



Review of Education-Related Mandates

Report to the Legislature

As required by Minnesota Statutes, section 127A.05

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Legislative Charge

Minnesota Statutes 2017, section 127A.05, subdivision 2, requires the commissioner of education to “...review all education-related mandates in state law and rule once every four years to determine which fail to adequately promote public education in the state.” Findings from this review are to be sent to the Legislature. Following are findings from this latest review. In gathering information for this report, Minnesota Department of Education (MDE) requested feedback from public school superintendents and charter school directors in the state, as well as staff at MDE. This same survey method was used to gather recommendations for the previous report. All public school superintendents were surveyed in January 2018 through one of MDE’s weekly email messages.

Respondents were asked to identify the following:

- Mandates that should be repealed because they do not promote public education
- Mandates that you considered unfunded
- Mandates that are duplicative of other requirements

MDE sent this survey to approximately 940 school administrators and received 11 responses. This is a response rate of 1.1 percent. The full text of the statutes and rules listed below are included in Appendix A.

Mandates That Respondents Identified as Not Promoting Public Education or that they Consider Unfunded

Civics Test: Minnesota Statutes 2017 Section 120B.02, Subdivision 3 EDUCATIONAL EXPECTATIONS AND GRADUATION REQUIREMENTS FOR MINNESOTA'S STUDENTS

Minnesota Statutes section 120B.02, subdivision 3 requires that students in grade nine in the 2017-2018 school year and later take a test consisting of 50 of the 100 questions used by the United States Citizenship and Immigration Services officers that are posed to applicants for naturalization. Of these 50 questions, a student must correctly answer 30 questions. Schools are prohibited from withholding a diploma because of this requirement.

The department received feedback from one respondent that this mandate does not have accountability for students, and that is not aligned with the state’s Every Student Succeeds Act (ESSA) plan.

Science Credits: Minnesota Statutes 2017 Section 120B.024, Subdivision 1, Paragraph 4 CREDITS

Minnesota Statutes requires:

- (4) three credits of science, including at least one credit of biology, one credit of chemistry or physics, and one elective credit of science. The combination of credits under this clause must be sufficient to satisfy (i) all of the academic standards in either chemistry or physics and (ii) all other academic standards in science;

The department received feedback that this requirement does not promote public education. The respondent stated that this requirement forces students to take either chemistry or physics, whereas the respondent would like to see the state stay at a three credit requirement, but instead require physical science and life science, with the third credit to be elective.

World's Best Workforce: Minnesota Statutes 2017 Section 120B.11 SCHOOL DISTRICT PROCESS FOR REVIEWING CURRICULUM, INSTRUCTION, AND STUDENT ACHIEVEMENT; STRIVING FOR THE WORLD'S BEST WORKFORCE.

World's Best Workforce is a reference to the state's accountability system for students and schools. Statute defines "World's best workforce" as:

“striving to: meet school readiness goals; have all third grade students achieve grade-level literacy; close the academic achievement gap among all racial and ethnic groups of students and between students living in poverty and students not living in poverty; have all students attain career and college readiness before graduating from high school; and have all students graduate from high school.”

School districts and charter schools are required to adopt plans to meet these goals with a district advisory committee to inform active community participation in all phases of planning and improving the instruction and curriculum. Schools are also required to publish a report in the local newspaper or on the district web site on their World's Best Workforce report, and hold an annual public meeting to review the report.

Three respondents identified the World's Best Workforce requirement as an education mandate that does not promote public education. They cited several reasons. One respondent identified the lack of funding for this requirement, particularly for the high school benchmarks; there is no dedicated funding for this law. Another respondent found it duplicative of the requirements that are included in an integration and achievement plan (39 school districts and three school sites are required to have an achievement and integration plan; 84 school districts opt-in to the program, representing 126 districts in total). The last respondent noted that the Annual Report contains duplicative information to the World's Best Workforce report.

Minnesota Common Course Catalog: Minnesota Statutes 2017 Section 120B.35 STUDENT ACADEMIC ACHIEVEMENT AND GROWTH, Subdivision 3, Paragraph C, Clauses 1 and 2; Minnesota Session Laws 2009, Chapter 96, Article 2, Section 60 - Implementing Rigorous coursework Measures Related to Student Performance; and federal law HR 2272 America COMPETES Act of 2007 SEC. 6401. Required Elements of a Statewide Longitudinal Data System.

The Minnesota Common Course Catalog (MCCC) is a course classification and data collection system intended to provide uniform information about courses that are taught by Minnesota teachers and completed by Minnesota students. The MCCC is being implemented to meet both state and federal requirements.

