**ASSESSMENT, NOTICE, AND HEARING****3525.2600 FORMAL EDUCATIONAL ASSESSMENT.**

Subpart 1. **Assessment.** An assessment

*[For text of subpart 1, item A, see M.R. 1983]*

B. must be conducted at least every three years as required by part 3525.3100;

*[For text of subpart 1, item C, see M.R. 1983]*

*[For text of subp 2, see M.R. 1983]*

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** *8 SR 596*

**3525.3000 PERIODIC REVIEWS.**

The providing school district shall conduct periodic reviews of the program plan and shall determine:

A. the degree to which the periodic review objectives as identified in the educational program plan are being achieved;

B. the appropriateness of the educational program plan as it relates to the student's current needs;

C. what modifications, if any, need to be made in the program plan.

The initial review shall be made at the time specified in the program plan, but at least once a year following placement.

These periodic reviews shall be made by those persons directly responsible for implementing the educational program and by other school district agents as may be needed to ensure an informed and adequate review.

The results of such periodic reviews shall be included in the student's school records and a copy sent to the parent and to the resident district if different from the providing district. This copy shall inform the parents or the resident district that they may request a conference to review the student's program plan at any time and the procedure to do so.

The reviews shall be made in accordance with the requirements for nondiscrimination and recognized professional standards.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

**3525.3100 REQUIREMENTS FOR REASSESSMENT AND FOLLOW-UP REVIEW.**

When a pupil is continued in the primary placement in a special education program, the providing district shall conduct an educational reassessment according to the procedures specified in parts 3525.2600 to 3525.2800, at least once every three years.

The responsible school district shall conduct a follow-up review of the student's current performance no later than 12 calendar months after special education services are discontinued to determine if progress is satisfactory.

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596

**3525.3300 CONTENTS OF NOTICE.**

All notices must be sufficiently detailed and precise to constitute adequate notice for hearing of the proposed action and contain a full explanation of all of the procedural safeguards available to parents under the provision of parts 3525.0200 to 3525.4700. All notices must:

*[For text of items A to D, see M.R. 1983]*

E. Inform the parents that they may:

*[For text of item E, subitems (1) and (2), see M.R. 1983]*

(3) Obtain an independent assessment at public expense if the parent disagrees with an assessment obtained by the district. However, a district may initiate a due process hearing to show that its assessment is appropriate after at least one conciliation conference. If the final decision is that its assessment is appropriate, the parents still have the right to an independent assessment, but not at public expense. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation.

*[For text of items F to T, see M.R. 1983]*

**Statutory Authority:** *MS s 120.17 subd 3*

**History:** 8 SR 596