

3525.0800 RESPONSIBILITY FOR ENSURING PROVISION OF INSTRUCTION AND SERVICES.

Subpart 1. **Pupil's district of residence.** As provided in Minnesota Statutes, section 125A.05, a pupil's district of residence is responsible for assuring that an appropriate program is provided for all eligible pupils placed by the district's team within the district or in an out-of-district placement regardless of the method or location of instruction used.

Subp. 2. **Purchased services.** The district shall not purchase special educational services for a pupil from a public or private agency when the service is available or can be made available and can be more appropriately provided as the least restrictive alternative within the district. Whenever it is appropriate for a district to purchase special education service for pupils with disabilities who reside in the district, it continues to be the responsibility of the school district, consistent with Minnesota Statutes and parts 3525.0210 to 3525.4770, to assure and ascertain that such pupils and youth receive the education and related services and rights to which they are entitled.

Subp. 3. **Initial activities.** The resident district is responsible for the pupil's initial evaluation, initial IEP, due process procedures, and initial placement regardless of whether the placement is within the district or outside the district, unless the pupil is placed for care and treatment or through one of the education choice options.

If the team determines that it may be appropriate to consider placement options outside of the resident district, representatives from the outside district, agency, or academy must be invited to attend a team meeting as a participant to complete an appropriate IEP for the pupil including the needs, goals, objectives, services, and placement of the pupil.

Subp. 4. **Resident district responsibilities; district initiated out-of-district placement.** If the resident district places a pupil in an out-of-district placement, the resident district is still responsible to assure that an appropriate IEP is developed, that the pupil is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed.

It is the responsibility of the providing district, agency, or academy to implement the IEP, conduct periodic and annual reviews, convene and facilitate the IEP team meeting, and assure that due process procedures associated with these responsibilities are followed.

The annual IEP must be developed jointly by the providing district, agency, or academy and resident district. The resident district may appoint a member of the providing district as its representative.

Subp. 5. **Responsibility for disagreements.** The resident district is responsible for resolving disagreements between the pupil's parents and district, including conciliation and due process hearings when the placement has been made by the resident district. If the providing district, agency, or academy receives a request for a conciliation conference,

mediation, or due process hearing from the parent, the providing district, agency, or academy must notify the resident district of the parent's request within one school day.

Subp. 6. **Tuition rate appeal.** If the districts do not agree on the tuition rate, either district may appeal to the commissioner as provided in Minnesota Statutes, section 125A.11.

Subp. 7. **Pupils placed for care and treatment.** The educational and financial responsibilities of the resident and providing districts for pupils placed for care and treatment under Minnesota Statutes, sections 125A.15 and 125A.16, are as follows:

A. District placements: If the resident district places a pupil for care and treatment, the resident district shall be responsible for providing and paying for an appropriate education program according to this part, either directly or through tuition agreement, and shall also be responsible for the costs associated with care and treatment.

B. Nondistrict placement:

(1) When the pupil is placed in a residential facility or foster care by someone other than the resident district, the district in which the facility is located is responsible for providing an appropriate education program as set forth in statutes and parts 3525.0210 to 3525.4770 including the notice and hearing provisions. The resident district is responsible for assuming the cost of the educational program when notified according to Minnesota Statutes, sections 125A.15 and 127A.47. The district is not responsible for the cost of care and treatment.

(2) When the pupil is placed in a day treatment program by an agency other than the resident district, the resident district is responsible for determining the location of the special education services in accordance with the options outlined in Minnesota Statutes, section 125A.15. The resident district shall be responsible for ensuring that an appropriate program is provided in accordance with subparts 4 to 6, including all costs for the education program and any due process proceedings regardless of the method or locations of services selected.

Subp. 8. **Pupils placed through education choice options.** When a pupil is placed outside of the district residence by the parent or pupil for the purpose of education and in accordance with a statutory education choice enrollment act, the resident district shall be responsible for assuming the cost of the education program when notified in accordance with Minnesota Statutes, section 127A.47, subdivision 5. The providing district shall be responsible for assuring that an appropriate program is available for the pupil including the notice and hearing provisions. Responsibility for transportation costs between the pupil's home and the providing school district shall be determined in accordance with Minnesota Statutes.

Subp. 9. **Financial and legal responsibility for pupils 18 through 21.** For a pupil who is age 18 through 21 years of age and is receiving special education, the district where

the pupil's parents, legal guardian, or conservator lives shall be financially responsible for the cost of the special education program even in those cases where the pupil serves as the parent according to Code of Federal Regulations, title 34, section 300.20, for due process purposes.

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

History: *14 SR 281; 19 SR 2432; L 1998 c 397 art 11 s 3; 26 SR 657; 28 SR 1292*

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