Minnesota Statutes 2017 section 120B.35, subdivision 3, paragraph C, clauses 1 and 2, requires a report on the number and percentage of high school graduates who have completed course work important to preparing them for postsecondary academic and career opportunities, consistent with the core academic subjects required for admission to Minnesota's public colleges and universities as determined by the Office of Higher Education under chapter 136A; and a rigorous coursework measure indicating the number and percentage of high school graduates in the most recent school year who successfully completed one or more college-level advanced placement, international baccalaureate, postsecondary enrollment options including concurrent enrollment, other rigorous courses of study under section 120B.021, subdivision 1a, or industry certification courses or programs.

This information is reported from school districts or charter schools to the Minnesota Department of Education through the MCCC.

The department received feedback from three respondents identifying MCCC as a mandate that does not promote public education. There is no dedicated funding for this requirement. The department also received feedback that it is duplicative of other requirements, although what other requirements it duplicates was not identified.

Consolidation: Minnesota Statutes 2017 Section 123A.48

This statute sets up the process whereby a petition signed by 25 percent of the voters in the area proposed for consolidation or by 50 such voters, whichever is fewer, can ask for a vote on a consolidation of two school districts.

The department received feedback that this rule does not promote public education and is unfunded. Smaller school districts could be easily forced to hold a vote on a consolidation.

Milk Contracts: Minnesota Statutes 2017 Section 123B.52 CONTRACTS, Section 1

Minnesota Statutes 2017 section 123B.52 Contracts sets out the parameters that school districts must follow when for bids and contracts. Most goods and services must be advertised for bids or proposals with two weeks' notice in a published, official newspaper. This notice must state the time and place of receiving bids and contain a brief description of the subject matter. There is an exception for perishable food items, which can be contracted through direct negotiation by obtaining two or more written quotes. Milk is excluded from this exception, meaning it must go through the official bid process.

The department received feedback that this rule requiring a formal bid process for milk does not promote public education because it is difficult for school districts, and that it is unlikely that a school would receive three bids. Please note that there is not a requirement that a school receive more than one bid through the formal bid process.

Special Education Requirements that Exceed Federal Requirements

The department received feed stating that Minnesota should follow the federal special education requirements rather than providing services beyond those required because these requirements are unfunded and duplicative. While no specific education mandate was identified, the following statutes exceed federal minimum requirements:

125A.023 STATE AGENCY COORDINATION RESPONSIBILITIES

This statute is the state's mechanism for interagency coordination, which is required by federal law. However, the duties of the State Interagency Committee go beyond what is specifically required in federal law. This includes developing 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 3 to 21.

125A.027 LOCAL AGENCY COORDINATION RESPONSIBILITIES

This statute is aligned with the local interagency responsibilities for children ages birth through 5. This statute exceeds minimal federal requirements.

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY

Minnesota provides special education services from birth until July 1 after a child with a disability becomes 21 years old, but shall not extend beyond secondary school or its equivalent.

By comparison, the federal requirement is that services must be provided from age 3 to age 21.

125A.04 HIGH SCHOOL DIPLOMA

Minnesota's diploma statute states that a student with a disability must be granted a regular high school diploma upon attaining the objectives in the student's IEP.

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.

The federal regulations define "regular high school diploma" consistent with the Elementary and Secondary Education Act (ESEA) regulations in 34 C.F.R. § 200.19 as meaning "the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards or a higher diploma and does not include a GED credential, certificate of attendance, or any alternative award."

125A.06 BLIND PERSON'S LITERACY RIGHTS

This statute sets forth a number of specific provisions that must be contained in a blind student's individualized education program. Federal regulations do not contain the specificity of what must be contained in an individualized education program (IEP) for students who are considered "Blind" as defined in the statute and are in need of special education services.

125A.08 INDIVIDUALIZED EDUCATION PROGRAMS

Minnesota's special education statute, section 125A.08, enumerates a number of provisions related to the general school district obligations to provide a free appropriate public education (FAPE). The timing of transition services is addressed below:

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;

Under state law, planning for transition for students with disabilities must occur during grade nine. The federal requirement is that transition services must begin, "not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team." 34 C.F.R. § 300.320 (b). This law was amended to ensure that if the IEP or standardized written plan meets the requirement for a transition plan under Minnesota Statutes, section 120B.125, no additional transition plan is needed. Transition plans for all students must be in place no later than grade nine.

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS

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 request a conciliation conference under subdivision 7 or another alternative dispute resolution procedure under subdivision 8 or 9.

These prior written notice requirements are in addition to those required by the federal regulations at 34 C.F.R. § 300.503.

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 5 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.

