CHAPTER 125A

SPECIAL EDUCATION AND SPECIAL PROGRAMS

SPECIAL EDUCATION; INFANT TO ADULT

125A.01 DEFINITIONS.
125A.02 CHILD WITH A DISABILITY DEFINED.
125A.023 STATE AGENCY COORDINATION RESPONSIBILITIES.
125A.027 LOCAL AGENCY COORDINATION RESPONSIBILITIES.
125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.
125A.04 HIGH SCHOOL DIPLOMA.
125A.06 BLIND PERSONS' LITERACY RIGHTS.
125A.07 RULEMAKING.
125A.08 INDIVIDUALIZED EDUCATION PROGRAMS.
125A.083 STUDENT INFORMATION SYSTEMS; TRANSFERRING RECORDS.
125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.
125A.092 STATE COMPLAINT PROCESS.
125A.094 RESTRICTIVE PROCEDURES FOR CHILDREN WITH DISABILITIES.
125A.0941 DEFINITIONS.
125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES.
125A.11 SPECIAL INSTRUCTIONS FOR NONRESIDENT CHILDREN.
125A.12 ATTENDANCE IN ANOTHER DISTRICT.
125A.125 REPORT ON HOMELESS CHILDREN SERVED.
125A.13 SCHOOL OF PARENTS' CHOICE.
125A.14 EXTENDED SCHOOL YEAR.
125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.
125A.155 SPECIAL EDUCATION RECIPROCITY; COMMISSIONER DUTIES.
125A.17 LEGAL RESIDENCE OF A CHILD WITH A DISABILITY PLACED IN A FOSTER FACILITY.
125A.18 SPECIAL INSTRUCTION; NONPUBLIC SCHOOLS.
125A.19 NONRESIDENT EDUCATION; BILLING.
125A.20 TRANSPORTATION AID AGREEMENTS.
125A.21 THIRD-PARTY PAYMENT.
125A.22 COMMUNITY TRANSITION INTERAGENCY COMMITTEE.
125A.23 AGENCY ACCESS TO NONPUBLIC DATA.
125A.24 PARENT ADVISORY COUNCILS.
125A.25 LEGISLATIVE COMMITMENT TO CONCILIATION.

INTERAGENCY EARLY CHILDHOOD INTERVENTION SYSTEM

125A.259 CITATION; INTERAGENCY EARLY CHILDHOOD INTERVENTION SYSTEM.
125A.26 PURPOSE.
125A.27 DEFINITIONS.
125A.28 STATE INTERAGENCY COORDINATING COUNCIL.
125A.29 RESPONSIBILITIES OF COUNTY BOARDS AND SCHOOL BOARDS.
125A.30 INTERAGENCY EARLY INTERVENTION COMMITTEES.
125A.31 LOCAL PRIMARY AGENCY.
125A.32 INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP).
125A.33 SERVICE COORDINATION.
125A.34 EARLY INTERVENTION RESPITE SERVICES.
125A.35 EARLY INTERVENTION SERVICE DOLLARS.
125A.36 PAYMENT FOR SERVICES.
125A.37 PAYOR OF LAST RESORT.
125A.38 MAINTENANCE OF EFFORT.
125A.39 LOCAL INTERAGENCY AGREEMENTS.
125A.40 THIRD-PARTY PAYMENT.
125A.41 COORDINATING HEALTH INSURANCE BENEFITS.
125A.42 PROCEDURAL SAFEGUARDS; PARENT AND CHILD RIGHTS.
125A.43 MEDIATION PROCEDURE.
125A.44 COMPLAINT PROCEDURE.
125A.45 INTERAGENCY DISPUTE PROCEDURE.
125A.46 DUE PROCESS HEARINGS.
125A.48 STATE INTERAGENCY AGREEMENT.

ALTERNATIVES FOR DELIVERING SPECIALIZED INSTRUCTION

125A.50 ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.
125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION AND TRANSPORTATION.
125A.515 PLACEMENT OF STUDENTS; APPROVAL OF EDUCATION PROGRAM.
125A.52 RESIDENTIAL TREATMENT FACILITIES; DEPARTMENTS OF HUMAN SERVICES AND CORRECTIONS EDUCATION SCREENING.
125A.53 DIRECTOR OF A SPECIAL EDUCATION COOPERATIVE.
125A.55 ACCOMMODATING STUDENTS WITH DISABILITIES.
125A.56 ALTERNATE INSTRUCTION REQUIRED BEFORE ASSESSMENT REFERRAL.

ASSISTIVE TECHNOLOGY DEVICES

125A.57 DEFINITION.
125A.58 PURCHASING GUIDELINES.
125A.59 INTERAGENCY AGREEMENT TO PURCHASE USED ASSISTIVE TECHNOLOGY DEVICES.
125A.60 PURCHASE AGREEMENT; PRICE FORMULA.

ACADEMIES FOR THE DEAF AND BLIND

125A.61 LOCATION AND STATUS.

125A.62 DUTIES OF THE BOARD OF THE MINNESOTA STATE ACADEMIES.
125A.63 RESOURCES; DEAF OR HARD-OF-HEARING AND BLIND OR VISUALLY IMPAIRED.
125A.64 POWERS OF BOARD OF THE MINNESOTA STATE ACADEMIES.
125A.65 ATTENDANCE AT ACADEMIES FOR THE DEAF AND BLIND.
125A.66 OBLIGATIONS OF THE ACADEMIES.
125A.67 STAFF OF THE ACADEMIES.
125A.68 STATE ADOPTED PROCEDURES.
125A.69 ADMISSION STANDARDS.
125A.70 EXPENSE OF PUPILS.
125A.71 DEPOSIT AND APPROPRIATION OF RENTS AND FEES OF ACADEMIES.
125A.72 STUDENT ACTIVITIES ACCOUNT.
125A.73 DUTIES OF STATE DEPARTMENTS.
SPECIAL NEEDS FUNDING
125A.74 MEDICAL ASSISTANCE PAYMENTS TO SCHOOL DISTRICTS.
125A.744 STATEWIDE DATA MANAGEMENT SYSTEM TO MAXIMIZE MEDICAL ASSISTANCE REIMBURSEMENT.
125A.75 SPECIAL EDUCATION PROGRAMS; APPROVAL; AID PAYMENTS; TRAVEL AID; LITIGATION COSTS.
125A.76 SPECIAL EDUCATION AID.
125A.78 ALTERNATIVE DELIVERY AID ADJUSTMENT.
125A.79 SPECIAL EDUCATION EXCESS COST AID.
125A.81 SPECIAL EDUCATION SEPARATE SITES AND PROGRAMS AID.

125A.001 MS 2006 [Renumbered 15.001]

SPECIAL EDUCATION; INFANT TO ADULT

125A.01 DEFINITIONS.

Subdivision 1. **General application.** For purposes of this chapter, the words defined in section 120A.05 have the same meaning.

Subd. 2. **Dyslexia.** "Dyslexia" means a specific learning disability that is neurological in origin. It is characterized by difficulties with accurate or fluent recognition of words and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede the growth of vocabulary and background knowledge.

Students who have a dyslexia diagnosis must meet the state and federal eligibility criteria in order to qualify for special education services.

History: *1998 c 397 art 2 s 1; art 11 s 3; 1Sp2015 c 3 art 5 s 8*

125A.02 CHILD WITH A DISABILITY DEFINED.

Subdivision 1. **Child with a disability.** "Child with a disability" means a child identified under federal and state special education law as deaf or hard-of-hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical impairment, other health disability, developmental cognitive disability, an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple impairments, and who needs special education and related services, as determined by the rules of the commissioner of children, youth, and families for children from birth through age two and by the rules of the commissioner of education for all other children. A licensed physician, an advanced practice registered nurse, a physician assistant, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

Subd. 1a. **Children birth through age six experiencing developmental delays.** In addition to subdivision 1, every child under age three and, at local district discretion, every child from age three through age six

who needs special instruction and services, as determined by the rules of the commissioner of children, youth, and families for children under age three and by the rules of the commissioner of education for children ages three through six, because the child has a substantial delay or a diagnosed physical or mental condition or disorder with a high probability of resulting in developmental delay is a child with a disability.

Subd. 2. **Not a child with a disability.** A child with a short-term or temporary physical or emotional illness or disability, as determined by the rules of the commissioner of children, youth, and families for children from birth through age two and by the rules of the commissioner of education for all other children, is not a child with a disability.

History: *Ex1959 c 71 art 1 s 3; 1969 c 981 s 1; 1975 c 432 s 7; 1981 c 358 art 3 s 1; 1Sp1985 c 12 art 3 s 1; 1987 c 398 art 3 s 1; 1991 c 265 art 3 s 38; 1998 c 397 art 2 s 164; 1998 c 398 art 2 s 1; art 5 s 55; 2005 c 56 s 1; 2006 c 263 art 2 s 18; 2008 c 326 art 1 s 1; 2009 c 96 art 3 s 5; 1Sp2011 c 11 art 3 s 1; 2022 c 58 s 24; 2023 c 25 s 45; 2024 c 80 art 4 s 17-19; 2024 c 109 art 5 s 1*

125A.023 STATE AGENCY COORDINATION RESPONSIBILITIES.

Subdivision 1. **Citation.** This section and section 125A.027 shall be cited as the "Interagency Services for Children with Disabilities Act."

Subd. 2. **Purpose.** It is the policy of the state to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to 21 with disabilities.

Subd. 3. **Definitions.** For purposes of this section and section 125A.027, the following terms have the meanings given them:

(a) "Health plan" means:

(1) a health plan under section 62Q.01, subdivision 3;

(2) a county-based purchasing plan under section 256B.692;

(3) a self-insured health plan established by a local government under section 471.617; or

(4) self-insured health coverage provided by the state to its employees or retirees.

(b) For purposes of this section, "health plan company" means an entity that issues a health plan as defined in paragraph (a).

(c) "Interagency intervention service system" means a system that coordinates services and programs required in state and federal law to meet the needs of eligible children with disabilities ages three through 21, including:

(1) services provided under the following programs or initiatives administered by state or local agencies:

(i) the maternal and child health program under title V of the Social Security Act;

(ii) the Minnesota children with special health needs program under sections 144.05 and 144.07;

(iii) the Individuals with Disabilities Education Act, Part B, section 619, and Part C as amended;

(iv) medical assistance under title 42, chapter 7, of the Social Security Act;

(v) developmental disabilities services under chapter 256B;

(vi) the Head Start Act under title 42, chapter 105, of the Social Security Act;

(vii) vocational rehabilitation services provided under chapters 248 and 268A and the Rehabilitation Act of 1973;

(viii) Juvenile Court Act services provided under sections 260.011 to 260.91; 260B.001 to 260B.446; and 260C.001 to 260C.451;

(ix) Minnesota Comprehensive Children's Mental Health Act under section 245.487;

(x) the community health services grants under sections 145.88 to 145.9266;

(xi) the Local Public Health Act under chapter 145A; and

(xii) the Vulnerable Children and Adults Act, sections 256M.60 to 256M.80;

(2) service provision and funding that can be coordinated through:

(i) the children's mental health collaborative under section 245.493;

(ii) the family services collaborative under section 142D.15;

(iii) the community transition interagency committees under section 125A.22; and

(iv) the interagency early intervention committees under section 125A.259;

(3) financial and other funding programs to be coordinated including medical assistance under title 42, chapter 7, of the Social Security Act, the MinnesotaCare program under chapter 256L, Supplemental Social Security Income, Developmental Disabilities Assistance, and any other employment-related activities associated with the Social Security Administration; and services provided under a health plan in conformity with an individual family service plan or an individualized education program or an individual interagency intervention plan; and

(4) additional appropriate services that local agencies and counties provide on an individual need basis upon determining eligibility and receiving a request from (i) the school board or county board and (ii) the child's parent.

(d) "Children with disabilities" has the meaning given in section 125A.02.

(e) A "standardized written plan" means those individual services or programs, with accompanying funding sources, available through the interagency intervention service system to an eligible child other than the services or programs described in the child's individualized education program or the child's individual family service plan.

Subd. 4. **State Interagency Committee.** (a) The commissioner of education, on behalf of the governor, shall convene an interagency committee to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to 21 with disabilities. The commissioners of commerce, education, health, human rights, human services, employment and economic development, and corrections shall each appoint two committee members from their departments; and the Association of Minnesota Counties, Minnesota School Boards Association, the Minnesota Administrators of Special Education, and the School Nurse Association of Minnesota shall each appoint one committee member. The committee shall select a chair from among its members.

(b) The committee shall:

(1) identify and assist in removing state and federal barriers to local coordination of services provided to children with disabilities;

(2) identify adequate, equitable, and flexible funding sources to streamline these services;

(3) develop guidelines for implementing policies that ensure a comprehensive and coordinated system of all state and local agency services, including multidisciplinary assessment practices for children with disabilities ages three to 21, including:

(i) develop, consistent with federal law, a standardized written plan for providing services to a child with disabilities;

(ii) identify how current systems for dispute resolution can be coordinated;

(iii) develop an evaluation process to measure the success of state and local interagency efforts in improving the quality and coordination of services to children with disabilities ages three to 21; and

(iv) develop guidelines to assist the school boards and county boards in carrying out the duties assigned in section 125A.027, subdivision 1, paragraph (b); and

(4) carry out other duties necessary to develop and implement within communities a coordinated, multidisciplinary, interagency intervention service system for children with disabilities.

(c) The committee shall consult on an ongoing basis with the state Special Education Advisory Panel and the governor's Interagency Coordinating Council in carrying out its duties under this section, including assisting the school boards and county boards.

Subd. 5. MS 2002 [Repealed, 1Sp2003 c 9 art 3 s 21]

Subd. 6. **Third-party liability.** Nothing in this section and section 125A.027 relieves a health plan company, third party administrator or other third-party payer of an obligation to pay for, or changes the validity of an obligation to pay for, services provided to children with disabilities ages three to 21 and their families.

Subd. 7. **Agency obligation.** Nothing in this section and section 125A.027 removes the obligation of the state, counties, local school districts, a regional agency, or a local agency or organization to comply with any federal or state law that mandates responsibility for finding, assessing, delivering, assuring, or paying for education or related services for children with disabilities and their families.

History: *1997 c 397 art 11 s 3; 1998 c 398 art 3 s 2; 1999 c 123 s 3; 1999 c 139 art 4 s 2; 2000 c 489 art 10 s 7,8; 1Sp2001 c 6 art 3 s 5; 2003 c 130 s 12; 2004 c 206 s 52; 2004 c 294 art 3 s 1; 1Sp2011 c 9 art 1 s 20; 1Sp2011 c 11 art 3 s 12; 2014 c 272 art 4 s 2,3; 1Sp2015 c 3 art 5 s 9,10; 2024 c 80 art 4 s 26; 2024 c 115 art 16 s 42*

125A.027 LOCAL AGENCY COORDINATION RESPONSIBILITIES.

Subdivision 1. **School board and county board responsibilities.** (a) It is the joint responsibility of school and county 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 125A.02 and receiving services from two or more public agencies, of which one is the public school, must be determined in consultation with parents, physicians, and other education, medical health, and human services providers. The services provided must conform with a standardized written plan for each eligible child ages three to 21.

(b) Appropriate services include those services listed on a child's standardized written plan. These services are those that are required to be documented on a plan under federal and state law or rule.

(c) School and county boards shall coordinate interagency services. Service responsibilities for eligible children, ages three to 21, may be established in interagency agreements or joint powers board agreements. In addition, interagency agreements or joint powers board agreements may be developed to establish agency responsibility that ensures that coordinated interagency services are coordinated, provided, and paid for and that payment is facilitated from public and private sources. School boards must provide, pay for, and facilitate payment for special education services as required under sections 125A.03 and 125A.06. County boards must provide, pay for, and facilitate payment for those programs over which they have service and fiscal responsibility as referenced in section 125A.023, subdivision 3, paragraph (c), clause (1).

Subd. 1a. **Local governance structure.** The school boards and county boards are responsible for developing and implementing interagency policies and procedures to coordinate services at the local level for children with disabilities ages three to 21 under guidelines established by the state interagency committee under section 125A.023, subdivision 4. Consistent with the requirements in this section and section 125A.023, the school boards and county boards may organize as a joint powers board under section 471.59 or enter into an interagency agreement that establishes a governance structure.

Subd. 2. **Appropriate and necessary services.** (a) Parents, physicians, other health care professionals including school nurses, and education and human services providers jointly must determine appropriate and necessary services for eligible children with disabilities ages three to 21. The services provided to the child under this section must conform with the child's standardized written plan. The school board or county board must provide those services contained in a child's individualized education program and those services for which a legal obligation exists. Nothing in this section creates an additional right of appeal beyond the rights granted under sections 125A.091, 125A.25, and 256.045.

(b) Nothing in this section or section 125A.023 increases or decreases the obligation of the state, county, regional agency, local school district, or local agency or organization to pay for education, health care, or social services.

(c) A health plan may not exclude any medically necessary covered service solely because the service is or could be identified in a child's individual family service plan, individualized education program, a plan established under section 504 of the federal Rehabilitation Act of 1973, or a student's individual health plan. This paragraph reaffirms the obligation of a health plan company to provide or pay for certain medically necessary covered services, and encourages a health plan company to coordinate this care with any other providers of similar services. Also, a health plan company may not exclude from a health plan any medically necessary covered service such as an assessment or physical examination solely because the resulting information may be used for an individualized education program or a standardized written plan.

Subd. 3. MS 2012 [Repealed, 2014 c 272 art 4 s 14]

Subd. 4. MS 2014 [Repealed by amendment, 1Sp2015 c 3 art 5 s 11]

History: *1998 c 397 art 11 s 3; 1998 c 398 art 3 s 3; 1999 c 123 s 4; 2000 c 489 art 3 s 8; 1Sp2001 c 6 art 3 s 6; 2011 c 76 art 1 s 16; 1Sp2011 c 11 art 3 s 12; 2014 c 272 art 4 s 4,5; 1Sp2015 c 3 art 5 s 11*

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability, including providing required services under Code of Federal Regulations, title 34, section 300.121, paragraph (d), to those children suspended or

expelled from school for more than ten school days in that school year, who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state Education Code means a free and appropriate public education provided to an eligible child with disabilities. "Free appropriate public education" means special education and related services that:

(1) are provided at public expense, under public supervision and direction, and without charge;

(2) meet the standards of the state, including the requirements of the Individuals with Disabilities Education Act, Part B or C;

(3) include an appropriate preschool, elementary school, or secondary school education; and

(4) are provided to children ages three through 21 in conformity with an individualized education program that meets the requirements of the Individuals with Disabilities Education Act, subpart A, sections 300.320 to 300.324, and provided to infants and toddlers in conformity with an individualized family service plan that meets the requirements of the Individuals with Disabilities Education Act, subpart A, sections 303.300 to 303.346.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until the child with a disability becomes 22 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

(c) At the board's discretion, a school district that participates in a reciprocity agreement with a neighboring state under section 124D.041 may enroll and provide special instruction and services to a child from an adjoining state whose family resides at a Minnesota address as assigned by the United States Postal Service if the district has completed child identification procedures for that child to determine the child's eligibility for special education services, and the child has received developmental screening under sections 142D.09 to 142D.093.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 22,164; art 11 s 3; 1998 c 398 art 2 s 6; art 5 s 55; 1999 c 123 s 5; 2002 c 294 s 1; 2004 c 294 art 3 s 2; 2014 c 272 art 4 s 6; 1Sp2015 c 3 art 9 s 7; 2023 c 55 art 7 s 7; 2024 c 80 art 4 s 26; 2024 c 115 art 16 s 42*

125A.04 HIGH SCHOOL DIPLOMA.

Upon completion of secondary school or the equivalent, a pupil with a disability who satisfactorily attains the objectives in the pupil's individualized education program must be granted a high school diploma that is identical to the diploma granted to a pupil without a disability.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 23,164; art 11 s 3; 1Sp2011 c 11 art 3 s 12*

125A.05 MS 2008 [Repealed, 2009 c 96 art 3 s 22]

125A.06 BLIND PERSONS' LITERACY RIGHTS.

(a) Paragraphs (b) to (f) may be cited as the "Blind Persons' Literacy Rights and Education Act."

(b) The following definitions apply to paragraphs (c) to (f).

"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.

(c) In developing an individualized education program 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 must be available for each blind student for whom the multidisciplinary team has determined that reading and writing is appropriate.

(d) 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.

(e) The student's individualized education program must specify:

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

(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 (c) that Braille instruction or use is not required for the student:

(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.

(f) Instruction in Braille reading and writing is a service for the purpose of special education and services under this section.

(g) Paragraphs (b) to (f) must not be construed to supersede any rights of a parent or guardian of a child with a disability under federal or state law.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 24,164; art 11 s 3; 1998 c 398 art 2 s 7; 1Sp2011 c 11 art 3 s 12*

125A.07 RULEMAKING.

(a) Consistent with this section, the commissioner shall adopt new rules and amend existing rules related to children with disabilities only under specific authority and consistent with the requirements of chapter 14 and paragraph (c).

(b) As provided in this paragraph, the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the commissioner result in one or more of the following outcomes:

(1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction;

(2) consistent and uniform access to effective education programs for students with disabilities throughout the state;

(3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced court actions related to the delivery of special education instruction and services for students with disabilities;

(4) clear expectations for service providers and for students with disabilities;

(5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;

(6) greater focus for the state and local resources dedicated to educating students with disabilities; and

(7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.

