



## Q & A: Care and Treatment Placements and Transportation

The Minnesota Department of Education (MDE), Division of Compliance and Assistance, has developed this document to help school districts and parents with questions about Minnesota care and treatment placements and related transportation requirements. The purpose of this document is to provide helpful, general information to the public and does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal question.

### **Question 1: What is a care and treatment placement under Minnesota laws and federal law?**

**Answer:** When someone other than the school district (such as a parent, county, or court order) places a student in one of the following facilities, the student is considered placed for care and treatment:

- Chemical dependency and other substance abuse treatment centers.
- Shelter care facilities.
- Home, due to accident or illness.
- Hospitals.
- Day treatment centers.
- Correctional facilities.
- Residential treatment centers.
- Mental health programs.

However, this list is not exhaustive. The care and treatment rule is interpreted broadly to provide students who are unable to attend their regular school because of medical, mental health, and correctional situations. Students placed in foster care are not considered placed for care and treatment. The Every Student Succeeds Act (ESSA), a federal law, in addition to Minnesota state statute, contains provisions ensuring the continuity of education for students placed in foster care.

**Authority:** Minn. R. 3525.2325, subp. 1; Minn. Stat. § 125A.515; and Minn. Stat. § 125A.17. Every Student Succeeds Act (ESSA), 20 U.S.C. § 6311 (g)(1)(E), and [Frequently Asked Questions: Transportation of children and youth in foster care](#).

### **Question 2: Is partial hospitalization considered a care and treatment placement?**

**Answer:** Yes. Partial hospitalization consists of multiple, intensive short-term therapeutic services in an outpatient hospital facility or community health center to treat mental illness. Both hospitals and mental health program facilities are considered care and treatment facilities. Therefore, a student placed in partial hospitalization for care and treatment by someone other than the school district is considered placed for care and treatment.

**Authority:** Minn. R. 3525.2325, subp. 1; Minn. R. 9505.0370 subp. 24; and Minn. R. 9505.0372 subp. 9.

**Question 3: When a student is placed for care and treatment, which school district is the resident district?**

**Answer:** Typically, the school district in which the student’s parent or guardian resides is the resident district. However, there are exceptions as follows:

- If a general education student is placed in a residential facility for care and treatment, and the student’s parents’ parental rights have been terminated, then the resident district is the district in which the residential facility is located.
- If a special education student is placed in a residential facility for care and treatment and 1) the student’s parents’ parental rights have been terminated, 2) the parent or guardian is not living within the state, 3) no other district can be established, or 4) the parent or guardian with 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, then the resident district is where the student resides.
- If a student is homeless, the resident district is the school district in which the parent or legal guardian resides, unless 1) the student’s parents’ parental rights have been terminated by a court order, 2) the parent or guardian is not living within the state, or 3) the parent or guardian having legal custody of the homeless student is an inmate of a Minnesota correctional facility or a resident of a halfway house under the supervision of the Commissioner of Corrections. If one of these events applies, the resident district is the school district where the student resided when the qualifying event occurred. If that cannot be determined, the resident district is the district where the homeless student currently resides. If there is a dispute between school districts regarding residency, the district of residence is the district designated by the Commissioner of Education.
- If a student is placed in foster care, ESSA requires that school districts and counties work together to transport students to their “school or origin.”

**Authority:** Minn. Stat. § 120A.20, subd. 2; Minn. Stat. § 125A.15; Minn. Stat. § 125A.17; Minn. Stat. § 125A.51 (b); Minn. R. 3525.0210, subp. 39, Every Student Succeeds Act (ESSA), 20 U.S.C. § 6311 (g)(1)(E), and [Frequently Asked Questions: Transportation of children and youth in foster care](#).

**Question 4: When a general education or special education student is temporarily placed in a day treatment program for care and treatment, which school district is responsible to provide transportation?**

**Answer:** The resident district must provide necessary transportation to and from the day treatment program for the student when the student is temporarily placed for care and treatment in a day treatment program located in another district and continues to live within the resident district. The resident district can claim those expenditures for special education aid by reporting the cost under the Uniform Financial Accounting and Reporting Standards (UFARS) Finance Code 728. These costs are included in the following years state special education formula.

The resident district may establish reasonable restrictions on transportation unless a Minnesota court or agency orders the student placed at a day treatment program and the resident district receives a copy of that order. Then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. The resident district should establish a written policy on what constitutes reasonable restrictions so it is uniformly applied.

**Authority:** Minn. Stat. §§ 125A.15 and 125A.51. *See also*, Minnesota Office of Administrative Hearings case number 8-1300-32841 (finding the resident district legally obligated to provide or underwrite the costs of transportation services between student’s day treatment program outside of the resident district and student’s regular education program within the boundaries of the resident school district). [View the Order on Motion For Partial Summary Disposition](#).

**Question 5: Is the resident district obligated to provide transportation to a day treatment program when the resident district is not in session (for example, during spring break or holidays)?**

**Answer:** Transportation shall only be provided by the resident district during the regular operating hours of the resident district. Therefore, the resident district is not responsible for transportation when its schools are not in session. However, if the resident district elects to provide transportation during these times, it can claim those expenditures for state special education aid. Extended school year (ESY) services must be considered for special education students placed for care and treatment, pursuant to federal law. If ESY services are provided to a special education student placed for care and treatment, "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."

**Authority:** 34 C.F.R. § 300.106, Minn. Stat. §§ 125A.14, 125A.15 and 125A.51, and Minn. R. 3525.0755.

**Question 6: When a general education or special education student is temporarily placed in a residential care and treatment program, which school district is responsible to provide transportation?**

**Answer:** The school district in which the residential care and treatment program is located must provide education services and necessary transportation while the student is attending the educational program. If the student is placed within the resident district, the resident district is responsible for the necessary transportation and can receive special education aid. If the student is placed outside the resident district, the nonresident district pays for necessary transportation and may not bill the resident district for those costs. The nonresident district can claim those expenditures for special education aid.

**Authority:** Minn. Stat. §§ 125A.15, 125A.51 and 125A.515.