In Minnesota, override procedures cannot be used to override a parent's refusal to consent to a reevaluation. This is not the case with the federal regulations. Although the federal regulations regarding parental consent,

found at 34 C.F.R. § 300.300, make clear that due process procedures may not be used to override a parent's lack of consent for an initial evaluation, they do not address a failure to consent to a reevaluation:

If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency—

- (i) May not use the procedures in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
- (ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and
- (iii) Is not required to convene an IEP Team meeting or develop an IEP under §§300.320 and 300.324 for the child.

While not strictly requiring districts to do something they would not otherwise be required to do, this provision restricts districts from changing or deleting services by allowing parents to refuse reevaluation.

Subd. 7. Conciliation conference.

A parent must have an opportunity to 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 objection to a proposal or refusal in the prior written notice. 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. 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.

The Minnesota legislature requires that districts provide and participate in a conciliation conference if the parent objects to a district's proposal or refusal in a prior written notice. In addition, Minnesota offers facilitated team meetings as a dispute resolution option, although these are voluntary on the part of all parties. Neither of these dispute resolution processes is required by the IDEA. Minnesota has implemented these requirements in Minnesota Rules 3525.3700 and 3525.3750 discussed below. IDEA 2004 places extensive emphasis on alternative dispute resolution, including the resolution sessions found at 615(f)(1)(B). It is clear that the federal structure contemplates early opportunities for dispute resolution. However, conciliation conferences and facilitated team meetings are not federal requirements. Minnesota requires that parents be informed of their right to various alternative dispute resolution options, including conciliation conferences, mediation, and facilitated IEP team meetings whenever they object to any proposal for which they receive notice. The federal statutes and regulations require that parents only be informed of the availability of mediation when a procedural safeguard notice is required.

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.

As discussed and in the corollary Minnesota Rule 3500.4110, federal regulation requires a hearing officer to make a determination on the sufficiency of a due process complaint when the opposing party raises an objection. 34 C.F.R. § 300.508(d)(2). Minnesota formalizes that process through a prehearing conference. This conference is an additional requirement; however, determining the sufficiency of a due process complaint is addressed in federal regulation.

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.

This Minnesota provision parallels the federal regulations 34 C.F.R. § 300.513 stating that a hearing officer's determination of whether a student received FAPE must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies impeded the child's right to a FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE or caused a deprivation of educational benefit.

The Minnesota law goes beyond the federal regulations in applying this provision to the state administrative complaint process.

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.

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.

(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. These terms are not defined by the IDEA, although "positive behavioral interventions and supports" is referenced in the IDEA and accompanying regulations. These definitions are part of state-imposed requirements for school districts choosing to use restrictive procedures with children with disabilities.

125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES

This Minnesota statute enumerates a number of provisions related to school district obligations when using restrictive procedures on children with disabilities. It should be noted that these state-imposed obligations are not required for school districts that choose not to use restrictive procedures. There are no additional state-imposed requirements for school districts that choose to use only positive behavioral supports and interventions with children with disabilities.

Subd. 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 Web site 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.09, subdivision 4, paragraph (k);
- (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; 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 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 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 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 meeting when the child's individualized education program provides for using restrictive procedures in an emergency.

(d) If the individualized education program 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 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 or behavior intervention plan.

(f) An individualized education program team may plan for using restrictive procedures and may include these procedures in a child's individualized education program 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 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; and
 - (iv) a brief record of the child's behavioral and physical status;
- (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;
- (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; and

(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 section 626.556;
- (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; and

(10) prone restraint.

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 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. For the 2014-2015 school year and later, districts must collect and submit to the commissioner summary data, consistent with subdivision 3, paragraph (b), on district use of reasonable force that is consistent with the definition of physical holding or seclusion for a child with a disability under this section.

The Office of Special Education Programs (OSEP) at the U.S. Department of Education developed a [Restraint and Seclusion Resource Document](#), and the U.S. Department of Education, Office for Civil Rights, issued a significant [guidance document](#) dated December 28, 2016, informing school districts how the use of restraint and seclusion may result in discrimination against students with disabilities. While federal bills have been proposed, there is currently no federal statute or regulation addressing the use of restraint and seclusion in the public school setting. Many of the recommendations in the OSEP document are included in the state statutes listed above. In addition, Minnesota's Olmstead Plan contains two goals in the positive supports section that specifically focus on the reduction of the emergency use of restrictive procedures in the school setting. The associated work plan addresses activities to eliminate the emergency use of seclusion in the school setting.

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.

