

MINNESOTA STATUTES 1993 SUPPLEMENT

CHAPTER 120

DEFINITIONS; ATTENDANCE; SPECIAL EDUCATION; FEES; CQE

120.06	Admission to public school.	120.095	Repealed.
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120.06 ADMISSION TO PUBLIC SCHOOL.

[For text of subds 1 and 2a, see M.S.1992]

Subd. 3. **Pupils, at least 21 years of age.** In addition to those admitted under subdivision 1, admission to a public secondary school is free to a person who is eligible under this subdivision. In order to be eligible, a person must be:

- (1) at least 21 years of age;
- (2) a resident of the district where the secondary school is located; and
- (3) eligible under section 126.22, subdivision 2.

Free admission is limited to two school years or the equivalent, or until the pupil completes the courses required to graduate, whichever is less. A district that admits a person to school under this section must have a reasonable expectation that the person can obtain a diploma within two years.

History: 1993 c 224 art 4 s 7

120.062 ENROLLMENT OPTIONS PROGRAM.

[For text of subds 2 to 4, see M.S.1992]

Subd. 5. **Desegregation district transfers.** (a) This subdivision applies to a transfer into or out of a district that has a desegregation plan approved by the commissioner of education.

(b) An application to transfer may be submitted at any time for enrollment beginning at any time.

(c) The parent or guardian of a pupil who is a resident of a district that has a desegregation plan must submit an application to the resident district. If the district accepts the application, it must forward the application to the nonresident district.

(d) The parent or guardian of a pupil who applies for enrollment in a nonresident district that has a desegregation plan must submit an application to the nonresident district.

(e) Each district must accept or reject an application it receives and notify the parent or guardian in writing within 30 calendar days of receiving the application. A notification of acceptance must include the date enrollment can begin.

(f) If an application is rejected, the district must state the reason for rejection in the notification. If a district that has a desegregation plan rejects an application for a reason related to the desegregation plan, the district must state with specificity how acceptance of the application would result in noncompliance with state board rules with respect to the school or program for which application was made.

(g) If an application is accepted, the parent or guardian must notify the nonresident district in writing within 15 calendar days of receiving the acceptance whether the pupil intends to enroll in the nonresident district. Notice of intention to enroll obligates the pupil to enroll in the nonresident district, unless the school boards of the resident

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and nonresident districts agree otherwise. If a parent or guardian does not notify the nonresident district, the pupil may not enroll in that nonresident district at that time, unless the school boards of the resident and nonresident district agree otherwise.

(h) Within 15 calendar days of receiving the notice from the parent or guardian, the nonresident district shall notify the resident district in writing of the pupil's intention to enroll in the nonresident district.

(i) A pupil enrolled in a nonresident district under this subdivision is not required to make annual or periodic application for enrollment but may remain enrolled in the same district. A pupil may transfer to the resident district at any time.

(j) A pupil enrolled in a nonresident district and applying to transfer into or out of a district that has a desegregation plan must follow the procedures of this subdivision. For the purposes of this type of transfer, "resident district" means the nonresident district in which the pupil is enrolled at the time of application.

(k) A district that has a desegregation plan approved by the state board of education must accept or reject each individual application in a manner that will enable compliance with its desegregation plan.

[For text of subds 6 to 8a, see M.S.1992]

Subd. 9. Transportation. (a) If requested by the parent of a pupil, the nonresident district shall provide transportation within the district. The state shall pay transportation aid to the district according to section 124.225.

The resident district is not required to provide or pay for transportation between the pupil's residence and the border of the nonresident district. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a nonresident district notifies a parent or guardian that an application has been accepted under subdivision 5 or 6, the nonresident district must provide the parent or guardian with the following information regarding the transportation of nonresident pupils under this section:

(1) a nonresident district may transport a pupil within the pupil's resident district under this section only with the approval of the resident district; and

(2) a parent or guardian of a pupil attending a nonresident district under this section may appeal under section 123.39, subdivision 6, the refusal of the resident district to allow the nonresident district to transport the pupil within the resident district.

(b) Notwithstanding paragraph (a) and section 124.225, subdivision 81, transportation provided by a nonresident district between home and school for a pupil attending school under this section is authorized for nonregular transportation revenue under section 124.225, if the following criteria are met:

(1) the school that the pupil was attending prior to enrolling in the nonresident district under this section was closed;

(2) the distance from the closed school to the next nearest school in the district that the student could attend is at least 20 miles;

(3) the pupil's residence is at least 20 miles from any school that the pupil could attend in the resident district; and

(4) the pupil's residence is closer to the school of attendance in the nonresident district than to any school the pupil could attend in the resident district.

