

CHAPTER 121A

STUDENT RIGHTS, RESPONSIBILITIES, AND BEHAVIOR

| | | | |
|---------|---|---------|--|
| 121A.03 | Model policy. | 121A.41 | Definitions. |
| 121A.04 | Athletic programs; sex discrimination. | 121A.47 | Exclusion and expulsion procedures. |
| 121A.11 | United States flag. | 121A.49 | Appeal. |
| 121A.15 | Health standards; immunizations; school children. | 121A.50 | Judicial review. |
| 121A.21 | School health services. | 121A.53 | Report to commissioner of education. |
| 121A.22 | Administration of drugs and medicine. | 121A.55 | Policies to be established. |
| 121A.23 | Programs to prevent and reduce the risks of sexually transmitted infections and diseases. | 121A.56 | Application. |
| 121A.30 | Pesticide application at schools. | 121A.61 | Discipline and removal of students from class. |
| 121A.36 | Motorcycle safety education program. | 121A.64 | Notification; teachers' legitimate educational interest. |
| | | 121A.69 | Hazing policy. |

121A.03 MODEL POLICY.

[For text of subdivision 1, see M.S.2002]

Subd. 2. **Sexual, religious, and racial harassment and violence policy.** A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

[For text of subd 3, see M.S.2002]

121A.04 ATHLETIC PROGRAMS; SEX DISCRIMINATION.

[For text of subs 1 to 4, see M.S.2002]

Subd. 5. **Rules.** The commissioner of education, after consultation with the commissioner of human rights must promulgate rules in accordance with chapter 14 to implement this section to prevent discrimination in elementary and secondary school athletic programs operated by educational institutions. The rules promulgated by the commissioner pursuant to this section shall not require athletic competition or tournaments for teams whose membership may be restricted to members of a sex whose overall athletic opportunities have previously been limited to be scheduled in conjunction with the scheduling of athletic competition or tournaments for teams whose membership is not so restricted by this section. Any organization, association or league entered into by elementary or secondary schools or public services for the purpose of promoting sports or adopting rules and regulations for the conduct of athletic contests between members shall provide rules and regulations and conduct its activities so as to permit its members to comply fully with this section. The rules of that organization, association or league may provide separate seasons for athletic competition or tournaments in a sport for teams whose membership may be restricted to members of a sex whose overall athletic opportunities have previously been limited from athletic competition or tournaments established for teams in that same sport whose membership is not so restricted by this section, and its rules may prohibit a participating student from competing on more than one school team in a given sport during a single school year.

History: 2003 c 130 s 12

121A.11 UNITED STATES FLAG.

[For text of subds 1 and 2, see M.S.2002].

Subd. 3. **Pledge of Allegiance.** (a) All public and charter school students shall recite the Pledge of Allegiance to the flag of the United States of America one or more times each week. The recitation shall be conducted:

- (1) by each individual classroom teacher or the teacher's surrogate; or
- (2) over a school intercom system by a person designated by the school principal or other person having administrative control over the school.

A local school board or a charter school board of directors may annually, by majority vote, waive this requirement.

(b) Any student or teacher may decline to participate in recitation of the pledge.

(c) A school district or charter school that has a student handbook or school policy guide must include a statement that anyone who does not wish to participate in reciting the pledge of allegiance for any personal reasons may elect not to do so and that students must respect another person's right to make that choice.

(d) A local school board or a charter school board of directors that waives the requirement to recite the Pledge of Allegiance under paragraph (a) may adopt a district or school policy regarding the reciting of the pledge of allegiance.

Subd. 4. **Instruction.** Unless the requirement in subdivision 3 is waived by a majority vote of the school board, a school district must instruct students in the proper etiquette toward, correct display of, and respect for the flag, and in patriotic exercises.

History: 2003 c 120 s 1,2

NOTE: Paragraph (c) of subdivision 3, as added by Laws 2003, chapter 120, section 1, is effective for the 2004-2005 school year and later. Laws 2003, chapter 120, section 1, the effective date.

121A.15 HEALTH STANDARDS; IMMUNIZATIONS; SCHOOL CHILDREN.

[For text of subds 1 to 3, see M.S.2002]

Subd. 3a. **Disclosures required.** (a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

(2) is provided by the Department of Health; the Department of Education; the Department of Human Services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.

[For text of subds 4 to 7, see M.S.2002]

Subd. 8. **Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the district in which the person resides by October 1 of each school year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.05 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

[For text of subds 9 to 11, see M.S.2002]

Subd. 12. **Modifications to schedule.** (a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must:

(1) consult with the commissioner of education; the commissioner of human services; the chancellor of the Minnesota State Colleges and Universities; and the president of the University of Minnesota; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner.

History: 2003 c 130 s 12

121A.21 SCHOOL HEALTH SERVICES.

(a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

(1) employ personnel, including at least one full-time equivalent licensed school nurse;

(2) contract with a public or private health organization or another public agency for personnel during the regular school year, determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or

(3) enter into another arrangement approved by the commissioner.