These two Minnesota statutes provide that special instruction and services be provided to nonpublic school students. In addition, three relevant court decisions are interpreted as conferring a right to nonpublic school

students in Minnesota to access FAPE. See *ISD 709 v. Bonney*, 705 N.W.2d 209 (Minn. Ct. App. 2005), *ISD 281 v. Minnesota Dept. of Educ.*, 743 N.W.2d 315 (Minn. Ct. App. 2008), and *R.M.M. v. Minneapolis Public Schools* (SSD 1), 15-CV1627, 15-CV-1855 (Minn. D., Feb. 8, 2016).

125A.21 THIRD PARTY PAYMENT

Subd. 2. Third-party reimbursement.

(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 the individualized education program or individualized family service plan health-related services provided by the district. 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 individualized education program or individualized family service plan health-related services provided by the district;

Federal regulation requires that a district obtain consent at the time insurance is used.

Minnesota requires annual notice as a way to comply with the federal regulation.

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.

Community Transition Interagency Committees are a state-imposed requirement not required by the IDEA.

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.

Parent advisory councils are not required by the IDEA and constitute a state-imposed requirement.

125A.30 INTERAGENCY EARLY INTERVENTION COMMITTEES

- (a) A group of school districts or special education cooperatives, in cooperation with the 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.

Interagency Early Intervention Committees are not required by the IDEA and constitute a state imposed requirement.

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

This statute sets forth specific requirements related to the provision of services for students with disabilities who are in a residential facility licensed by the Minnesota Department of Human Services or the Minnesota Department of Corrections. In addition, it contains requirements related to students with disabilities who are considered to be in “care and treatment” separate from the definition above. Federal law sets forth requirements related to the provision of FAPE to students with disabilities who are in residential facility. See 34 C.F.R. §§ 300.101-300.104.

Some of the state requirements in this statute exceed minimal federal requirements.

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

Subd. 1. Educational screening.

Secure and non-secure 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.

Federal regulations do not specify a time period for screening.

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.

Federal regulations do not address the formation and structure of a special education cooperation. This statute exceeds minimal federal requirements.

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

A state deaf or hard of hearing and blind or visually impaired advisory committee is not required by federal law and constitutes a state-imposed requirement.

125A.56 ALTERNATE INSTRUCTION REQUIRED BEFORE ASSESSMENT REFERRAL

Subd. 1. Requirement.

(a) Before a pupil 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.

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.

The state statute includes language related to early intervening services, consistent with IDEA 2004, § 665(b), and § 613(f). The federal statutes and regulations do not require pre-referral interventions in the regular classroom before an evaluation for special education is conducted.

The state statutory language specifically provides that the pre-referral interventions/early intervening services may not be used to deny a student's right to a special education evaluation.

During the 2016 legislative session, language was added to require schools to prove pre-referral interventions to students unable to read at grade level under section 120B.12, subdivision 2, paragraph (a). Minnesota Statutes, section 120B.12, was also revised with similar language.

125A.58 PURCHASING GUIDELINES

Subd. 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.

The specific requirement that the former district must respond in writing within 30 days of the request exceeds federal requirements.

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.

This state requirement exceeds minimal federal requirements.

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

The requirement that districts submit litigation costs to MDE and that MDE reports those costs annually to the state legislature is beyond the minimal federal requirements.

121A.43 EXCLUSION AND EXPULSION OF PUPILS WITH A DISABILITY

Federal law requires that a school administrator consult with a teacher to determine appropriate educational services when a student has been disciplinary removed from school for more than 10 cumulative days in a

school year. Under state law, if a disciplinary removal is for more than five consecutive school days or 10 cumulative school days in a school year, (and is not a change of placement) relevant members of the student's IEP team must meet to determine the appropriate amount of special education services.

121A.67 REMOVAL BY PEACE OFFICER

Subd. 2. Removal by peace officer.

If a pupil who has an individualized education program is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individualized education program team must meet to determine if the pupil's individualized education program is adequate or if additional evaluation is needed.

Under federal law, a student's IEP team should consider the use of positive behavioral interventions and support, and other strategies to address behavior that impedes the child's learning or that of others. 34 C.F.R. § 300.324. In addition, an IEP should be reviewed and revised to address specific factors. Federal law does not contain the specific IEP meeting requirement set forth in the statute. This requirement exceeds minimal federal requirements.

3525.0210 DEFINITIONS

Subp. 2. Administrator or administrative designee.

"Administrator" or "administrative designee" means a representative of the school district, other than the pupil's teacher, who is licensed to provide or supervise the provision of special education and who has the authority to make decisions about the appropriateness of the proposed program and who has the authority to commit the responsible district's resources.

The state rule defines the representative of the district with the additional requirement that the person may not be a teacher of the student, which is not a requirement in federal regulation.

