

CHAPTER 123A

SCHOOL DISTRICTS; FORMS FOR ORGANIZING

123A 05	Area learning center organization	123A 30	Agreements for secondary education
123A 06	Center programs and services	123A 36	Cooperation and combination plan
123A 09	Designating and approving a center	123A 44	Repealed
123A 15	Establishing education districts	123A 441	Repealed
123A 17	Powers and duties of an education district board	123A 442	Repealed
123A 18	Education district agreement	123A 443	Repealed
123A 21	Service cooperatives	123A 444	Repealed
123A 22	Cooperative centers for vocational education	123A 445	Repealed
123A 245	Cooperative units, eligibility for grants	123A 446	Repealed
123A 27	Reserved revenue for district cooperation	123A 46	Dissolution and attachment
		123A 48	Consolidation
		123A 49	Appeals

123A.05 AREA LEARNING CENTER ORGANIZATION.

[For text of subd 1, see M S 1998]

Subd 2 **Reserve revenue.** Each district that is a member of an area learning center must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C 10, subdivision 2, times 0485, calculated without basic skills revenue, transportation sparsity revenue, and the transportation portion of the transition revenue adjustment, times the number of pupil units attending an area learning center program under this section. The amount of reserved revenue under this subdivision may only be spent on program costs associated with the area learning center. Compensatory revenue must be allocated according to section 126C 15, subdivision 2.

Subd 3 **Access to services.** A center shall have access to the district's regular education programs, special education programs, technology facilities, and staff. It may contract with individuals or post-secondary institutions. It shall seek the involvement of community education programs; post-secondary institutions, interagency collaboratives, culturally based organizations, mutual assistance associations, and other community resources, businesses, and other federal, state, and local public agencies.

[For text of subd 4, see M S 1998]

History: 1999 c 241 art 2 s 4,5

123A.06 CENTER PROGRAMS AND SERVICES.

Subdivision 1 **Program focus.** (a) The programs and services of a center must focus on academic and learning skills, applied learning opportunities, trade and vocational skills, work-based learning opportunities, work experience, youth service to the community, transition services, and English language and literacy programs for children whose primary language is a language other than English. Applied learning, work-based learning, and service learning may best be developed in collaboration with a local education and transitions partnership, culturally based organizations, mutual assistance associations, or other community resources. In addition to offering programs, the center shall coordinate the use of other available educational services, special education services, social services, health services, and post-secondary institutions in the community and services area.

(b) Consistent with the requirements of sections 121A 40 to 121A 56, a school district may provide an alternative education program for a student who is within the compulsory attendance age under section 120A 20, and who is involved in severe or repeated disciplinary action.

Subd 2 **People to be served.** A center shall provide programs for secondary pupils and adults. A center may also provide programs and services for elementary and secondary pupils who are not attending the center to assist them in being successful in school. A center

shall use research-based best practices for serving limited English proficient students and their parents. An individual education plan team may identify a center as an appropriate placement to the extent a center can provide the student with the appropriate special education services described in the student's plan. Pupils eligible to be served are those age five to adults 22 and older who qualify under the graduation incentives program in section 124D 68, subdivision 2, or those pupils who are eligible to receive special education services under sections 125A 03 to 125A 24, and 125A 65.

Subd 3 Hours of instruction exemption. Notwithstanding any law to the contrary, the center programs must be available throughout the entire year. Pupils in a center may receive instruction for more than or less than the daily number of hours required by the rules of the commissioner of children, families, and learning. However, a pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules. A center may petition the state board under Minnesota Rules, part 3500 1000, for exemption from other rules.

[For text of subd 4, see M S 1998]

History: 1998 c 398 art 5 s 55, 1999 c 241 art 2 s 6,7

123A.09 DESIGNATING AND APPROVING A CENTER.

The commissioner shall establish a process for state designation and approval of area learning centers that meet the provisions of sections 123A 05 to 123A 08. Any process for designating and approving an area learning center must emphasize the importance of having the area learning center serve students who have dropped out of school, are homeless, are eligible to receive free or reduced priced lunch, have been suspended or expelled, have been declared truant or are pregnant or parents.

History: 1998 c 398 art 5 s 55

123A.15 ESTABLISHING EDUCATION DISTRICTS.

