

3525.0210 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3525.0210 to 3525.4770, the terms defined in this part have the meanings given them.

Subp. 2. **Administrator or administrative designee.** "Administrator" or "administrative designee" means a representative of the school district, other than the pupil's teacher, who is licensed to provide or supervise the provision of special education and who has the authority to make decisions about the appropriateness of the proposed program and who has the authority to commit the responsible district's resources.

Subp. 3. **Aids.** "Aids" means equipment, devices, and materials and curriculum adaptations which enable a pupil to achieve satisfactorily in the regular classroom.

Subp. 4. **Alternative dispute resolution (ADR).** "Alternative dispute resolution" (ADR) means any voluntary process used to resolve a special education dispute which is not a due process hearing or a state complaint.

Subp. 5. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 6. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 7. **Community-based.** "Community-based" means a service, program, or environment located outside the district with nondistrict governance.

Subp. 8. **Conciliation conference.** "Conciliation conference" means a meeting held for the purpose of resolving a dispute between the parents and district over identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education (FAPE) to a child with a disability. A conciliation conference must have in attendance, at a minimum, a parent and a district staff person with authority to resolve the dispute.

Subp. 9. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 10. **Cultural liaison.** "Cultural liaison" means a person who is of the same racial, cultural, socioeconomic, or linguistic background as the pupil, and who:

A. provides information to the IEP team about the pupil's race, cultural, socioeconomic, and linguistic background;

B. assists the IEP team in understanding how racial, cultural, socioeconomic, and linguistic factors impact educational progress; and

C. facilitates the pupil's parent's understanding and involvement in the special education process.

If a person who is of the same racial, cultural, socioeconomic, or linguistic background as the pupil is not available, then a person who has knowledge of the pupil's racial, cultural, socioeconomic, and linguistic background may act as a cultural liaison.

Subp. 11. **Days.** "Days" means business day, calendar day, or school day as defined in Code of Federal Regulations, title 34, section 300.9.

Subp. 12. **Department.** "Department" means the Minnesota Department of Education.

Subp. 13. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 14. **Direct services.** "Direct services" means special education services provided by a teacher or a related service professional when the services are related to instruction, including cooperative teaching.

Subp. 15. **District.** "District" means any local education agency, charter school, or state agency that provides education services to pupils.

Subp. 16. **Due process hearing or hearing.** "Due process hearing" or "hearing" refers to a special education due process hearing or expedited due process hearing pursuant to Minnesota Statutes, section 125A.091, and Code of Federal Regulations, title 34, subpart E.

Subp. 17. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 18. **Evaluation or reevaluation.** "Evaluation" or "reevaluation" means an appropriate individual educational evaluation of a pupil's performance or development conducted by appropriately licensed personnel according to recognized professional standards, parts 3525.2550 and 3525.2710.

Subp. 19. **Extended school year (ESY) services.** "Extended school year (ESY) services" means special education instruction and related services for pupils who demonstrate the need for continued service on days when school is not in session for all students as a necessary component of a free appropriate public education.

Subp. 20. **Facilitated IEP meeting.** "Facilitated IEP meeting" means an IEP/IFSP/IIIP meeting moderated by an impartial state-provided facilitator to promote effective communication, address conflicts as they arise, and assist a team in developing an IEP/IFSP/IIIP.

Subp. 21. **Filing or file.** "Filing" or "file" means transmission of a document to the department or hearing officer by mail, delivery, fax, or licensed overnight express mail service. Filing is complete upon actual receipt of the document. Any document received after 4:30 p.m. or on a weekend or holiday will be treated as received the following business day.

Subp. 22. **Functional behavioral assessment or FBA.** "Functional behavioral assessment" or "FBA" means a process for gathering information to maximize the efficiency of behavioral supports. An FBA includes a description of problem behaviors and the identification of events, times, and situations that predict the occurrence and

nonoccurrence of the behavior. An FBA also identifies the antecedents, consequences, and reinforcers that maintain the behavior, the possible functions of the behavior, and possible positive alternative behaviors. An FBA includes a variety of data collection methods and sources that facilitate the development of hypotheses and summary statements regarding behavioral patterns.

Subp. 23. **Functional skills evaluation.** "Functional skills evaluation" means the use of test instruments and evaluation procedures to determine current levels of skill development and factors relevant to:

- A. independence and self-sufficiency in school, home, and community settings;
- B. freedom to participate in leisure activities; and
- C. postsecondary and other life long learning opportunities.

Subp. 24. **Functional skills.** "Functional skills" means skills to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other life long learning opportunities.

Subp. 25. **Hearing officer.** "Hearing officer" means the person appointed by the department, pursuant to Minnesota Statutes, section 125A.091, to decide matters in a due process hearing.

Subp. 26. **Initial placement.** "Initial placement" means the first special education placement and provision of special education services by the district.