3525.0550 PUPIL IEP MANAGER

The district shall assign a teacher or licensed related service staff who is a member of the pupil's IEP team as the pupil's IEP manager to coordinate the instruction and related services for the pupil. The IEP manager's responsibility shall be to coordinate the delivery of special education services in the pupil's IEP and to serve as the primary contact for the parent. A district may assign the following responsibilities to the pupil's IEP manager: assuring compliance with procedural requirements; communicating and coordinating among home, school, and other agencies; coordinating regular and special education programs; facilitating placement; and scheduling team meetings.

Federal rules do not require that a single staff person be assigned to coordinate the delivery of special education and related services and serve as the primary point of contact for the student's parent.

3525.0800 RESPONSIBILITY FOR ENSURING PROVISION OF INSTRUCTION AND SERVICES

Subp. 2. Purchased services.

The district shall not purchase special educational services for a pupil from a public or private agency when the service is available or can be made available and can be more appropriately provided as the least restrictive alternative within the district. Whenever it is appropriate for a district to purchase special education service for pupils with disabilities who reside in the district, it continues to be the responsibility of the school district, consistent with Minnesota Statutes and parts 3525.0210 to 3525.4770, to assure and ascertain that such pupils and youth receive the education and related services and rights to which they are entitled.

The state rule requires the district to determine if it can provide appropriate services to a student with a disability within its district prior to contracting with another public or private agency to provide services to a student with a disability. While this language is not specifically found in federal statutes or regulations, it is consistent with the least restrictive environment requirements in federal law. See IDEA 2004, § 612(a)(5) and 34 C.F.R. § 300.114. This language does not preclude districts from contracting for services to purchase appropriate technology for recordkeeping, data collection, and case management activities. See IDEA 2004, § 613(a)(4)(B).

3525.1100 STATE AND DISTRICT RESPONSIBILITY FOR TOTAL SPECIAL EDUCATION SYSTEM (TSES)

The TSES plan is how districts assure that they are complying with federal requirements, in accordance with federal law. The requirement that the TSES include an administration and management plan exceeds minimal federal requirements.

3525.1400 FACILITIES, EQUIPMENT AND MATERIALS

Classrooms and other facilities in which pupils receive instruction, related services, and supplementary aids and services shall: be essentially equivalent to the regular education program; provide an atmosphere that is conducive to learning; and meet the pupils' special physical, sensory, and emotional needs.

The necessary special equipment and instructional materials shall be supplied to provide instruction, related services, and supplementary aids and services.

Federal law requires that students with disabilities, to the maximum extent appropriate, are educated with students with their nondisabled peers. The rule language goes beyond the minimal federal requirements of IDEA. Under Section 504, students with disabilities must not be discriminated against based upon their disability.

3525.2340 CASE LOADS

Subp. 4. Caseloads for school-age educational service alternatives.

A. The maximum number of school-age pupils that may be assigned to a teacher:

- (1) for pupils who receive direct special instruction from a teacher more than 60 percent of the instructional day, but less than a full school day:

- (a) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired, three pupils;
- (b) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one paraprofessional, six pupils;
- (c) developmental cognitive disability: mild-moderate range or specific learning disabled, 12 pupils;
- (d) developmental cognitive disability: mild-moderate range or specific learning disabled with one paraprofessional, 15 pupils;
- (e) all other disabilities with one paraprofessional, ten pupils;
- (f) all other disabilities with two paraprofessionals, 12 pupils; and
- (g) under special circumstances, for children who receive special education services for 60 percent or more of the instructional day, that are highly disruptive or create an unsafe environment due to the high behavioral or mental health needs of the students, districts have the option of lowering the number of such students in the classroom, so that both students and staff are safe; and

(2) for pupils who receive direct special education for a full day:

- (a) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one paraprofessional, four pupils;
- (b) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with two paraprofessionals, six pupils; and
- (c) all other disabilities with one paraprofessional, eight pupils.

B. For pupils who receive direct special education 60 percent or less of the instructional day, the school district must establish a board-approved policy for determining workload limits for special education staff based on student contact minutes, evaluation and reevaluation time, indirect services, IEPs managed, travel time, and other services required in the IEPs of eligible students.

Subp. 5. Caseloads for early childhood program alternatives.

A teacher's case load must be adjusted downward based on pupils' severity of disability or delay, travel time necessary to serve pupils in more than one program alternative, and if the pupils on the teacher's caseloads are receiving services in more than one program alternative or the pupils are involved with other agencies. The maximum number of pupils that can be assigned to a teacher in any early childhood program alternative is:

- A. birth through two years: 12 pupils per teacher;
- B. three through six years: 16 pupils per teacher; and
- C. birth through six years: 14 pupils per teacher.