[For text of subs 1 and 2, see M S 1998]

Subd 3 Requirements for formation. (a) An education district must have one of the following at the time of formation:

- (1) at least five districts,
- (2) at least four districts with a total of at least 5,000 pupils in average daily membership, or
- (3) at least four districts with a total of at least 2,000 square miles.

Members of an education district must be contiguous. Districts with a cooperation agreement according to section 123A 32 may belong to an education district only as a unit.

(b) A noncontiguous district may be a member of an education district if the commissioner of children, families, and learning determines that:

- (1) a district between the education district and the noncontiguous district has considered and is unwilling to become a member, or
- (2) a noncontiguous configuration of member districts has sufficient technological or other resources to offer effective levels of programs and services.

[For text of subs 4 to 6, see M S 1998]

History: 1998 c 398 art 5 s 55

123A.17 POWERS AND DUTIES OF AN EDUCATION DISTRICT BOARD.

[For text of subs 1 to 5, see M S 1998]

Subd 6 Report to members. The board shall submit at least an annual report to the member districts and an annual report to the commissioner of children, families, and learning about the activities of the education district.

[For text of subd 7, see M S 1998]

History: 1998 c 398 art 5 s 55

123A.18 EDUCATION DISTRICT AGREEMENT.

[For text of subd 1, see M S 1998]

Subd 2 Extended year instruction. The agreement may provide opportunities for pupils to receive instruction throughout the entire year and for teachers to coordinate educational opportunities and provide instruction throughout the entire year. Pupils may receive instruction for more than or less than the daily number of hours required by the rules of the commissioner of children, families, and learning. However, the pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules. A teacher who is employed for the extended year may develop, in consultation with pupils and parents, individual educational programs for not more than 125 pupils.

[For text of subd 3, see M S 1998]

History: 1998 c 398 art 5 s 55

123A.21 SERVICE COOPERATIVES.

[For text of subs 1 to 4, see M S 1998]

Subd 5 Duties and powers of SC board of directors. The board of directors shall have authority to maintain and operate a SC. Subject to the availability of necessary resources, the powers and duties of this board shall include the following:

(a) The board of directors shall submit, by June 1 of each year to each participating member, an annual plan which describes the objectives and procedures to be implemented in assisting in resolution of the needs of the SC.

(b) The SC board of directors shall provide adequate office, service center, and administrative facilities by lease, purchase, gift, or otherwise.

(c) The SC board of directors shall employ a central administrative staff and other personnel as necessary to provide and support the agreed upon programs and services. The board may discharge staff and personnel pursuant to applicable provisions of law. SC staff and personnel may participate in retirement programs and any other programs available to public school staff and personnel.

(d) The SC board of directors may appoint special advisory committees composed of superintendents, central office personnel, building principals, teachers, parents, lay persons, and representatives from cities, counties, and other governmental units.

(e) The SC board of directors may employ service area personnel pursuant to licensure and certification standards developed by the appropriate state agency such as the commissioner and the state board of teaching.

(f) The SC board of directors may enter into contracts with school boards of local districts including school districts outside the SC area.

(g) The SC board of directors may enter into contracts with other public and private agencies and institutions to provide administrative staff and other personnel as necessary to furnish and support the agreed upon programs and services.

(h) The SC board of directors shall exercise all powers and carry out all duties delegated to it by members under provisions of the SC bylaws. The SC board of directors shall be governed, when not otherwise provided, by applicable laws of the state.

(i) The SC board of directors shall submit an annual evaluation report of the effectiveness of programs and services to the members by September 1 of each year following the previous June 30 in which the programs and services were provided.

(j) The SC board is encouraged to establish cooperative, working relationships and partnerships with post-secondary educational institutions, other public agencies, business, and industry.

[For text of subs 6 to 11, see M S 1998]

History: 1998 c 398 art 5 s 55

123A.22 COOPERATIVE CENTERS FOR VOCATIONAL EDUCATION.

[For text of subs 1 to 8, see M S 1998]

Subd 9 **Dissolution.** The boards of each participating district may agree to dissolve a center effective at the end of any school year or at an earlier time as they may mutually agree. A dissolution must be accomplished in accordance with any applicable provisions of the agreement establishing the center. Upon receipt of the dissolution resolutions from the boards of the participating districts, the center board shall file a certified copy with the county auditors of the counties affected. The dissolution must not affect the continuing liability of the previously participating districts for bonded indebtedness incurred prior to the dissolution, or for other continuing obligations, including reemployment compensation.

