

CHAPTER 120

DEFINITIONS; GENERAL PROVISIONS

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120.03 HANDICAPPED CHILDREN, DEFINED.

Subdivision 1. Every child who has a hearing impairment, visual handicap, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning disability, or deaf/blind handicap and needs special instruction and services, as determined by the standards of the state board, is a handicapped child. In addition, every child under age five who needs special instruction and services, as determined by the standards of the state board, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a handicapped child.

[For text of subd 5, see M.S.1986]

History: 1987 c 398 art 3 s 1

NOTE: Subdivision 1, as amended by Laws 1987, chapter 398, article 3, section 1, is effective July 1, 1988. See Laws 1987, chapter 398, article 3, section 43.

120.05 PUBLIC SCHOOLS.

Subdivision 1. **Classification.** For the purpose of administration all public schools are classified under the following heads, provided the requirements in subdivision 2 are met:

- (1) elementary,
- (2) middle school,
- (3) secondary,
- (4) vocational center school.

Subd. 2. **Definitions.** (1) Elementary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in grades one through six or any portion thereof and staff meeting the standards established by the state board of education.

(a) The state board of education shall not close a school or deny any state aids to a district for its elementary schools because of enrollment limitations classified in accordance with the provisions of subdivision 2, clause (1).

(2) Middle school means any school other than a secondary school giving an approved course of study in a minimum of three consecutive grades above fourth but below tenth with building, equipment, courses of study, class schedules, enrollment, and staff meeting the standards established by the state board of education.

(3) Secondary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in grades seven through 12 or any portion thereof, and staff meeting the standards established by the state board of education.

(4) A vocational center school is one serving a group of secondary schools with approved areas of secondary vocational training and offering vocational secondary and adult programs necessary to meet local needs and meeting standards established by the state board of education.

History: 1987 c 258 s 1

120.0752 AGREEMENTS BETWEEN SCHOOL BOARDS; ENROLLMENT EXCEPTIONS.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. **11th and 12th grade students.** Notwithstanding subdivision 2, an 11th or 12th grade pupil who has been enrolled in a district for at least three consecutive years and whose parent or guardian moves to another district, may continue to enroll in the nonresident district upon the approval of the school board of the nonresident district. The approval of the school board of the pupil's resident district is not required. The pupil shall be considered a resident of the district in which that student is enrolled.

History: 1987 c 398 art 7 s 4

120.10 Subdivison 1. [Repealed, 1987 c 178 s 10]

Subd. 2. [Repealed, 1987 c 178 s 10]

Subd. 2a. [Repealed, 1987 c 178 s 10]

Subd. 2b. [Repealed, 1987 c 178 s 10]

Subd. 3. [Renumbered 120.101, subd 9]

Subd. 4. [Renumbered 120.101, subd 10]

120.101 COMPULSORY INSTRUCTION.

Subdivision 1. **Parental responsibility.** The parent of a child is primarily responsible for assuring that the child acquires knowledge and skills that are essential for effective citizenship.

Subd. 2. **Applicability.** This section and sections 120.102; 120.103; 120.11; 120.13; 120.14; 120.15; 120.16; 127.19; and 127.20 apply only to a child required to receive instruction according to subdivision 5 and to instruction that is intended to fulfill that requirement.

Subd. 3. **Parent defined.** In sections 120.101 to 120.103, "parent" means a parent, guardian, or other person having legal custody of a child.

Subd. 4. **School defined.** For the purpose of compulsory attendance, a "school" means a public school, as defined in section 120.05, or a nonpublic school, church or religious organization, or home-school in which a child is provided instruction in compliance with sections 120.101 and 120.102.

Subd. 5. **Ages and terms.** Every child between seven and 16 years of age shall receive instruction for at least 170 days each year. Every child under the age of seven who is enrolled in a half-day kindergarten, or a full-day kindergarten program on alternate days, or other kindergarten programs shall receive instruction at least equivalent to 170 half days. A parent may withdraw a child under the age of seven from enrollment at any time.

Subd. 6. **Curriculum.** Instruction must be provided in at least the following subject areas:

- (1) basic communication skills including reading and writing, literature, and fine arts;
- (2) mathematics and science;
- (3) social studies including history, geography, and government; and
- (4) health and physical education.

Instruction, textbooks, and materials must be in the English language. Another language may be used as set forth in section 126.07.