District early childhood special education (ECSE) classes must have at least one paraprofessional employed while pupils are in attendance. The maximum number of pupils in an ECSE classroom at any one time with a teacher and a paraprofessional is eight. The maximum number of pupils in an ECSE classroom at any one time with an early childhood team is 16.

Minnesota provides explicit caseload levels for some special education students. Specific caseload standards are not required by federal law.

3525.2325 EDUCATION PROGRAMS FOR K-12 PUPILS AND REGULAR STUDENTS PLACED IN CENTERS FOR CARE AND TREATMENT

This rule is a corollary with Minnesota Statutes, section 125A.515. It sets forth specific requirements related to the provision of services for students with disabilities who are in “care and treatment” as defined in the rule. Some of these requirements exceed minimal federal requirements.

3525.2405 DIRECTORS

The school board in every district shall employ, either singly or cooperatively, a director of special education to be responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration in the district's total special education system.

Cooperative employment of a director may be through a host district, joint powers agreement, or a service cooperative. A director may not be assigned direct instructional duties.

Minnesota requires each LEA to employ, singly or cooperatively, a special education director. While the federal regulations do not use a specific rule or portion of the statute to require a special education director at the local level, at least one statutory section and its corollary rule contemplate the existence of a local-level special education director. In IDEA 2004, §615(k)(5)(B)(iii), in the context of discussing whether a district can be considered to have knowledge that a child is a child with a disability, the statute notes that knowledge will be presumed if concerns are reported directly to “the director of special education at such agency.” This language is echoed in the corresponding federal rule, found at 34 C.F.R. § 300.534(b) (3). Though the federal structure contemplates a local-level special education director, the requirement for a district special education director is a state-imposed requirement.

3525.2550 CONDUCT BEFORE EVALUATION

Subp. 2. Team duties.

The team shall conduct an evaluation for special education purposes within a reasonable time not to exceed 30 school days from the date the district receives parental permission to conduct the evaluation or the expiration of the 14-calendar day parental response time in cases other than initial evaluation, unless a conciliation conference or hearing is requested.

Federal regulations require that an initial evaluation be conducted within 60 days of receiving parental consent. There is no such requirement for reevaluations. Federal regulations permit States to establish a timeframe

within which an evaluation must be conducted. Minnesota has established a 30 school day timeline for evaluations, which in some cases results in timelines that is less than 60 calendar days, and in other instances results in timelines that exceed 60 calendar days (e.g. summer break).

3525.2710 EVALUATIONS AND REEVALUATIONS

Subd. 3. Evaluation procedures.

C. Each district shall ensure that:

- (6) if an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report.

This requirement exceeds minimal federal requirements.

Subd. 4. Additional requirements for evaluations and reevaluations.

- F. Prior to using any restrictive procedures, the IEP team must conduct a functional behavioral assessment (FBA) as defined in part 3525.0210, subpart 22. The team must also document that it has ruled out any other treatable cause for the behavior, for example, a medical or health condition, for the interfering behavior.

Under federal law, a functional behavior assessment is only required when there is a disciplinary change of placement. As stated above, there is federal guidance, but no federal law specific to the use of restrictive procedures. This requirement exceeds minimal federal requirements.

3525.2810 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM PLAN

The current rule substantially reflects the requirements of federal law. A few provisions of the rule are remnants of the previous federal requirements. Specifically, the need for benchmarks or short-term objectives, with the exception of students with disabilities who take alternate assessments aligned to alternate academic achievement standards, has been removed from the IDEA. The Minnesota requirement for these progress markers for students with disabilities who take the regular academic achievement standards exceeds federal law.

Minnesota exceeds federal law regarding the provision of transition services as set forth at subpart 1, section 7, of this rule. The Minnesota legislature directed that the IEP must address the student's transition needs during grade 9. Minn. Stat. § 125A.08(a).

3525.2900 TRANSITION AND BEHAVIORAL INTERVENTION PLANNING

Subp. 4. Transition planning.

During grade nine the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment, and community living.

Minnesota's transition planning rule is based on the 1997 IDEA regulations, which allowed for a two-tiered transition planning option, beginning at either age 14 or age 16, as appropriate. See 34 C.F.R. § 300.347. The IDEA 2004, however, begins transition planning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team. See § 614(d) (1) (A)(i)(VIII)(aa) and 34 C.F.R. § 300.320(b). This rule is consistent with Minnesota Statutes, section 125A.08, and constitutes a state-imposed requirement.

3525.3100 FOLLOW-UP REVIEW REQUIREMENTS

Pupils who are discontinued from all special education services may be reinstated within 12 months. If data on the pupil's present levels of performance are available and an evaluation had been conducted within three years pursuant to part 3525.2710, the district is not required to document two pre-referral interventions or conduct a new evaluation.