[For text of subds 10 to 12, see M.S.1992]

History: 1993 c 224 art 2 s 1; art 13 s 1

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120.0621 ENROLLMENT OPTIONS PROGRAMS IN BORDER STATES.

Subdivision 1. **Options for enrollment in adjoining states.** Minnesota pupils and pupils residing in adjoining states may enroll in school districts in the other state according to:

- (1) section 120.08, subdivision 2; or
- (2) this section.

Subd. 2. **Pupils in Minnesota.** A Minnesota resident pupil may enroll in a school district in an adjoining state if the district to be attended borders Minnesota.

Subd. 3. **Pupils in bordering states.** A non-Minnesota pupil who resides in an adjoining state in a school district that borders Minnesota may enroll in a Minnesota school district if either the school board of the district in which the pupil resides or state in which the pupil resides pays tuition to the school district in which the pupil is enrolled.

Subd. 3a. **Canadian pupils.** A pupil who resides in Canada may enroll in a Minnesota school district if the province in which the pupil resides pays tuition to the school district in which the pupil is enrolled. A pupil may enroll either full time or part time for all instructional programs and shall be considered eligible for all other purposes for all other programs offered by the district. The tuition must be an amount that is at least comparable to the tuition specified in section 120.08, subdivision 1. A school district may accept funds from any international agency for these programs.

Subd. 4. **Procedural requirements.** Except as otherwise provided in this section, the rights and duties set forth in section 120.062 apply to Minnesota pupils, parents, and school districts if a pupil enrolls in a nonresident district according to this section.

Subd. 5. [Repealed, 1993 c 224 art 9 s 54]

Subd. 5a. **Tuition payments.** In each odd-numbered year, before March 1, the state board of education shall agree to rates of tuition for Minnesota elementary and secondary pupils attending in other states for the next two fiscal years. The board shall negotiate equal, reciprocal rates with the designated authority in each state for pupils who reside in an adjoining state and enroll in a Minnesota school district. The rates must be at least equal to the tuition specified in section 120.08, subdivision 1. The tuition rate for a pupil with a disability must be equal to the actual cost of instruction and services provided. The resident district of a Minnesota pupil attending in another state under this section must pay the amount of tuition agreed upon in this section to the district of attendance, prorated on the basis of the proportion of the school year attended.

Subd. 5b. **Transportation of students.** (a) The agreement under subdivision 5a with each state must specify that the attending district in each state transport a pupil from the district boundary to the school of attendance.

(b) Notwithstanding paragraph (a), the districts of residence and attendance may agree that either district may provide transportation from a pupil's home or agreed upon location to school. Transportation aid for Minnesota students eligible for aid shall be paid only for transportation within the resident district.

Subd. 6. **Effective if reciprocal.** This section is effective with respect to South Dakota upon enactment of provisions by South Dakota that are essentially similar to the provisions for Minnesota pupils in this section. After July 1, 1993, this section is effective with respect to any other bordering state upon enactment of provisions by the bordering state that are essentially similar to the provisions for Minnesota pupils in this section.

History: 1993 c 224 art 6 s 1; art 9 s 1

120.064 OUTCOME-BASED SCHOOLS.

Subdivision 1. **Purposes.** (a) The purpose of this section is to:

- (1) improve pupil learning;
- (2) increase learning opportunities for pupils;

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(3) encourage the use of different and innovative teaching methods;

(4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;

(5) establish new forms of accountability for schools; or

(6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(b) This section does not provide a means to keep open a school that otherwise would be closed. Applicants in these circumstances bear the burden of proving that conversion to an outcome-based school fulfills a purpose specified in this subdivision, independent of the school's closing.

[For text of subd 2, see M.S.1992]

Subd. 3. Sponsor. A school board may sponsor one or more outcome-based schools.

A school board may authorize a maximum of five outcome-based schools. No more than a total of 20 outcome-based schools may be authorized. The state board of education shall advise potential sponsors when the maximum number of outcome-based schools has been authorized.

Subd. 4. Formation of school. (a) A sponsor may authorize one or more licensed teachers under section 125.05, subdivision 1, to operate an outcome-based school subject to approval by the state board of education. If a school board elects not to sponsor an outcome-based school, the applicant may appeal the school board's decision to the state board of education if two members of the school board voted to sponsor the school. If the state board authorizes the school, the state board shall sponsor the school according to this section. The school shall be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.