[For text of subs 10 and 11, see M S 1998]

History: 1999 c 107 s 66

123A.245 COOPERATIVE UNITS; ELIGIBILITY FOR GRANTS.

A cooperative unit, through its governing board, may apply for all competitive grants administered by agencies of the state and other government or nongovernment sources.

History: 1999 c 241 art 9 s 18

123A.27 RESERVED REVENUE FOR DISTRICT COOPERATION.

A district that was a member of an intermediate school district organized pursuant to chapter 136D on July 1, 1996, must place a portion of its general education revenue in a reserved account for instructional services from entities formed for cooperative services for special education programs and secondary vocational programs. The amount reserved is equal to the levy made according to Minnesota Statutes 1993, section 124 2727, subdivision 6, for taxes payable in 1994 divided by the actual pupil units in the intermediate school district for fiscal year 1995 times the number of actual pupil units in the school district in 1995. The district must use 5/11 of the revenue for special education and 6/11 of the revenue for secondary vocational education. The district must demonstrate that the revenue is being used to provide the full range of special education and secondary vocational programs and services available to each child served by the intermediate. The secondary vocational programs and services must meet the requirements established in an articulation agreement developed between the commissioner of children, families, and learning and the board of trustees of the Minnesota state colleges and universities.

A district that was a member of an education district organized pursuant to section 123A 15 on July 1, 1999, must place a portion of its general education revenue in a reserve account for instructional services from entities formed for cooperative services. Services may include secondary vocational programs, special education programs, staff development, and gifted and talented instruction. The amount reserved is equal to \$50 per pupil unit times the actual number of pupil units in the district.

History: 1998 c 398 art 5 s 55

123A.30 AGREEMENTS FOR SECONDARY EDUCATION.

[For text of subs 1 to 5, see M S 1998]

Subd 6 **Severance pay.** A district must pay severance pay to a teacher who is placed on unrequested leave of absence by the district as a result of the agreement. A teacher is eligible under this subdivision if the teacher

- (1) is a teacher, but not a superintendent,
- (2) has a continuing contract with the district according to section 122A 40, subdivision

The amount of severance pay must be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities requiring a valid Minnesota teaching license include, but are not limited to, the district that placed the teacher on unrequested leave of absence, another district in Minnesota, an education district, an intermediate school district, a service cooperative, a board formed under section 471.59, a state residential academy, the Perpich center for arts education, a vocational center, or a special education cooperative. These entities do not include a district in another state, a Minnesota public post-secondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district must pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district must pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 122A.40, subdivision 10 or 11. If the teacher receives severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay is subject to section 465.72. The district may levy annually according to section 126C.43, for the severance pay.

History: 1999 c 241 art 10 s 8

123A.36 COOPERATION AND COMBINATION PLAN.

Subdivision 1 Adoption and commissioner review. Each board must adopt, by resolution, a plan for cooperation and combination. The plan must address each item in this section. The plan must be specific for any item that will occur within three years and may be general or set forth alternative resolutions for an item that will occur in more than three years. The plan must be submitted to the commissioner of children, families, and learning and the secretary of state for review and comment. Significant modifications and specific resolutions of items must be submitted to the commissioner for review and comment. In the official newspaper of each district proposed for combination, the board must publish at least a summary of the adopted plans, each significant modification and resolution of items, and each commissioner review and comment.

Subd 2 Rule exemptions. The plan must identify the rules of the commissioner of children, families, and learning from which the district intends to request exemption, according to Minnesota Rules, part 3500.1000. The plan may provide information about state laws that deter or impair cooperation or combination.

[For text of subs 3 to 11, see M S 1998]

History: 1998 c 398 art 5 s 55

123A.44 [Repealed, 1999 c 241 art 4 s 29]

123A.441 [Repealed, 1999 c 241 art 4 s 29]

123A.442 [Repealed, 1999 c 241 art 4 s 29]

123A.443 [Repealed, 1999 c 241 art 4 s 29]

123A.444 [Repealed, 1999 c 241 art 4 s 29]

123A.445 [Repealed, 1999 c 241 art 4 s 29]

123A.446 [Repealed, 1999 c 241 art 4 s 29]

123A.46 DISSOLUTION AND ATTACHMENT.