(c) Subject to chapter 14, the commissioner may adopt, amend, or rescind a rule related to children with disabilities if such action is specifically required by federal law.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 25,164; art 11 s 3; 1998 c 398 art 2 s 8; art 5 s 55; 1999 c 123 s 6; 2004 c 294 art 5 s 10; 2009 c 96 art 3 s 6*

125A.08 INDIVIDUALIZED EDUCATION PROGRAMS.

Subdivision 1. **Individualized education programs.** (a) At the beginning of each school year, each school district shall have in effect, for each child with a disability, an individualized education program.

(b) As defined in this section, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individualized education program team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individualized education program. The individualized education program team shall consider and may authorize services covered by medical assistance according to section 256B.0625, subdivision 26. Before a school district evaluation team makes a determination of other health disability under Minnesota Rules, part 3525.1335, subparts 1 and 2, item A, subitem (1), the evaluation team must seek written documentation of the student's medically diagnosed chronic or acute health condition signed by a licensed physician or a licensed health care provider acting within the scope of the provider's practice. The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individualized education program. The program must address the student's need to develop skills to live and work as independently as possible within the community. The individualized education program team must consider positive behavioral interventions, strategies, and supports that address behavior needs for children. During grade 9, the program must address the student's

needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the program, districts must inform parents of the full range of transitional goals and related services that should be considered. The program must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded. If the individualized education program meets the plan components in section 120B.125, the individualized education program satisfies the requirement and no additional transition plan is needed;

(2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial evaluation or reevaluation, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used for the purposes of classification and placement of children with a disability are selected and administered so as not to be racially or culturally discriminatory; and

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

Subd. 2. **Paraprofessionals.** For all paraprofessionals employed to work in programs whose role in part is to provide direct support to students with disabilities, the school board in each district shall ensure that:

(1) before or beginning at the time of employment, each paraprofessional must develop sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs, especially disability-specific and behavioral needs, of the students with whom the paraprofessional works;

(2) within five days of beginning to work alone with an individual student with a disability, the assigned paraprofessional must be either given paid time, or time during the school day, to review a student's individualized education program or be briefed on the student's specific needs by appropriate staff;

(3) annual training opportunities are required to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with whom the paraprofessional works, including understanding disabilities, the unique and individual needs of each student according to the student's disability and how the disability affects the student's education and behavior, following lesson plans, and implementing follow-up instructional procedures and activities; and

(4) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

Subd. 3. **Functional behavior assessment.** A school district may conduct a functional behavior assessment as defined in Minnesota Rules, part 3525.0210, subpart 22, as a stand-alone evaluation without conducting a comprehensive evaluation of the student in accordance with prior written notice provisions in section 125A.091, subdivision 3a. A parent or guardian may request that a school district conduct a comprehensive evaluation of the parent's or guardian's student.

Subd. 4. **Developmental adapted physical education assessment.** A school district may conduct an assessment for developmental adapted physical education, as defined in Minnesota Rules, part 3525.1352, as a stand-alone evaluation without conducting a comprehensive evaluation of the student in accordance with prior written notice provisions in section 125A.091, subdivision 3a. A parent or guardian may request that a school district conduct a comprehensive evaluation of the parent's or guardian's student.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 26,164; art 11 s 3; 1998 c 398 art 2 s 9; 1999 c 123 s 7; 1999 c 245 art 4 s 3; 2000 c 489 art 10 s 9,22; 1Sp2001 c 6 art 3 s 7; 2009 c 96 art 3 s 7; 1Sp2011 c 11 art 3 s 12; 2014 c 272 art 4 s 7; 1Sp2015 c 3 art 5 s 12; 2016 c 163 art 3 s 1; 2016 c 189 art 29 s 4; 1Sp2020 c 8 art 4 s 1; 2023 c 55 art 2 s 58; 2024 c 109 art 5 s 2*

125A.083 STUDENT INFORMATION SYSTEMS; TRANSFERRING RECORDS.

To efficiently and effectively meet federal and state compliance and accountability requirements using an online case management reporting system, beginning July 1, 2018, a school district may contract only for a student information system that is Schools Interoperability Framework compliant.

History: *1Sp2015 c 3 art 5 s 13; 2016 c 189 art 29 s 5; 1Sp2017 c 5 art 4 s 1*

125A.085 MS 2016 [Repealed, 1Sp2017 c 5 art 4 s 13]

125A.09 MS 2002 [Repealed, 1Sp2003 c 9 art 3 s 21]

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.

Subdivision 1. MS 2008 [Repealed by amendment, 2009 c 96 art 3 s 8]

Subd. 2. MS 2008 [Repealed by amendment, 2009 c 96 art 3 s 8]

Subd. 3. MS 2008 [Repealed by amendment, 2009 c 96 art 3 s 8]

Subd. 3a. **Additional requirements for prior written notice.** In addition to federal law requirements, a prior written notice shall:

(1) inform the parent that except for the initial placement of a child in special education, the school district will proceed with its proposal for the child's placement or for providing special education services unless the child's parent notifies the district of an objection within 14 days of when the district sends the prior written notice to the parent; and

(2) state that a parent who objects to a proposal or refusal in the prior written notice may:

(i) request a conciliation conference under subdivision 7 or another alternative dispute resolution procedure under subdivision 8 or 9; or

(ii) identify the specific part of the proposal or refusal the parent objects to and request a meeting with appropriate members of the individualized education program team.

Subd. 4. MS 2008 [Repealed by amendment, 2009 c 96 art 3 s 8]

Subd. 5. **Initial action; parent consent.** (a) The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

(b) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless section 144.344 applies.

Subd. 6. **Dispute resolution processes; generally.** Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes under this section are provided at no cost to the parent.

Subd. 7. **Conciliation conference.** A parent must have an opportunity to request a meeting with appropriate members of the individualized education program team or meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision 3a. A district must hold a conciliation conference within ten calendar days from the date the district receives a parent's request for a conciliation conference. Except as provided in this section, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.

Subd. 8. **Voluntary dispute resolution options.** In addition to offering at least one conciliation conference, a district must inform a parent of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under federal special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.

Subd. 9. **Mediation.** Mediation is a dispute resolution process that involves a neutral party provided by the state to assist a parent and a district in resolving disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. A mediation process is available as an informal alternative to a due process hearing but must not be used to deny or postpone the opportunity of a parent or district to obtain a due process hearing. Mediation is voluntary for all parties. All mediation discussions are confidential and inadmissible in evidence in any subsequent proceeding, unless the:

(1) parties expressly agree otherwise;

(2) evidence is otherwise available; or

(3) evidence is offered to prove bias or prejudice of a witness.

Subd. 10. **Mediated agreements.** If the parties resolve all or a portion of the dispute, or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing and signed by the parties and each party is given a copy of the document. The written resolution or agreement shall state that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding. The resolution or agreement is legally binding upon the parties and is enforceable in the state or federal district court. A party may request another mediation to resolve a dispute over implementing the mediated agreement.

Subd. 11. **Facilitated team meeting.** A facilitated team meeting is an IEP, IFSP, or multiagency team meeting led by an impartial state-provided facilitator to promote effective communication and assist a team in developing an individualized education program.

Subd. 12. **Impartial due process hearing.** A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. The hearing must be held in the district responsible for ensuring that a free appropriate public education is provided according to state and federal law. The proceedings must be recorded and preserved, at state expense, pending ultimate disposition of the action. The parent and the district shall receive, at state expense, a copy of the hearing transcript or recording and the hearing officer's findings of fact, conclusion of law, and decisions.

Subd. 13. **Hearing officer qualifications.** The commissioner shall maintain a list of qualified hearing officers. The list shall include a statement of the qualifications of each person listed. Upon receipt of a written request for a hearing, the commissioner shall appoint a hearing officer from the list. The hearing officer must:

(1) be knowledgeable and impartial;

(2) have no personal interest in or specific involvement with the student who is a party to the hearing;

(3) not have been employed as an administrator by the district that is a party to the hearing;

(4) not have been involved in selecting the district administrator who is a party to the hearing;

(5) have no personal, economic, or professional interest in the outcome of the hearing other than properly administering federal and state laws, rules, and policies;

(6) have no substantial involvement in developing state or local policies or procedures challenged in the hearing;

(7) not be a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, or the department if the department is the service provider;

(8) not be a current employee or board member of a disability advocacy organization or group;

(9) not otherwise be under contract with the department or the school district;

(10) know and understand state and federal special education laws, rules, and regulations, and legal interpretations by federal and state courts; and

(11) have the knowledge and ability to conduct hearings and render and write decisions according to appropriate, standard legal practice.

Subd. 14. **Request for hearing.** (a) A parent or a school district may file a written request for a due process hearing regarding a proposal or refusal to initiate or change that child's evaluation, individualized education program, or educational placement, or to provide a free appropriate public education.

(b) The parent shall include in the hearing request the name of the child, the address of the child's residence, the name of the school the child attends, a description of the child's problem relating to the proposed or refused initiation or change, including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the parents at the time.

(c) A parent or a school district may file a written request for a hearing under United States Code, title 20, section 1415, paragraph (k).

(d) A parent or school district filing a request for a hearing under this subdivision must provide the request to the other party and a copy of the request to the department. Upon receiving a request for a hearing, the department shall give to the child's parent a copy of the procedural safeguards notice available to a parent under federal regulations.

(e)(1) If the parent of a child with a disability files a written request for a hearing, and the school district has not previously sent a written notice to the parent under subdivision 3a, regarding the subject matter of the hearing request, the school district shall, within ten days of receiving the hearing request, send to the child's parent a written explanation of why the school district proposed or refused to take the action raised in the hearing request. The explanation must include a description of other options that the individualized education program team considered and the reason why those options were rejected; a description of each evaluation procedure, assessment, record, or report that the school district used as the basis for the proposed or refused action; and a description of the factors that are relevant to the school district's proposal or refusal. A response by a school district under this subdivision does not preclude the school district from asserting that the parent's request for a hearing is insufficient under clause (2); and

(2) a hearing may not occur until the party requesting the hearing files a request that meets the requirements of paragraph (b). The request under paragraph (b) is considered sufficient unless the party receiving the request notifies the hearing officer and the other party in writing within 15 days of receiving the request that the receiving party believes the request does not meet the requirements of paragraph (b). Within five days of receiving a notice under this subdivision, the hearing officer shall determine whether the request meets the requirements under paragraph (b) and notify the parties.

(f) Except as provided in paragraph (e), clause (1), the party receiving a request for a hearing shall send to the party requesting the hearing a written response that addresses the issues raised in the hearing request within ten days of receiving the request.

Subd. 15. **Prehearing conference.** A prehearing conference must be held within five business days of the date the commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by telephone. The hearing officer must create a written verbatim record of the prehearing conference which is available to either party upon request. At the prehearing conference, the hearing officer must:

(1) identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;

(2) set a scheduling order for the hearing and additional prehearing activities;

(3) determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and

(4) establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

Subd. 16. **Burden of proof.** The burden of proof at a due process hearing is on the party seeking relief.

Subd. 17. **Admissible evidence.** The hearing officer may admit all evidence that possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in conducting their serious affairs. The hearing officer must give effect to the rules of privilege recognized by law and exclude evidence that is incompetent, irrelevant, immaterial, or unduly repetitious.

Subd. 18. **Hearing officer authority.** (a) A hearing officer must limit an impartial due process hearing to the time sufficient for each party to present its case.

(b) A hearing officer must establish and maintain control and manage the hearing. This authority includes, but is not limited to:

(1) requiring attorneys representing parties at the hearing, after notice and an opportunity to be heard, to pay court reporting and hearing officer costs, or fines payable to the state, for failing to: (i) obey scheduling or prehearing orders, (ii) appear, (iii) be prepared, or (iv) participate in the hearing process in good faith;

(2) administering oaths and affirmations;

(3) issuing subpoenas;

(4) determining the responsible and providing districts and joining those districts, if not already notified, in the proceedings;

(5) making decisions involving identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability;

(6) ordering an independent educational evaluation of a child at district expense; and

(7) extending the hearing decision timeline if the hearing officer determines that good cause exists.

(c) Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

Subd. 19. **Expedited due process hearings.** Consistent with federal law, a parent or a school district may file a written request for an expedited due process hearing. A hearing officer must hold an expedited due process hearing within 20 school days of the date the expedited due process request is filed and must issue a decision within ten school days after the hearing. A resolution meeting must occur within seven days of receiving the request for an expedited due process hearing unless the parent and the school district agree in writing either to waive the resolution meeting or use the mediation process. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the expedited due process hearing request.

Subd. 20. **Hearing officer's decision; time period.** (a) The hearing officer must ensure that not later than 45 days after the 30-day period or the adjusted time periods under federal regulations expire, the hearing

officer reaches a final decision in the due process hearing and transmits a copy of the decision to each party. A hearing officer, at the request of either party, may grant specific extensions of time beyond the 45-day period under subdivision 18. The hearing officer must conduct the oral arguments in a hearing at a time and place that is reasonably convenient to the parents and child involved. A hearing officer is encouraged to accelerate the time line to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute.

(b) Once the hearing officer has issued a final decision, the hearing officer lacks authority to amend the decision except for clerical or mathematical errors.

(c) Nothing in this subdivision precludes a hearing officer from ordering a school district to comply with federal procedural safeguards under the federal Individuals with Disabilities Education Act.

Subd. 21. **Compensatory educational services.** The hearing officer may require the resident or responsible district to provide compensatory educational services to the child if the hearing officer finds that the district has not offered or made available to the child a free appropriate public education in the least restrictive environment and the child suffered a loss of educational benefit. Such services take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding must be based on a present determination of whether the child has suffered a loss of educational benefit.

Subd. 22. MS 2008 [Repealed by amendment, 2009 c 96 art 3 s 8]

Subd. 23. MS 2008 [Repealed by amendment, 2009 c 96 art 3 s 8]

Subd. 24. **Review of hearing officer decisions.** The parent or district may seek review of the hearing officer's decision in the Minnesota Court of Appeals or in the federal district court. A party must appeal to the Minnesota Court of Appeals within 60 days of receiving the hearing officer's decision or must appeal to federal district court within 90 days of receiving the hearing officer's decision.

Subd. 25. **Enforcement of orders.** The commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer decisions.

Subd. 26. **Hearing officer and person conducting alternative dispute resolution are state employees.** A hearing officer or person conducting alternative dispute resolution under this section is an employee of the state under section 3.732 for purposes of section 3.736 only.

Subd. 27. **Hearing officer training.** A hearing officer must participate in training offered by the commissioner.

Subd. 28. **District liability.** A district is not liable for harmless technical violations of federal or state laws, rules, or regulations governing special education if the school district can demonstrate that the violations did not harm a student's educational progress or the parent's right to notice, participation, or due process. This subdivision is applicable to due process hearings and special education complaints filed with the department.

History: *1Sp2003 c 9 art 3 s 9; 2004 c 294 art 5 s 11; 2009 c 96 art 3 s 8; 1Sp2011 c 11 art 3 s 12; 2016 c 189 art 29 s 6; 1Sp2019 c 11 art 4 s 2,3*

125A.092 STATE COMPLAINT PROCESS.

Subdivision 1. **Filing a state complaint.** (a) An organization or individual may file a signed, written complaint with the Department of Education, Office of General Counsel, Dispute Resolution.

(b) The complaint must include:

(1) a statement that a public agency, lead agency, or early intervention services provider has violated a requirement of Part B or Part C of the federal Individuals with Disabilities Education Act;

(2) the facts on which the statement is based;

(3) the signature and contact information for the complainant;

(4) if alleging violations with respect to a specific child:

(i) the name and address of the residence of the child;

(ii) the name of the school the child is attending, or the name of the early intervention services provider serving the child; and

(iii) in the case of a homeless child or youth within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act, United States Code, title 42, section 11434(a)(2), the available contact information for the child and the name of the school the child is attending;

(5) a description of the nature of the problem of the child, including facts relating to the problem; and

(6) a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received.

(d) The party filing the complaint must forward a copy of the complaint to the local educational agency, public agency, or early intervention services provider serving the child at the same time the party files the complaint with the Department of Education.

Subd. 2. **Remedies.** In resolving a complaint in which the Department of Education has found a failure to provide appropriate services, the Department of Education, pursuant to its general supervisory authority under Part B and Part C of the federal Individuals with Disabilities Education Act, must address:

(1) the failure to provide appropriate services, including corrective action appropriate to address the needs of the child, compensatory services, or monetary reimbursement; and

(2) appropriate future provision of services for all children with disabilities.

Subd. 3. **Time limit and procedures.** (a) Within 60 days after a complaint is filed, the Department of Education must:

(1) carry out an independent on-site investigation if the Department of Education determines that an investigation is necessary;

(2) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) provide the public agency, lead agency, or early intervention services provider with the opportunity to respond to the complaint, including at a minimum:

(i) at the discretion of the Department of Education, a proposal to resolve the complaint; and

(ii) an opportunity for a parent who has filed a complaint and the public agency, lead agency, or early intervention services provider to voluntarily engage in mediation consistent with section 125A.091, subdivision 9;

(4) review all relevant information and make an independent determination as to whether the public agency, lead agency, or early intervention services provider is violating a requirement of Part B or Part C of the federal Individuals with Disabilities Education Act; and

(5) issue a written decision to the complainant that addresses each allegation in the complaint and contains:

(i) findings of fact and conclusions; and

(ii) the reasons for the Department of Education's final decision.

(b) An extension of the time limit is allowed only if:

(1) exceptional circumstances exist with respect to a particular complaint; or

(2) the parent, individual, or organization and the local educational agency, public agency, or early intervention services provider involved agree to extend the time to engage in mediation pursuant to section 125A.091, subdivision 9, or a facilitated team meeting pursuant to section 125A.091, subdivision 11.

Subd. 4. **Complaints and due process hearings.** (a) If a written complaint is received that is also the subject of a due process hearing under section 125A.091, subdivision 12, or that contains multiple issues of which one or more are part of that hearing, the Department of Education must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (c) and (d).

(b) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties:

(1) the due process hearing decision is binding on that issue; and

(2) the Department of Education must inform the complainant to that effect.

(c) If the local educational agency, public agency, or early intervention services provider fails to implement the due process hearing decision, an individual or organization may file a state complaint with the Department of Education alleging the agency or provider's failure to implement the due process hearing decision.

History: *1Sp2025 c 10 art 7 s 5*

125A.094 RESTRICTIVE PROCEDURES FOR CHILDREN WITH DISABILITIES.

The use of restrictive procedures for children with disabilities is governed by sections 125A.0941 and 125A.0942.

History: *2009 c 96 art 3 s 9*

125A.0941 DEFINITIONS.

(a) The following terms have the meanings given them.

(b) "Emergency" means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as: a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table; a child who does not respond to a staff person's request unless failing to respond would result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists.

(c) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement, where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a child in order to protect a child or other individual from physical injury. The term physical holding does not mean physical contact that:

(1) helps a child respond or complete a task;

(2) assists a child without restricting the child's movement;

(3) is needed to administer an authorized health-related service or procedure; or

(4) is needed to physically escort a child when the child does not resist or the child's resistance is minimal.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately, including the key components under section 122A.627.

(e) "Prone restraint" means placing a child in a face down position.

(f) "Restrictive procedures" means the use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a child.

(g) "Seclusion" means confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.

History: *2009 c 96 art 3 s 10; 2012 c 146 s 1; 2013 c 116 art 5 s 3; 1Sp2017 c 5 art 4 s 2*

125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES.

Subdivision 1. **Restrictive procedures plan.** (a) Schools that intend to use restrictive procedures shall maintain and make publicly accessible in an electronic format on a school or district website or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities that at least:

(1) lists the restrictive procedures the school intends to use;

(2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services;

(3) describes how the school will provide training on de-escalation techniques, consistent with section 122A.187, subdivision 4;

(4) describes how the school will monitor and review the use of restrictive procedures, including:

(i) conducting post-use debriefings, consistent with subdivision 3, paragraph (a), clause (5); and

(ii) convening an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; any disproportionate use of restrictive procedures based on race, gender, or disability status; the role of the school resource officer or police in emergencies and the use of restrictive procedures; and documentation to determine if the standards for using restrictive procedures as described in sections 125A.0941 and 125A.0942 are met; and

(5) includes a written description and documentation of the training staff completed under subdivision 5.

(b) Schools annually must publicly identify oversight committee members who must at least include:

(1) a mental health professional, school psychologist, or school social worker;

(2) an expert in positive behavior strategies;

(3) a special education administrator; and

(4) a general education administrator.

Subd. 2. **Restrictive procedures.** (a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed education professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5.

(b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (f).

(c) The district must hold a meeting of the individualized education program or individualized family service plan team, conduct or review a functional behavioral analysis, review data, consider developing additional or revised positive behavioral interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the individualized education program, individualized family service plan, or behavior intervention plan as appropriate. The district must hold the meeting: within ten calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days or a pattern of use emerges and the child's individualized education program, individualized family service plan, or behavior intervention plan does not provide for using restrictive procedures in an emergency; or at the request of a parent or the district after restrictive procedures are used. The district must review use of restrictive procedures at a child's annual individualized education program or individualized family service plan meeting when the child's individualized education program or individualized family service plan provides for using restrictive procedures in an emergency.

(d) If the individualized education program or individualized family service plan team under paragraph (c) determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on ten or more school days during the same school year, the team, as appropriate, either must consult with other professionals working with the child; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally

competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the child.

(e) At the individualized education program or individualized family service plan meeting under paragraph (c), the team must review any known medical or psychological limitations, including any medical information the parent provides voluntarily, that contraindicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the individualized education program, individualized family service plan, or behavior intervention plan.