(b) Before the operators may form and operate a school, the sponsor must file an affidavit with the state board of education stating its intent to authorize an outcome-based school. The affidavit must state the terms and conditions under which the sponsor would authorize an outcome-based school. The state board must approve or disapprove the sponsor's proposed authorization within 30 days of receipt of the affidavit. Failure to obtain state board approval precludes a sponsor from authorizing the outcome-based school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school shall hold an election for members of the school's board of directors in a timely manner after the school is operating. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors. A provisional board may operate before the election of the school's board of directors.

Subd. 4a. Conversion of existing schools. A school board may convert one or more of its existing schools to outcome-based schools under this section if 90 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 5. Contract. The sponsor's authorization for an outcome-based school shall be in the form of a written contract signed by the sponsor and the board of directors of the outcome-based school. The contract for an outcome-based school shall be in writing and contain at least the following:

(1) a description of a program that carries out one or more of the purposes in subdivision 1;

(2) specific outcomes pupils are to achieve under subdivision 10;

(3) admission policies and procedures;

(4) management and administration of the school;

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- (5) requirements and procedures for program and financial audits;
- (6) how the school will comply with subdivisions 8, 13, 15, and 21;
- (7) assumption of liability by the outcome-based school;
- (8) types and amounts of insurance coverage to be obtained by the outcome-based school; and
- (9) the term of the contract which may be up to three years.

Subd. 6. [Repealed, 1993 c 337 s 20]

[For text of subd 7, see M.S.1992]

Subd. 8. **Requirements.** (a) An outcome-based school shall meet all applicable state and local health and safety requirements.

(b) The school must be located in the sponsoring district, unless another school board agrees to locate an outcome-based school sponsored by another district in its boundaries. If a school board denies a request to locate within its boundaries an outcome-based school sponsored by another district, the sponsoring district may appeal to the state board of education. If the state board authorizes the school, the state board shall sponsor the school.

(c) The school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize an outcome-based school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) The primary focus of the school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(e) The school may not charge tuition.

(f) The school is subject to and shall comply with chapter 363 and section 126.21.

(g) The school is subject to and shall comply with the pupil fair dismissal act, sections 127.26 to 127.39, and the Minnesota public school fee law, sections 120.71 to 120.76.

(h) The school is subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit must be consistent with the requirements of sections 121.901 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of education, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(i) The school is a school district for the purposes of tort liability under chapter 466.

Subd. 9. **Admission requirements.** The school may limit admission to:

(1) pupils within an age group or grade level;

(2) people who are eligible to participate in the high school graduation incentives program under section 126.22; or

(3) residents of a specific geographic area where the percentage of the population of non-Caucasian people of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area.

The school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils shall be accepted by lot.

The school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

[For text of subd 10, see M.S.1992]

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Subd. 11. Employment and other operating matters. The school shall employ or contract with necessary teachers, as defined by section 125.03, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge teachers and nonlicensed employees.

The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

[For text of subds 12 to 15, see M.S.1992]

Subd. 16. Leased space. The school may lease space from a board eligible to be a sponsor or other public or private nonprofit nonsectarian organization. If a school is unable to lease appropriate space from an eligible board or other public or private nonprofit nonsectarian organization, the school may lease space from another nonsectarian organization if the department of education, in consultation with the department of administration, approves the lease.

[For text of subd. 17, see M.S.1992]

Subd. 18. Disseminate information. The sponsor, the operators, and the department of education must disseminate information to the public on how to form and operate an outcome-based school and how to utilize the offerings of an outcome-based school. Particular groups to be targeted include low-income families and communities, and students of color.

[For text of subds 19 and 20, see M.S.1992]

Subd. 21. Causes for nonrenewal or termination. (a) The duration of the contract with a sponsor shall be for the term contained in the contract according to subdivision 5. The sponsor may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the sponsor shall notify the board of directors of the school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the school's board of directors may request in writing an informal hearing before the sponsor within 14 days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school's board of directors of the hearing date. The sponsor shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year. If the sponsor is a local school board, the school's board of directors may appeal the sponsor's decision to the state board of education.

(b) A contract may be terminated or not renewed upon any of the following grounds:

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;
- (3) for violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed, the school shall be dissolved according to the applicable provisions of chapter 308A or 317A.