This is a state-imposed requirement and does not have a corollary in federal law.

3525.3600 PRIOR WRITTEN NOTICE

When a district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a pupil, or the provision of FAPE to the pupil, the district must serve prior written notice on the parent. The district must serve the notice on the parent within a reasonable time, and in no case less than 14 calendar days before the proposed effective date of change or evaluation. If the notice only includes a refusal of a request, it must be served on the parent within 14 calendar days of the date the request was made.

The notice must meet the requirements of Minnesota Statutes, section 125A.091, subdivisions 3 and 4. The notice must also:

- A. inform the parents that the school district will not proceed with the initial placement and provision of services as defined in part 3525.0210 without prior written consent of the pupil's parents;
- B. inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within 14 calendar days of when the district sends the prior written notice to the parent; and
- C. inform the parents that if they refuse to provide prior written consent for initial evaluation or initial placement or object in writing to any proposal, or if the district refuses to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education to the pupil, the parent may request a conciliation conference.

The district must provide the parents with a copy of the proposed individual educational program plan as described in part 3525.2810, subpart 1, item A, whenever the district proposes to initiate or change the content of the IEP.

Federal regulations require that a public agency provide a copy of the prior written to a parent within a reasonable time before the agency proposes or refuses an action as set forth in the regulations. Minnesota has defined a reasonable time as 14 calendar days. In addition, federal law requires school districts to provide a parent with the proposed IEP upon request, while it is required under state law to be sent with the prior written notice.

3525.3700 CONCILIATION CONFERENCE

The conciliation conference is a dispute resolution option unique to Minnesota although the 2004 IDEA mandates a similar pre-hearing procedure termed a “resolution session.” The Minnesota legislature requires that districts provide a conciliation conference if requested by parents. The district must participate in the conciliation conference if requested by the parents.

This provision is not required by federal law.

3525.3900 INITIATING A DUE PROCESS HEARING

Minnesota requires a district to provide parents who have requested a due process hearing with the basic procedures and safeguards to which they are entitled. While a procedural safeguards notice is required, this additional notice, which summarizes just that information that might be required for a party requesting a hearing, is a requirement not imposed by federal law.

3525.4110 PREHEARING CONFERENCE

Subpart 1. Generally.

A prehearing conference must be held within five business days of the date the department appoints the hearing officer. The hearing officer will initiate the prehearing conference which may be conducted by telephone or in person at a location within the district. The hearing officer will have a written verbatim record of the prehearing conference created which must be made available to both parties if either party requests the record.

Subp. 2. Purpose.

The hearing officer has the following duties at a prehearing conference:

A. The hearing officer must establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition including, but not limited to:

(1) informing the parties of their rights should the dispute proceed;

(2) ensuring parents have been provided access to or copies of all education records and ensuring all required notices, information on the pupil's educational progress, and any information requested by the hearing officer has been shared between the parties with copies provided to the hearing officer;

(3) determining the necessity for participation of appropriate districts, issuing orders to join agencies not already participating and consolidating cases pursuant to part 3525.4350;

(4) determining the amount of time parties will have to present their cases by balancing the due process rights of the parties with the need for administrative efficiency and limited public resources; and

(5) requiring and assisting the parties in establishing lists of written exhibits and witnesses necessary for each party to make its case, such as responding to requests to hearing officers to compel the attendance of witnesses, determining the necessity of telephone testimony, and stipulating to undisputed facts. A hearing officer may permit a witness to testify via telephone if such a procedure would not prejudice either party.

B. The hearing officer must clearly identify the questions the hearing officer must answer to resolve the dispute and eliminate claims and complaints that are frivolous or beyond a statute of limitations period. If necessary, the hearing officer must assist the parties in identifying the issues for hearing.

C. The hearing officer must set a scheduling order for the hearing and for any additional prehearing activities including requests for extensions to the 45-day timeline in which to dispose of the matter. A hearing officer may only grant an extension for a period of up to 30 calendar days if the requesting party shows good cause on the record. Extensions may last longer than 30 calendar days if both parties agree and the hearing officer approves. All written orders granting or denying motions must be filed with the department. All orders granting or denying motions to extend the 45-day timeline must be in writing. The hearing officer may require an independent education evaluation be conducted at district expense.

D. The hearing officer must determine if the hearing may be disposed of without an evidentiary hearing and set the schedule and procedure accordingly. The hearing officer may dispose of any issue without an evidentiary hearing if there are no material facts in dispute. The hearing officer may facilitate a settlement, if possible, including suggesting the parties participate in mediation or another alternative dispute resolution option.

Subp. 3. Hearing officer authority.