Subd. 7. **Requirements for instructors.** A person who is providing instruction to a child must meet at least one of the following requirements:

- (1) hold a valid Minnesota teaching license in the field and for the grade level taught;
- (2) be directly supervised by a person holding a valid Minnesota teaching license;

- (3) successfully complete a teacher competency examination;
- (4) provide instruction in a school that is accredited by an accrediting agency, recognized according to section 123.935, subdivision 7, or recognized by the state board of education;
- (5) hold a baccalaureate degree; or
- (6) be the parent of a child who is assessed according to the procedures in subdivision 8.

Any person providing instruction in a public school must meet the requirements of clause (1).

Subd. 8. Assessment of performance. (a) Each year the performance of every child who is not enrolled in a public school must be assessed using a nationally norm-referenced standardized achievement examination. The superintendent of the district in which the child receives instruction and the person in charge of the child's instruction must agree about the specific examination to be used and the administration and location of the examination.

(b) To the extent the examination in paragraph (a) does not provide assessment in all of the subject areas in subdivision 6, the parent must assess the child's performance in the applicable subject area. This requirement applies only to a parent who provides instruction and does not meet the requirements of subdivision 7, clause (1), (2), or (3).

(c) If the results of the assessments in paragraphs (a) and (b) indicate that the child's performance on the total battery score is at or below the 30th percentile or one grade level below the performance level for children of the same age, the parent shall obtain additional evaluation of the child's abilities and performance for the purpose of determining whether the child has learning problems.

(d) A child receiving instruction from a nonpublic school, person, or institution that is accredited by an accrediting agency, recognized according to section 123.935, subdivision 7, or recognized by the state board of education, is exempt from the requirements of this subdivision.

Subd. 9. Legitimate exemptions. A parent, guardian, or other person having control of a child may apply to a school district to have the child excused from attendance for the whole or any part of the time school is in session during any school year. Application may be made to any member of the board, a truant officer, a principal, or the superintendent. The school board of the district in which the child resides may approve the application upon the following being demonstrated to the satisfaction of that board:

(1) That the child's bodily or mental condition is such as to prevent attendance at school or application to study for the period required; or

(2) That the child has already completed the studies ordinarily required in the tenth grade; or

(3) That it is the wish of the parent, guardian, or other person having control of the child, that the child attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction conducted and maintained by some church, or association of churches, or any Sunday school association incorporated under the laws of this state, or any auxiliary thereof. This school for religious instruction shall be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, shall be conducted and maintained at public expense. However, a child may be absent from school on such days as the child attends upon instruction according to the ordinances of some church.

Subd. 10. Issuing and reporting excuses. The clerk or any authorized officer of the school board shall issue and keep a record of such excuses, under such rules as the board may from time to time establish.

History: *Ex 1959 c 71 art 1 s 10 subds 2,3; 1961 c 567 s 1; 1967 c 82 s 1; 1969 c 161 s 1,2; 1974 c 326 s 1; 1975 c 162 s 3; 1977 c 306 s 14; 1977 c 447 art 7 s 2,3; 1978 c 616*

s 2; 1978 c 706 s 1; 1980 c 609 art 3 s 2; 1Sp1985 c 12 art 7 s 3; 1986 c 444; 1986 c 472 s 1-3; 1987 c 178 s 1,9

120.102 REPORTING.

Subdivision 1. **Reports to superintendent.** The person in charge of providing instruction to a child shall submit the following information to the superintendent of the district in which the child resides:

(1) by October 1 of each school year, the name, age, and address of each child receiving instruction;

(2) the name of each instructor and evidence of compliance with one of the requirements specified in section 120.101, subdivision 7;

(3) an annual instructional calendar showing that instruction will occur at least 170 days; and

(4) for each child instructed by a parent who meets only the requirement of section 120.101, subdivision 7, clause (6), a quarterly report card on the achievement of the child in each subject area required in section 120.101, subdivision 6.

Subd. 2. **Availability of documentation.** The person in charge of providing instruction to a child must make available documentation indicating that the subjects required in section 120.101, subdivision 6, are being taught. This documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement.

Subd. 3. **Exemptions.** A nonpublic school, person, or other institution that is accredited by an accrediting agency, recognized according to section 123.935, or recognized by the state board of education, is exempt from the requirements in subdivisions 1 and 2, except for the requirement in subdivision 1, clause (1).

Subd. 4. **Reports to the state.** A superintendent shall make an annual report to the commissioner of education. The report must include the following information:

(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;

(2) the number of children in clause (1) who are in compliance with section 120.101 and this section; and

(3) the names, ages, and addresses of children whom the superintendent has determined are not in compliance with section 120.101 and this section.