[For text of subds 22 to 24, see M.S.1992]

History: 1993 c 224 art 9 s 2-12

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120.0751 COMMISSIONER OF EDUCATION; ENROLLMENT EXCEPTIONS.

Subdivision 1. The commissioner may permit a pupil to enroll in a school district of which the pupil is not a resident under this section.

Subd. 2. The pupil or the pupil's parent or guardian shall make application to the commissioner, explaining the particular circumstances which make the nonresident district the appropriate district of attendance for the pupil. The application must be signed by the pupil's parent or guardian and the superintendent of the nonresident district.

Subd. 3. **Criteria for approval.** In approving or disapproving the application the commissioner shall consider the following:

(a) if the circumstances of the pupil are similar or analogous to the exceptions permitted by section 120.075, whether attending school in the district of residence creates a particular hardship for the pupil; or

(b) if the pupil has been continuously enrolled for at least two years in a district of which the pupil was not a resident because of an error made in good faith about the actual district of residence, whether attending school in the district of residence creates a particular hardship for the pupil. If the commissioner finds that a good faith error was made and that attending school in the district of residence would create a particular hardship for the siblings of that pupil or foster children of that pupil's parents, the commissioner may separately approve an application for any or all of the siblings of the pupil who are related by blood, adoption, or marriage and for foster children of the pupil's parents.

Subd. 4. The commissioner shall render its decision in each case within 60 days of receiving the application in subdivision 2.

Subd. 5. The commissioner shall provide the forms required by subdivision 2 and shall adopt the procedures necessary to implement this section.

Subd. 6. **Aid.** General education aid, capital expenditure facilities aid, capital expenditure equipment aid, and transportation aid for pupils covered by programs under this section must be paid according to sections 124A.036, subdivision 5, 124.245, subdivision 6, and 124.225, subdivision 8l.

History: 1993 c 224 art 13 s 2

120.095 [Repealed, 1993 c 224 art 12 s 32]

120.101 COMPULSORY INSTRUCTION.

[For text of subds 1 to 4, see M.S. 1992]

Subd. 5. **Ages and terms.** For the 1988-1989 school year and the school years thereafter, every child between seven and 16 years of age shall receive instruction for at least the number of days each year required under subdivision 5b. For the 2000-2001 school year and later school years, every child between seven and 18 years of age shall receive instruction for at least the number of days each year required under subdivision 5b. 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 half of each day for the number of days each year set out in subdivision 5b. Except as provided in subdivision 5a, a parent may withdraw a child under the age of seven from enrollment at any time.

Subd. 5a. [Repealed, 1993 c 224 art 12 s 32]

Subd. 5b. **Instructional days.** Every child required to receive instruction according to subdivision 5 shall receive instruction for at least 170 days through the 1994-1995 school year, and for later years, at least the number of days per school year in the following schedule:

- (1) 1995-1996, 172;
- (2) 1996-1997, 174;

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- (3) 1997-1998, 176;
- (4) 1998-1999, 178;
- (5) 1999-2000, 180;
- (6) 2000-2001, 182;
- (7) 2001-2002, 184;
- (8) 2002-2003, 186;
- (9) 2003-2004, 188; and
- (10) 2004-2005, and later school years, 190.

[For text of subds 6 to 10, see M.S.1992]

History: 1993 c 224 art 9 s 13,14

NOTE: The repeal of subdivision 5b by Laws 1993, chapter 224, article 12, section 32, paragraph (c), is effective August 1, 1996. See Laws 1993, chapter 224, article 12, section 41.

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 on at least the number of days required under section 120.101, subdivision 5b; 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.

[For text of subds 2 to 4, see M.S.1992]

History: 1993 c 224 art 9 s 15

120.17 CHILDREN WITH A DISABILITY.

[For text of subds 1 and 1b, see M.S.1992]

Subd. 2. Method of special instruction. (a) Special instruction and services for children with a disability 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:

- (1) in connection with attending regular elementary and secondary school classes;
- (2) establishment of special classes;
- (3) at the home or bedside of the child;
- (4) in other districts;
- (5) 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 child with a disability belongs;
- (6) in a state residential school or a school department of a state institution approved by the commissioner;
- (7) in other states;
- (8) by contracting with public, private or voluntary agencies;
- (9) for children under age five and their families, programs and services established through collaborative efforts with other agencies;
- (10) for children under age five and their families, programs in which children with a disability are served with children without a disability; and

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(11) any other method approved by the commissioner.

