

3535.0110 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3535.0100 to 3535.0180, the terms defined in this part have the meanings given them.

Subp. 2. **Enrolled American Indian students.** "Enrolled American Indian students" means students who live on or off a reservation and are enrolled in a federally recognized tribe. Enrolled American Indian students have dual status as protected students under subpart 4 and members of sovereign nations.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Education.

Subp. 4. **Protected students.** "Protected students" means:

A. students who self-identify or are identified in the general racial categories of African/Black Americans, Asian/Pacific Americans, Chicano/Latino Americans, and American Indian/Alaskan Native; and

B. multiracial students who self-identify or are identified as having origins in more than one of the categories described in item A or as having origins in one of the categories described in item A and in the category of Caucasian.

Subp. 5. **Racial balance.** "Racial balance" means the increased interaction of protected students and white students within schools and between districts that is consistent with the purposes of parts 3535.0160 to 3535.0180.

Subp. 6. **Racially identifiable school within a district.** "Racially identifiable school within a district" means a school where the enrollment of protected students at the school within a district is more than 20 percentage points above the enrollment of protected students in the entire district for the grade levels served by that school.

Subp. 7. **Racially isolated school district.** "Racially isolated school district" means a district where the districtwide enrollment of protected students exceeds the enrollment of protected students of any adjoining district by more than 20 percentage points.

Subp. 8. **School.** "School" means a site in a public school district serving any of kindergarten through grade 12. For purposes of parts 3535.0160 to 3535.0180 only, school does not mean:

- A. charter schools under Minnesota Statutes, section 124D.10;
- B. area learning centers under Minnesota Statutes, section 123A.05;
- C. public alternative programs under Minnesota Statutes, section 126C.05, subdivision 15;
- D. contracted alternative programs under Minnesota Statutes, section 124D.69;

- E. school sites specifically designed to address limited English proficiency;
- F. school sites specifically designed to address the needs of students with an individualized education program (IEP); and
- G. secure and nonsecure treatment facilities licensed by the Department of Human Services or the Department of Corrections.

Subp. 9. **Segregation.** "Segregation" means the intentional act or acts by a school district that has the discriminatory purpose of causing a student to attend or not attend particular programs or schools within the district on the basis of the student's race and that causes a concentration of protected students at a particular school.

A. It is not segregation for a concentration of protected students or white students to exist within schools or school districts:

- (1) if the concentration is not the result of intentional acts motivated by a discriminatory purpose;
- (2) if the concentration occurs at schools providing equitable educational opportunities based on the factors identified in part 3535.0130, subpart 2; and
- (3) if the concentration of protected students has occurred as the result of choices by parents, students, or both.

B. In addition to the factors in item A, it is not segregation for concentrations of enrolled American Indian students to exist within schools or school districts:

- (1) if the concentration exists as a result of attempting to meet the unique academic and culturally related educational needs of enrolled American Indian students through programs developed pursuant to the federal government's trust relationship with American Indian tribes or through an agreement with an American Indian tribal government; and
- (2) the concentration exists as the result of voluntary choices made by American Indian parents, enrolled American Indian students, or both.

Statutory Authority: *MS s 124D.896*

History: *24 SR 77; L 2003 c 130 s 12; L 2011 1Sp11 art 3 s 12*

Published Electronically: *February 18, 2013*