History: 1987 c 178 s 2

120.103 ENFORCEMENT AND PROSECUTION.

Subdivision 1. **On-site visits.** A superintendent or the superintendent's designee may make an annual on-site visit, at a mutually agreed upon time, to an unaccredited nonpublic school, home, or other institution where children are receiving instruction. Upon mutual agreement between the parties, the superintendent or the superintendent's designee may also visit an accredited nonpublic school, person, or other institution providing instruction. The purpose of these visits shall be limited to monitoring compliance with the requirements of section 120.101. If the superintendent determines that there is evidence of noncompliance with the requirements of sections 120.101 and 120.102, the superintendent may make additional visits during the school year.

Subd. 2. **Alternative to visits.** In lieu of the visit authorized in subdivision 1, a parent who is providing instruction may present the documentation required in section 120.102, subdivision 2, to the superintendent.

Subd. 3. **Notice to parents.** The superintendent shall notify the parent, in writing, if a child is alleged to be receiving instruction in violation of sections 120.101 and 120.102. The written notification shall include a list of the specific alleged violations.

Subd. 4. **Fact-finding and mediation.** If the specified alleged violations of the compulsory attendance requirements are not corrected within 15 days of receipt of the written notification, the superintendent shall request fact-finding and mediation services from the commissioner of education.

Subd. 5. **Notice to county attorney.** If the alleged violations are not corrected through the fact-finding and mediation process under subdivision 4, the superintendent shall notify the county attorney of the alleged violations. The superintendent shall notify the parents, by certified mail, of the superintendent's intent to notify the county attorney of the alleged violations.

Subd. 6. **Criminal complaint; prosecution.** The county attorney in the county in which the alleged violations have occurred has jurisdiction to conduct a prosecution for violations of section 120.101, 120.102, or 120.103. A criminal complaint may be filed in any court in the county exercising criminal jurisdiction and shall name the persons neglecting or refusing to comply with section 120.101, 120.102, or 120.103. After the complaint has been filed, a warrant shall be issued and proceedings in trial shall commence as provided by law in misdemeanor cases.

History: 1987 c 178 s 3

120.104 REPORT TO LEGISLATURE.

The commissioner of education shall report to the education committees of the legislature by February 1 of each even-numbered year on the implementation of the compulsory education requirements, including an assessment of the activities of the state board of education and the nonpublic education council relating to recognizing educational accrediting agencies.

History: 1987 c 178 s 4

120.12 [Repealed, 1987 c 178 s 10]

120.17 HANDICAPPED CHILDREN.

Subdivision 1. **Special instruction for handicapped children.** Every district shall provide special instruction and services, either within the district or in another district, for handicapped children who are residents of the district and who are handicapped as set forth in section 120.03. Special instruction and services must be provided from birth until September 1 after the handicapped child becomes 21 years old but shall not extend beyond secondary school or its equivalent. Local health, education, and social service agencies shall refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible handicapped children as determined by the state board shall cooperate with other districts to maintain a full range of programs for education and services for handicapped children. This subdivision does not alter the compulsory attendance requirements of section 120.10.

Subd. 1b. **High school diploma.** Upon completion of secondary school or the equivalent, a handicapped pupil who satisfactorily attains the objectives in the pupil's individual education plan shall be granted a high school diploma that is identical to the diploma granted to a nonhandicapped pupil.

Subd. 2. **Method of special instruction.** Special instruction and services for handicapped children must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:

- (a) in connection with attending regular elementary and secondary school classes;
- (b) establishment of special classes;
- (c) at the home or bedside of the child;
- (d) in other districts;
- (e) instruction and services by special education cooperative centers established under this section, or in another member district of the cooperative center to which the resident district of the handicapped child belongs;
- (f) in a state residential school or a school department of a state institution approved by the commissioner;
- (g) in other states;

- (h) by contracting with public, private or voluntary agencies;
- (i) for children under age five and their families, programs and services established through collaborative efforts with other agencies;
- (j) for children under age five and their families, programs in which handicapped children are served with nonhandicapped children; and
- (k) any other method approved by the commissioner.

Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

The primary responsibility for the education of a handicapped child shall remain with the district of the child's residence regardless of which method of providing special instruction and services is used. The district of residence must inform the parents of the child about the methods of instruction that are available.

Subd. 3. Rules of the state board. The state board shall promulgate rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules it deems necessary for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b. These rules shall also provide standards for the discipline, control, management and protection of handicapped children. The state board shall not adopt rules for pupils served in level 1, 2, or 3, as defined in Minnesota Rules, part 3525.2340, establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The state board, in consultation with the departments of health and human services, shall adopt permanent rules for instruction and services for children under age five and their families. Until June 30, 1988, a developmental achievement center under contract to a school district to provide special instruction and services is eligible for variance from rules relating to personnel licensure. Until June 30, 1988, the licensure variance for a developmental achievement center shall be granted according to the same procedures and criteria used for granting a variance to a school district. The state board shall, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the board shall specify the program standards used to evaluate the request and the reasons for denying the request.

