

CHAPTER 3540
STATE BOARD OF EDUCATION
NONPUBLIC ELEMENTARY; SECONDARY
SCHOOLS

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**TEXTBOOKS, INDIVIDUALIZED INSTRUCTION MATERIALS, AND
STANDARDIZED TESTS FOR PUPILS ATTENDING NONPUBLIC
SCHOOLS**

3540.0200 DEFINITIONS.

Subpart 1. **Eligible materials.** "Eligible materials" means textbooks, individualized instructional materials, and standardized tests. All textbooks and individualized instructional materials must be:

A. designed primarily for use by individual students at their desks or in small groups, in a particular class or program in the school the pupil regularly attends;

B. used by the student to reach certain educational objectives within a particular subject or course of study;

C. secular, neutral, nonideological, and not capable of diversion for religious use;

D. available and of benefit to Minnesota public school pupils; and

E. not specifically excluded from eligibility by subpart 3.

Subp. 2. **Individualized instructional materials.** "Individualized instructional materials" means educational materials in addition to textbooks which fall into any of the following areas: published materials, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, filmstrips, prepared slides, prerecorded video programs, prerecorded tapes, cassettes and sound recordings, manipulative materials, desk charts, games, study prints and pictures, desk maps, models, learning kits, blocks or cubes, flashcards, individualized multimedia systems, prepared instructional computer software programs, and prerecorded film cartridges.

Subp. 3. **Ineligible materials.** "Ineligible materials" means, in addition to

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educational materials excluded from eligibility by subpart 1, the following materials: chemicals, wall maps, wall charts, pencils, pens or crayons, notebooks, blackboards, chalk and erasers, duplicating fluids, paper, 16mm films, unexposed films, blank tapes, cassettes or videotape, instructional equipment, reference materials, and teachers' aids.

Subp. 4. Secular, neutral, and nonideological. "Secular, neutral, and nonideological" materials are materials which are not regarded as religious, spiritual, or sacred, and present events, facts, and theories that pertain to religion or religious doctrine in an impartial manner.

Subp. 5. Standardized tests. "Standardized tests" means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

Subp. 6. Textbook. "Textbook" means any book, workbook, manual, or book substitute which a pupil uses as a text or text substitute, copies of which are used as a principal source of study materials for a given class or group of students, and available for individual use of each pupil in the class or program.

Statutory Authority: *MS s 123.933*

3540.0300 POLICY.

In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks, individualized instructional materials, and standardized tests as provided by Minnesota Statutes, sections 123.931 to 123.947, shall be made available to pupils in nonpublic schools.

Statutory Authority: *MS s 123.933*

3540.0400 STATE ADMINISTRATION OF FUNDS.

The State Department of Education shall administer funds allocated for the purchase of eligible materials to be loaned or provided to nonpublic school pupils. The State Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of eligible materials to be loaned or provided to nonpublic school pupils.

On or before March 1 the State Department of Education shall determine, from the most recent data available, the allocation available per pupil for eligible materials to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for eligible materials by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. This amount shall then be increased by a percentage equal to the percentage increase in foundation aid, between the prior school year and the coming year. Pupils in grades one through 12 are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

Statutory Authority: *MS s 123.933*

3540.0500 TERMINATION OF ELIGIBILITY.

Whenever the department receives information regarding improper use of eligible materials loaned under the program, it shall provide prompt written notification to the pupil, the pupil's parents or guardians, and the nonpublic school administrator of the alleged program abuse, and allow 30 calendar days from the date of mailing for written or oral response.

Following receipt of responses during the 30 day period, if it appears that materials may have been used contrary to law, the department shall institute Minnesota Statutes, chapter 14 contested case procedures. After due consideration of all evidence presented pursuant to those procedures, if the department

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determines that the materials have been used contrary to law, the department shall notify the pupil, the pupil's parents or guardians, nonpublic school administrator, and the public school district or intermediary service area that the eligibility of the pupil for all materials during the current school year is terminated, and the allocation for the current year for the nonpublic school must be reduced accordingly.

Statutory Authority: *MS s 123.933*

**LOCAL ADMINISTRATION FOR PARTICIPATION IN TEXTBOOKS,
INDIVIDUALIZED INSTRUCTION MATERIALS, AND
STANDARDIZED TESTS AID PROGRAM**

3540.0600 PRELIMINARY APPLICATION.

On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the textbooks, individualized instructional materials, and standardized tests aid program, for eligible materials to be used the following school year. The preliminary application shall be on forms provided by the State Department of Education and shall include:

A. an estimate of the nonpublic school pupils, kindergarten through grade 12, who may be enrolled as of September 15 of the following school year and who may be signing request forms for eligible materials; and

B. an estimate of the total allocation available to the nonpublic pupils attending the nonpublic school for eligible materials. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for eligible materials. Pupils in grades one through 12 are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

Statutory Authority: *MS s 123.933*

3540.0700 PURCHASE OF MATERIALS.

On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for eligible materials for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to each nonpublic school in the public school district or intermediary service area for distribution to the pupil applicants.