History: 1Sp2003 c 9 art 12 s 2

121A.22 ADMINISTRATION OF DRUGS AND MEDICINE.

[For text of subs 1 to 3, see M.S.2002]

Subd. 4. **Administration.** Drugs and medicine subject to this section must be administered in a manner consistent with instructions on the label. Drugs and medicine subject to this section must be administered, to the extent possible, according to school board procedures that must be developed in consultation:

(1) with a school nurse, in a district that employs a school nurse;

(2) with a licensed school nurse, in a district that employs a licensed school nurse;

(3) with a public or private health or health-related organization, in a district that contracts with a public or private health or health-related organization, according to section 121A.21; or

(4) with the appropriate party, in a district that has an arrangement approved by the commissioner of education, according to section 121A.21.

[For text of subs 5 and 6, see M.S.2002]

History: 2003 c 130 s 12

121A.23 PROGRAMS TO PREVENT AND REDUCE THE RISKS OF SEXUALLY TRANSMITTED INFECTIONS AND DISEASES.

Subdivision 1. **Sexually transmitted infections and diseases program.** The commissioner of education, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including but not exclusive to human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

(1) planning materials, guidelines, and other technically accurate and updated information;

- (2) a comprehensive, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage;
- (3) cooperation and coordination among districts and SCs;
- (4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;
- (5) involvement of parents and other community members;
- (6) in-service training for appropriate district staff and school board members;
- (7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
- (8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and
- (9) participation by state and local student organizations.

The department may provide assistance at a neutral site to a nonpublic school participating in a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.

If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.

[For text of subd 2, see M.S.2002]

History: 2003 c 130 s 12

121A.30 PESTICIDE APPLICATION AT SCHOOLS.

[For text of subs 1 to 6, see M.S.2002]

Subd. 7. **Model notice.** The Department of Health, in consultation with the Department of Education, the Office of Environmental Assistance, and University of Minnesota Extension Service, shall develop and make available to schools by August 1, 2000, a model notice in a form that can be used by a school if it chooses to do so. The model notice must include the information required by this section. The Department of Health must provide an opportunity for environmental groups, interested parents, public health organizations, and other parties to work with the department in developing the model notice.

[For text of subs 8 to 14, see M.S.2002]

History: 2003 c 130 s 12

121A.36 MOTORCYCLE SAFETY EDUCATION PROGRAM.

Subdivision 1. **Established; administration; rules.** A motorcycle safety education program is established. The program shall be administered by the commissioners of public safety and education. The program shall include but is not limited to training and coordination of motorcycle safety instructors, motorcycle safety promotion and public information, and reimbursement for the cost of approved courses offered by schools and organizations.

Subd. 2. **Reimbursements.** The commissioner of education, to the extent that funds are available, may reimburse schools and other approved organizations offering approved motorcycle safety education courses for up to 50 percent of the actual cost of the courses. If sufficient funds are not available, reimbursements shall be prorated. The commissioner may conduct audits and otherwise examine the records and accounts of schools and approved organizations offering the courses to insure the accuracy of the costs.

Subd. 3: **Appropriation.** (a) All funds in the motorcycle safety fund created by section 171.06, subdivision 2a, are hereby annually appropriated to the commissioner of public safety to carry out the purposes of subdivisions 1 and 2. The commissioner of public safety may make grants from the fund to the commissioner of education at such times and in such amounts as the commissioner deems necessary to carry out the purposes of subdivisions 1 and 2.

(b) Of the money appropriated under paragraph (a):

(1) not more than five percent shall be expended to defray the administrative costs of carrying out the purposes of subdivisions 1 and 2; and

(2) not more than 65 percent shall be expended for the combined purpose of training and coordinating the activities of motorcycle safety instructors and making reimbursements to schools and other approved organizations.

History: 2003 c 130 s 12

121A.41 DEFINITIONS.

[For text of subs 1 to 9, see M.S.2002]

Subd. 10. **Suspension.** "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.09, subdivision 3, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a student with a disability, the student's individual education plan team must meet immediately but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team and other qualified personnel shall at that meeting: conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

- (1) the parent requests a meeting;
- (2) the student is removed from the student's current placement for five or more consecutive days; or
- (3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

[For text of subd 11, see M.S.2002]

History: 1Sp2003 c 9 art 3 s 1

121A.47 EXCLUSION AND EXPULSION PROCEDURES.

[For text of subd 1, see M.S.2002]

Subd. 2. **Written notice.** Written notice of intent to take action shall:

- (a) be served upon the pupil and the pupil's parent or guardian personally or by mail;
- (b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;
- (c) state the date, time, and place of the hearing;
- (d) be accompanied by a copy of sections 121A.40 to 121A.56;
- (e) describe alternative educational services accorded the pupil in an attempt to avoid the expulsion proceedings; and
- (f) inform the pupil and parent or guardian of the right to:
 - (1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district shall advise the pupil's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Department of Education;
 - (2) examine the pupil's records before the hearing;
 - (3) present evidence; and
 - (4) confront and cross-examine witnesses.