(f) An individualized education program or individualized family service plan team may plan for using restrictive procedures and may include these procedures in a child's individualized education program, individualized family service plan, or behavior intervention plan; however, the restrictive procedures may be used only in response to behavior that constitutes an emergency, consistent with this section. The individualized education program, individualized family service plan, or behavior intervention plan shall indicate how the parent wants to be notified when a restrictive procedure is used.

Subd. 3. **Physical holding or seclusion.** (a) Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

(1) physical holding or seclusion is the least intrusive intervention that effectively responds to the emergency;

(2) physical holding or seclusion is not used to discipline a noncompliant child;

(3) physical holding or seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;

(4) staff directly observes the child while physical holding or seclusion is being used;

(5) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes, the following information:

(i) a description of the incident that led to the physical holding or seclusion;

(ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;

(iii) the time the physical holding or seclusion began and the time the child was released;

(iv) a brief record of the child's behavioral and physical status; and

(v) a brief description of the post-use debriefing that occurred as a result of the use of the physical hold or seclusion;

(6) the room used for seclusion must:

(i) be at least six feet by five feet;

(ii) be well lit, well ventilated, adequately heated, and clean;

(iii) have a window that allows staff to directly observe a child in seclusion;

(iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;

(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and

(vi) not contain objects that a child may use to injure the child or others; and

(7) before using a room for seclusion, a school must:

(i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and

(ii) register the room with the commissioner, who may view that room.

(b) By February 1, 2015, and annually thereafter, stakeholders may, as necessary, recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures and the commissioner must submit to the legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of seclusion. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of seclusion; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. Beginning with the 2016-2017 school year, in a form and manner determined by the commissioner, districts must report data quarterly to the department by January 15, April 15, July 15, and October 15 about individual students who have been secluded. By July 15 each year, districts must report summary data on their use of restrictive procedures to the department for the prior school year, July 1 through June 30, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582.

Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

(1) engaging in conduct prohibited under section 121A.58;

(2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;

(3) totally or partially restricting a child's senses as punishment;

(4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;

(5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

(6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under chapter 260E;

(7) withholding regularly scheduled meals or water;

(8) denying access to bathroom facilities;

(9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso;

(10) prone restraint; and

(11) the use of seclusion on children from birth through grade 3 by September 1, 2024.

Subd. 5. **Training for staff.** (a) To meet the requirements of subdivision 1, staff who use restrictive procedures, including paraprofessionals, shall complete training in the following skills and knowledge areas:

(1) positive behavioral interventions;

(2) communicative intent of behaviors;

(3) relationship building;

(4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;

(5) de-escalation methods;

(6) standards for using restrictive procedures only in an emergency;

(7) obtaining emergency medical assistance;

(8) the physiological and psychological impact of physical holding and seclusion;

(9) monitoring and responding to a child's physical signs of distress when physical holding is being used;

(10) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used;

(11) district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and

(12) schoolwide programs on positive behavior strategies.

(b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The commissioner also must develop and maintain a list of experts to help individualized education program or individualized family service plan teams reduce the use of restrictive procedures. The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings.

Subd. 6. **Behavior supports; reasonable force.** (a) School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports.

(b) Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379. Any reasonable force used under sections 121A.582; 609.06, subdivision 1; and 609.379 which intends to hold a child immobile or limit a child's movement where body contact is the only source of physical restraint or confines a child alone in a room from which egress is

barred shall be reported to the Department of Education as a restrictive procedure, including physical holding or seclusion used by an unauthorized or untrained staff person.

(c) By February 1, 2024, the commissioner, in cooperation with stakeholders, must make recommendations to the legislature for urgently ending seclusion in Minnesota schools. The commissioner must consult with interested stakeholders, including parents of students who have been secluded or restrained; advocacy organizations; legal services providers; special education directors; teachers; paraprofessionals; intermediate school districts and cooperative units as defined under section 123A.24, subdivision 2; school boards; day treatment providers; county social services; state human services department staff; mental health professionals; autism experts; and representatives of groups disproportionately affected by restrictive procedures, including People of Color and people with disabilities. The recommendations must include specific dates for ending seclusion by grade or facility. The recommendations must identify existing resources and the new resources necessary for staff capacity, staff training, children's supports, child mental health services, and schoolwide collaborative efforts.

History: *2009 c 96 art 3 s 11; 1Sp2011 c 11 art 3 s 2,12; 2012 c 146 s 2,3; 2013 c 116 art 5 s 4; 2014 c 312 art 17 s 1; 1Sp2015 c 3 art 5 s 15; 2016 c 189 art 29 s 7,8; 2018 c 182 art 1 s 33; 1Sp2020 c 2 art 8 s 17; 2023 c 55 art 7 s 8*

125A.10 MS 2006 [Repealed, 2007 c 146 art 3 s 25]

125A.11 SPECIAL INSTRUCTIONS FOR NONRESIDENT CHILDREN.

Subdivision 1. **Nonresident tuition rate; other costs.** (a) For fiscal year 2015 and later, when a school district provides special instruction and services for a pupil with a disability as defined in section 125A.02 outside the district of residence, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraphs (b) to (d), special education aid paid to the resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation, plus (2) the amount of general education revenue, excluding local optional revenue, plus local optional aid and referendum equalization aid attributable to that pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue, minus (3) the amount of special education aid for children with a disability under section 125A.76 received on behalf of that child, excluding cross subsidy reduction aid under section 125A.76, subdivision 2e, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue and the serving district's basic skills revenue, elementary sparsity revenue and secondary sparsity revenue per adjusted pupil unit. Notwithstanding clauses (1) and (4), for pupils served by a cooperative unit without a fiscal agent school district, the general education revenue and referendum equalization aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum equalization aid excluding compensatory revenue, elementary sparsity revenue, and secondary sparsity revenue. Special education aid paid to the district or cooperative providing special instruction and services for the pupil must be increased by the amount of the reduction in the aid paid to the resident district. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aid due to the district.

(b) Notwithstanding paragraph (a), when a charter school receiving special education aid under section 124E.21, subdivision 3, provides special instruction and services for a pupil with a disability as defined in section 125A.02, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraphs (b) to (e), special education aid paid to the resident district must be reduced by an amount equal to that calculated under paragraph (a) as if the charter school received aid under section 124E.21, subdivision 1. Notwithstanding paragraph (a), special education aid paid to the charter school providing special instruction and services for the pupil must not be increased by the amount of the reduction in the aid paid to the resident district.

(c) Notwithstanding paragraph (a) and section 127A.47, subdivision 7, paragraphs (b) to (d):

(1) an intermediate district or a special education cooperative may recover unreimbursed costs of serving pupils with a disability, including building lease, debt service, and indirect costs necessary for the general operation of the organization, by billing membership fees and nonmember access fees to the resident district;

(2) a charter school where more than 30 percent of enrolled students receive special education and related services, a site approved under section 125A.515, an intermediate district, a site constructed according to Laws 1992, chapter 558, section 7, subdivision 7, to meet the educational needs of court-placed adolescents, or a special education cooperative may apply to the commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving pupils with a disability;

(3) the billing under clause (1) or application under clause (2) must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under clause (2) must be included in the aid adjustments under paragraph (a), or section 127A.47, subdivision 7, paragraphs (b) to (d), as applicable.

(d) For purposes of this subdivision and section 127A.47, subdivision 7, paragraph (b), "general education revenue and referendum equalization aid" means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding the local optional levy according to section 126C.10, subdivision 2e, paragraph (c), plus the referendum equalization aid according to section 126C.17, subdivision 7.

Subd. 2. **Nonresident transportation.** When a district provides instruction and services in a day program outside the district of residence, the district of residence is responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the district of residence, the nonresident district in which the child is placed is responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state shall pay transportation aid to that district.

Subd. 3. **Agreement between districts to provide special instruction and services.** For the purposes of this section, any school district may enter into an agreement, upon mutually agreed-upon terms and conditions, to provide special instruction and services for children with a disability. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts. Each participating unit must reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384*

art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 29,164; art 11 s 3; 1Sp2001 c 6 art 3 s 9; 1Sp2005 c 5 art 3 s 7; 2006 c 263 art 3 s 1; 2007 c 146 art 3 s 4; 2009 c 96 art 1 s 8; 2013 c 116 art 5 s 5; 2014 c 312 art 17 s 2; 1Sp2015 c 3 art 4 s 10; art 5 s 16; 2016 c 158 art 1 s 45; 2016 c 189 art 29 s 9; 1Sp2017 c 5 art 4 s 3; 1Sp2019 c 11 art 4 s 4

125A.12 ATTENDANCE IN ANOTHER DISTRICT.

No resident of a district who is eligible for special instruction and services pursuant to this section may be denied provision of this instruction and service because of attending a public school in another district pursuant to section 123B.88, subdivision 5, if the attendance is not subject to section 124D.08. If the pupil attends a public school located in a contiguous district and the district of attendance does not provide special instruction and services, the district of residence must provide necessary transportation for the pupil between the boundary of the district of residence and the educational facility where special instruction and services are provided within the district of residence. The district of residence may provide necessary transportation for the pupil between its boundary and the school attended in the contiguous district, but must not pay the cost of transportation provided outside the boundary of the district of residence.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 30,164; art 11 s 3; 1Sp2003 c 9 art 12 s 13; 2007 c 146 art 1 s 25*

125A.125 REPORT ON HOMELESS CHILDREN SERVED.

The commissioner of education must collect statistics on the number of homeless children who have received Part C services and must annually report those results to the legislature by July 1.

History: *2013 c 116 art 5 s 30*

125A.13 SCHOOL OF PARENTS' CHOICE.

(a) Nothing in this chapter must be construed as preventing parents of a child with a disability from sending the child to a school of their choice, if they so elect, subject to admission standards and policies adopted according to sections 125A.62 to 125A.64 and 125A.66 to 125A.73, and all other provisions of chapters 120A to 129C.

(b) The parent of a student with a disability not yet enrolled in kindergarten and not open enrolled in a nonresident district may elect, in the same manner as the parent of a resident student with a disability, a school in the nonresident district where the child is enrolled in a Head Start program or a licensed child care

setting in the nonresident district, provided the child can be served in the same setting as other children in the nonresident district with the same level of disability.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 31,164; art 11 s 3; 2007 c 146 art 3 s 5; 2023 c 54 s 16*

125A.14 EXTENDED SCHOOL YEAR.

A district may provide extended school year services for children with a disability living within the district and nonresident children temporarily placed in the district pursuant to section 125A.15. Prior to March 31 or 30 days after the child with a disability is placed in the district, whichever is later, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to section 125A.15 of its intention to provide these programs. Notwithstanding any contrary provisions in section 125A.15, the district providing the special instruction and services must apply for special education aid for the extended school year services. The unreimbursed actual cost of providing the program for nonresident children with a disability, including the cost of board and lodging, may be billed to the district of the child's residence and must be paid by the resident district. Transportation costs must be paid by the district responsible for providing transportation pursuant to section 125A.15 and transportation aid must be paid to that district.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 32,164; art 11 s 3; 2007 c 146 art 3 s 6; 2012 c 239 art 3 s 1*

125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

The responsibility for special instruction and services for a child with a disability temporarily placed in another district for care and treatment shall be determined in the following manner:

(a) The district of residence of a child shall be the district in which the child's parent resides, if living, or the child's guardian. If there is a dispute between school districts regarding residency, the district of residence is the district designated by the commissioner.

(b) If a district other than the resident district places a pupil for care and treatment, the district placing the pupil must notify and give the resident district an opportunity to participate in the placement decision. When an immediate emergency placement of a pupil is necessary and time constraints foreclose a resident district from participating in the emergency placement decision, the district in which the pupil is temporarily placed must notify the resident district of the emergency placement within 15 days. The resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(c) When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation to and from the care and treatment program and an appropriate educational program for the child. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district. If a child's district of residence, district of open enrollment under section 124D.03, or charter school of enrollment under section 124E.11 is authorized to provide online learning instruction under state statutes, the child's district of residence may utilize that online learning program in fulfilling its educational program responsibility under this section if the child, or the child's parent or guardian for a pupil under the age of 18, agrees to that form of instruction.

(d) When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program, as outlined in section 125A.11, except as provided in paragraph (e). However, the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services; the commissioner of children, youth, and families; or the commissioner of corrections or their agents for reasons other than providing for the child's special educational needs must not become the responsibility of either the district providing the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment. If a child's district of residence, district of open enrollment under section 124D.03, or charter school of enrollment under section 124E.11 is authorized to provide online learning instruction under state statutes, the nonresident district may utilize that online learning program in fulfilling its educational program responsibility under this section if the child, or the child's parent or guardian for a pupil under the age of 18, agrees to that form of instruction.

(e) A privately owned and operated residential facility may enter into a contract to obtain appropriate educational programs for special education children and services with a joint powers entity. The entity with which the private facility contracts for special education services shall be the district responsible for providing students placed in that facility an appropriate educational program in place of the district in which the facility is located. If a privately owned and operated residential facility does not enter into a contract under this paragraph, then paragraph (d) applies.

(f) The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education

aid for the child as provided by law. Transportation costs must be paid by the district responsible for providing the transportation and the state must pay transportation aid to that district.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 33,164; art 11 s 3; 1998 c 398 art 2 s 11; 1999 c 241 art 2 s 14; 2000 c 489 art 3 s 9; 2009 c 96 art 3 s 12; 1Sp2011 c 11 art 3 s 3; 2023 c 55 art 7 s 9; 2024 c 85 s 25; 2025 c 21 s 10*

125A.155 SPECIAL EDUCATION RECIPROCITY; COMMISSIONER DUTIES.

The commissioner of education must develop a special education reciprocity agreement form. The reciprocity form must specify the procedures used to calculate special education tuition charges for both Minnesota students that are served in other states and for out-of-state students who are served in Minnesota. The commissioner shall attempt to enter into reciprocity agreements with any state that sends students to Minnesota and any state that provides services to Minnesota students.

History: *1999 c 241 art 2 s 15; 2003 c 130 s 12*

125A.16 MS 2011 Supp [Repealed, 2012 c 239 art 3 s 6]

125A.17 LEGAL RESIDENCE OF A CHILD WITH A DISABILITY PLACED IN A FOSTER FACILITY.

The legal residence of a child with a disability placed in a foster facility for care and treatment is the district in which the child resides when:

(1) parental rights have been terminated by court order;

(2) the parent or guardian is not living within the state;

(3) no other district residence can be established; or

(4) the parent or guardian having legal custody of the child is an inmate of a Minnesota correctional facility or is a resident of a halfway house under the supervision of the commissioner of corrections.

The school board of the district of residence must provide the same educational program for the child as it provides for all resident children with a disability in the district.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989*

c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 36,164; art 11 s 3; 1Sp2001 c 6 art 8 s 4

125A.18 SPECIAL INSTRUCTION; NONPUBLIC SCHOOLS.

No resident of a district who is eligible for special instruction and services under this section may be denied instruction and service on a shared time basis consistent with section 126C.19, subdivision 4, because of attending a nonpublic school defined in section 123B.41, subdivision 9. If a resident pupil with a disability attends a nonpublic school located within the district of residence, the district must provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident pupil with a disability attends a nonpublic school located in another district and if no agreement exists under section 126C.19, subdivision 1 or 2, for providing special instruction and services on a shared time basis to that pupil by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence must provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the district boundary.

Parties serving students on a shared time basis have access to the due process hearing system described under United States Code, title 20, and the complaint system under Code of Federal Regulations, title 34, section 300.660-662. In the event it is determined under these systems that the nonpublic school or staff impeded the public school district's provision of a free appropriate education, the commissioner may withhold public funds available to the nonpublic school proportionally applicable to that student under section 123B.42.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 37,164; art 11 s 3; 1998 c 398 art 2 s 13; 1999 c 123 s 11*

125A.19 NONRESIDENT EDUCATION; BILLING.

All tuition billing for the education of nonresident children pursuant to sections 125A.03 to 125A.24, 125A.51, 125A.515, and 125A.65 must be done on uniform forms prescribed by the commissioner. The billing shall contain an itemized statement of costs that are being charged to the district of residence.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s*

22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 38,164; art 11 s 3; 2012 c 239 art 3 s 2

125A.20 TRANSPORTATION AID AGREEMENTS.

Notwithstanding the provisions of sections 125A.11, 125A.14, and 125A.15, when a child receives special instruction and services in a day program outside the resident district, the resident district and the nonresident district where the child is placed may enter into an agreement providing for the nonresident district to pay the cost of any particular transportation categories specified in section 123B.92, subdivision 1, and claim transportation aid for those categories. In this case, the nonresident district may not obtain any payment from the resident district for the categories covered by the agreement.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 164; art 11 s 3*

125A.21 THIRD-PARTY PAYMENT.

Subdivision 1. **Obligation to pay.** Nothing in sections 125A.03 to 125A.24 and 125A.65 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. A school district shall pay the nonfederal share of medical assistance services provided according to section 256B.0625, subdivision 26. Eligible expenditures must not be made from federal funds or funds used to match other federal funds. Any federal disallowances are the responsibility of the school district. A school district may pay or reimburse co-payments, coinsurance, deductibles, and other enrollee cost-sharing amounts, on behalf of the student or family, in connection with health and related services provided under an individual educational plan or individualized family service plan.

Subd. 2. **Third-party reimbursement.** (a) Beginning July 1, 2000, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type that may be reimbursable, and shall request, but may not require, updated information after that as needed.

(b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health coverage, a district shall provide an initial and annual written notice to the

enrolled child's parent or legal representative of its intent to seek reimbursement from medical assistance or MinnesotaCare for:

(1) the evaluations required as part of the individualized education program process or individualized family service plan process; and

(2) health-related services provided by the district according to the individualized education program or individualized family service plan.

The initial notice must give the child's parent or legal representative the right to request a copy of the child's education records on the health-related services that the district provided to the child and disclosed to a third-party payer.

(c) The district shall give the parent or legal representative annual written notice of:

(1) the district's intent to seek reimbursement from medical assistance or MinnesotaCare for evaluations required as part of the individualized education program process or individualized family service plan process, and for health-related services provided by the district according to the individualized education program or individualized family service plan;

(2) the right of the parent or legal representative to request a copy of all records concerning individualized education program or individualized family service plan health-related services disclosed by the district to any third party; and

(3) the right of the parent or legal representative to withdraw consent for disclosure of a child's records at any time without consequence.

The written notice shall be provided as part of the written notice required by Code of Federal Regulations, title 34, section 300.504 or 303.520. The district must ensure that the parent of a child with a disability is given notice, in understandable language, of federal and state procedural safeguards available to the parent under this paragraph and paragraph (b).

(d) In order to access the private health care coverage of a child who is covered by private health care coverage in whole or in part, a district must:

(1) obtain annual written informed consent from the parent or legal representative, in compliance with subdivision 5; and

(2) inform the parent or legal representative that a refusal to permit the district or state Medicaid agency to access their private health care coverage does not relieve the district of its responsibility to provide all services necessary to provide free and appropriate public education at no cost to the parent or legal representative.

(e) If the commissioner of human services obtains federal approval to exempt covered individualized education program or individualized family service plan health-related services from the requirement that private health care coverage refuse payment before medical assistance may be billed, paragraphs (b), (c), and (d) shall also apply to students with a combination of private health care coverage and health care coverage through medical assistance or MinnesotaCare.

(f) In the event that Congress or any federal agency or the Minnesota legislature or any state agency establishes lifetime limits, limits for any health care services, cost-sharing provisions, or otherwise provides that individualized education program or individualized family service plan health-related services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the amendments to this subdivision

adopted in 2002 are repealed on the effective date of any federal or state law or regulation that imposes the limits. In that event, districts must obtain informed consent consistent with this subdivision as it existed prior to the 2002 amendments and subdivision 5, before seeking reimbursement for children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health care coverage.

Subd. 3. **Use of reimbursements.** School districts must reserve third-party revenue and must spend the reimbursements received only to:

(1) retain an amount sufficient to compensate the district for its administrative costs of obtaining reimbursements;

(2) regularly obtain from education- and health-related entities training and other appropriate technical assistance designed to improve the district's ability to access third-party payments for individualized education program or individualized family service plan health-related services; or

(3) reallocate reimbursements for the benefit of students with individualized education programs or individualized family service plans in the district.

Subd. 4. **Parents not obligated to use health coverage.** To the extent required by federal law, a school district may not require parents of children with disabilities, if they would incur a financial cost, to use private or public health coverage to pay for the services that must be provided under an individualized education program or individualized family service plan.

Subd. 5. **Informed consent.** When obtaining informed consent, consistent with sections 13.05, subdivision 4a; 256B.77, subdivision 2, paragraph (p); and Code of Federal Regulations, title 34, parts 99, 300, and 303, to bill health plans for covered services, the school district must notify the legal representative (1) that the cost of the person's private health insurance premium may increase due to providing the covered service in the school setting, (2) that the school district may pay certain enrollee health plan costs, including but not limited to, co-payments, coinsurance, deductibles, premium increases or other enrollee cost-sharing amounts for health and related services required by an individual service plan, or individualized family service plan, and (3) that the school's billing for each type of covered service may affect service limits and prior authorization thresholds. The informed consent may be revoked in writing at any time by the person authorizing the billing of the health plan.

Subd. 6. **District obligation to provide service.** To the extent required by federal law, no school district may deny, withhold, or delay any service that must be provided under an individualized education program or individualized family service plan because a family has refused to provide informed consent to bill a health plan for services or a health plan company has refused to pay any, all, or a portion of the cost of services billed.