[For text of subs 1 to 6, see M S 1998]

Subd 7 **When no order may be issued.** No order dissolving a district may be issued by the county board if the district to be dissolved is included in a plat for consolidation which has been approved by the commissioner of children, families, and learning and upon which plat final action has not been taken unless all of the district to be dissolved and all of the district or districts to which attachment is proposed are included in the approved plat

[For text of subs 8 to 16, see M S 1998]

History: 1998 c 398 art 5 s 55

123A.48 CONSOLIDATION.

[For text of subs 1 to 4, see M S 1998]

Subd 5 **Supporting statement.** The county auditor shall prepare a supporting statement to accompany the plat. The statement must contain

(a) The adjusted net tax capacity of property in the proposed district,

(b) If a part of any district is included in the proposed new district, the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district included shall be shown separately and the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district not included shall also be shown,

(c) The reasons for the proposed consolidation, including a statement that at the time the plat is submitted to the commissioner of children, families, and learning, no proceedings are pending to dissolve any district involved in the plat unless all of the district to be dissolved and all of each district to which attachment is proposed is included in the plat,

(d) A statement showing that the jurisdictional fact requirements of subdivision 1 are met by the proposal,

(e) Any proposal contained in the resolution or petition regarding the disposition of the bonded debt, outstanding energy loans made according to section 216C 37 or sections 298 292 to 298 298, capital loan obligations, or referendum levies of component districts,

(f) Any other information the county auditor desires to include, and

(g) The signature of the county auditor

[For text of subs 6 to 9, see M S 1998]

Subd 10 **District board adoption of proposed plat.** The board of any independent district maintaining a secondary school, the board of any common district maintaining a secondary school, all or part of whose land is included in the proposed new district, must, within 45 days of the approval of the plat by the commissioner, either adopt or reject the plan as proposed in the approved plat. If the board of any such district entitled to act on the petition rejects the proposal, the proceedings are terminated and dismissed. If any board fails to act on the plat within the time allowed, the proceedings are terminated. If any school board is unable to obtain a majority of its members' votes to accept or reject the plat and plan, a petition of residents of the district unable to obtain a majority of votes equal to 20 percent of the votes cast in the last school district general election in that district may be submitted to the county auditor requesting a public vote to accept or reject the plat and plan. The vote shall be scheduled on the next available election date. The county auditor shall notify the commissioner of

the scheduled vote, conduct the election in that district and certify the results of the election to the commissioner. Other affected school boards that approve the plat and plan may choose to hold an election. If elections are conducted in each affected school district, results shall be separate and a majority vote to approve the plat and plan must be reached in each of the affected districts. If the plat and plan are rejected by the voters, a new plat and plan cannot be submitted, except by school board resolution in a district where the plat and plan were rejected, until January 1 of the year following the next school district general election.

[For text of subs 11 to 23, see M S 1998]

History: 1998 c 398 art 5 s 55, 1999 c 241 art 6 s 2

123A.49 APPEALS.

Subdivision 1 Grounds for appeal from final order. Any district or any person aggrieved by final order of the county board or final order of the county auditor, made pursuant to the provisions of this code, may appeal from such final order to the district court upon the following grounds:

- (1) That the county board or the county auditor had no jurisdiction to act,
- (2) That the county board or the county auditor exceeded its jurisdiction,
- (3) That the action appealed from is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interest of the territory affected,
- (4) That the order of action appealed from is based upon an erroneous theory of law.

An appeal from a final order of a county board or the county auditor shall be taken by serving a notice of appeal upon the county auditor. An appeal from a final order of a county board or a county auditor shall be taken to the district court in the county of the board or auditor. Notice of appeal must be served within 30 days of the issuance of the order appealed from and shall be accompanied by a corporate surety bond in the amount of \$250, conditioned for the payment of all costs taxed against appellant on such appeal. The notice of appeal shall be filed with the court administrator of the district court and noticed for hearing in the manner provided for the trial of civil actions by Minnesota rules of civil procedure.

In an appeal from an order of a county auditor effecting a consolidation the action of the commissioner approving the plat is reviewable and the commissioner may be called by either party as a witness in such appeal proceedings and may be examined under the rules of civil procedure relating to the cross-examination of adverse parties.

[For text of subs 2 to 4, see M S 1998]

History: 1998 c 398 art 5 s 55