Statutory Authority: *MS s 123.933*

3540.0800 REQUEST FORM.

Each year the State Department of Education shall provide a form, for pupils, to be used to request textbooks, individualized instructional materials, and standardized tests. This form shall be separate from the form used by pupils to request health services and the form used to request guidance and counseling services. It shall be processed as follows. The nonpublic school administrator shall distribute a copy of the request form to each pupil, parent, or guardian and shall collect and maintain the forms on file. A request form must be properly completed, signed, and on file with the nonpublic school by September 25, in order for that pupil to be counted on the final application form for aid. The nonpublic school shall maintain on file the request forms for three years. The forms shall be available for inspection by the State Department of Education, the public school district, or the intermediary service area.

Statutory Authority: *MS s 123.933*

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3540.0900 FINAL APPLICATION.

On or before September 25 the nonpublic school shall make final application for participation in the textbooks, individualized instructional materials, and standardized test aid program to the district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the State Department of Education and shall include:

A. a count of the nonpublic school pupils, kindergarten through grade 12, who are enrolled as of September 15 of the current school year and for whom request forms have been properly completed; and

B. the allocation for eligible materials to the nonpublic pupils attending the nonpublic school. The actual allocation shall be determined according to part 3540.0400.

Statutory Authority: *MS s 123.933*

3540.1000 INVENTORY.

The public school district or intermediary service area shall maintain an inventory of each of the eligible materials loaned under the program for the material's useful life. The useful life of eligible materials is as follows: for workbooks and manuals in which the students write, one year; paperbacks, computer programs, and audiovisual materials, three years; hardbound materials and textbooks, five years. Thereafter the public school district or intermediary service area may divest itself of the materials in any manner it deems appropriate. A compilation of invoices, showing descriptions and destinations of eligible materials purchased under the program, satisfies the inventory requirement.

Statutory Authority: *MS s 123.933*

3540.1100 REIMBURSEMENT.

Upon completion of the distribution of the eligible materials, each public school district or intermediary service area may claim from the State Department of Education the cost of materials, including the quantity of each item and the unit cost, not to exceed the allocation available, and a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for eligible materials. Handling and shipping charges by the vendor shall be included in the allocation for eligible materials for each nonpublic school. A public school district shall not be considered a vendor.

Statutory Authority: *MS s 123.933*

3540.1200 CERTIFICATE OF COMPLIANCE.

Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitations set forth in part 3540.0200.

Statutory Authority: *MS s 123.933*

HEALTH SERVICES FOR PUPILS ATTENDING NONPUBLIC SCHOOLS

3540.1300 DEFINITIONS.

Subpart 1. **Costs.** Costs relating to the provision of health services shall include the salaries of licensed health services personnel and their assistants and expenses for supplies, equipment, travel, and necessary in-service training and other eligible expenses that are associated with the provision of health services by the licensed health services personnel or their assistants.

Subp. 2. **Health services.** "Health services" means physical and mental health services provided by licensed health services personnel or their assistants.

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Licensed health services personnel includes physicians, dentists, professional nurses, or optometrists.

Statutory Authority: *MS s 123.935*

3540.1400 POLICY.

In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, health services as provided by Minnesota Statutes, sections 123.931 to 123.947 shall be made available to pupils in nonpublic schools.

Statutory Authority: *MS s 123.935*

3540.1500 HEALTH SERVICES.

Health services shall not include the direct educational instruction of nonpublic pupils by health services personnel. Health services shall not include those services which are required under the special education law, Minnesota Statutes 1976, section 120.17, as amended, or which are eligible to receive reimbursement under the special education aid law, Minnesota Statutes 1976, section 124.32, as amended.

The public school district or intermediary service areas shall provide those specific health services which it offers to its public school pupils, provided the costs for such services do not exceed the amount allocated for health services by the State Department of Education. Health services may be provided at the nonpublic school, a neutral site, or at the public school.

Statutory Authority: *MS s 123.935*

3540.1600 STATE ADMINISTRATION OF FUNDS.

Subpart 1. Administration of funds. The State Department of Education shall administer funds for the provision of health services to nonpublic school pupils. The State Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of health services to nonpublic school pupils.