Subd. 7. **District disclosure of information.** A school district may disclose information contained in a student's individualized education program, consistent with section 13.32, subdivision 3, paragraph (a), and Code of Federal Regulations, title 34, parts 99, 300, and 303; including records of the student's diagnosis and treatment, to a health plan company only with the signed and dated consent of the student's parent, or other legally authorized individual. The school district shall disclose only that information necessary for the health plan company to decide matters of coverage and payment. A health plan company may use the

information only for making decisions regarding coverage and payment, and for any other use permitted by law.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 164; art 11 s 3; 1998 c 398 art 2 s 14; 1999 c 123 s 12; 2000 c 464 art 2 s 1; 2002 c 294 s 2; 2002 c 400 s 3; 1Sp2003 c 9 art 3 s 10; 2010 c 365 art 1 s 10; 1Sp2011 c 11 art 3 s 4-7,12; 2012 c 216 art 13 s 1; 1Sp2015 c 3 art 5 s 17; 2016 c 189 art 29 s 10; 1Sp2017 c 5 art 4 s 4*

125A.22 COMMUNITY TRANSITION INTERAGENCY COMMITTEE.

A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, may establish a community transition interagency committee for youth with disabilities, beginning at grade 9 or age equivalent, and their families. Members of the committee may include representatives from special education, vocational and regular education, community education, postsecondary education and training institutions, mental health, adults with disabilities who have received transition services if such persons are available, parents of youth with disabilities, local business or industry, rehabilitation services, county social services, health agencies, and additional public or private adult service providers as appropriate. The committee may:

(1) identify current services, programs, and funding sources provided within the community for secondary and postsecondary aged youth with disabilities and their families that prepare them for further education; employment, including integrated competitive employment; and independent living;

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

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

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

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

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2;*

1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 39,164; art 11 s 3; 2004 c 166 s 1; 1Sp2011 c 11 art 3 s 12; 2014 c 272 art 4 s 8

125A.23 AGENCY ACCESS TO NONPUBLIC DATA.

The commissioner of administration must prepare a form and disseminate guidelines for state agencies, political subdivisions, and other responsible authorities to use to enable a responsible authority to allow another responsible authority access to data about a child with a disability that is classified as not public. The form and guidelines must be consistent with section 13.05, subdivision 9, and federal law, and are not subject to the rulemaking requirements under chapter 14.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 40,164; art 11 s 3*

125A.24 PARENT ADVISORY COUNCILS.

In order to increase the involvement of parents of children with disabilities in district policy making and decision making, school districts must have a special education advisory council that is incorporated into the district's special education system plan.

(1) This advisory council may be established either for individual districts or in cooperation with other districts who are members of the same special education cooperative.

(2) A district may set up this council as a subgroup of an existing board, council, or committee.

(3) At least half of the designated council members must be parents of students with a disability. When a nonpublic school is located in the district, the council must include at least one member who is a parent of a nonpublic school student with a disability, or an employee of a nonpublic school if no parent of a nonpublic school student with a disability is available to serve. Each local council must meet no less than once each year. The number of members, frequency of meetings, and operational procedures are to be locally determined.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s*

2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 41,164; art 11 s 3; 1999 c 123 s 13; 1Sp2005 c 5 art 3 s 8

125A.25 LEGISLATIVE COMMITMENT TO CONCILIATION.

Subdivision 1. **Policy statement.** The legislature finds that conciliation conferences pursuant to sections 125A.03 to 125A.24 and 125A.65 serve better than formal hearings to promote communications between parents and school staff and to reach prompt, shared decisions about educational programs for children with a disability. Further, the legislature urges the United States Department of Education and the United States Office of Civil Rights to acknowledge that the conciliation conference process violates no federal statute or regulation.

Subd. 2. **State plan.** The commissioner shall not adopt any provision in the state plan for special education that reduces the opportunities for parents and school districts to resolve their differences through conciliation.

History: *1981 c 358 art 3 s 8; 1991 c 265 art 3 s 38; 1998 c 397 art 2 s 60,164; 1998 c 398 art 5 s 55*

INTERAGENCY EARLY CHILDHOOD INTERVENTION SYSTEM

125A.259 CITATION; INTERAGENCY EARLY CHILDHOOD INTERVENTION SYSTEM.

Sections 125A.26 to 125A.48 may be cited as the "Interagency Early Childhood Intervention System."

History: *1998 c 397 art 11 s 3*

125A.26 PURPOSE.

It is the policy of the state to develop and implement comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 164; art 11 s 3*

125A.27 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 125A.259 to 125A.48, the following terms have the meanings given them.

Subd. 2. **Coordinate.** "Coordinate" means to provide ready access to a community's services and resources to meet child and family needs.

Subd. 3. **Core early intervention services.** "Core early intervention services" means services that are available at no cost to children and families. These services include:

(1) identification and referral;

(2) screening;

(3) evaluation;

(4) assessment;

(5) service coordination;

(6) special education and related services provided under section 125A.08, and United States Code, title 20, section 1401; and

(7) protection of parent and child rights by means of procedural safeguards.

Subd. 4. **County board.** "County board" means a county board established under chapter 375.

Subd. 5. **Early intervention record.** "Early intervention record" means any personally identifiable information about a child or the child's family that is generated by the early intervention system, and that pertains to evaluation and assessment, development of an individualized family service plan, and the delivery of early intervention services.

Subd. 6. **Early intervention services.** "Early intervention services" means services provided in conformity with an individualized family service plan that are designed to meet the special developmental needs of a child eligible under Code of Federal Regulations, title 34, part 303, and the needs of the child's family related to enhancing the child's development and that are selected in collaboration with the parent. These services include core early intervention services and additional early intervention services listed in section 125A.29 and services defined in Code of Federal Regulations, title 34, section 303, et seq.

Subd. 7. **Early intervention system.** "Early intervention system" means the total effort in the state to meet the needs of eligible children and their families.

Subd. 8. **Eligibility for Part C.** "Eligibility for Part C" means eligibility for infant and toddler intervention services under section 125A.02 and Minnesota Rules, part 3525.1350.

Subd. 9. **Facilitate payment.** "Facilitate payment" means helping families access necessary public or private assistance that provides payment for services required to meet needs identified in a service plan, individualized education program (IEP), individual service plan (ISP), or individualized family service plan (IFSP), according to time frames required by the plan. This may also include activities to collect fees for services provided on a sliding fee basis, where permitted by state law.

Subd. 10. **Individualized family service plan.** "Individualized family service plan" or "IFSP" means a written plan for providing services to a child age birth to three years and the child's family.

Subd. 11. **Interagency child find systems.** "Interagency child find systems" means activities developed on an interagency basis with the involvement of interagency early intervention committees and other relevant community groups, including primary referral sources included in Code of Federal Regulations, title 34, section 303.303 (c), using rigorous standards to actively seek out, identify, and refer infants and young children, with, or at risk of, disabilities, and their families, to reduce the need for future services. The child find system must mandate referrals for a child under the age of three who: (1) is the subject of a substantiated case of abuse or neglect, or (2) is identified as directly affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure, to reduce the need for future services. The referral procedures must specify that a referral must occur within seven calendar days from the date of identification.

Subd. 12. **Local primary agency.** "Local primary agency" means the agency designated jointly by the school and county board under section 125A.29.

Subd. 13. **Natural environments.** "Natural environments" means the child's home and community settings in which children without disabilities participate.

Subd. 14. **Parent.** "Parent" means "parent" as defined by Code of Federal Regulations, title 34, section 303.27, or a surrogate parent appointed in accordance with Code of Federal Regulations, title 34, section 303.422, or United States Code, title 20, section 1439(a)(5).

Subd. 15. **Part C state plan.** "Part C state plan" means the annual state plan application approved by the federal government.

Subd. 16. **Pay for.** "Pay for" means using federal, state, local, and private dollars available for early intervention services.

Subd. 17. **Respite.** "Respite" means short-term, temporary care provided to a child with a disability due to the temporary absence or need for relief of the family member or members or primary caregiver, normally providing the care.

Subd. 18. **State lead agency.** "State lead agency" means the state agency receiving federal funds for the purposes of providing early intervention services.

Subd. 19. **Surrogate parent.** "Surrogate parent" means a person appointed by the local education agency to assure that the rights of the child to early intervention services are protected. A person cannot be a surrogate parent to a child for whom the person provides early intervention services.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 42,164; art 11 s 3; 1998 c 398 art 2 s 15; 1Sp2001 c 6 art 3 s 10; 2002 c 294 s 3; 1Sp2003 c 9 art 10 s 13; 2006 c 282 art 2 s 13-17; 1Sp2011 c 11 art 3 s 12; 2013 c 116 art 5 s 6-8; 2024 c 109 art 5 s 3*

125A.28 STATE INTERAGENCY COORDINATING COUNCIL.

Subdivision 1. **Membership.** An Interagency Coordinating Council of at least 18, but not more than 26 members is established, in compliance with Public Law 108-446, section 641. The members must be appointed by the governor and reasonably represent the population of Minnesota. Council members must elect the council chair, who may not be a representative of the Department of Children, Youth, and Families. The council must 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, local Head Start 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 children, youth, and families, a representative from the state agency responsible for child care, foster care, mental health, homeless coordinator of education of homeless children and youth, and a representative from Indian health services or a Tribal council. Section 15.059, subdivisions 2 to 4, apply to the council. The council must meet at least quarterly.

Subd. 2. **Implementing policy; duties.** (a) The council must 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.

(b) 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.

Subd. 3. **Recommendations; report.** (a) Within 30 days of receiving the annual determination from the federal Office of Special Education on the Minnesota Part C Annual Performance Report, the council must recommend to the governor and the commissioners of children, youth, and families; education; health; human services; commerce; and employment and economic development policies for a comprehensive and coordinated system.

(b) Annually, the council must prepare and submit a report to the governor and the secretary of the federal Department of Education on the status of early intervention services and programs for infants and toddlers with disabilities and their families under the Individuals with Disabilities Education Act, United States Code, title 20, sections 1471 to 1485 (Part C, Public Law 102-119), as operated in Minnesota. The Minnesota Part C annual performance report may serve as the report.

Subd. 4. **Expiration.** Notwithstanding any other law to the contrary, the State Interagency Coordinating Council does not expire unless federal law no longer requires the existence of the council or committee.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1997 c 192 s 19; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 43,164; art 11 s 3; 1998 c 398 art 2 s 16; 2000 c 254 s 51; 1Sp2001 c 3 art 1 s 14; 1Sp2003 c 9 art 3 s 11; 2004 c 206 s 52; 1Sp2005 c 5 art 3 s 9; 2006 c 282 art 2 s 18; 2009 c 96 art 3 s 13; 2013 c 116 art 5 s 9; 2014 c 286 art 8 s 14; 1Sp2015 c 3 art 5 s 18; 2024 c 80 art 4 s 20*

125A.29 RESPONSIBILITIES OF COUNTY BOARDS AND SCHOOL BOARDS.

(a) 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 125A.02 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:

(1) an IFSP for each eligible infant and toddler from birth through age two and the infant's or toddler's family including:

(i) American Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state;

(ii) infants and toddlers with disabilities who are homeless children and their families; and

(iii) infants and toddlers with disabilities who are wards of the state; or

(2) an individualized education program (IEP) or individual service plan (ISP) for each eligible child ages three through four.

(b) Appropriate early intervention services include services provided in conformity with an IFSP that are designed to meet the special developmental needs of an eligible child and the needs of the child's family related to enhancing the child's development and that are selected in collaboration with the parent. These services include core early intervention services and additional early intervention services listed in this section and infant and toddler intervention services defined under United States Code, title 20, sections 1431

to 1444, and Code of Federal Regulations, title 34, section 303, including service coordination under section 125A.33.

(c) School and county boards shall coordinate early intervention services. In the absence of agreements established according to section 125A.39, service responsibilities for children birth through age two are as follows:

(1) school boards must provide, pay for, and facilitate payment for special education and related services required under sections 125A.03 and 125A.06;

(2) county boards must provide, pay for, and facilitate payment for noneducational services of social work, psychology, transportation and related costs, nursing, respite, and nutrition services not required under clause (1).

(d) School and county boards may develop an interagency agreement according to section 125A.39 to establish agency responsibility that assures early intervention services are coordinated, provided, paid for, and that payment is facilitated from public and private sources.

(e) County and school boards must jointly determine the primary agency in this cooperative effort and must notify the commissioner of the state lead agency of their decision.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 44,164; art 11 s 3; 2006 c 282 art 2 s 19; 2011 c 76 art 1 s 17; 1Sp2011 c 11 art 3 s 12; 2013 c 116 art 5 s 10*

125A.30 INTERAGENCY EARLY INTERVENTION COMMITTEES.

(a) A group of school districts or special education cooperatives, in cooperation with the county and Tribal health and human service agencies located in the county or counties in which the districts or cooperatives are located, must establish an Interagency Early Intervention Committee for children with disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local health, education, and county human service agencies, early childhood family education programs, Head Start, parents of young children with disabilities under age 12, child care resource and referral agencies, school readiness programs, current service providers, and agencies that serve families experiencing homelessness, and may also include representatives from other private or public agencies and school nurses. The committee must elect a chair from among its members and must meet at least quarterly.

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

(1) develop public awareness systems designed to inform potential recipient families, especially parents with premature infants, or infants with other physical risk factors associated with learning or development complications, of available programs and services;

(2) to reduce families' need for future services, and especially parents with premature infants, or infants with other physical risk factors associated with learning or development complications, implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities, including a child under the age of three who: (i) is the subject of a substantiated case of abuse or neglect or (ii) is identified as directly affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;

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

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

(5) develop a plan for the allocation and expenditure of federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law 89-313).

(c) The local committee shall also 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.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 45,164; art 11 s 3; 1998 c 398 art 3 s 1; 1999 c 123 s 14; 1Sp2003 c 9 art 3 s 12; art 10 s 13; 2006 c 282 art 2 s 20; 1Sp2011 c 11 art 3 s 12; 2013 c 116 art 5 s 11; 2014 c 272 art 4 s 9; 1Sp2020 c 8 art 5 s 5*

125A.31 LOCAL PRIMARY AGENCY.

(a) The local primary agency must:

(1) facilitate the development of annual fund requests that identify arrangements with other local and regional agencies providing services as part of the state's early childhood intervention system and that result in service availability on a year-round basis, as necessary;

(2) administer funds received through the annual fund request;

(3) provide oversight for data collection efforts;

(4) facilitate completion of interagency early intervention committee duties as indicated in section 125A.30;

(5) request mediation from the state lead agency, if necessary;

(6) request assistance from the state lead agency when disputes between agencies cannot be resolved within 20 calendar days; and

(7) receive written requests from parents for matters that may be resolved through due process hearings.

(b) When the local primary agency is not an education agency, resources distributed under the early intervention fund must be transferred from a local educational agency to a noneducation agency using a state provided contract. A local primary agency may budget for indirect costs at an amount not to exceed five percent of the amount allocated from the early intervention fund.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 46,164; art 11 s 3*

125A.32 INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP).

(a) A team must participate in IFSP meetings to develop the IFSP. The team shall include:

(1) a parent or parents of the child, as defined in Code of Federal Regulations, title 34, section 303.27;

(2) other family members, as requested by the parent, if feasible to do so;

(3) an advocate or person outside of the family, if the parent requests that the person participate;

(4) the service coordinator who has been working with the family since the initial referral, or who has been designated by the public agency to be responsible for implementation of the IFSP and coordination with other agencies including transition services;

(5) a person or persons involved in conducting evaluations and assessments; and

(6) as appropriate, persons who will be providing early intervention services under the plan to the child or family.

(b) The IFSP must include:

(1) information about the child's developmental status;

(2) family information, with the consent of the family;

(3) measurable results or major outcomes expected to be achieved by the child with the family's assistance, that include developmentally appropriate preliteracy and language skills for the child, and the criteria, procedures, and timelines;

(4) specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the child and the family to achieve the outcomes;

(5) payment arrangements, if any;

(6) medical and other services that the child needs, but that are not required under the Individual with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) including funding sources to be used in paying for those services and the steps that will be taken to secure those services through public or private sources;

(7) dates and duration of early intervention services;

(8) name of the service coordinator;

(9) steps to be taken to support a child's transition from infant and toddler intervention services to other appropriate services, including convening a transition conference at least 90 days or, at the discretion of all parties, not more than nine months before the child is eligible for preschool services; and

(10) authorized signatures of the agencies responsible for providing, paying for, or facilitating payment, or any combination of these, for infant and toddler intervention services.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 47,164; art 11 s 3; 1Sp2003 c 9 art 10 s 13; 2006 c 282 art 2 s 21; 2013 c 116 art 5 s 12*

125A.33 SERVICE COORDINATION.

(a) The team responsible for the initial evaluation and the child- and family-directed assessment and for developing the IFSP under section 125A.32, if appropriate, must select a service coordinator to carry out service coordination activities on an interagency basis. Service coordination must actively promote a family's capacity and competency to identify, obtain, coordinate, monitor, and evaluate resources and services to meet the family's needs. Service coordination activities include:

(1) coordinating the performance of evaluations and assessments;

(2) facilitating and participating in the development, review, and evaluation of individualized family service plans;

(3) assisting families in identifying available service providers;

(4) coordinating and monitoring the delivery of available services;

(5) informing families of the availability of advocacy services;

(6) coordinating with medical, health, and other service providers;

(7) facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services, at least 90 days before the time the child is no longer eligible for infant and toddler intervention services or, at the discretion of all parties, not more than nine months prior to the child's third birthday, if appropriate;

(8) managing the early intervention record and submitting additional information to the local primary agency at the time of periodic review and annual evaluations; and

(9) notifying a local primary agency when disputes between agencies impact service delivery required by an IFSP.

(b) A service coordinator must be knowledgeable about children and families receiving services under this section, requirements of state and federal law, and services available in the interagency early childhood intervention system. The IFSP must include the name of the services coordinator from the profession most relevant to the child's or family's needs or who is otherwise qualified to carry out all applicable responsibilities under the Individuals with Disabilities Education Act, United States Code, title 20, sections 1471 to 1485 (Part C, Public Law 102-119), who will be responsible for implementing the early intervention services identified in the child's IFSP, including transition services, and coordination with other agencies and persons.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 48,164; art 11 s 3; 1999 c 123 s 15; 2006 c 282 art 2 s 22; 2013 c 116 art 5 s 13*

125A.34 EARLY INTERVENTION RESPITE SERVICES.

The provision of respite services for an eligible child and family must be determined in the context of the IFSP development based on the individual needs of the child and family and with consideration given to the following criteria:

(1) severity of the child's disability and needs;

(2) potential risk of out-of-home placement for the child if respite services are not provided;

(3) parental lack of access to informal support systems, including, but not limited to, extended family, supportive friends, and community supports;

(4) presence of factors known to increase family stress, including, but not limited to, family size and presence of another child or family member with a disability;

(5) the availability of other public services provided to the family that assist the parent or primary caretaker in obtaining relief from caretaking responsibilities; and

(6) the perceived and expressed level of need for respite services by the parent.

Counties are encouraged to make a variety of respite service models available, which may include in or out-of-home respite, family reimbursement programs, and parent-to-parent respite projects.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 49,164; art 11 s 3*

125A.35 EARLY INTERVENTION SERVICE DOLLARS.

Subdivision 1. **Lead agency; allocation of resources.** The state lead agency must administer the early intervention account that consists of federal allocations. The Part C state plan must state the amount of federal resources in the early intervention account available for use by local agencies. The state lead agency must enter into an agreement under which the commissioner of education must distribute the funds to the local primary agency designated by an Interagency Early Intervention Committee based on a formula that includes a December 1 count of the prior year of Part C eligible children for the following purposes:

(1) as provided in Code of Federal Regulations, title 34, part 303.430, to arrange for payment for early intervention services not elsewhere available, or to pay for services during the pendency of a conflict procedure, including mediation, complaints, due process hearings, and interagency disputes; and

(2) to support interagency child find system activities.

Subd. 2. **Priority funding.** The priority purpose for this fund is subdivision 1, clause (1). The local primary agency must reallocate resources from the early intervention fund as necessary in order to meet this priority.

Subd. 3. **Discretionary funding.** Nothing in this subdivision limits the state lead agency's authority to allocate discretionary federal funds for any purpose consistent with the Individuals with Disabilities Education Act, United States Code, title 20, sections 1471 to 1485 (Part C, Public Law 102-119) and regulations adopted under United States Code, title 20, sections 1471 to 1485.

Subd. 4. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 5. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 6. **School boards.** School boards are not required to pay for services defined in section 125A.29, paragraph (c), clause (2).

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 50,164; art 11 s 3; 1999 c 205 art 1 s 47,70; 1Sp2003 c 9 art 10 s 13; 2013 c 116 art 5 s 14,32; 2024 c 80 art 4 s 21*

125A.36 PAYMENT FOR SERVICES.

Core early intervention services must be provided at public expense with no cost to parents. Parents must be requested to assist in the cost of additional early intervention services by using third-party payment sources. Payment structures permitted under state law must be used to pay for additional early intervention services. Parental financial responsibility must be clearly defined in the IFSP. A parent's inability to pay must not prohibit a child from receiving needed early intervention services.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 51,164; art 11 s 3; 2013 c 116 art 5 s 15*

125A.37 PAYOR OF LAST RESORT.

The state lead agency must maintain a reserve account from federal sources to pay for services in dispute or to pay for early intervention services when local agencies have exhausted all other public and private funds available for Part C eligible children.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 52,164; art 11 s 3; 1998 c 398 art 2 s 17; 1Sp2003 c 9 art 10 s 13*

125A.38 MAINTENANCE OF EFFORT.