Subd. 3a. School district obligations. Every district shall ensure that:

- (1) all handicapped children are provided the special instruction and services which are appropriate to their needs. The student's needs and the special education instruction and services to be provided shall be agreed upon through the development of an individual education plan. The plan shall address the student's need to develop skills to live and work as independently as possible within the community. By grade nine or age 14, the plan shall address the student's needs for transition from secondary services to post-secondary education and training, employment, and community living;
- (2) handicapped children under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;
- (3) handicapped children and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment and educational placement of handicapped children;
- (4) to the maximum extent appropriate, handicapped children, including those in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;
- (5) in accordance with recognized professional standards, testing and evaluation materials, and procedures utilized for the purposes of classification and placement of

handicapped children are selected and administered so as not to be racially or culturally discriminatory; and

(6) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

Subd. 3b. **Procedures for decisions.** Every district shall utilize at least the following procedures for decisions involving identification, assessment, and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative;

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a). The conciliation process shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation shall be deemed to be satisfied;

(d) Parents, guardians, and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted in the school district where the child resides, if the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child;

or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

The local decision shall:

- (1) be in writing;
- (2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;
- (3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;
- (4) state the amount and source of any additional district expenditure necessary to implement the decision; and
- (5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the hearing review officer within 15 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district where the child resides.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The hearing review officer shall issue a final decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

- (1) be in writing;
- (2) include findings and conclusions; and
- (3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(g) The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

(h) The commissioner of education, having delegated general supervision of special education to the appropriate staff, shall be the hearing review officer except for appeals in which:

- (1) the commissioner has a personal interest in or specific involvement with the student who is a party to the hearing;
- (2) the commissioner has been employed as an administrator by the district that is a party to the hearing;
- (3) the commissioner has been involved in the selection of the administrators of the district that is a party to the hearing;
- (4) the commissioner has a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies;
- (5) the appeal challenges a state or local policy which was developed with substantial involvement of the commissioner; or

(6) the appeal challenges the actions of a department employee or official.

For any appeal to which the above exceptions apply, the state board of education shall name an impartial and competent hearing review officer.

In all appeals, the parent or guardian of the handicapped student or the district that is a party to the hearing may challenge the impartiality or competence of the proposed hearing review officer by applying to the state board of education.

(i) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in the child's current educational placement and shall not be denied initial admission to school.

(j) The child's school district of residence, if different from the district where the child actually resides, shall receive notice of and may be a party to any hearings or appeals pursuant to this subdivision.

[For text of subs 4 and 4a, see M.S.1986]

Subd. 5. School of parents' choice. Nothing in this chapter shall be construed as preventing parents of a handicapped child from sending such child to a school of their choice, if they so elect, subject to admission standards and policies adopted according to chapter 128A, and all other provisions of chapters 120 to 129.

Subd. 5a. Summer programs. A district may provide summer programs for handicapped children living within the district and nonresident children temporarily placed in the district pursuant to subdivision 6 or 7. Prior to March 31 or 30 days after the handicapped child is placed in the district, whichever is later, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to subdivision 6 or 7, of its intention to provide these programs. Notwithstanding any contrary provisions in subdivisions 6 and 7, the school district providing the special instruction and services shall apply for special education aid for the summer program. For the purposes of computing the summer program revenue allowance as provided in section 124A.033, pupils enrolled in these programs shall be counted by the district of residence and not by the district providing the programs. The unreimbursed actual cost of providing the program for nonresident handicapped children, including the cost of board and lodging, may be billed to the district of the child's residence and shall be paid by the resident district. Transportation costs shall be paid by the district responsible for providing transportation pursuant to subdivision 6 or 7 and transportation aid shall be paid to that district.

[For text of subs 6 and 7, see M.S.1986]

Subd. 7a. Attendance at school for the handicapped. Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota state academy for the deaf or the Minnesota state academy for the blind shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which the child's parent or guardian resides.

(b) When it is determined pursuant to section 128A.05, subdivision 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the actual cost of providing the program; provided, however, that effective for the 1983-1984 school year and thereafter, the amount of tuition charged shall not exceed the sum of \$1,000 plus the foundation aid formula allowance of the district for that child, for an entire school year, or a prorated amount based on the portion of the school year for which the child is a resident of the district or is actually in membership in the program. For purposes of this subdivision, "foundation aid formula allowance" shall have the meaning attributed to it in section 124.32, subdivision 1a. The district of the child's residence shall pay the tuition and may claim foundation aid for the child. The district of the child's residence shall not

receive aid pursuant to section 124.32, subdivision 5, for tuition paid pursuant to this subdivision. All tuition received by the state board shall be deposited in the state treasury.