Subp. 2. Computation of pupil allocation available. On or before March 1 the State Department of Education shall determine from the most recent data available the allocation available per pupil for health services to be used for the following school year. The allocation per pupil for health services shall be the average expenditure per public school pupil in average daily membership for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils. Pupils in grades one through 12 are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

Subp. 3. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of health services the actual cost of the services provided during the school year. The actual allotment shall not exceed the pupil allocation available.

Subp. 4. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved budget.

Subp. 5. Final payment. On or before September 1 following the school year, the department shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

Statutory Authority: *MS s 123.935*

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LOCAL ADMINISTRATION OF HEALTH SERVICES

3540.1700 PRELIMINARY APPLICATION.

On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for health services beginning with the following school year. The preliminary application shall be on forms provided by the State Department of Education and shall include an estimate of the nonpublic school pupils, kindergarten through grade 12, who may be enrolled as of September 15 of the following school year and who may be signing request forms for health services. The preliminary application shall also include an assessment of the type and level of health services desired for the following school year.

Statutory Authority: *MS s 123.935*

3540.1800 ANNUAL CONSULTATION.

On or before June 1 the district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the type, level, and location of health services for nonpublic school pupils. Final decision as to location shall be made by the public school district or intermediary service area, subject to review and approval by the State Department of Education.

Statutory Authority: *MS s 123.935*

3540.1900 NOTIFICATION OF SERVICES.

Based on the annual consultation with the private school, the public school district, or intermediary service area shall inform the nonpublic school of the type, level, and location of health services that are to be made available to the nonpublic school students by August 15.

Statutory Authority: *MS s 123.935*

3540.2000 REQUEST FORM.

Each year the State Department of Education shall provide a form, for pupils, to be used to request health services. This form shall be separate from the form used by pupils to request textbooks, individualized instructional materials, and standardized tests and the form used to request guidance and counseling services. It shall be processed as follows. The nonpublic school administrator shall distribute a copy of the request form to each pupil, parent, or guardian and shall collect and maintain the forms on file. A request form must be properly completed, signed, and on file with the nonpublic school by September 25, in order for that pupil to be counted on the final application form for aid. The nonpublic school shall maintain on file the request forms for three years. The forms shall be available for inspection by the State Department of Education, the public school district, or the intermediary service area.

Statutory Authority: *MS s 123.935*

3540.2100 FINAL APPLICATION.

On or before September 25 the nonpublic school shall make final application for health services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and for whom request forms have been properly completed.

Statutory Authority: *MS s 123.935*

3540.2200 SUBMISSION OF PROGRAM AND BUDGET.

On or before October 15 the public school district or intermediary service area shall submit to the State Department of Education a program and budget of the health services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the State Department of Education and shall include:

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A. Projected health services expenditures for salaries, supplies, equipment, and other expenses, which expenditures shall not exceed the amount allocated for health services to the public school district or intermediary service area by the State Department of Education. The allocation for health services is determined by multiplying the total number of participating pupils by the allocation available per pupil for health services as set forth in part 3540.1600, subpart 2. Pupils in grades one through 12 are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

B. Projected expenditures for health services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for health services for nonpublic school pupils and which shall be in addition to the health services allocation.

Statutory Authority: *MS s 123.935*

3540.2300 YEAR-END REPORT.

On or before July 15, following each school year, the public school district or intermediary service area shall submit to the State Department of Education a year-end report of health services provided to nonpublic school pupils. The report shall be on forms made available by the State Department of Education.

Statutory Authority: *MS s 123.935*

GUIDANCE AND COUNSELING SERVICES FOR PUPILS ATTENDING NONPUBLIC SCHOOLS

3540.2400 DEFINITIONS.

Subpart 1. **Costs.** Costs relating to the provision of guidance and counseling services shall include the salaries of licensed guidance and counseling services personnel and their assistants and expenses for supplies, equipment, travel, and other eligible expenses that are directly attributable to the provision of guidance and counseling services by the licensed guidance and counseling services personnel or their assistants.

Subp. 2. **Guidance and counseling services.** "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance. Guidance and counseling services provided to nonpublic school pupils shall not include the planning or selection of particular courses or classroom activities of the nonpublic school.

Statutory Authority: *MS s 123.935*

3540.2500 POLICY.

In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, guidance and counseling services as provided by Minnesota Statutes, sections 123.931 to 123.947, shall be made available to secondary pupils in nonpublic schools.