A county human services agency or county board must continue to provide services set forth in their county social service agency plan. The county human services agency or county board must serve children with disabilities under age five and their families, or as specified in the IFSP 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 section 125A.29 and to facilitate payment for services from public and private sources.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 53,164; art 11 s 3*

125A.39 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 section 125A.38;

(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 of additional state and federal early intervention funds under the auspices of United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law 89-313);

(5) data collection; and

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

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 164; art 11 s 3; 1Sp2003 c 9 art 10 s 13; 2007 c 146 art 11 s 10*

125A.40 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.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 164; art 11 s 3*

125A.41 COORDINATING HEALTH INSURANCE BENEFITS.

The Department of Health must provide technical assistance in a timely manner to service coordinators, parents of children with disabilities, and agencies in situations requiring the coordination of health insurance benefits, or the identification of third-party payor responsibilities to provide necessary health benefits.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 54,164; art 11 s 3*

125A.42 PROCEDURAL SAFEGUARDS; PARENT AND CHILD RIGHTS.

(a) This section applies to local school and county boards for children from birth through age two who are eligible for Part C, Public Law 108-446, and their families. This section must be consistent with the Individuals with Disabilities Education Act, United States Code, title 20, sections 1471 to 1485 (Part C, Public Law 108-446), regulations adopted under United States Code, title 20, sections 1471 to 1485, and sections 125A.259 to 125A.48.

(b) A parent has the right to:

(1) inspect and review early intervention records;

(2) prior written notice of a proposed action in the parents' native language unless it is clearly not feasible to do so;

(3) give consent to any proposed action;

(4) selectively accept or decline any early intervention service; and

(5) resolve issues regarding the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family through an impartial due process hearing pursuant to section 125A.46.

(c) The eligible child has the right to have a surrogate parent appointed by a school district as required by section 125A.07.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 164; art 11 s 3; 2007 c 146 art 11 s 11*

125A.43 MEDIATION PROCEDURE.

(a) The commissioner, or the commissioner's designee, of the state lead agency must use federal funds to provide mediation for the activities in paragraphs (b) and (c).

(b) A parent may resolve a dispute regarding issues in section 125A.42, paragraph (b), clause (5), through mediation. If the parent chooses mediation, mediation must be voluntary on the part of the parties. The parent and the public agencies must complete the mediation process within 30 calendar days of the date the

Department of Education receives a parent's written request for mediation unless a district declines mediation. The mediation process may not be used to delay a parent's right to a due process hearing. The written, signed mediation agreement is binding on both parties and is enforceable in any state court of competent jurisdiction or in a district court of the United States.

(c) Resolution of a dispute through mediation, or other form of alternative dispute resolution, is not limited to formal disputes arising from the objection of a parent or guardian and is not limited to the period following a request for a due process hearing.

(d) The commissioner shall provide training and resources to school districts to facilitate early identification of disputes and access to mediation.

(e) The local primary agency may request mediation on behalf of involved agencies when there are disputes between agencies regarding responsibilities to coordinate, provide, pay for, or facilitate payment for early intervention services.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 55,164; art 11 s 3; 1998 c 398 art 2 s 18; 1998 c 408 s 23; 2002 c 294 s 4; 2013 c 116 art 5 s 16*

125A.44 COMPLAINT PROCEDURE.

(a) An individual or organization may file a written signed complaint with the commissioner of the state lead agency alleging that one or more requirements of the Code of Federal Regulations, title 34, part 303, is not being met. The complaint must include:

(1) a statement that the state has violated the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) or Code of Federal Regulations, title 34, section 303; and

(2) the facts on which the complaint is based.

(b) The commissioner of the state lead agency shall receive and coordinate with other state agencies the review and resolution of a complaint within 60 calendar days according to the state interagency agreement required under section 125A.48. The development and disposition of corrective action orders for nonschool agencies shall be determined by the State Agency Committee (SAC). Failure to comply with corrective orders may result in fiscal actions or other measures.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 164; art 11 s 3; 1999 c 123 s 16; 1Sp2003 c 9 art 10 s 13; 2007 c 146 art 11 s 12*

125A.45 INTERAGENCY DISPUTE PROCEDURE.

(a) A dispute between a school board and a county board that is responsible for implementing the provisions of section 125A.29 regarding early identification, child and family assessment, service coordination, and IFSP development and implementation must be resolved according to this subdivision when the dispute involves services provided to children and families eligible under the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446).

(b) A dispute occurs when the school board and county board are unable to agree as to who is responsible to coordinate, provide, pay for, or facilitate payment for services from public and private sources.

(c) Written and signed disputes must be filed with the local primary agency.

(d) The local primary agency must attempt to resolve the matter with the involved school board and county board and may request mediation from the commissioner of the state lead agency for this purpose.

(e) When interagency disputes have not been resolved within 30 calendar days, the local primary agency must request the commissioner of the state lead agency to review the matter with the commissioners of education, health, and human services and make a decision. The commissioner must provide a consistent process for reviewing those procedures. The commissioners' decision is binding subject to the right of an aggrieved party to appeal to the state court of appeals.

(f) The local primary agency must ensure that eligible children and their families receive early intervention services during resolution of a dispute. While a local dispute is pending, the local primary agency must either assign financial responsibility to an agency or pay for the service from the early intervention account under section 125A.35. If in resolving the dispute, it is determined that the assignment of financial responsibility was inappropriate, the responsibility for payment must be reassigned to the appropriate agency and the responsible agency must make arrangements for reimbursing any expenditures incurred by the agency originally assigned financial responsibility.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 56,164; art 11 s 3; 1Sp2003 c 9 art 10 s 13; 2007 c 146 art 11 s 13; 2024 c 80 art 4 s 22*

125A.46 DUE PROCESS HEARINGS.

The procedures for due process hearings and appeals must be the same as those in section 125A.091. The responsibility for payment of costs and conducting due process hearings and appeals shall be allocated to the appropriate agency in accordance with sections 125A.30, 125A.39, and 125A.42.

History: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 57,164; art 11 s 3; 2004 c 294 art 5 s 12*

125A.47 MS 2002 [Repealed, 1Sp2003 c 9 art 3 s 21]

125A.48 STATE INTERAGENCY AGREEMENT.

(a) The commissioners of children, youth, and families; education; health; and human services must enter into an agreement to implement this section and Part C, Public Law 108-446, 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 and to ensure the meaningful involvement of underserved groups, including children with disabilities from minority, low-income, homeless, and rural families, and children with disabilities who are wards of the state. The agreement must be reviewed annually.

(b) The state interagency agreement must 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 C, Public Law 108-446, 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;

(13) an annual summary to the state Interagency Coordinating Council regarding conflict resolution activities including disputes, due process hearings, and complaints; and

(14) other components of the state and local early intervention system consistent with Public Law 108-446.

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: *1994 c 647 art 3 s 9,34; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 3 s 4,5; 1Sp1997 c 4 art 2 s 1; 1998 c 397 art 2 s 59,164; art 11 s 3; 2003 c 130 s 12; 2006 c 282 art 2 s 23; 2024 c 80 art 4 s 23*

ALTERNATIVES FOR DELIVERING SPECIALIZED INSTRUCTION

125A.50 ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.

Subdivision 1. **Commissioner approval.** The commissioner may approve applications from districts initiating or significantly changing a program to provide prevention services as an alternative to special education and other compensatory programs. A district with an approved program may provide instruction and services in a regular education classroom, or an area learning center, to eligible pupils. Pupils eligible to participate in the program are pupils who need additional academic or behavioral support to succeed in the general education environment and who may eventually qualify for special education instruction or related services under sections 125A.03 to 125A.24 and 125A.65 if the intervention services authorized by this section were unavailable. A pupil with a disability as defined under sections 125A.03 to 125A.24 and 125A.65, whose individualized education program team has determined that the pupil does not require special education services in the area of the district's approved program, may participate in the approved program as long as participation does not result in an increase in costs for the program or displace a pupil who does not currently have a disability. Pupils may be provided services during extended school days and throughout the entire year and through the assurance of mastery program under sections 125A.03 to 125A.24 and 125A.65.

Subd. 2. **Application contents.** The application must set forth:

(1) instructional services available to eligible pupils under section 124D.66, subdivision 2, and pupils with a disability under section 125A.02;

(2) criteria to select pupils for the program and the assessment procedures to determine eligibility;

(3) involvement in the program of parents of pupils in the program, parent advocates, and community special education advocates;

(4) accounting procedures to document that federal special education money is used to supplement or increase the level of special education instruction and related services provided with state and local revenue, but in no case to supplant the state and local revenue, and that districts are expending at least the amount for special education instruction and related services required by federal law;

(5) the role of general and special education teachers in planning, implementing, and evaluating the program;

(6) an annual budget detailing program expenditures; and

(7) other information requested by the commissioner.

Subd. 3. **Evaluation.** The application must also set forth the review and evaluation procedures to be used by the district addressing at least the following:

(1) the number of pupils with and without a disability served;

(2) the impact of the program on the academic and behavioral progress of the pupils;

(3) the level of satisfaction teachers, parents, and pupils have with the program;

(4) the effect of the program on the number of referrals for special education, federal Title 1, and other programs; and

(5) cost implications.

Subd. 4. **Budget review and approval.** (a) Each year before a district receives aid under section 125A.78, the district must submit to the commissioner for review and approval a budget detailing program expenditures for the fiscal year. The commissioner must determine whether the personnel, equipment, supplies, and extended school year are necessary to meet the district's obligation to provide special instruction and services to children with a disability according to sections 125A.03 to 125A.24 and 125A.65. The commissioner may not approve revenue for any expenditures determined to be unnecessary.

(b) The commissioner must not approve budget increases under this section that would cause the state to fail to meet maintenance of effort requirements under federal special education law. The commissioner must establish criteria for prioritizing and approving budget increases, which may include criteria such as maintaining current programs, locating programs throughout the state, and developing innovative programs.

Subd. 5. **Annual report.** Each year the district must submit to the commissioner a report containing the information described in subdivision 3.

Subd. 6. **Pupil rights.** A pupil participating in the program must be individually evaluated according to the pupil's actual abilities and needs. A pupil who is eligible for services under sections 125A.03 to 125A.24 and 125A.65 is entitled to procedural protections provided under United States Code, title 20, section 33, in any matter that affects the identification, evaluation, placement, or change in placement of a pupil. The district must ensure the protection of a pupil's civil rights, provide equal educational opportunities, and

prohibit discrimination. Failure to comply with this subdivision will at least cause a district to become ineligible to participate in the program. Notwithstanding rules of the Department of Education, the commissioner cannot waive a pupil's rights under this section.

History: *1991 c 265 art 3 s 3,38; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 2 s 61-64,164; art 11 s 3; 1998 c 398 art 2 s 19,20; art 5 s 55; 1999 c 241 art 2 s 16,17; 2003 c 130 s 12; 2007 c 146 art 2 s 30; 1Sp2020 c 8 art 4 s 2*

125A.51 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 determined by the standards of the commissioner, and who is temporarily placed for care and treatment for that illness or disability, must be determined as provided in this section.

(a) The school district of residence of the pupil is the district in which the pupil's parent or guardian resides. If there is a dispute between school districts regarding residency, the district of residence is the district designated by the commissioner.

(b) When parental rights have been terminated by court order, the legal residence of a child placed in a residential or foster facility for care and treatment is the district in which the child resides.

(c) Before the placement of a pupil for care and treatment, the district of residence must 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, must notify the district of residence of the emergency placement within 15 days of the placement. When a nonresident district makes an emergency placement without first consulting with the resident district, the resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(d) 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 must provide instruction and necessary transportation to and from the care and treatment program for the pupil. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the instruction at a school within the district of residence; at the pupil's residence; through an authorized online learning program provided by the pupil's resident district, district of open enrollment under section 124D.03, or charter school of enrollment under section 124E.11 if the child, or the child's parent or guardian for a pupil under the age of 18, agrees to that form of instruction; 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 Professional Educator Licensing and Standards Board.

(e) 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 must 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 must 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. If a pupil's district of residence, district of open enrollment under section 124D.03, or charter school of enrollment under section 124E.11 is authorized to provide online learning instruction under state statutes, the district in which the pupil is placed may utilize that online learning program in fulfilling its responsibility to provide instruction under this section if the child, or the child's parent or guardian for a pupil under the age of 18, agrees to that form of instruction.

(f) Notwithstanding paragraph (e), if the pupil is homeless and placed in a public or private homeless shelter, then the district that enrolls the pupil under section 120A.20, subdivision 2, paragraph (b), shall provide the transportation, unless the district that enrolls the pupil and the district in which the pupil is temporarily placed agree that the district in which the pupil is temporarily placed shall provide transportation. 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 must 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 Professional Educator Licensing and Standards Board. For purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

(g) The district of residence must include the pupil in its residence count of pupil units and pay tuition as provided in section 123A.488 to the district providing the instruction. Transportation costs must be paid by the district providing the transportation and the state must pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision must be included in the disabled transportation category if the pupils cannot be transported on a regular school bus route without special accommodations.

History: *1982 c 548 art 1 s 1; 1988 c 486 s 6; 1991 c 265 art 3 s 4,38; 1992 c 499 art 3 s 8; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 2 s 3; 1Sp1997 c 4 art 2 s 2; 1998 c 397 art 2 s 65,164; art 11 s 3; 1998 c 398 art 2 s 21; art 5 s 55; 1999 c 241 art 2 s 18; 2000 c 489 art 3 s 10; 1Sp2005 c 5 art 1 s 13; 2009 c 96 art 3 s 14; 1Sp2011 c 11 art 3 s 8; 2016 c 158 art 1 s 46; 1Sp2017 c 5 art 12 s 22; 2023 c 55 art 7 s 10; 2024 c 85 s 26*

125A.515 PLACEMENT OF STUDENTS; APPROVAL OF EDUCATION PROGRAM.

Subdivision 1. **Approval of on-site education programs.** The commissioner shall approve on-site education programs for placement of children and youth in residential facilities including detention centers, before being licensed by the Department of Human Services or the Department of Corrections. Education programs in these facilities shall conform to state and federal education laws including the Individuals with Disabilities Education Act (IDEA). This section applies only to placements in children's residential facilities licensed by the Department of Human Services or the Department of Corrections. For purposes of this section, "on-site education program" means the educational services provided directly on the grounds of the children's residential facility to children and youth placed for care and treatment.

Subd. 2. MS 2004 [Repealed, 2006 c 263 art 3 s 17]

Subd. 3. **Responsibilities for providing education.** (a) The district in which the children's residential facility is located must provide education services, including special education if eligible, to all students placed in a facility. If a child's district of residence, district of open enrollment under section 124D.03, or charter school of enrollment under section 124E.11 is authorized to provide online learning instruction under state statutes, the district in which the children's residential facility is located may utilize that online learning

program in fulfilling its education services responsibility under this section if the child, or the child's parent or guardian for a pupil under the age of 18, agrees to that form of instruction.

(b) For education programs operated by the Department of Corrections, the providing district shall be the Department of Corrections. For students remanded to the commissioner of corrections, the providing and resident district shall be the Department of Corrections.

Subd. 3a. **Students without a disability from other states.** A school district is not required to provide education services under this section to a student who:

(1) is not a resident of Minnesota;

(2) does not have an individualized education program; and

(3) does not have a tuition arrangement or agreement to pay the cost of education from the placing authority.

Subd. 4. **Education services required.** (a) Education services must be provided to a student beginning within three business days after the student enters the children's residential facility. The first four days of the student's placement may be used to screen the student for educational and safety issues.

(b) If the student does not meet the eligibility criteria for special education, regular education services must be provided to that student.

Subd. 5. **Education programs for students placed in children's residential facilities.** (a) When a student is placed in a children's residential facility under this section that has an on-site education program, the providing district, upon notice from the children's residential facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education program (IEP) and evaluation report. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

(b) If a student placed under this section has been identified as having a disability and has an individualized education program in the resident district:

(1) the providing agency must conduct an individualized education program meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education program goals and objectives and to determine if additional evaluations are necessary; and

(2) at least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education program meeting:

(i) the person or agency placing the student;

(ii) the resident district;

(iii) the appropriate teachers and related services staff from the providing district;

(iv) appropriate staff from the children's residential facility;

(v) the parents or legal guardians of the student; and

(vi) when appropriate, the student.

(c) For a student who has not been identified as a student with a disability, a screening must be conducted by the providing districts as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

Subd. 6. **Exit report summarizing educational progress.** If a student has been placed in a facility under this section for 15 or more business days, the providing district must prepare an exit report summarizing the regular education, special education, evaluation, educational progress, and service information and must send the report to the resident district and the next providing district if different, the parent or legal guardian, and any appropriate social service agency. For students with disabilities, this report must include the student's IEP.

Subd. 7. **Minimum educational services required.** When a student is placed in a children's residential facility under this section, at a minimum, the providing district is responsible for:

(1) the education necessary, including summer school services, for a student who is not performing at grade level as indicated in the education record or IEP; and

(2) a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or education record in consultation with treatment providers, requires an alteration in the length of the school day.

Subd. 8. **Placement, services, and due process.** When a student's treatment and educational needs allow, education shall be provided in a regular educational setting. The determination of the amount and site of integrated services must be a joint decision between the student's parents or legal guardians and the treatment and education staff. When applicable, educational placement decisions must be made by the IEP team of the providing district. Educational services shall be provided in conformance with the least restrictive environment principle of the Individuals with Disabilities Education Act. The providing district and children's residential facility shall cooperatively develop discipline and behavior management procedures to be used in emergency situations that comply with the Minnesota Pupil Fair Dismissal Act and other relevant state and federal laws and regulations.

Subd. 9. **Reimbursement for education services.** (a) Education services provided to students who have been placed under this section are reimbursable in accordance with special education and general education statutes.

(b) Indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable with special education categorical aids.

(c) Regular education, including screening, provided to students with or without disabilities is not reimbursable with special education categorical aids.

Subd. 10. **Students unable to attend school but not covered under this section.** Students who are absent from, or predicted to be absent from, school for 15 consecutive or intermittent days, and placed at home or in facilities not licensed by the Departments of Corrections or Human Services are entitled to regular and special education services consistent with this section or Minnesota Rules, part 3525.2325. These students include students with and without disabilities who are home due to accident or illness, in a hospital or other medical facility, or in a day treatment center.

History: *1999 c 241 art 2 s 19; 1Sp2001 c 6 art 3 s 11; 2002 c 375 art 3 s 2; 2006 c 263 art 3 s 2-8; 1Sp2011 c 11 art 3 s 9,12; 2012 c 239 art 3 s 3; 1Sp2017 c 5 art 4 s 5; 2023 c 55 art 7 s 11; 2024 c 85 s 27*

125A.52 RESIDENTIAL TREATMENT FACILITIES; DEPARTMENTS OF HUMAN SERVICES AND CORRECTIONS EDUCATION SCREENING.

Subdivision 1. **Educational screening.** Secure and nonsecure residential treatment facilities licensed by the Department of Human Services or the Department of Corrections must screen each juvenile who is held in a facility for at least 72 hours, excluding weekends or holidays, using an educational screening tool identified by the department, unless the facility determines that the juvenile has a current individualized education program and obtains a copy of it.

Subd. 2. **Rulemaking.** The commissioner may, in consultation with the commissioners of corrections and human services, make or amend rules relating to education programs in residential treatment facilities, if necessary, to implement this section.

History: *1995 c 226 art 3 s 4; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 2 s 66,164; 1998 c 398 art 5 s 55; 1999 c 123 s 17; 1Sp2011 c 11 art 3 s 12*

125A.53 DIRECTOR OF A SPECIAL EDUCATION COOPERATIVE.

The authority for the selection and employment of the director of a special education cooperative established pursuant to sections 125A.03 to 125A.24 and 125A.65 or section 471.59 is vested in the governing board of the cooperative. Notwithstanding the provisions of section 122A.40, subdivision 10 or 11, no individual shall have a right to employment as a director based on seniority or order of employment by the cooperative.

History: *1983 c 314 art 7 s 5; 1998 c 397 art 2 s 67,164; art 11 s 3*

125A.54 MS 2010 [Repealed, 1Sp2011 c 11 art 3 s 13]

125A.55 ACCOMMODATING STUDENTS WITH DISABILITIES.

A school or district must provide a student who is an "individual with a disability" under Section 504 of the Rehabilitation Act of 1973, United States Code, title 29, section 794, or under the Americans with Disabilities Act, Public Law 101-336, with reasonable accommodations or modifications in programs.

History: *1994 c 647 art 3 s 10; 1998 c 397 art 2 s 69,164*

125A.56 ALTERNATE INSTRUCTION REQUIRED BEFORE ASSESSMENT REFERRAL.

Subdivision 1. **Requirement.** (a) Before a pupil in kindergarten through grade 12 is referred for a special education evaluation, the district must conduct and document at least two instructional strategies, alternatives, or interventions using a system of scientific, research-based instruction and intervention in academics or behavior, based on the pupil's needs, while the pupil is in the regular classroom. The pupil's teacher must document the results. A special education evaluation team may waive this requirement when it determines the pupil's need for the evaluation is urgent. This section may not be used to deny a pupil's right to a special education evaluation.

(b) A school district shall use alternative intervention services, including the assurance of mastery program under section 124D.66, or an early intervening services program under subdivision 2 to serve at-risk pupils who demonstrate a need for alternative instructional strategies or interventions.