(b) 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.

(c) The primary responsibility for the education of a child with a disability shall remain with the district of the child's residence regardless of which method of providing special instruction and services is used. If a district other than a child's district of residence provides special instruction and services to the child, then the district providing the special instruction and services shall notify the child's district of residence before the child's individual education plan is developed and shall provide the district of residence an opportunity to participate in the plan's development. The district of residence must inform the parents of the child about the methods of instruction that are available.

(d) Paragraphs (e) to (i) may be cited as the "blind persons' literacy rights and education act."

(e) The following definitions apply to paragraphs (f) to (i).

"Blind student" means an individual who is eligible for special educational services and who:

(1) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than 20 degrees; or

(2) has a medically indicated expectation of visual deterioration.

"Braille" means the system of reading and writing through touch commonly known as standard English Braille.

"Individualized education plan" means a written statement developed for a student eligible for special education and services pursuant to this section and section 602(a)(20) of part A of the Individuals with Disabilities Education Act, United States Code, title 20, section 1401(a).

(f) In developing an individualized education plan for each blind student the presumption must be that proficiency in Braille reading and writing is essential for the student to achieve satisfactory educational progress. The assessment required for each student must include a Braille skills inventory, including a statement of strengths and deficits. Braille instruction and use are not required by this paragraph if, in the course of developing the student's individualized education program, team members concur that the student's visual impairment does not affect reading and writing performance commensurate with ability. This paragraph does not require the exclusive use of Braille if other special education services are appropriate to the student's educational needs. The provision of other appropriate services does not preclude Braille use or instruction. Instruction in Braille reading and writing shall be available for each blind student for whom the multidisciplinary team has determined that reading and writing is appropriate.

(g) Instruction in Braille reading and writing must be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

(h) The student's individualized education plan must specify:

(1) the results obtained from the assessment required under paragraph (f);

(2) how Braille will be implemented through integration with other classroom activities;

(3) the date on which Braille instruction will begin;

(4) the length of the period of instruction and the frequency and duration of each instructional session;

(5) the level of competency in Braille reading and writing to be achieved by the end of the period and the objective assessment measures to be used; and

(6) if a decision has been made under paragraph (f) that Braille instruction or use is not required for the student:

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- (i) a statement that the decision was reached after a review of pertinent literature describing the educational benefits of Braille instruction and use; and
- (ii) a specification of the evidence used to determine that the student's ability to read and write effectively without Braille is not impaired.
- (i) Instruction in Braille reading and writing is a service for the purpose of special education and services under this section.
- (j) Paragraphs (e) to (i) shall not be construed to supersede any rights of a parent or guardian of a child with a disability under federal or state law.

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 children with a disability. 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 children with a disability. 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. These rules are binding on state and local education, health, and human services agencies. The state board shall adopt rules to determine eligibility for special education services. The rules shall include procedures and standards by which to grant variances for experimental eligibility criteria. 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.

[For text of subds 3a to 7, see M.S.1992]

Subd. 7a. Attendance at school for the disabled. 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 cost of providing the program. The amount of tuition charged shall not exceed the basic revenue of the district for that child, for the amount of time the child is in the program. For purposes of this subdivision, "basic revenue" has the meaning given it in section 124A.22, subdivision 2. The district of the child's residence shall pay the tuition and may claim general education aid for the child. Tuition received by the state board, except for tuition received under clause (c), shall be deposited in the state treasury as provided in clause (g).
- (c) In addition to the tuition charge allowed in clause (b), the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, if that aide is required by the child's individual education plan. Tuition received under this clause must be used by the academies to provide the required service.
- (d) 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

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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 children with a disability 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.

(e) Notwithstanding the provisions of clauses (b) and (d), 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 (d) for providing appropriate educational programs to pupils attending the applicable school.

(f) Notwithstanding the provisions of clauses (b) and (d), 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.

(g) On May 1 of each year, the state board shall count the actual number of Minnesota resident kindergarten and elementary students and the actual number of Minnesota resident secondary students enrolled and receiving education services at the Minnesota state academy for the deaf and the Minnesota state academy for the blind. The state board shall deposit in the state treasury an amount equal to all tuition received less:

(1) the total number of students on May 1 less 175, times the ratio of the number of kindergarten and elementary students to the total number of students on May 1, times the general education formula allowance; plus

(2) the total number of students on May 1 less 175, times the ratio of the number of secondary students on May 1 to the total number of students on May 1, times 1.3, times the general education formula allowance.