Statutory Authority: *MS s 123.935*

3540.2600 SERVICES OFFERED.

The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided guidance and counseling services. The public school district or intermediary service areas shall provide those specific guidance and counseling services which it offers to its public school secondary pupils, provided the costs for such services do not exceed the amount allocated for guidance and counseling services by the

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State Department of Education. Guidance and counseling services may be provided to nonpublic school pupils only at a neutral site or at the public school.

Statutory Authority: *MS s 123.935*

3540.2700 STATE ADMINISTRATION OF FUNDS.

Subpart 1. Administration. The State Department of Education shall administer funds for the provision of guidance and counseling services to nonpublic school pupils. The State Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of guidance and counseling services to nonpublic school pupils.

Subp. 2. Computation of pupil allocation available. On or before March 1, the State Department of Education shall determine from the most recent data available the allocation available per secondary pupil in average daily membership for guidance and counseling services to be used for the following school year. The allocation available per secondary pupil for guidance and counseling services shall be the average expenditure per public secondary school pupil for these services by those Minnesota public school districts which provide guidance and counseling services to public secondary school pupils. Pupils shall be counted as one pupil each.

Subp. 3. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of guidance and counseling services the actual cost of the services provided in that school year. The actual allotment for guidance and counseling services for the nonpublic secondary pupils shall not exceed the total pupil allocation available.

Subp. 4. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved allocation.

Subp. 5. Final payment. On or before September 1, the State Department of Education shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

Statutory Authority: *MS s 123.935*

LOCAL ADMINISTRATION OF GUIDANCE AND COUNSELING SERVICES

3540.2800 PRELIMINARY APPLICATION.

On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for guidance and counseling services beginning with the following school year. The preliminary application shall be on forms provided by the State Department of Education and shall include an estimate of the nonpublic secondary school pupils who may be enrolled as of September 15 of the following school year and who may be signing request forms for guidance and counseling services. The preliminary application shall also include an assessment of the type and level of guidance and counseling services desired for the following school year.

Statutory Authority: *MS s 123.935*

3540.2900 ANNUAL CONSULTATION.

On or before June 1, the district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the type, level, and location of guidance and counseling services for nonpublic school pupils. Final decision as to location shall be made by the public school district or intermediary service area, subject to review and approval by the State Department of Education.

Statutory Authority: *MS s 123.935*

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3540.3000 NOTIFICATION OF SERVICES.

Based on the annual consultation with the private school, the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of guidance and counseling services that are to be made available to the nonpublic school students by August 15.

Statutory Authority: *MS s 123.935*

3540.3100 REQUEST FORM.

Each year the State Department of Education shall provide a form, for pupils, to be used to request guidance and counseling services. This form shall be separate from the form used by pupils to request textbooks, individualized instructional materials, and standardized tests and the form used to request health services. It shall be processed as follows. The nonpublic school administrator shall distribute a copy of the request form to each pupil, parent, or guardian and shall collect and maintain the forms on file. A request form must be properly completed, signed, and on file with the nonpublic school by September 25, in order for that pupil to be counted on the final application form for aid. The nonpublic school shall maintain on file the request forms for three years. The forms shall be available for inspection by the State Department of Education, the public school district, or the intermediary service area.

Statutory Authority: *MS s 123.935*

3540.3200 FINAL APPLICATION.

On or before September 25, the nonpublic school shall make final application for guidance and counseling services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and for whom request forms have been properly completed.

Statutory Authority: *MS s 123.935*

3540.3300 SUBMISSION OF PROGRAM AND BUDGET.

On or before October 15, the public school district or intermediary service area shall submit to the State Department of Education a program and budget of the guidance and counseling services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the State Department of Education and shall include:

A. Projected guidance and counseling services expenditures for salaries, supplies, equipment, and other eligible expenses, which expenditures shall not exceed the amount allocated for guidance and counseling services to the public school district or intermediary service area by the State Department of Education. The allocation for guidance and counseling services is determined by multiplying the total number of participating secondary pupils by the allocation available per pupil for guidance and counseling services as set forth in part 3540.2700, subpart 2. Pupils shall be counted as one pupil each.

B. Projected expenditures for guidance and counseling services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for guidance and counseling services for nonpublic school pupils and which shall be in addition to the guidance and counseling services allocation.

Statutory Authority: *MS s 123.935*

3540.3400 YEAR-END REPORT.

On or before July 15, following each school year, the public school district or intermediary service area shall submit to the State Department of Education a year-end report of guidance and counseling services provided to nonpublic

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school pupils. The report shall be on forms made available by the State Department of Education.

Statutory Authority: *MS s 123.935*