(c) A student identified as being unable to read at grade level under section 120B.12, subdivision 2, paragraph (a), must be provided with alternate instruction under this subdivision that is multisensory, systematic, sequential, cumulative, and explicit.

Subd. 2. **Early intervening services program.** (a) A district may meet the requirement under subdivision 1 by establishing an early intervening services program that includes:

(1) a system of valid and reliable general outcome measures aligned to state academic standards that is administered at least three times per year to pupils in kindergarten through grade 8 who need additional academic or behavioral support to succeed in the general education environment. The school must provide interim assessments that measure pupils' performance three times per year and implement progress monitoring appropriate to the pupil. For purposes of this section, "progress monitoring" means the frequent and continuous measurement of a pupil's performance that includes these three interim assessments and other pupil assessments during the school year. A school, at its discretion, may allow pupils in grades 9 through 12 to participate in interim assessments;

(2) a system of scientific, research-based instruction and intervention; and

(3) an organizational plan that allows teachers, paraprofessionals, and volunteers funded through various sources to work as a grade-level team or use another configuration across grades and settings to deliver instruction. The team must be trained in scientific, research-based instruction and intervention. Teachers and paraprofessionals at a site operating under this paragraph must work collaboratively with those pupils who need additional academic or behavioral support to succeed in a general education environment.

(b) As an intervention under paragraph (a), clause (2), staff generating special education aid under section 125A.76 may provide small group instruction to pupils who need additional academic or behavioral support to succeed in the general education environment. Small group instruction that includes pupils with a disability may be provided in the general education environment if the needs of the pupils with a disability are met, consistent with their individualized education programs, and all pupils in the group receive the same level of instruction and make the same progress in the instruction or intervention. Teachers and paraprofessionals must ensure that the needs of pupils with a disability participating in small group instruction under this paragraph remain the focus of the instruction. Expenditures attributable to the time special education staff spends providing instruction to nondisabled pupils in this circumstance is eligible for special education aid under section 125A.76 as an incidental benefit if:

(1) the group consists primarily of disabled pupils;

(2) no special education staff are added to meet nondisabled pupils' needs; and

(3) the primary purpose of the instruction is to implement the individualized education programs of pupils with a disability in this group.

Expenditures attributable to the time special education staff spends providing small group instruction to nondisabled pupils that affords more than an incidental benefit to such pupils is not eligible for special education aid under section 125A.76, except that such expenditures may be included in the alternative delivery initial aid adjustment under section 125A.78 if the district has an approved program under section 125A.50. During each 60-day period that a nondisabled pupil participates in small group instruction under this paragraph, the pupil's progress monitoring data must be examined to determine whether the pupil is making progress and, if the pupil is not making progress, the pupil's intervention strategies must be changed or the pupil must be referred for a special education evaluation.

History: *1989 c 329 art 3 s 21; 1998 c 397 art 2 s 164; art 11 s 3; 1998 c 398 art 2 s 38; 2007 c 146 art 2 s 31; 2011 c 76 art 1 s 18; 1Sp2011 c 11 art 3 s 12; 2016 c 189 art 25 s 38; 1Sp2017 c 5 art 2 s 43; 2024 c 109 art 5 s 4*

ASSISTIVE TECHNOLOGY DEVICES

125A.57 DEFINITION.

Subdivision 1. **Applicability.** For the purposes of sections 125A.57 to 125A.60, the following terms have the meanings given them.

Subd. 2. **Assistive technology device.** "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. It does not mean a medical device that is surgically implanted or a replacement of such a device.

History: *1996 c 412 art 3 s 6; 1998 c 397 art 2 s 164; art 11 s 3; 2009 c 96 art 3 s 15*

125A.58 PURCHASING GUIDELINES.

Subdivision 1. **Rights of districts to purchase school-owned assistive technology.** (a) When a child with a disability exits a district and enters a new district, the child's new district may purchase any assistive technology devices that the child's former district has purchased on the child's behalf. The child's new district must notify, in writing, the child's former district of the intent to purchase the device. The child's new district must complete a purchase agreement according to section 125A.36. The child's former district must respond, in writing, to the request to purchase within 30 days.

(b) Districts may decline to sell a device if they can demonstrate the technology is a general use device or can be modified for use by other students.

Subd. 2. **Liability for used equipment.** The child's former district is not liable for any nonconformities in the equipment after it is purchased by the child's new district, or for injuries arising out of the use of the assistive technology device. This section does not foreclose the child's right to bring suit against the manufacturer, assistive device lessor, or assistive device dealer for nonconformities in or injuries arising out of the use of the assistive technology device.

Subd. 3. **Third-party payors.** Nothing contained in this section may be construed as decreasing the obligation of an insurance company or other third-party payor to provide coverage for assistive technology.

History: *1996 c 412 art 3 s 7; 1998 c 397 art 2 s 70,164*

125A.59 INTERAGENCY AGREEMENT TO PURCHASE USED ASSISTIVE TECHNOLOGY DEVICES.

Subdivision 1. **Option to purchase by Department of Employment and Economic Development.** (a) When a child with a disability transitions into a work environment or enrolls in a postsecondary course or program, the Department of Employment and Economic Development may purchase any assistive technology device that the child's former district purchased on the child's behalf.

(b) The Department of Employment and Economic Development may purchase an assistive technology device initially purchased by a district for a child who is currently a recipient of rehabilitation services and who needs the identical assistive technology device as stated on the recipient's individual written rehabilitation plan. The purchase may be made not more than three months before the child exits the district.

Subd. 2. **Liability for used equipment.** The Department of Employment and Economic Development and the Department of Education are not liable for any nonconformities in the equipment after it is purchased by the Department of Employment and Economic Development, or for injuries arising out of the use of the

assistive technology device. This section does not foreclose the child's right to bring suit against the manufacturer, assistive device lessor, or assistive device dealer for nonconformities in or injuries arising out of the use of the assistive technology device.

Subd. 3. **Third-party payor.** Nothing contained in this section may be construed as decreasing the obligation of an insurance company or other third-party payor to provide coverage for assistive technology.

History: *1996 c 412 art 3 s 8; 1998 c 397 art 2 s 71,164; 2003 c 130 s 12; 2004 c 206 s 52*

125A.60 PURCHASE AGREEMENT; PRICE FORMULA.

The commissioner must develop guidelines for the sale of used assistive technology including a purchase agreement, a formula for establishing the sale price, and other terms and conditions of the sale.

History: *1996 c 412 art 3 s 9; 1998 c 397 art 2 s 72,164*

ACADEMIES FOR THE DEAF AND BLIND

125A.61 LOCATION AND STATUS.

Subdivision 1. **State schools at Faribault.** The Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind are residential schools in Faribault. They are public schools under sections 122A.15 and 122A.16 and state educational institutions.

Subd. 2. **Resource center.** The state academies are a resource center for school districts.

History: *1976 c 271 s 66; 1985 c 240 s 2; 1987 c 398 art 3 s 27; 1989 c 220 s 2; 1998 c 397 art 11 s 3; 2009 c 96 art 2 s 55*

125A.62 DUTIES OF THE BOARD OF THE MINNESOTA STATE ACADEMIES.

Subdivision 1. **Governance.** The board of the Minnesota State Academies shall govern the State Academy for the Deaf and the State Academy for the Blind. The board must promote academic standards based on high expectation and an assessment system to measure academic performance toward the achievement of those standards. The board must focus on the academies' needs as a whole and not prefer one school over the other. The board of the Minnesota State Academies shall consist of nine persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. One member must be from the seven-county metropolitan area, one member must be from greater Minnesota, and one member may be appointed at-large. The board must be composed of:

(1) one present or former superintendent of an independent school district;

(2) one present or former special education director;

(3) the commissioner of education or the commissioner's designee;

(4) one member of the blind community;

(5) one member of the deaf community;

(6) two members of the general public with business, administrative, or financial expertise;

(7) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Deaf; and

(8) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Blind.

Subd. 2. **Terms; compensation; and other.** The membership terms, compensation, removal of members, and filling of vacancies shall be as provided for in section 15.0575. Notwithstanding section 15.0575, a member may serve not more than two consecutive four-year terms.

Subd. 3. **Meetings.** All meetings of the board shall be as provided in chapter 13D and must be held in Faribault.

Subd. 4. **Most beneficial, least restrictive.** The board must do what is necessary to provide the most beneficial and least restrictive program of education for each pupil at the academies who is disabled by visual disability or deafness.

Subd. 5. **Planning, evaluation, and reporting.** To the extent required in school districts, the board must establish a process for the academies to include parent and community input in the planning, evaluation, and reporting of curriculum and pupil achievement.

Subd. 6. **Site councils.** The board must establish, and appoint members to, a site council at each academy. The site councils shall exercise power and authority granted by the board. The board must appoint to each site council the exclusive representative's employee designee from each exclusive representative at the academies. The site councils may make a recommendation to the governor regarding board appointments no more than 30 days after receiving the list of applicants from the governor.

Subd. 7. **Trustee of academies' property.** The board is the trustee of the academies' property. Securities and money, including income from the property, must be deposited in the state treasury according to section 16A.275. The deposits are subject to the order of the board.

Subd. 8. **Grants and gifts.** The board, through the chief administrators of the academies, may apply for all competitive grants administered by agencies of the state and other government or nongovernment sources. Application may not be made for grants over which the board has discretion. Any funds received under this subdivision are appropriated and dedicated for the purpose for which they are granted. The board must annually by February 1 report to the education policy and finance committees of the legislature the amount of money it received under this subdivision and the purpose for which it was granted.

History: *1975 c 271 s 6; 1976 c 222 s 27; 1976 c 271 s 67; 1977 c 447 art 3 s 10,11; 1977 c 449 s 13; 1978 c 764 s 95,96; 1979 c 334 art 3 s 17; 1982 c 424 s 130; 1982 c 560 s 46; 1985 c 240 s 3; 1987 c 384 art 1 s 55; art 2 s 1; 1987 c 398 art 3 s 28,29; 1989 c 220 s 2; 1991 c 265 art 11 s 11; 1Sp1995 c 3 art 11 s 5-8; 1Sp1997 c 4 art 10 s 1; 1998 c 398 art 5 s 14-21; 1999 c 241 art 2 s 20; 2003 c 130 s 12; 2005 c 56 s 1; 2006 c 263 art 7 s 4; 2009 c 96 art 7 s 1*

125A.63 RESOURCES; DEAF OR HARD-OF-HEARING AND BLIND OR VISUALLY IMPAIRED.

Subdivision 1. MS 2014 [Repealed, 1Sp2015 c 3 art 5 s 31]

Subd. 2. **Programs.** (a) The department must offer summer institutes or other training programs throughout the state for deaf or hard-of-hearing, blind or visually impaired, and multiply disabled pupils. The department must also offer workshops for teachers, and leadership development for teachers.

(b) Training and workshop programs offered under paragraph (a) must help promote and develop education programs offered by school districts or other organizations. The programs must assist school districts or other organizations to develop innovative programs.

Subd. 3. **Programs by nonprofits.** The department may contract to have nonprofit organizations provide programs under subdivision 2.

Subd. 4. **Advisory committees.** (a) The commissioner shall establish advisory committees for the deaf and hard-of-hearing and for the blind and visually impaired. The advisory committees shall develop recommendations and submit an annual report to the commissioner on the form and in the manner prescribed by the commissioner.

(b) The advisory committees for the deaf and hard-of-hearing and for the blind and visually impaired shall meet periodically at least four times per year. The committees must each review, approve, and submit a biennial report to the commissioner, the education policy and finance committees of the legislature, and the Commission of the Deaf, DeafBlind and Hard of Hearing. The reports must, at least:

(1) identify and report the aggregate, data-based education outcomes for children with the primary disability classification of deaf and hard-of-hearing or of blind and visually impaired, consistent with the commissioner's child count reporting practices, the commissioner's state and local outcome data reporting system by district and region, and the school performance report cards under section 120B.36, subdivision 1; and

(2) describe the implementation of a data-based plan for improving the education outcomes of deaf and hard-of-hearing or blind and visually impaired children that is premised on evidence-based best practices, and provide a cost estimate for ongoing implementation of the plan.

Subd. 5. **Statewide hearing loss early education intervention coordinator.** (a) The coordinator shall:

(1) collaborate with the early hearing detection and intervention coordinator for the Department of Health, deaf and hard-of-hearing state specialist, and the Department of Health Early Hearing Detection and Intervention Advisory Council;

(2) coordinate and support Department of Education and Department of Children, Youth, and Families early hearing detection and intervention teams;

(3) leverage resources by serving as a liaison between interagency early intervention committees; part C coordinators from the Departments of Education, Health, and Human Services; Department of Education regional low-incidence facilitators; service coordinators from school districts; Minnesota children with special health needs in the Department of Health; public health nurses; child find; Department of Human Services Deaf, DeafBlind, and Hard of Hearing State Services Division; and others as appropriate;

(4) identify, support, and promote culturally appropriate and evidence-based early intervention practices for infants with hearing loss, and provide training, outreach, and use of technology to increase consistency in statewide service provision;

(5) identify culturally appropriate specialized reliable and valid instruments to assess and track the progress of children with hearing loss and promote their use;

(6) ensure that early childhood providers, parents, and members of the individual family service and intervention plan are provided with child progress data resulting from specialized assessments;

(7) educate early childhood providers and teachers of the deaf and hard-of-hearing to use developmental data from specialized assessments to plan and adjust individual family service plans; and

(8) make recommendations that would improve educational outcomes to the early hearing detection and intervention committee, the commissioners of education; children, youth, and families; and health, the

Commission of the Deaf, DeafBlind and Hard of Hearing, and the advisory council for the deaf and hard-of-hearing.

(b) The Department of Education and Department of Children, Youth, and Families must provide aggregate data regarding outcomes of deaf and hard-of-hearing children who receive early intervention services within the state in accordance with the state performance plan.

History: *1987 c 398 art 3 s 30; 1989 c 220 s 2; 1991 c 265 art 3 s 38; 1Sp1995 c 3 art 11 s 9; art 16 s 13; 2003 c 130 s 12; 2006 c 263 art 3 s 9; 2007 c 146 art 3 s 7; 2009 c 86 art 1 s 15; 2009 c 96 art 3 s 16,17; 1Sp2015 c 3 art 5 s 19-22; 2016 c 189 art 29 s 11; 2018 c 121 s 7; 2024 c 115 art 16 s 1; 2025 c 20 s 98*

125A.64 POWERS OF BOARD OF THE MINNESOTA STATE ACADEMIES.

Subdivision 1. **Personnel.** The board of the Minnesota State Academies may employ central administrative staff members and other personnel necessary to provide and support programs and services at each academy.

Subd. 2. **Department assistance.** The board of the Minnesota State Academies may require the Department of Education to provide program leadership, program monitoring, and technical assistance at the academies.

Subd. 3. **Unclassified positions.** The board of the Minnesota State Academies may place any position other than residential academies administrator in the unclassified service. The position must meet the criteria in section 43A.08, subdivision 1a.

Subd. 4. **Residential and building maintenance services.** The board of the Minnesota State Academies may enter into agreements with public or private agencies or institutions to provide residential and building maintenance services. The board of the Minnesota State Academies must first decide that contracting for the services is more efficient and less expensive than not contracting for them.

Subd. 5. **Student teachers and professional trainees.** (a) The board of the Minnesota State Academies may enter into agreements with teacher preparation institutions for student teachers to get practical experience at the academies. A licensed teacher must provide appropriate supervision of each student teacher.

(b) The board of the Minnesota State Academies may enter into agreements with accredited higher education institutions for certain student trainees to get practical experience at the academies. The students must be preparing themselves in a professional field that provides special services to children with a disability in school programs. To be a student trainee in a field, a person must have completed at least two years of an approved program in the field. A person who is licensed or registered in the field must provide appropriate supervision of each student trainee.

Subd. 6. **Exemption to September 1 school start restriction.** Notwithstanding section 120A.40, the board of the Minnesota State Academies for the Deaf and Blind may begin the school year any day prior to September 1.

History: *1989 c 220 s 2; 1991 c 265 art 3 s 38; 1Sp1995 c 3 art 11 s 10,11; art 16 s 13; 1998 c 398 art 5 s 22; 1999 c 241 art 2 s 21; art 10 s 1; 2003 c 130 s 12; 2010 c 382 s 30*

125A.65 ATTENDANCE AT ACADEMIES FOR THE DEAF AND BLIND.

Subdivision 1. **Responsibility allocated.** Responsibility for special instruction and services for a blind/visually impaired or deaf/hard-of-hearing child attending the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind must be determined in subdivisions 2 to 10.

Subd. 2. **Child's legal residence.** The legal residence of the child is the district in which the child's parent or guardian resides.

Subd. 3. **Educational program; tuition.** (a) When it is determined pursuant to section 125A.69, subdivision 1 or 2, that the child is entitled to attend either school, the board of the Minnesota State Academies must provide the appropriate educational program for the child.

(b) For fiscal year 2006, the board of the Minnesota State Academies must make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged must not exceed the sum of (1) the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child, for the amount of time the child is in the program, plus (2), if the child was enrolled at the Minnesota State Academies on October 1 of the previous fiscal year, the compensatory education revenue attributable to that child under section 126C.10, subdivision 3. The district of the child's residence must pay the tuition and may claim general education aid for the child. Tuition received by the board of the Minnesota State Academies, except for tuition for compensatory education revenue under this paragraph and tuition received under subdivision 4, must be deposited in the state treasury as provided in subdivision 8.

(c) For fiscal year 2007 and later, the district of the child's residence shall claim general education revenue for the child, except as provided in this paragraph. Notwithstanding section 127A.47, subdivision 1, an amount equal to the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child for the amount of time the child is in the program, as adjusted according to subdivision 8, paragraph (d), must be paid to the Minnesota State Academies. Notwithstanding section 126C.15, subdivision 2, paragraph (d), the compensatory education revenue under section 126C.10, subdivision 3, attributable to children enrolled at the Minnesota State Academies on October 1 of the previous fiscal year must be paid to the Minnesota State Academies. General education aid paid to the Minnesota State Academies under this paragraph must be credited to their general operation account. Other general education aid attributable to the child must be paid to the district of the child's residence.

Subd. 4. **Unreimbursed costs.** (a) For fiscal year 2006, in addition to the tuition charge allowed in subdivision 3, 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, after deducting the special education aid under section 125A.76, attributable to the child, if that aide is required by the child's individualized education program. Tuition received under this paragraph must be used by the academies to provide the required service.

(b) For fiscal year 2008 and later, the special education aid paid to the academies shall be increased by the academy's unreimbursed cost of providing one to one instructional and behavioral management aides assigned to a child, after deducting the special education aid under section 125A.76 attributable to the child, if the aides are required by the child's individualized education program. Aid received under this paragraph must be used by the academies to provide the required service.

(c) For fiscal year 2008 and later, the special education aid paid to the district of the child's residence shall be reduced by the amount paid to the academies for district residents under paragraph (b).

(d) Notwithstanding section 127A.45, subdivision 3, beginning in fiscal year 2008, the commissioner shall make an estimated final adjustment payment to the Minnesota State Academies for general education aid and special education aid for the prior fiscal year by August 15.

(e) For fiscal year 2007, the academies may retain receipts received through mutual agreements with school districts for one to one behavior management aides.

Subd. 5. **Providing appropriate educational programs.** 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 district where the institution is located must provide an appropriate educational program for the child and must make a tuition charge to the board of the Minnesota State Academies for the actual cost of providing the program, less any amount of aid received pursuant to section 125A.75. The board of the Minnesota State Academies must pay the tuition and other program costs including the unreimbursed transportation costs. Aids for children with a disability must be paid to the district providing the special instruction and services. Special transportation must be provided by the district providing the educational program and the state must reimburse that district within the limits provided by law.

Subd. 6. **Tuition reduction.** Notwithstanding the provisions of subdivisions 3 and 5, the board of the Minnesota State Academies may agree to make a tuition charge, or receive an aid adjustment, as applicable, for less than the amount specified in subdivision 3 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 board of the Minnesota State Academies for less than the amount specified in subdivision 5 for providing appropriate educational programs to pupils attending the applicable school.

Subd. 7. **Staff allocation.** Notwithstanding the provisions of subdivisions 3 and 5, the board of the Minnesota State Academies 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.

Subd. 8. **Student count; tuition.** (a) On May 1, 1996, and each year thereafter, the board of the Minnesota State Academies shall count the actual number of Minnesota resident special education eligible students enrolled and receiving education services at the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind.

(b) For fiscal year 2006, the board of the Minnesota State Academies shall deposit in the state treasury an amount equal to all tuition received for the basic revenue according to subdivision 3, less the amount calculated in paragraph (c).

(c) For fiscal year 2006, the Minnesota State Academies shall credit to their general operation account an amount equal to the tuition received which represents tuition earned for the total number of students over 175 based on:

(1) the total number of enrolled students on May 1 less 175; times

(2) the ratio of the number of students in that grade category to the total number of students on May 1; times

(3) the general education revenue formula allowance; times

(4) the pupil unit weighting factor pursuant to section 126C.05.

(d) For fiscal year 2007 and later, the Minnesota State Academies shall report to the department the number of students by grade level counted according to paragraph (a). The amount paid to the Minnesota State Academies under subdivision 3, paragraph (c), must be reduced by an amount equal to:

(1) the ratio of 175 to the total number of students on May 1; times

(2) the total basic revenue determined according to subdivision 3, paragraph (c).

Subd. 9. **Calculation.** The sum provided by the calculation in subdivision 8 must be deposited in the state treasury and credited to the general operation account of the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind.