(c) When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

(d) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause (c) for providing appropriate educational programs to pupils attending the applicable school.

(e) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to supply staff from the Minnesota state academy for the deaf and the Minnesota state academy for the blind to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

[For text of subs 8a to 11, see M.S.1986]

Subd. 11a. State interagency coordinating council. An interagency coordinating council of 15 members is established. The members and the chair shall be appointed by the governor. The council shall be composed of at least three parents of handicapped children under age seven, a representative of each of the commissioners of education, health, and human services, three representatives of public or private providers of services for handicapped children under age five, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education, at least one representative of advocacy organizations for handicapped children, and other members knowledgeable about handicapped children under age five. Section 15.059 applies to the council, except that the council is permanent and does not expire. The council shall meet at least quarterly.

The council shall address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for handicapped children and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for handicapped children under age five and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services, and to facilitate payment for services from public and private sources. Appropriate services must be determined in consultation with parents, physicians, and other educational, medical, health, and human services providers. Appropriate services include family education and counseling, home visits, occupational and physical therapy, speech pathology, audiology, psychological services, case management, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable handicapped children to benefit from early intervention services. School districts must be the primary agency in this cooperative effort.

Each year by January 15 the council shall submit its recommendations to the education committees of the legislature, the governor, and the commissioners of education, health, and human services.

Subd. 12. **Interagency early intervention committee.** A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish an interagency early intervention committee for handicapped children under age five and their families. Members of the committee shall be representatives of local and regional health, education, and county human service agencies; county boards; school boards; early childhood family education programs; current service providers; parents of young handicapped children; and other private or public agencies. The committee shall elect a chair from among its members and shall meet at least quarterly. The committee shall perform the following ongoing duties:

- (1) identify current services and funding being provided within the community for handicapped children under the age of five and their families;
- (2) establish and evaluate the identification, referral, and community learning systems to recommend, where necessary, alterations and improvements;
- (3) facilitate the development of individual education plans and individual service plans when necessary to appropriately serve handicapped children under the age of five and their families and recommend assignment of financial responsibilities to the appropriate agencies;
- (4) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;
- (5) review and comment on the early intervention section of the total special education system for the district and the county social services plan; and
- (6) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services.

The departments of education, health, and human services are encouraged to provide assistance to the local agencies in developing cooperative plans for providing services.

Subd. 13. [Repealed, 1987 c 398 art 3 s 41]

Subd. 14. **Maintenance of effort.** A county human services agency or county board shall continue to provide services set forth in their county social service agency plan for handicapped children under age five and their families or as specified in the individual service plan and individual habilitation plan of each child. Special instruction and services for which a handicapped child is eligible under this section are not the responsibility of the local human services agency or county board. It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services not required under this section and to facilitate payment for services from public and private sources. School districts and counties are encouraged to enter into agreements to cooperatively serve and provide funding for handicapped children under age five and their families.

Subd. 15. **Third party payment.** Nothing in this section relieves an insurer or similar third party from an otherwise valid obligation to pay, or changes the validity of an obligation to pay, for services to a handicapped child.

Subd. 16. **Community transition interagency committee.** A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish a community transition interagency committee for handicapped youth, beginning at grade nine or age equivalent, and their families. Members of the committee shall consist of representatives from special education; vocational and regular education; community education; post-secondary education and training institutions; parents of handicapped youth; local business or industry; rehabilitation services; county social services; health agencies; and additional public or private adult service providers as appropriate. The committee shall elect a chair and shall meet regularly. The committee shall:

(1) identify current services, programs, and funding sources provided within the community for secondary and post-secondary aged handicapped youth and their families;

(2) facilitate the development of multiagency teams to address present and future transition needs of individual students on their individual education plans;

(3) develop a community plan to include mission, goals, and objectives, and an implementation plan to assure that transition needs of handicapped individuals are met;

(4) recommend changes or improvements in the community system of transition services;

(5) exchange agency information such as appropriate data, effectiveness studies, special projects, exemplary programs, and creative funding of programs; and

(6) prepare a yearly summary assessing the progress of transition services in the community and disseminate it to all adult services agencies involved in the planning and to the commissioner of education by September 1 of each year.

History: 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14

NOTE: Subdivision 1, as amended by Laws 1987, chapter 398, article 3, section 2, is effective July 1, 1988. See Laws 1987, chapter 398, article 3, section 43.