

CHAPTER 120

DEFINITIONS; ATTENDANCE; SPECIAL
EDUCATION; FEES; CQE

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120.0111 MISSION STATEMENT.

The mission of public education in Minnesota, a system for lifelong learning, is to ensure individual academic achievement, an informed citizenry, and a highly productive work force. This system focuses on the learner, promotes and values diversity, provides participatory decision making, ensures accountability, models democratic principles, creates and sustains a climate for change, provides personalized learning environments, encourages learners to reach their maximum potential, and integrates and coordinates human services for learners. The public schools of this state shall serve the needs of the students by cooperating with the students' parents and legal guardians to develop the students' intellectual capabilities and lifework skills in a safe and positive environment. It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and
- (7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

History: 1Sp1997 c 4 art 7 s 2

120.05 PUBLIC SCHOOLS.

Subd. 2. Definitions. (1) Elementary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in prekindergarten through grade 6 or any portion thereof and staff meeting the standards established by the state board of education.

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 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 4th but below 10th 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 7 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: 1997 c 162 art 1 s 2

120.062 ENROLLMENT OPTIONS PROGRAM.

[For text of subd 2, see M.S.1996]

Subd. 3. Limited enrollment of nonresident pupils. (a) A school board may, by resolution, limit the enrollment of nonresident pupils in its schools or programs according to this section to a number not less than the lesser of:

(1) one percent of the total enrollment at each grade level in the district; or

(2) the number of district residents at that grade level enrolled in a nonresident district according to this section.

(b) A district that limits enrollment of nonresident pupils under paragraph (a) shall report to the commissioner by July 15 on the number of nonresident pupils denied admission due to the limitations on the enrollment of nonresident pupils.

[For text of subds 4 and 5, see M.S.1996]

Subd. 6. Nonresident district procedures. A district shall notify the parent or guardian in writing by February 15 whether the application has been accepted or rejected. If an application is rejected, the district must state in the notification the reason for rejection. The parent or guardian shall notify the nonresident district by March 1 whether the pupil intends to enroll in the nonresident district. Notice of intent to enroll in the nonresident district obligates the pupil to attend the nonresident district during the following school year, unless the school boards of the resident and the nonresident districts agree in writing to allow the pupil to transfer back to the resident district, or the pupil's parents or guardians change residence to another district. If a parent or guardian does not notify the nonresident district, the pupil may not enroll in that nonresident district during the following school year, unless the school boards of the resident and nonresident district agree otherwise. The nonresident district shall notify the resident district by March 15 of the pupil's intent to enroll in the nonresident district. The same procedures apply to a pupil who applies to transfer from one participating nonresident district to another participating nonresident district.

Subd. 7. Basis for decisions. The school board must adopt, by resolution, specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, or school building. The school board may not reject applications for enrollment in a particular grade level if the nonresident enrollment at that grade level does not exceed the limit set by the board under subdivision 3. Standards may not include previous academic achievement, athletic or other extracurricular ability, disabling conditions, proficiency in the English language, previous disciplinary proceedings, or the student's district of residence.

[For text of subd 8a, see M.S.1996]

Subd. 9. Transportation. If requested by the parent of a pupil, the nonresident district shall provide transportation within the district.

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 section 123.39, subdivision 6.

[For text of subd 10, see M.S.1996]

Subd. 11. Information. A district shall make information about the district, schools, programs, policies, and procedures available to all interested people.

Subd. 12. General education aid. Adjustments to general education aid for the resident and nonresident districts shall be made according to section 124A.036, subdivision 5.

History: 1997 c 7 art 1 s 43; 1Sp1997 c 4 art 1 s 1; art 5 s 1-4

120.0621 ENROLLMENT OPTIONS PROGRAMS IN BORDER STATES.

[For text of subs 1 to 4, see M.S.1996]

Subd. 5a. Tuition payments. In each odd-numbered year, before March 1, the commissioner shall agree to rates of tuition for Minnesota elementary and secondary pupils attending in other states for the next two fiscal years when the other state agrees to negotiate tuition rates. The commissioner 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. If the other state does not agree to negotiate a general tuition rate, a Minnesota school district may negotiate a tuition rate with the school district in the other state that sends a pupil to or receives a pupil from the Minnesota school district. 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.

[For text of subd 5b, see M.S.1996]

Subd. 6. Effective if reciprocal. This section is effective with respect to South Dakota upon enactment of provisions by South Dakota that the commissioner determines 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 the commissioner determines are essentially similar to the provisions for Minnesota pupils in this section.