(h) The sum provided by the calculation in clause (g), subclauses (1) and (2), must be deposited in the state treasury and credited to the general operation account of the academy for the deaf and the academy for the blind.

(i) There is annually appropriated to the department of education for the Faribault academies the tuition amounts received and credited to the general operation account of the academies under this section. A balance in an appropriation under this paragraph does not cancel but is available in successive fiscal years.

[For text of subds 8a to 11, see M.S.1992]

Subd. 11a. **State interagency coordinating council.** An interagency coordinating council of at least 17, but not more than 25 members is established, in compliance with Public Law Number 102-119, section 682. The members shall be appointed by the governor. Council members shall elect the council chair. The representative of the commissioner of education may not serve as the chair. The council shall be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, five representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, education, health, human services, and jobs and training, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council shall meet at least quarterly.

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The council shall address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities 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 children under age five with disabilities 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.

Each year by June 1, the council shall recommend to the governor and the commissioners of education, health, human services, commerce, and jobs and training policies for a comprehensive and coordinated system.

Subd. 11b. Responsibilities of county boards and school boards. It is the joint responsibility of county boards and school boards to coordinate, provide, and pay for appropriate services, and to facilitate payment for services from public and private sources. Appropriate services for children eligible under section 120.03 must be determined in consultation with parents, physicians, and other educational, medical, health, and human services providers. The services provided must be in conformity with an individual family service plan (IFSP) as defined in Code of Federal Regulations, title 34, sections 303.340, 303.341a, and 303.344 for each eligible infant and toddler from birth through age two and its family, or an individual education plan (IEP) or individual service plan (ISP) for each eligible child ages three through four. County boards and school boards shall not be required to provide any services under an individual family service plan that are not required in an individual education plan or individual service plan. Appropriate services include family education and counseling, home visits, occupational and physical therapy, speech pathology, audiology, psychological services, special instruction, case management including service coordination, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable children with disabilities to benefit from early intervention services. County and school boards shall jointly determine the primary agency in this cooperative effort and must notify the commissioner of education of their decision.

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

(b) The committee shall develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families of available programs and services;

(2) implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities and their families;

(3) establish and evaluate the identification, referral, child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families,

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and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies. Agencies are encouraged to develop individual family service plans for children with disabilities, age three and older;

(5) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(6) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services;

(7) identify the current services and funding being provided within the community for children with disabilities under age five and their families; and

(8) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law Number 89-313).

(c) The local committee shall also:

(1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families;

(2) review and comment on the early intervention section of the total special education system for the district, the county social service plan, the section or sections of the community health services plan that address needs of and service activities targeted to children with special health care needs, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities; and

(3) prepare a yearly summary on the progress of the community in serving young children with disabilities, and their families, including the expenditure of funds, the identification of unmet service needs identified on the individual family services plan and other individualized plans, and local, state, and federal policies impeding the implementation of this section.

(d) The summary must be organized following a format prescribed by the commissioner of education and must be submitted to each of the local agencies and to the state interagency coordinating council by October 1 of each year.

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

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. The county human services agency or county board shall serve children with disabilities under age five, and their families, or as specified in the individualized family service plan for children with disabilities, birth through age two, or the individual service plan of each child. Special instruction and related services for which a child with a disability is eligible under this section are the responsibility of the local school board. It is the joint responsibility of county boards and school boards to coordinate, provide, and pay for all appropriate services required in subdivision 11b and to facilitate payment for services from public and private sources.

Subd. 14a. Local interagency agreements. School boards and the county board may enter into agreements to cooperatively serve and provide funding for children with disabilities, under age five, and their families within a specified geographic area.

The local interagency agreement must address, at a minimum, the following issues:

- (1) responsibilities of local agencies on local interagency early intervention committees (IEIC's), consistent with subdivision 12;
- (2) assignment of financial responsibility for early intervention services;
- (3) methods to resolve intra-agency and interagency disputes;
- (4) identification of current resources and recommendations about the allocation

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of additional state and federal early intervention funds under the auspices of United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law Number 89-313);

(5) data collection; and

(6) other components of the local early intervention system consistent with Public Law Number 102-119.

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 rendered to a child with a disability, and the child's family.