Subd. 10. **Annual appropriation.** There is annually appropriated to the department for the Minnesota State Academies the tuition or aid payment 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.

Subd. 11. **Third-party reimbursement.** The Minnesota State Academies must seek reimbursement under section 125A.21 from third parties for the cost of services provided by the Minnesota State Academies whenever the services provided are otherwise covered by a child's public or private health plan.

History: *Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18; 1977 c 447 art 3 s 1-4; 1977 c 449 s 12; 1978 c 733 s 1; 1978 c 764 s 3-5; 1978 c 793 s 61; 1979 c 334 art 2 s 1,2; art 3 s 2,3; 1980 c 509 s 30; 1981 c 358 art 1 s 1; art 3 s 2-7; 1982 c 424 s 28,29,130; 1982 c 548 art 3 s 1-3; 1983 c 247 s 55; 1983 c 258 s 13; 1983 c 314 art 1 s 22; art 3 s 1; 1984 c 463 art 3 s 1; 1984 c 654 art 5 s 58; 1Sp1985 c 12 art 3 s 2-8; 1986 c 444; 1987 c 384 art 2 s 24; 1987 c 398 art 3 s 2-14; 1988 c 486 s 2-5; 1988 c 629 s 24; 1988 c 718 art 3 s 1; art 6 s 2; 1989 c 209 art 2 s 1; 1989 c 329 art 3 s 1-3; 1991 c 265 art 3 s 1,2,38; art 11 s 1; 1991 c 292 art 6 s 58 subd 2; 1992 c 499 art 3 s 1-7; art 11 s 1; 1993 c 224 art 3 s 1-9; art 14 s 3; 1994 c 483 s 1; 1994 c 647 art 3 s 2-8,34; 1Sp1995 c 3 art 3 s 1-3; art 16 s 13; 1996 c 412 art 2 s 1,2; art 3 s 1-3; 1998 c 397 art 2 s 35,164; art 11 s 3; 1998 c 398 art 6 s 1; 1999 c 241 art 2 s 22-27; 2002 c 374 art 4 s 2-5; 2006 c 263 art 5 s 1-5; 2008 c 363 art 2 s 16,17; 1Sp2011 c 11 art 3 s 12*

125A.66 OBLIGATIONS OF THE ACADEMIES.

Subdivision 1. **Various levels of service.** The academies must provide their pupils with the levels of service defined in rules of the state board.

Subd. 2. **Pupils' developmental needs.** The academies must deal with the developmental needs of their pupils.

Subd. 3. **Education with pupils without a disability.** The academies must provide opportunities for their pupils to be educated with pupils without a disability. A pupil's opportunities must be consistent with the pupil's individualized education program or individual family service plan and assessment.

History: *1989 c 220 s 2; 1991 c 265 art 3 s 38; 1993 c 224 art 13 s 55; 1Sp1995 c 3 art 11 s 12; 1Sp2011 c 11 art 3 s 12*

125A.67 STAFF OF THE ACADEMIES.

Subdivision 1. **Academies' administrator.** The position of the chief administrator at each academy is in the unclassified service.

Subd. 2. **Teacher standards.** A teacher at the academies is subject to the licensure standards of the Professional Educator Licensing and Standards Board. An administrator at the academies is subject to the licensure standards of the Board of School Administrators.

Subd. 3. **Instructional supervisors.** An instructional supervisor at the Academy for the Deaf or the Academy for the Blind must have appropriate postsecondary credits from a teacher education program for

teachers of the deaf or teachers of the blind, respectively. An instructional supervisor must have experience working with pupils with a disability.

Subd. 4. **Signing skills.** A staff member at the Academy for the Deaf must have the sign language communication skills appropriate for the staff member's job.

Subd. 5. **Braille skills.** A staff member at the Academy for the Blind must be knowledgeable in Braille communication as appropriate for the staff member's job.

Subd. 6. **Permanent employees must sign or know Braille.** An employee hired after August 1, 1985, cannot get permanent status until the employee is proficient in sign language if employed at the Academy for the Deaf or knowledgeable in Braille if employed at the Academy for the Blind.

Subd. 7. **Workers' compensation for trainees.** Student teachers and student trainees are employees of the academies for workers' compensation coverage.

History: *1989 c 220 s 2; 1991 c 265 art 3 s 38; 1Sp1995 c 3 art 11 s 13,14; 1998 c 398 art 5 s 55; 2003 c 130 s 12; 1Sp2017 c 5 art 3 s 29*

125A.68 STATE ADOPTED PROCEDURES.

Subdivision 1. **Subjects.** The board of the Minnesota State Academies must establish procedures for:

(1) admission, including short-term admission, to the academies;

(2) discharge from the academies;

(3) decisions on a pupil's program at the academies; and

(4) evaluation of a pupil's progress at the academies.

Subd. 2. **Minimum content.** The discharge procedures must include reasonable notice to the child's district of residence. The procedures must guarantee a pupil and the pupil's parent or guardian appropriate safeguards. The safeguards must include a review of the placement determination made under sections 125A.03 to 125A.24, 125A.65, and 125A.69 and the right to participate in educational program decisions.

Subd. 3. **Not contested case.** A proceeding about admission to or discharge from the academies or about a pupil's program or progress at the academies is not a contested case under section 14.02. The proceeding is governed instead by the rules governing special education.

History: *1989 c 220 s 2; 1Sp1995 c 3 art 11 s 15; 1998 c 397 art 11 s 3; 1998 c 398 art 5 s 25,26; 1999 c 241 art 2 s 28*

125A.69 ADMISSION STANDARDS.

Subdivision 1. **Admissions.** Admission to the Minnesota State Academies is described in this section.

(a) A pupil who is deaf, hard-of-hearing, or deafblind, may be admitted to the Academy for the Deaf. A pupil who is blind or visually impaired, deafblind, or multiply disabled may be admitted to the Academy for the Blind. For a pupil to be admitted, two decisions must be made under sections 125A.03 to 125A.24 and 125A.65.

(1) It must be decided by the individualized education program team that education in regular or special education classes in the pupil's district of residence cannot be achieved satisfactorily because of the nature and severity of the deafness or blindness or visual impairment respectively.

(2) It must be decided by the individualized education program team that the academy provides the most appropriate placement within the least restrictive alternative for the pupil.

(b) A deaf or hard-of-hearing child or a visually impaired pupil may be admitted to get socialization skills or on a short-term basis for skills development.

(c) A parent of a child who resides in Minnesota and who meets the disability criteria for being deaf or hard-of-hearing, blind or visually impaired, or multiply disabled may apply to place the child in the Minnesota State Academies. Academy staff must review the application to determine whether the Minnesota State Academies is an appropriate placement for the child. If academy staff determine that the Minnesota State Academies is an appropriate placement, the staff must invite the individualized education program team at the child's resident school district to participate in a meeting to arrange a trial placement of between 60 and 90 calendar days at the Minnesota State Academies. If the child's parent consents to the trial placement, the Minnesota State Academies is the responsible serving school district and incurs all due process obligations under law, and the child's resident school district is responsible for any transportation included in the child's individualized education program during the trial placement. Before the trial placement ends, academy staff must convene an individualized education program team meeting to determine whether to continue the child's placement at the Minnesota State Academies or that another placement is appropriate. If the academy members of the individualized education program team and the parent are unable to agree on the child's placement, the child's placement reverts to the placement in the child's individualized education program that immediately preceded the trial placement. If the parent and individualized education program team agree to continue the placement beyond the trial period, the transportation and due process responsibilities are the same as those described for the trial placement under this paragraph.

Subd. 2. **Pupils with multiple disabilities eligible to attend.** This section does not prevent a pupil with disabilities in addition to being

(1) deaf or hard-of-hearing, or

(2) blind or visually impaired

from attending the Academy for the Deaf or the Academy for the Blind, respectively.

Subd. 3. **Out-of-state admissions.** An applicant from another state who can benefit from attending either academy may be admitted to the academy if the admission does not prevent an eligible Minnesota resident from being admitted. The board of the Minnesota State Academies must obtain reimbursement from the other state for the costs of the out-of-state admission. The state board may enter into an agreement with the appropriate authority in the other state for the reimbursement. Money received from another state must be deposited in the special revenue fund and credited to the general operating account of the academies. The money is appropriated to the academies.

Subd. 4. **Compulsory attendance.** The compulsory attendance provisions of section 120A.22 apply to attendance at the academies. Attendance may be excused under that section by the commissioner of education or a designee. A person who fails to comply with section 120A.22 is subject to section 120A.26. The academies' administrator must exercise the duties imposed on a superintendent by section 120A.26. Attendance at the Academy for the Deaf or the Academy for the Blind fulfills the requirements of sections 125A.03 to

125A.24 and 125A.65. The academies are subject to sections 121A.40 to 121A.45, the Pupil Fair Dismissal Act of 1970, as amended.

History: *1976 c 271 s 70; 1985 c 240 s 5; 1986 c 444; 1987 c 384 art 1 s 55; 1989 c 220 s 2; 1991 c 265 art 11 s 12; 1Sp1995 c 3 art 11 s 16,17; art 16 s 13; 1998 c 397 art 11 s 3; 1999 c 241 art 2 s 29,30; 2003 c 130 s 12; 2005 c 56 s 1; 2006 c 263 art 5 s 6; 1Sp2011 c 11 art 3 s 10,12*

125A.70 EXPENSE OF PUPILS.

Subdivision 1. **Person liable for pupil's support pays expenses.** The person who is liable for the support of a pupil attending a state academy must provide the pupil with enough money for proper clothing, postage, and necessary incidental expenses.

Subd. 2. **Local social services agency.** If the person liable for support of a pupil cannot support the pupil, the local social services agency of the county of the pupil's residence must do so. The commissioner of education must decide how much the local social services agency must pay. The board of the Minnesota State Academies must adopt rules that tell how the commissioner is to fix the amount. The local social services agency must make the payment to the superintendent of the school district of residence.

Subd. 3. **Transportation expenses.** The school district of residence must pay for the transportation of the pupil from the pupil's residence to the academy and back.

History: *1976 c 271 s 72; 1977 c 449 s 15; 1986 c 444; 1987 c 384 art 1 s 55; 1989 c 220 s 2; 1994 c 631 s 31; 1Sp1995 c 3 art 16 s 13; 1998 c 398 art 5 s 27; 1999 c 241 art 2 s 31; 2003 c 130 s 12*

125A.71 DEPOSIT AND APPROPRIATION OF RENTS AND FEES OF ACADEMIES.

Subdivision 1. **Rental income; appropriation.** Rental income must be deposited in the state treasury and credited to a revolving fund of the academies. Money in the revolving fund for rental income is annually appropriated to the academies for staff development purposes. Payment from the revolving fund for rental income may be made only according to vouchers authorized by the administrator of the academies.

Subd. 2. **Fees; appropriation.** Income received under subdivision 3 must be deposited in the state treasury and credited to a revolving fund of the academies. Money in the revolving fund for fees from conferences, seminars, technical assistance, production of instructionally related materials and other services is annually appropriated to the academies to defray expenses of those services. Payment from the revolving fund for conferences and other fees may be made only according to vouchers authorized by the administrator of the academies.

Subd. 3. **Contracts; fees; appropriation.** The board of the Minnesota State Academies may enter into agreements for the academies to provide respite care and supplemental educational instruction and services including assessments and counseling. The agreements may be made with public or private agencies or institutions, school districts, service cooperatives, or counties. The board may authorize the academies to provide conferences, seminars, nondistrict and district requested technical assistance, and production of instructionally related materials.

History: *1987 c 398 art 3 s 31; 1989 c 220 s 2; 1989 c 329 art 12 s 2; 1992 c 499 art 11 s 5,6; 1996 c 305 art 1 s 138; 1999 c 241 art 2 s 32; 2023 c 55 art 12 s 11*

125A.72 STUDENT ACTIVITIES ACCOUNT.

Subdivision 1. **Student activities; receipts; appropriation.** All receipts of any kind generated to operate student activities, including student fees, donations and contributions, and gate receipts must be deposited

in the state treasury. The receipts are appropriated annually to the Minnesota State Academies for student activities purposes. They are not subject to budgetary control by the commissioner of management and budget.

Subd. 2. **To student activities account.** The money appropriated in subdivision 1 to the Minnesota State Academies for student activities must be credited to a Minnesota State Academies' student activities account and may be spent only for Minnesota State Academies' student activities purposes.

Subd. 3. **Carryover.** An unexpended balance in the Minnesota State Academies' student activities account may be carried over from the first fiscal year of the biennium into the second fiscal year of the biennium and from one biennium to the next. The amount carried over must not be taken into account in determining state appropriations and must not be deducted from a later appropriation.

Subd. 4. **Money from certain student activities specifically included among receipts.** Any money generated by a Minnesota State Academies' student activity that involves:

(1) state employees who are receiving compensation for their involvement with the activity;

(2) the use of state facilities; or

(3) money raised for student activities in the name of the Minnesota State Academies

is specifically included among the kinds of receipts that are described in subdivision 1.

History: *1993 c 224 art 11 s 5; 1999 c 241 art 2 s 33; 2009 c 101 art 2 s 109*

125A.73 DUTIES OF STATE DEPARTMENTS.

Subdivision 1. **Department of Education.** The Department of Education must assist the board of the Minnesota State Academies in preparing reports on the academies.

Subd. 2. **Department of Management and Budget.** The Department of Management and Budget, in cooperation with the board of the Minnesota State Academies, must develop a statement of necessary qualifications and skills for all staff members of the academies.

History: *1989 c 220 s 2; 1Sp1995 c 3 art 16 s 13; 1998 c 398 art 5 s 23,24; 1999 c 241 art 2 s 34; 2003 c 130 s 12; 2008 c 204 s 42; 2009 c 101 art 2 s 109*

SPECIAL NEEDS FUNDING

125A.74 MEDICAL ASSISTANCE PAYMENTS TO SCHOOL DISTRICTS.

Subdivision 1. **Eligibility.** A district may enroll as a provider in the medical assistance program and receive medical assistance payments for covered evaluations and special education services provided to persons eligible for medical assistance under chapter 256B. To receive medical assistance payments, the district must pay the nonfederal share of medical assistance services provided according to section 256B.0625, subdivision 26, and comply with relevant provisions of state and federal statutes and regulations governing the medical assistance program.

Subd. 2. **Funding.** A district that provides a covered service to an eligible person and complies with relevant requirements of the medical assistance program is entitled to receive payment for the portion of the services that will subsequently be reimbursed by the federal government, in the same manner as other medical assistance providers.

Subd. 3. **Contract for services.** A district may contract for the provision of medical assistance-covered services, and may contract with a third-party agency to assist in administering and billing for these services.

Subd. 4. **Private insurers.** A district may enroll as a provider for insurance companies to provide covered special education services to eligible persons. To receive payments, the district must comply with relevant state and federal statutes. A district may contract for services, and may contract with a third-party agency to assist in administering and billing for these services.

Subd. 5. **No reduction in revenue.** A district's revenue for special education programs must not be reduced by any payments for medical assistance or insurance received according to this section.

History: *1989 c 191 s 1; 1990 c 562 art 3 s 6; 1994 c 647 art 3 s 16; 1998 c 397 art 2 s 121,164; 2000 c 488 art 11 s 2,3; 1Sp2017 c 5 art 4 s 6*

125A.744 STATEWIDE DATA MANAGEMENT SYSTEM TO MAXIMIZE MEDICAL ASSISTANCE REIMBURSEMENT.

Subdivision 1. **Definition.** For purposes of this section, cooperative unit has the meaning given in section 123A.24, subdivision 2.

Subd. 2. **Statewide data management system.** The commissioner of education, in cooperation with the commissioners of human services and children, youth, and families, shall develop a statewide data management system using the educational data reporting system or other existing data management system for school districts and cooperative units to use to maximize medical assistance reimbursement for health and health-related services provided under individualized education programs and individual family service plans. The system must be appropriately integrated with state and local existing and developing human services and education data systems. The statewide data management system must enable school district and cooperative unit staff to:

(1) establish medical assistance billing systems or improve existing systems;

(2) understand the appropriate medical assistance billing codes for services provided under individualized education programs and individual family service plans;

(3) comply with the Individuals with Disabilities Education Act, Public Law 105-17;

(4) contract with billing agents; and

(5) carry out other activities necessary to maximize medical assistance reimbursement.

Subd. 3. **Implementation.** Consistent with section 256B.0625, subdivision 26, school districts may enroll as medical assistance providers or subcontractors and bill the Department of Human Services under the medical assistance fee for service claims processing system for special education services which are covered services under chapter 256B, which are provided in the school setting for a medical assistance recipient, and for whom the district has secured informed consent consistent with section 13.05, subdivision 4, paragraph (d), and section 256B.77, subdivision 2, paragraph (p), to bill for each type of covered service. School districts shall be reimbursed by the commissioner of human services for the federal share of individualized education program health-related services that qualify for reimbursement by medical assistance, minus up to five percent retained by the commissioner of human services for administrative costs, not to exceed $450,000 per fiscal year. The commissioner may withhold up to five percent of each payment to a school district. Following the end of each fiscal year, the commissioner shall settle up with each school district in order to ensure that collections from each district for departmental administrative costs are made

on a pro rata basis according to federal earnings for these services in each district. A school district is not eligible to enroll as a home care provider or a personal care provider organization for purposes of billing home care services under sections 256B.0651, 256B.0653, and 256B.0654 until the commissioner of human services issues a bulletin instructing county public health nurses on how to assess for the needs of eligible recipients during school hours. To use home care nursing services or personal care services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school.

History: *1998 c 397 art 11 s 3; 1998 c 398 art 2 s 2; 1999 c 245 art 4 s 4; 2003 c 130 s 12; 2009 c 96 art 3 s 18; 1Sp2011 c 11 art 3 s 12; 2014 c 262 art 4 s 9; 2014 c 291 art 9 s 5; 2025 c 21 s 11*

125A.75 SPECIAL EDUCATION PROGRAMS; APPROVAL; AID PAYMENTS; TRAVEL AID; LITIGATION COSTS.

Subdivision 1. **Travel aid.** The state must pay each district one-half of the sum actually expended by a district, based on mileage, for necessary travel of essential personnel providing home-based or community-based services to children with a disability under age five and their families.

Subd. 2. **Aid payment.** The aids provided for children with a disability must be paid to the district providing the special instruction and services. General education aid must be paid to the district of the pupil's residence. The total amount of aid paid may not exceed the amount expended for children with a disability in the year for which the aid is paid.

Subd. 3. **Full state payment.** The state must pay each district the actual cost incurred in providing instruction and services for a child whose district of residence has been determined by section 125A.17 or 125A.51, paragraph (b), and who is temporarily placed in a state institution, a licensed residential facility, or foster facility for care and treatment. The regular education program at the facility must be an approved program according to section 125A.515.

Upon following the procedure specified by the commissioner, the district may bill the state the actual cost incurred in providing the services including transportation costs and a proportionate amount of capital expenditures and debt service, minus the amount of the basic revenue, as defined in section 126C.10, subdivision 2, of the district for the child and the special education aid, transportation aid, and any other aid earned on behalf of the child. The limit in subdivision 2 applies to aid paid pursuant to this subdivision.

To the extent possible, the commissioner shall obtain reimbursement from another state for the cost of serving any child whose parent or guardian resides in that state. The commissioner may contract with the appropriate authorities of other states to effect reimbursement. All money received from other states must be paid to the state treasury and placed in the general fund.

Subd. 4. **Program and aid approval.** Before June 1 of each year, each district providing special instruction and services to children with a disability, including children eligible for Part C, as defined in section 125A.02, subdivision 1, and section 125A.27, subdivision 8, must submit to the commissioner an application for approval of these programs and their budgets for the next fiscal year. The application must include an enumeration of the costs proposed as eligible for state aid pursuant to this section and of the estimated number and grade level of children with a disability in the district who will receive special instruction and services during the next fiscal year. The application must also include any other information deemed necessary by the commissioner for the calculation of state aid and for the evaluation of the necessity of the program, the necessity of the personnel to be employed in the program, for determining the amount which the program will receive from grants from federal funds, or special grants from other state sources, and the program's compliance with the rules and standards of the Department of Education. The commissioner

shall review each application to determine whether the program and the personnel to be employed in the program are actually necessary and essential to meet the district's obligation to provide special instruction and services to children with a disability pursuant to sections 125A.03 to 125A.24, 125A.259 to 125A.48, and 125A.65. The commissioner shall not approve aid pursuant to this section for any program or for the salary of any personnel determined to be unnecessary or unessential on the basis of this review. The commissioner may withhold all or any portion of the aid for programs which receive grants from federal funds, or special grants from other state sources. By August 31 the commissioner shall approve, disapprove, or modify each application, and notify each applying district of the action and of the estimated amount of aid for the programs. The commissioner shall provide procedures for districts to submit additional applications for program and budget approval during the fiscal year, for programs needed to meet any substantial changes in the needs of children with a disability in the district. Notwithstanding the provisions of section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid pursuant to this section without proceeding according to section 127A.42 at any time the commissioner determines that the program does not comply with rules of the Department of Education or that any facts concerning the program or its budget differ from the facts in the district's approved application.

Subd. 5. **Regular classroom programs.** When planning programs for the education of children with a disability in the regular classroom, school districts are encouraged to consider the size of the regular class and to provide the support services necessary to ensure successful mainstreaming.