Subd. 7. Appeal to the commissioner. If a Minnesota school district cannot agree with an adjoining state on a tuition rate for a Minnesota student attending school in that state and that state has met the requirements in subdivision 6, then the student's parent or guardian may request that the commissioner agree on a tuition rate for the student. The Minnesota school district must pay the amount of tuition the commissioner agrees upon.

History: 1Sp1997 c 4 art 4 s 1-3

120.064 RESULTS-ORIENTED CHARTER SCHOOLS.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. Sponsor. A school board, private college, community college, state university, technical college, or the University of Minnesota may sponsor one or more charter schools.

[For text of subs 4 to 7, see M.S.1996]

Subd. 8. Requirements. (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) A school sponsored by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution. If such a school board denies a request to locate within its boundaries a charter school sponsored by another school board, the sponsoring school board may appeal to the state board of education. If the state board authorizes the school, the state board shall sponsor the school.

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

(d) Charter schools shall not be used as a method of providing education or generating revenue for students who are being home-schooled.

(e) The primary focus of a charter 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.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and shall comply with chapter 363 and section 126.21.

(h) A charter 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.

(i) A charter 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 121.904 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of children, families, and learning, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(j) A charter school is a school district for the purposes of tort liability under chapter 466.

[For text of subd 9, see M.S.1996]

Subd. 10. Pupil performance. A charter school must design its programs to at least meet the outcomes adopted by the state board of education for public school students. In the absence of state board requirements, the school must meet the outcomes contained in the contract with the sponsor. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the state board for public school students.

[For text of subs 11 to 14, see M.S.1996]

Subd. 14a. Review and comment. The department shall review and comment on the evaluation, by the chartering school district, of the performance of a charter school before the charter school's contract is renewed. The information from the review and comment shall be reported to the state board of education in a timely manner. Periodically, the state board shall report trends or suggestions based on the evaluation of charter school contracts to the education committees of the state legislature.

[For text of subs 15 to 20, see M.S.1996]

Subd. 20a. Teacher and other employee retirement. (a) Teachers in a charter school shall be public school teachers for the purposes of chapters 354 and 354a.

(b) Except for teachers under paragraph (a), employees in a charter school shall be public employees for the purposes of chapter 353.

[For text of subs 21 to 24, see M.S.1996]

History: *1Sp1997 c 4 art 5 s 5-9*

120.075 ATTENDANCE; PREVIOUS ENROLLMENT; FAMILIES.

[For text of subs 1 to 4, see M.S.1996]

Subd. 5. General education aid and transportation aid attributable to pupils covered by programs under this section must be paid according to sections 124A.036, subdivision 5, and 124.225, subdivision 8l.

History: 1997 c 7 art 1 s 44

120.0751 COMMISSIONER OF CHILDREN, FAMILIES, AND LEARNING; ENROLLMENT EXCEPTIONS.

[For text of subds 1 to 5, see M.S.1996]

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

History: 1997 c 7 art 1 s 45

120.0752 AGREEMENTS BETWEEN SCHOOL BOARDS; ENROLLMENT EXCEPTIONS.

[For text of subds 1 to 3, see M.S.1996]

Subd. 4. General education aid and transportation aid for pupils covered by programs under this section must be paid according to sections 124A.036, subdivision 5, and 124.225, subdivision 8l.

History: 1997 c 7 art 1 s 46

120.101 COMPULSORY INSTRUCTION.

[For text of subds 1 to 4, see M.S.1996]

Subd. 5. **Ages and terms.** Every child between seven and 16 years of age shall receive instruction. 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. Except as provided in subdivision 5a, a parent may withdraw a child under the age of seven from enrollment at any time.

[For text of subd 5a, see M.S.1996]

Subd. 5c. **Education records.** (a) A school district from which a student is transferring must transmit the student's educational records, within ten business days of a request, to the school district in which the student is enrolling. School districts must make reasonable efforts to determine the school district in which a transferring student is next enrolling in order to comply with this subdivision.

(b) A school district that transmits a student's educational records to another school district or other educational entity to which the student is transferring must include in the transmitted records information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon.

Subd. 5d. **Withdrawal from school.** Any student between 16 and 18 years old who seeks to withdraw from school, and the student's parent or guardian must:

- (1) attend a meeting with school personnel to discuss the educational opportunities available to the student, including alternative educational opportunities; and
- (2) sign a written election to withdraw from school.

[For text of subds 6 to 10, see M.S.1996]

History: 1Sp1997 c 4 art 6 s 1-2; art 7 s 3

120.1015 LENGTH OF SCHOOL YEAR; DAYS OF INSTRUCTION.

A school board's annual school calendar shall include at least three additional days of student instruction beyond the number of days of student instruction the board formally adopted as its school calendar at the beginning of the 1996-1997 school year.