Subp. 27. **Indirect services.** "Indirect services" means special education services which include ongoing progress reviews; cooperative planning; consultation; demonstration teaching; modification and adaptation of the environment, curriculum, materials, or equipment; and direct contact with the pupil to monitor and observe. Indirect services may be provided by a teacher or related services professional to another regular education, special education teacher, related services professional, paraprofessional, support staff, parents, and public and nonpublic agencies to the extent that the services are written in the pupil's IEP and IFSP.

Subp. 28. **Individualized family service plan or IFSP.** "Individualized family service plan" or "IFSP" means a written plan for providing services to a pupil and the pupil's family through interagency agreements. Procedural and program requirements for the IEP also apply to the educational components of the IFSP.

Subp. 29. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 30. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 31. **Mediation.** "Mediation" means an ADR process in which a neutral person, provided by the state, assists parents and districts in resolving disputes over

identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education (FAPE) to a child with a disability.

Subp. 32. Nondiscrimination. "Nondiscrimination" means a requirement that districts shall comply with chapter 3535 and Minnesota Statutes, chapter 363.

Subp. 33. Paraprofessional. "Paraprofessional" means a district employee who is primarily engaged in direct interaction with one or more pupils for instructional activities, physical or behavior management, or other purposes under the direction of a regular education or special education teacher or related services provider.

Subp. 34. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 35. Providing district. "Providing district" means a district with the responsibility of providing special education services to a pupil according to part 3525.0800.

Subp. 36. Pupil. "Pupil" means a student or other person who is eligible for special education according to Minnesota Statutes, sections 125A.02 and 125A.03 to 125A.24.

Subp. 37. Recognized professional standards. "Recognized professional standards" means reasonable principles and concepts widely accepted by acknowledged experts that bear a direct relationship to the particular needs of the pupil.

Subp. 38. Regular education program. "Regular education program" means the program in which the pupil would be enrolled if the pupil did not have disabilities.

Subp. 39. Resident district. "Resident district" means the district in which the pupil's parent, as defined by part 3525.0800, subpart 9, and Code of Federal Regulations, title 34, section 300.20, resides. It does not mean the district in which a surrogate parent resides. If the parents of the pupil are separated or divorced and both maintain legal rights to determine the pupil's education, but are living in different districts, the district of residence is the district in which the pupil primarily resides for the greater part of the school year.

In those situations when a pupil is placed for care and treatment or foster care by an agency other than the school district, the district of residence is the district in which the pupil's parent resides or the district designated by the commissioner as provided in Minnesota Statutes, sections 125A.03 to 125A.24. If the parents of the pupil are separated or divorced and both maintain legal rights to determine the pupil's education, but are living in different districts, the district of residence is the district last responsible for education services when the pupil resided with either parent.

Subp. 40. Service or serve. "Service" or "serve" means personal service, service by electric facsimile, service by first class United States mail, or licensed overnight express mail service. Service is complete upon receipt, except for service by United States mail

which is complete three days after the date mailed. When a dispute over service arises the serving party must demonstrate proof of service.

Subp. 41. Significant change in program or placement. "Significant change in program or placement" means:

- A. the IEP goals have been completed or require modification based on a progress report;
- B. there is a need to add or delete a service based on a progress report or evaluation;
- C. there is a change in the type of site or setting in which the pupil receives special education;
- D. the amount of time a pupil spends with nondisabled peers is changed;
- E. the amount of special education to accomplish the goals or objectives needs to be increased or decreased; or
- F. the team determines there is a need for a conditional intervention procedure.

Subp. 42. Special education. "Special education" means any specially designed instruction and related services to meet the unique cognitive, academic, communicative, social and emotional, motor ability, vocational, sensory, physical, or behavioral and functional needs of a pupil as stated in the IEP.

Subp. 43. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 44. Teacher. "Teacher" means a person licensed under parts 8710.5100 to 8710.5800 by the Board of Teaching to instruct pupils with specific disabling conditions.

Subp. 45. Technically adequate instrument. "Technically adequate instrument" means tests and evaluation procedures for which recognized professional standards about construction, validity, reliability, and use have been met.

Subp. 46. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 47. [Repealed, L 2009 c 96 art 3 s 22]

Subp. 48. Vocational evaluation. "Vocational evaluation" means an ongoing, comprehensive process used to assist the pupil and the team to determine the pupil's strengths, interests, abilities, and needed support to be successful in a vocational setting. A vocational evaluation is one component of the ongoing special education multidisciplinary evaluation described in parts 3525.2550 and 3525.2710.

Statutory Authority: *MS s 14.389; 120.17; 121.11; L 1994 c 647 art 3 s 23; L 1999 c 123 s 19,20; L 2003 1Sp9 art 3 s 19*

History: 8 SR 596; 14 SR 281; 16 SR 1543; L 1991 c 265 art 3 s 38; 19 SR 974; 19 SR 2432; L 1998 c 397 art 11 s 3; 24 SR 1799; 26 SR 657; 28 SR 1292; L 2009 c 96 art 3 s 22

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