Subd. 6. MS 2006 [Repealed, 2007 c 146 art 3 s 25]

Subd. 7. MS 2016 [Repealed, 1Sp2017 c 5 art 4 s 13]

Subd. 8. MS 2004 [Repealed, 1Sp2005 c 5 art 3 s 19]

Subd. 9. MS 2018 [Repealed, 1Sp2019 c 11 art 1 s 26]

History: *Ex1959 c 71 art 5 s 32; 1961 c 559 s 1; 1965 c 870 s 1; 1967 c 853 s 1; 1969 c 913 s 1; 1969 c 981 s 6; 1971 c 25 s 33; 1973 c 501 s 3; 1973 c 683 s 14-16; 1975 c 162 s 41; 1975 c 432 s 48-50; 1976 c 271 s 52; 1977 c 447 art 3 s 9; 1978 c 764 s 58-62; 1979 c 334 art 3 s 6-10; 1981 c 358 art 3 s 11-17; 1Sp1981 c 2 s 10,11; 1982 c 548 art 3 s 12-21; 1983 c 314 art 1 s 22; art 3 s 9-11; 1Sp1985 c 12 art 3 s 11-17; 1Sp1986 c 1 art 9 s 14; 1Sp1986 c 3 art 1 s 17; 1987 c 384 art 2 s 33; 1987 c 398 art 3 s 18-21; 1988 c 486 s 41-45; 1989 c 329 art 3 s 7; 1991 c 265 art 3 s 7,8,38; 1993 c 224 art 3 s 13-16; 1994 c 647 art 13 s 10; 1Sp1995 c 3 art 15 s 7-9; art 16 s 13; 1998 c 397 art 2 s 98,164; art 11 s 3; 1998 c 398 art 2 s 26; art 5 s 55; 1999 c 123 s 18; 1999 c 241 art 2 s 35,36; 2003 c 130 s 12; 2004 c 294 art 5 s 13; 2006 c 263 art 3 s 10; 2007 c 146 art 3 s 8-10; 1Sp2015 c 3 art 7 s 3*

125A.76 SPECIAL EDUCATION AID.

Subdivision 1. **Definitions.** (a) For the purposes of this section and section 125A.79, the definitions in this subdivision apply.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individualized education programs. Essential personnel does not include administrators and supervisors.

(d) "Average daily membership" has the meaning given it in section 126C.05.

(e) "Program growth factor" means 1.046 for fiscal year 2017, and the product of 1.046 and the program growth factor for the previous year for fiscal year 2018 and later.

(f) "Nonfederal special education expenditure" means all direct expenditures that are necessary and essential to meet the district's obligation to provide special instruction and services to children with a disability according to sections 124D.454, 125A.03 to 125A.24, 125A.259 to 125A.48, and 125A.65 as submitted by the district and approved by the department under section 125A.75, subdivision 4, excluding expenditures:

(1) reimbursed with federal funds;

(2) reimbursed with other state aids under this chapter;

(3) for general education costs of serving students with a disability;

(4) for facilities;

(5) for pupil transportation; and

(6) for postemployment benefits.

(g) "Old formula special education expenditures" means expenditures eligible for revenue under Minnesota Statutes 2012, section 125A.76, subdivision 2.

(h) For the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind, expenditures under paragraphs (f) and (g) are limited to the salary and fringe benefits of one-to-one instructional and behavior management aides and one-to-one licensed, certified professionals assigned to a child attending the academy, if the aides or professionals are required by the child's individualized education program.

(i) "Special education aid increase limit" means $80 for fiscal year 2016, $100 for fiscal year 2017, and, for fiscal years 2018 through 2020, the sum of the special education aid increase limit for the previous fiscal year and $40.

(j) "District" means a school district, a charter school, or a cooperative unit as defined in section 123A.24, subdivision 2. Notwithstanding section 123A.26, cooperative units as defined in section 123A.24, subdivision 2, are eligible to receive special education aid under this section and section 125A.79.

(k) "Initial special education cross subsidy" means the greater of zero or:

(1) the nonfederal special education expenditure under paragraph (f); plus

(2) the cost of providing transportation services for pupils with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4); minus

(3) the special education aid under subdivision 2c and sections 125A.11, subdivision 1, and 127A.47, subdivision 7; minus

(4) the amount of general education revenue, excluding local optional revenue, plus local optional aid and referendum equalization aid attributable to pupils receiving special instruction and services outside the regular classroom for more than 60 percent of the school day for the portion of time the pupils receive special instruction and services outside the regular classroom, excluding portions attributable to district and school

administration, district support services, operations and maintenance, capital expenditures, and pupil transportation.

(l) The "minimum aid adjustment multiplier" for fiscal year 2020 equals 1.046. For fiscal year 2021 and later, the minimum aid adjustment multiplier equals the greater of 1.02 or the minimum aid adjustment multiplier for the previous year minus 0.002.

(m) The "minimum aid adjustment factor" for fiscal year 2020 equals the program growth factor for fiscal year 2020. For fiscal year 2021 and later, the minimum aid adjustment factor equals the product of the minimum aid adjustment factor for the previous fiscal year and the minimum aid adjustment multiplier.

Subd. 2. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 2a. **Special education initial aid.** For fiscal year 2021 and later, a district's special education initial aid equals the sum of:

(1) the least of 62 percent of the district's old formula special education expenditures for the prior fiscal year, excluding pupil transportation expenditures, 50 percent of the district's nonfederal special education expenditures for the prior year, excluding pupil transportation expenditures, or 56 percent of the product of the sum of the following amounts, computed using prior fiscal year data, and the program growth factor:

(i) the product of the district's average daily membership served and the sum of:

(A) $460; plus

(B) $405 times the ratio of the sum of the number of pupils enrolled on October 1 who are eligible to receive free meals plus one-half of the pupils enrolled on October 1 who are eligible to receive reduced-price meals to the total October 1 enrollment; plus

(C) .008 times the district's average daily membership served; plus

(ii) $13,300 times the December 1 child count for the primary disability areas of autism spectrum disorders, developmental delay, and severely multiply impaired; plus

(iii) $19,200 times the December 1 child count for the primary disability areas of deaf and hard-of-hearing and emotional or behavioral disorders; plus

(iv) $25,200 times the December 1 child count for the primary disability areas of developmentally cognitive mild-moderate, developmentally cognitive severe-profound, physically impaired, visually impaired, and deafblind;

(2) the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4), items (i) to (vii), reimbursed at 95 percent for fiscal year 2026, and 90 percent for fiscal year 2027 and later; and

(3) the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4), item (viii), reimbursed at 100 percent for fiscal year 2026 and later.

Subd. 2b. MS 2016 [Repealed, 1Sp2017 c 5 art 4 s 13]

Subd. 2c. **Special education aid.** (a) For fiscal year 2020 and later, a district's special education aid equals the sum of the district's special education initial aid under subdivision 2a, the district's cross subsidy reduction aid under subdivision 2e, special education homeless pupil aid under subdivision 2f, and the district's excess cost aid under section 125A.79, subdivision 5.

(b) Notwithstanding paragraph (a), for fiscal year 2020, the special education aid for a school district, excluding the cross subsidy reduction aid under subdivision 2e, and excluding special education homeless pupil aid under subdivision 2f, must not exceed the greater of:

(i) the sum of 56 percent of the district's nonfederal special education expenditures plus 100 percent of the district's cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4), plus the adjustment under sections 125A.11 and 127A.47, subdivision 7; or

(ii) the sum of: (A) the product of the district's average daily membership served and the special education aid increase limit; and (B) the product of the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's average daily membership served for the current fiscal year to the district's average daily membership served for fiscal year 2016, and the program growth factor.

(c) Notwithstanding paragraph (a), for fiscal year 2024 and later the special education aid, excluding the cross subsidy reduction aid under subdivision 2e, excluding special education homeless pupil aid under subdivision 2f, for a school district, not including a charter school or cooperative unit as defined in section 123A.24, must not be less than the lesser of (1) the sum of 90 percent for fiscal year 2020, 85 percent for fiscal year 2021, 80 percent for fiscal year 2022, and 75 percent for fiscal year 2023 and later of the district's nonfederal special education expenditures plus 100 percent of the district's cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4), plus the adjustment under sections 125A.11 and 127A.47, subdivision 7, for that fiscal year, or (2) the product of the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's adjusted daily membership for the current fiscal year to the district's average daily membership for fiscal year 2016, and the minimum aid adjustment factor.

(d) Notwithstanding subdivision 2a and section 125A.79, a charter school in its first year of operation shall generate special education aid based on current year data. A newly formed cooperative unit as defined in section 123A.24 may apply to the commissioner for approval to generate special education aid for its first year of operation based on current year data, with an offsetting adjustment to the prior year data used to calculate aid for programs at participating school districts or previous cooperatives that were replaced by the new cooperative. The department shall establish procedures to adjust the prior year data and fiscal year 2016 old formula aid used in calculating special education aid to exclude costs that have been eliminated for districts where programs have closed or where a substantial portion of the program has been transferred to a cooperative unit.

(e) The department shall establish procedures through the uniform financial accounting and reporting system to identify and track all revenues generated from third-party billings as special education revenue at the school district level; include revenue generated from third-party billings as special education revenue in the annual cross-subsidy report; and exclude third-party revenue from calculation of excess cost aid to the districts.

Subd. 2d. **Statewide average expenditure.** By January 15 of each year, the department must calculate the statewide average special education expenditure per December 1 child count for the prior fiscal year by primary disability area and provide that information to all districts. By January 15 of each odd-numbered year, the commissioner must identify options for aligning the assignment of disability areas to the categories

and the rates for each category in subdivision 2a, clause (1), with the latest expenditure data and submit these options to the legislative committees with jurisdiction over education finance.

Subd. 2e. **Cross subsidy reduction aid.** (a) A school district's annual cross subsidy reduction aid equals the school district's initial special education cross subsidy for the previous fiscal year times the cross subsidy aid factor for that fiscal year.

(b) The cross subsidy aid factor equals 6.43 percent for fiscal year 2023; 44 percent for fiscal years 2024, 2025, and 2026; and 50 percent for fiscal year 2027 and later.

Subd. 2f. **Special education homeless pupil aid.** (a) For fiscal year 2024 and later, special education homeless pupil aid must be paid to a school district that is funded for that year based on the district's fiscal year 2016 expenditures calculated under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's adjusted daily membership for the current fiscal year to the district's average daily membership for fiscal year 2016, and the minimum aid adjustment factor.

(b) Special education homeless pupil aid equals the greater of zero, or a district's prior year transportation costs under section 123B.92, subdivision 1, paragraph (b), clause (4), items (i) and (vi), and the additional cost of transporting a student in a shelter care facility as defined in section 260C.007, subdivision 30, a homeless student in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; minus the fiscal year 2016 costs associated with transportation costs under section 123B.92, subdivision 1, paragraph (b), clause (4), items (i) and (vi), and the additional cost of transporting a student in a shelter care facility as defined in section 260C.007, subdivision 30, a homeless student in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin, but only through the end of the academic year; adjusted by the ratio of the district's adjusted daily membership for the current fiscal year to the district's average daily membership for fiscal year 2016, and the minimum aid adjustment factor.

Subd. 3. MS 2006 [Repealed, 2007 c 146 art 3 s 25]

Subd. 4. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 4a. **Adjustments for tuition reciprocity with adjoining states.** (a) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires a special education tuition payment from the state of Minnesota to the adjoining state, the tuition payment shall be made from the special education aid appropriation for that year.

(b) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires special education tuition payments to be made between the two states and not between districts in the two states, the special education aid for a Minnesota school district serving a student with a disability from the adjoining state shall be calculated according to section 127A.47, subdivision 7, except that no reduction shall be made in the special education aid paid to the resident district.

Subd. 5. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 6. MS 1998 [Repealed, 1999 c 241 art 2 s 62]

Subd. 7. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 8. **Special education forecast maintenance of effort.** (a) If, on the basis of a forecast of general fund revenues and expenditures under section 16A.103, the state's expenditures for special education and related services for children with disabilities from nonfederal sources for a fiscal year, including special education aid under subdivision 2c; travel for home-based services under section 125A.75, subdivision 1; aid for students with disabilities under section 125A.75, subdivision 3; court-placed special education under section 125A.79, subdivision 4; out-of-state tuition under section 125A.79, subdivision 8; and direct expenditures by state agencies are projected to be less than the amount required to meet federal special education maintenance of effort, the reimbursement percentages for excess cost aid under section 125A.79, subdivision 5, must be increased as required to ensure that the additional amount required to meet federal special education maintenance of effort is added to the state total special education aid in subdivision 2c.

(b) If, on the basis of a forecast of general fund revenues and expenditures under section 16A.103, expenditures in the programs in paragraph (a) are projected to be greater than previously forecast for an enacted budget, and an addition to state total special education aid has been made under paragraph (a), the state total special education aid must be reduced by the lesser of the amount of the expenditure increase or the amount previously added to state total special education aid in subdivision 2c.

(c) For the purpose of this section, "previously forecast for an enacted budget" means the allocation of funding for these programs in the most recent forecast of general fund revenues and expenditures or the act appropriating money for these programs, whichever occurred most recently. It does not include planning estimates for a future biennium.

(d) If the amount of special education aid is adjusted in accordance with this subdivision, the commissioner of education shall notify the chairs of the legislative committees having jurisdiction over kindergarten through grade 12 education regarding the amount of the adjustment and provide an explanation of the federal maintenance of effort requirements.

Subd. 9. **Funding.** The commissioner and the commissioner of children, youth, and families shall enter into an agreement, upon federal approval, under which the commissioner of education shall distribute funds appropriated for programs under this section.

History: *1Sp1995 c 3 art 15 s 10; art 16 s 13; 1996 c 412 art 3 s 19-24; 1997 c 7 art 1 s 54; 1Sp1997 c 4 art 2 s 19-22; 1998 c 397 art 2 s 99-101,164; art 11 s 3; 1998 c 398 art 1 s 22; art 2 s 27; art 5 s 55; 1999 c 241 art 2 s 37-40; 1999 c 245 art 4 s 5; 2000 c 489 art 3 s 11,12; art 10 s 10; 2000 c 499 s 32; 1Sp2001 c 6 art 3 s 12,13; 2002 c 294 s 5; 2002 c 375 art 3 s 3; 2003 c 130 s 12; 1Sp2003 c 9 art 3 s 13,14; 1Sp2005 c 5 art 3 s 10; 2007 c 146 art 3 s 11-15; 2008 c 363 art 2 s 18,19; 2009 c 96 art 3 s 19; 1Sp2011 c 11 art 3 s 12; 2013 c 116 art 5 s 17-23,32; 2013 c 144 s 12,13; 2014 c 312 art 17 s 3-7; 1Sp2015 c 3 art 5 s 23,24; 2016 c 158 art 1 s 47; 2016 c 189 art 29 s 12; 1Sp2017 c 5 art 4 s 7; 2018 c 182 art 1 s 34; 1Sp2019 c 11 art 4 s 5-8; 2023 c 55 art 7 s 12-14; art 9 s 19; 2024 c 80 art 4 s 24; 1Sp2025 c 10 art 7 s 6; 2026 c 88 art 1 s 32*

125A.77 MS 1998 [Repealed, 1999 c 241 art 2 s 62]

125A.78 ALTERNATIVE DELIVERY AID ADJUSTMENT.

Subdivision 1. **Eligibility.** A district is eligible for an alternative delivery aid adjustment if the commissioner has approved the application of the district according to section 125A.50.

Subd. 2. **Aid adjustment.** For the fiscal year after approval of a district's application, and thereafter, the special education aid under section 125A.76 must be computed based on activities defined as reimbursable

under Department of Education rules for special education and nonspecial education students, and additional activities as detailed and approved by the commissioner.

Subd. 3. **Use of revenue.** Revenue under section 125A.76 shall be used to implement the approved program.

History: *1991 c 265 art 3 s 10; 1993 c 224 art 3 s 19-22; art 14 s 11,12; 1Sp1995 c 3 art 15 s 14; art 16 s 13; 1997 c 7 art 1 s 59,60; 1998 c 397 art 2 s 104,105,164; art 11 s 3; 1998 c 398 art 5 s 55; 2003 c 130 s 12; 2007 c 146 art 3 s 16; 2013 c 116 art 5 s 24; 2014 c 275 art 1 s 20*

125A.79 SPECIAL EDUCATION EXCESS COST AID.

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed old formula special education expenditures" means:

(1) old formula special education expenditures for the prior fiscal year; minus

(2) for fiscal year 2016 and later, the special education initial aid under section 125A.76, subdivision 2a; minus

(3) for fiscal year 2016 and later, the amount of general education revenue, excluding local optional revenue, plus local optional aid and referendum equalization aid for the prior fiscal year attributable to pupils receiving special instruction and services outside the regular classroom for more than 60 percent of the school day for the portion of time the pupils receive special instruction and services outside the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation.

(b) "Unreimbursed nonfederal special education expenditures" means:

(1) nonfederal special education expenditures for the prior fiscal year; minus

(2) special education initial aid under section 125A.76, subdivision 2a; minus

(3) the amount of general education revenue, excluding local optional revenue, plus local optional aid, and referendum equalization aid for the prior fiscal year attributable to pupils receiving special instruction and services outside the regular classroom for more than 60 percent of the school day for the portion of time the pupils receive special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation.

(c) "General revenue" for a school district means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding transportation sparsity revenue, local optional revenue, and total operating capital revenue. "General revenue" for a charter school means the sum of the general education revenue according to section 124E.20, subdivision 1, and transportation revenue according to section 124E.23, excluding referendum equalization aid, transportation sparsity revenue, and operating capital revenue.

Subd. 2. MS 2002 [Repealed, 1Sp2003 c 9 art 3 s 21]

Subd. 3. MS 1998 [Repealed, 1999 c 241 art 2 s 62]

Subd. 4. **Tuition.** Notwithstanding sections 125A.03 to 125A.24 and 125A.65, for children who are nonresidents of Minnesota, receive services under section 125A.76, subdivisions 1 and 2a, and are placed in the serving school district by court action, the serving school district shall submit unreimbursed tuition

bills for eligible services to the Department of Education instead of the resident school district. To be eligible for reimbursement, the serving school district, as part of its child intake procedures, must demonstrate good faith effort to obtain from the placing agency a financial commitment to pay tuition costs.

Subd. 5. **Excess cost aid.** For fiscal year 2016 and later, a district's excess cost aid equals the greater of:

(1) 56 percent of the difference between (i) the district's unreimbursed nonfederal special education expenditures and (ii) 7.0 percent of the product of the ratio of $5,831 to the formula allowance for the prior year and the district's general revenue;

(2) 62 percent of the difference between (i) the district's unreimbursed old formula special education expenditures and (ii) 2.5 percent of the product of the ratio of $5,831 to the formula allowance for the prior year and the district's general revenue; or

(3) zero.

Subd. 6. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 7. MS 2014 [Repealed, 2013 c 116 art 5 s 32]

Subd. 8. **Out-of-state tuition.** For children who are residents of the state, receive services under section 125A.76, subdivisions 1 and 2a, and are placed in a care and treatment facility by court action in a state that does not have a reciprocity agreement with the commissioner under section 125A.155, the resident school district shall receive special education out-of-state tuition aid equal to the amount of the tuition bills, minus (1) the general education revenue, excluding basic skills revenue and the local optional levy attributable to the pupil, calculated using the resident district's average general education revenue per adjusted pupil unit, (2) the referendum equalization aid attributable to the pupil, calculated using the resident district's referendum equalization aid per adjusted pupil unit, and (3) the special education aid attributable to the pupil.

History: *1993 c 224 art 3 s 23; 1Sp1995 c 3 art 15 s 15-17; 1996 c 412 art 3 s 26,27; 1997 c 7 art 1 s 61; 1Sp1997 c 4 art 2 s 24,25; 1998 c 397 art 2 s 106,164; art 11 s 3; 1998 c 398 art 2 s 28; 1999 c 241 art 2 s 41-46; 2000 c 254 s 36; 2000 c 489 art 3 s 13,14; art 10 s 11; 2003 c 130 s 12; 1Sp2003 c 9 art 3 s 15,16; 1Sp2005 c 5 art 3 s 11,12; 2006 c 263 art 3 s 11; 2007 c 146 art 3 s 17-20; 1Sp2011 c 11 art 1 s 14; 2013 c 116 art 5 s 25-27,32; 2014 c 275 art 1 s 21; 2014 c 312 art 17 s 8-10; 2015 c 21 art 1 s 21,22; 1Sp2015 c 3 art 4 s 10; art 5 s 25,26; 2016 c 158 art 1 s 48; 2016 c 189 art 29 s 13*

125A.80 MS 2011 Supp [Repealed, 2012 c 239 art 3 s 6]

125A.81 SPECIAL EDUCATION SEPARATE SITES AND PROGRAMS AID.

Subdivision 1. **Definition.** For purposes of this section, "special education separate site and program" means a public separate day school facility attended by students with disabilities for 50 percent or more of their school day.

Subd. 2. **Eligibility for special education separate sites and programs aid.** An education cooperative under section 471.59, education district under section 123A.15, service cooperative under section 123A.21, or intermediate school district under section 136D.01 qualifies for additional state funding to special education separate sites and programs for every kindergarten through grade 12 child with a disability, as defined in section 125A.02, served in a special education separate site or program as defined in subdivision 1.

Subd. 3. **Uses of special education separate sites and programs aid.** Additional state funding to special education separate sites and programs under this section may be used for the same purposes as are permitted for state special education aid under section 125A.76.

Subd. 4. **Special education separate sites and programs aid.** For fiscal year 2024 and later, additional state funding to special education separate sites and programs equals $1,689 times the adjusted kindergarten through grade 12 pupil units served in special education separate sites and programs under subdivision 1.

History: *2023 c 55 art 7 s 15*