[For text of subds 3 to 12, see M.S.2002]

Subd. 13. **Basis of school board decision; opportunity for comment.** The school board shall base its decision upon the recommendation of the hearing officer or school board member or committee and shall render its decision at a meeting held within five days after receiving the recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's recommendations provided that neither party presents any evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the commissioner of education of the basis and reason for the decision.

[For text of subd 14, see M.S.2002]

History: 2003 c 130 s 12

121A.49 APPEAL.

A party to an exclusion or expulsion decision made under sections 121A.40 to 121A.56 may appeal the decision to the commissioner of education within 21 calendar days of school board action. Upon being served with a notice of appeal, the district shall provide the commissioner and the parent or guardian with a complete copy of the hearing record within five days of its receipt of the notice of appeal. All written submissions by the appellant must be submitted and served on the respondent within ten days of its actual receipt of the transcript. All written submissions by the respondent must be submitted and served on the appellant within ten days of its actual receipt of the written submissions of the appellant. The decision of the school board must be implemented during the appeal to the commissioner.

In an appeal under this section, the commissioner may affirm the decision of the agency, may remand the decision for additional findings, or may reverse or modify the decision if the substantial rights of the petitioners have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the school district;
- (3) made upon unlawful procedure, except as provided in section 121A.48;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record submitted; or
- (6) arbitrary or capricious.

The commissioner or the commissioner's representative shall make a final decision based upon the record. The commissioner shall issue a decision within 30 calendar days of receiving the entire record and the parties' written submission on appeal. The commissioner's decision shall be final and binding upon the parties after the time for appeal expires under section 121A.50.

History: 2003 c 130 s 12.

121A.50 JUDICIAL REVIEW.

The decision of the commissioner of education made under sections 121A.40 to 121A.56 is subject to judicial review under sections 14.63 to 14.69. The decision of the commissioner is stayed pending an appeal under this section.

History: 2003 c 130 s 12.

121A.53 REPORT TO COMMISSIONER OF EDUCATION.

Subdivision 1. **Exclusions and expulsions.** The school board shall report each exclusion or expulsion within 30 days of the effective date of the action to the commissioner of education. This report shall include a statement of alternative educational services given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion.

[For text of subd 2, see M.S.2002]

History: 2003 c 130 s 12.

121A.55 POLICIES TO BE ESTABLISHED.

(a) The commissioner of education shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education plan from school grounds.

History: 1Sp2003 c 9 art 2 s 4.

121A.56 APPLICATION.

Subdivision 1. **Prohibition against discrimination remains in effect.** Sections 121A.40 to 121A.56 shall not be deemed to amend or otherwise affect or change section 363A.13, subdivision 2.

[For text of subd 2, see M.S.2002]

121A.61 DISCIPLINE AND REMOVAL OF STUDENTS FROM CLASS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Policy components.** The policy must include at least the following components:

- (a) rules governing student conduct and procedures for informing students of the rules;
- (b) the grounds for removal of a student from a class;
- (c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;
- (d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;
- (e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;
- (f) provisions relating to the responsibility for and custody of a student removed from a class;
- (g) the procedures for return of a student to the specified class from which the student has been removed;
- (h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;
- (i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;
- (j) any procedures determined appropriate for encouraging early detection of behavioral problems;
- (k) any procedures determined appropriate for referring a student in need of special education services to those services;
- (l) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individual education plan of a student with a disability who is removed from class;
- (m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;
- (n) the minimum consequences for violations of the code of conduct;
- (o) procedures for immediate and appropriate interventions tied to violations of the code;
- (p) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section 121A.582 and other laws; and
- (q) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections 245.487 to 245.4887 for students with a serious emotional disturbance or other students who have an individualized education plan whose behavior may be addressed by crisis intervention.

History: *1Sp2003 c 9 art 2 s 5; 1Sp2003 c 14 art 11 s 11*

121A.64 NOTIFICATION; TEACHERS' LEGITIMATE EDUCATIONAL INTEREST.

- (a) A classroom teacher has a legitimate educational interest in knowing which students placed in the teacher's classroom have a history of violent behavior and must be notified before such students are placed in the teacher's classroom.
- (b) Representatives of the school board and the exclusive representative of the teachers shall discuss issues related to the model policy on student records adopted under Laws 1999, chapter 241, article 9, section 50, and any modifications adopted under Laws 2003, First Special Session chapter 9, for notifying classroom teachers and other school district employees having a legitimate educational interest in knowing about students with a history of violent behavior placed in classrooms. The representatives of the school board and the exclusive representative of the teachers also may discuss the need for intervention services or conflict resolution or training for staff related to placing students with a history of violent behavior in teachers' classrooms.

History: *1Sp2003 c 9 art 2 s 6*

121A.69 HAZING POLICY.

[For text of subd 1, see M.S.2002]

Subd. 2. **Model policy.** The commissioner of education shall maintain and make available to school boards a model policy on student or staff hazing that addresses the requirements of subdivision 3.

[For text of subd 3, see M.S.2002].

History: 2003 c 130 s 12