[For text of subd 16, see M.S.1992]

Subd. 17. State interagency agreement. (a) The commissioners of the departments of education, health, and human services shall enter into an agreement to implement this section and Part H, Public Law Number 102-119, and as required by Code of Federal Regulations, title 34, section 303.523, to promote the development and implementation of interagency, coordinated, multidisciplinary state and local early childhood intervention service systems for serving eligible young children with disabilities, birth through age two, and their families. The agreement must be reviewed annually.

(b) The state interagency agreement shall outline at a minimum the conditions, procedures, purposes, and responsibilities of the participating state and local agencies for the following:

(1) membership, roles, and responsibilities of a state interagency committee for the oversight of priorities and budget allocations under Part H, Public Law Number 102-119, and other state allocations for this program;

(2) child find;

(3) establishment of local interagency agreements;

(4) review by a state interagency committee of the allocation of additional state and federal early intervention funds by local agencies;

(5) fiscal responsibilities of the state and local agencies;

(6) intra-agency and interagency dispute resolution;

(7) payor of last resort;

(8) maintenance of effort;

(9) procedural safeguards, including mediation;

(10) complaint resolution;

(11) quality assurance;

(12) data collection; and

(13) other components of the state and local early intervention system consistent with Public Law Number 102-119.

Written materials must be developed for parents, IEIC's, and local service providers that describe procedures developed under this section as required by Code of Federal Regulations, title 34, section 303.

History: 1993 c 224 art 3 s 1-9; art 14 s 3

120.73 AUTHORIZED FEES.

Subdivision 1. A school board is authorized to require payment of fees in the following areas:

(a) in any program where the resultant product, in excess of minimum requirements and at the pupil's option, becomes the personal property of the pupil;

(b) admission fees or charges for extra curricular activities, where attendance is optional;

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- (c) a security deposit for the return of materials, supplies, or equipment;
- (d) personal physical education and athletic equipment and apparel, although any pupil may personally provide it if it meets reasonable requirements and standards relating to health and safety established by the school board;
- (e) items of personal use or products which a student has an option to purchase such as student publications, class rings, annuals, and graduation announcements;
- (f) fees specifically permitted by any other statute, including but not limited to section 171.04, subdivision 1, clause (1);
- (g) field trips considered supplementary to a district educational program;
- (h) any authorized voluntary student health and accident benefit plan;
- (i) for the use of musical instruments owned or rented by the district, a reasonable rental fee not to exceed either the rental cost to the district or the annual depreciation plus the actual annual maintenance cost for each instrument;
- (j) transportation of pupils to and from extra curricular activities conducted at locations other than school, where attendance is optional;
- (k) transportation of pupils to and from school for which aid is not authorized under section 124.223, subdivision 1, and for which levy is not authorized under section 124.226, subdivision 5, if a district charging fees for transportation of pupils establishes guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay;
- (l) motorcycle classroom education courses conducted outside of regular school hours; provided the charge shall not exceed the actual cost of these courses to the school district;
- (m) transportation to and from post-secondary institutions for pupils enrolled under the post-secondary enrollment options program under section 123.39, subdivision 16. Fees collected for this service must be reasonable and shall be used to reduce the cost of operating the route. Families who qualify for mileage reimbursement under section 123.3514, subdivision 8, may use their state mileage reimbursement to pay this fee. If no fee is charged, districts shall allocate costs based on the number of pupils riding the route.

[For text of subds 2 to 4, see M.S.1992]

History: 1993 c 224 art 2 s 2

120.75 HEARING.

Subdivision 1. Prior to the initiation of any fee not authorized or prohibited by sections 120.73 and 120.74, the local school board shall hold a public hearing within the district upon three weeks published notice in the district's official newspaper. The local school board shall notify the commissioner of any fee it proposes to initiate under this section. If within 45 days of this notification, the commissioner does not disapprove the proposed fee, the local school board may initiate the proposed fee.

Subd. 2. [Repealed, 1993 c 224 art 12 s 32]

History: 1993 c 224 art 13 s 3

NOTE: Subdivision 2 was also amended by Laws 1993, chapter 224, article 13, section 3, to read as follows:

"Subd. 2. The commissioner pursuant to the administrative procedure act, sections 14.001 to 14.69, and consistent with the general policy of section 120.72 shall have the power to specify further authorized and prohibited fees and to adopt rules for the purposes of sections 120.71 to 120.76."

120.80 EARLY GRADUATION.

[For text of subd 1, see M.S.1992]

Subd. 2. [Repealed, 1993 c 224 art 12 s 32]