History: 1Sp1997 c 4 art 6 s 3

NOTE: This section, as added by Laws 1997, First Special Session chapter 4, article 6, section 3, is effective for the 1998-1999 school year. Laws 1997, First Special Session chapter 4, article 6, section 22.

120.1045 BACKGROUND CHECK.

Subdivision 1. Background check required. (a) A school hiring authority, as defined in subdivision 4, shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all individuals who are offered employment in the school, as defined in subdivision 4. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or check payable to either the bureau of criminal apprehension or the school hiring authority, at the election of the school hiring authority, in an amount equal to the actual cost to the bureau of criminal apprehension and the school district of conducting the criminal history background check. A school hiring authority electing to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the bureau of criminal apprehension directly to conduct the background check. The superintendent of the bureau of criminal apprehension shall conduct the background check by retrieving criminal history data maintained in the criminal justice information system computers. A school hiring authority, at its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the state board of teaching or the state board of education within the 12 months preceding an offer of employment.

(b) A school hiring authority may use the results of a criminal background check conducted at the request of another school hiring authority if:

(1) the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;

(2) the other school hiring authority conducted a criminal background check within the previous 12 months;

(3) the individual who is the subject of the criminal background check executes a written consent form giving a school hiring authority access to the results of the check; and

(4) there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment.

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the bureau of criminal apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority elects to request a criminal history background check on the individual, the individual first must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the bureau of criminal apprehension and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(d) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the bureau of criminal apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

Subd. 2. Conditional hiring; discharge. A school hiring authority may hire an individual pending completion of a background check under subdivision 1 but shall notify the individual that the individual's employment may be terminated based on the result of the background check. A school hiring authority is not liable for failing to hire or for terminating an individual's employment based on the result of a background check under this section.

Subd. 4. Definitions. For purposes of this section:

(a) "School" means a school as defined in section 120.101, subdivision 4, except a home-school, and includes a school receiving tribal contract or grant school aid under section 124.86; school, for the purposes of this section, also means a service cooperative, a special education cooperative, or an education district under section 123.35, and a joint powers district under section 471.59.

(b) "School hiring authority" means the school principal or other person having general control and supervision of the school.

History: 1997 c 99 s 1

120.105 [Repealed, 1Sp1997 c 4 art 7 s 58]

120.1701 INTERAGENCY EARLY CHILDHOOD INTERVENTION SYSTEM.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. 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 children, families, and learning 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, children, families, and learning, health, human services, and economic security, 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.

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 children, families, and learning, health, human services, commerce, and economic security policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the state interagency coordinating council shall expire on June 30, 2001.

[For text of subs 4 to 22, see M.S.1996]

History: 1Sp1997 c 4 art 2 s 1

NOTE: Subdivision 3 was also amended by Laws 1997, chapter 192, section 19, and the last paragraph of that subdivision had the state interagency coordinating council expiring on June 30, 1999.

120.181 PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION AND TRANSPORTATION.

The responsibility for providing instruction and transportation for a pupil without a disability who has a short-term or temporary physical or emotional illness or disability, as deter-

mined by the standards of the state board, and who is temporarily placed for care and treatment for that illness or disability, shall be determined as provided in this section.

(a) The school district of residence of the pupil shall be the district in which the pupil's parent or guardian resides, or when neither the pupil's parent nor guardian resides within the state and tuition has been denied, the district designated by the commissioner of children, families, and learning.

(b) Prior to the placement of a pupil for care and treatment, the district of residence shall be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, shall notify the district of residence of the emergency placement within 15 days of the placement.

(c) When a pupil without a disability is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence shall provide instruction and necessary transportation for the pupil. The district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district. The district of placement may contract with a facility to provide instruction by teachers licensed by the state board of teaching.

(d) When a pupil without a disability is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed shall provide instruction for the pupil and necessary transportation while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district shall bill the district of residence for the actual cost of providing the instruction for the regular school year and for summer school, excluding transportation costs. When a pupil without a disability is temporarily placed in a residential program outside the district of residence, the administrator of the court placing the pupil shall send timely written notice of the placement to the district of residence. The district of placement may contract with a residential facility to provide instruction by teachers licensed by the state board of teaching.

(e) The district of residence shall include the pupil in its residence count of pupil units and pay tuition as provided in section 124.18 to the district providing the instruction. Transportation costs shall be paid by the district providing the transportation and the state shall pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision shall be included in the disabled transportation category.

History: 1Sp1997 c 4 art 2 s 2

120.65 [Repealed, 1Sp1997 c 4 art 7 s 58]