The hearing officer has the authority to take any actions necessary to ensure the compliance with all requirements of law and may dismiss the matter, with or without prejudice, if the party requesting the hearing fails to provide information required or ordered by the hearing officer.

Subp. 4. Subpoenas.

Parties may request subpoenas for witnesses from the hearing officer. A subpoena must include a statement that federal law gives parties to a special education due process hearing the right to compel the attendance of witnesses. A hearing officer may refuse to issue a subpoena for a proposed witness who is to offer evidence the hearing officer determines will be incompetent, irrelevant, immaterial, or unduly repetitious.

Federal regulations do not require a prehearing conference prior to a due process hearing. This rule provides additional guidance beyond Minnesota Statutes, section 125A.091, discussed above, to independent hearing officers and the parties involved as to the Minnesota requirements for special education due process hearings.

School Calendar: Minnesota Statutes 2017 Section 120A.40

Minnesota Statutes 2017 section 120A.40 School Calendar establishes that most school district must not begin before Labor Day.

The department received feedback that this mandate does not promote public education.

Length of School Years; Hours of Instruction: Minnesota Statutes 2017 Section 120A.41

Minnesota Statutes 2017 section 120A.41 Length of School Year; Hours of Instruction establishes the minimum hour requirement for school districts. Schools are required to offer 350 hours of instruction for a prekindergarten student, 425 hours for a kindergarten student without a disability or 850 hours for all-day kindergarten, 935 hours of instruction for a student in grades 1 through 6, and 1,020 hours of instruction for a student in grades 7 through 12. It also establishes that schools must offer at least 165 days of instruction.

The department received feedback that this mandate does not promote public education.

Publication of Financial Information: Minnesota Statutes 2017 Section 123B.10

Minnesota Statutes 2017 section 123B.10 outlines the requirements of public report school districts must complete. It requires the school district to publish a report on its revenue, expenditures, fund balances and other relevant budget information on its website and to publish a summary of the information in a qualified newspaper of general circulation in the district.

The department received feedback that this mandate does not promote public education. The respondent stated that school districts should be given the option of posting this information electronically instead of in a newspaper publication.

Transportation of Nonpublic School and Charter School Students: Minnesota Statutes 2017 Section 123B.88

Minnesota Statutes section 123B.88 Independent School Districts; Transportation establishes requirements that school districts require public school districts to provide transportation within the district for resident students attending nonpublic schools. These sections provide in part that “it is in the public interest to provide equality of treatment in transporting school children of the state who are required to attend elementary and secondary schools pursuant to chapter 120A, so that the health, welfare and safety of such children, while using the public highways of the state, shall be protected.” These laws are known as the “Equal Treatment Laws” or the “Fair Busing Bill.”

The basic premise of this law is that school districts must provide the same level of service for nonpublic school students that they do for public school students. If it is a district’s policy to transport all public elementary

students who live one mile or more from their public school, then the school district must transport all nonpublic elementary students who live one mile or more from their nonpublic school.

The department received feedback that this mandate does not promote public education. The respondent noted that it more appropriate to allow school districts to recoup the full cost of this service.

Flexible Learning Year: Minnesota Statutes 2017 Section 124D.122

Minnesota Statutes 2017 section 124D.122 Establishment of Flexible Learning Year outlines a process for a school district to establish and operate a flexible learning year.

The department received feedback that this mandate does not promote public education, and stated that the commissioner's approval should not be required.

Learning and Development Revenue Amount and Use: Minnesota Statutes 2017 Section 126C.12

Minnesota Statutes 2017 section 126C.12 Learning and Development Revenue Amount and Use establishes a learning and development revenue formula (average daily membership in kindergarten times \$299 plus average daily membership in grades one to six times \$459). This revenue is to be used to reduce and maintain the district's average class size in kindergarten through grade 3 to a level of 17 to 1 on average in each of the respective grades.

The department received feedback that this mandate does not promote public education. The respondent requested that kindergarten through grade three be combined as a category.

Staff Development: Minnesota Statutes 2017 Section 122A.61

Minnesota Statutes 2017 section 122A.61 Reserved Revenue for Staff Development requires a local staff development report that includes the staff development activities and expenditures for the previous year. This report must include assessment and evaluation data showing progress toward district and site staff development goals based on teaching and learning outcomes. This report must also indicate whether expenditures were incurred at the district or school level and whether grants were used. It also requires that two percent of basic general education revenue be reserved for staff development.

The department received feedback that the 2 percent set aside for staff development does not adequately promote public education in the state.

Required Academic Standards (Art): Minnesota Statutes 2017 Section 120B.021

Minnesota Statutes 2017 section 120B.021 establishes academic standards, including arts. The statute reads:

(7) the arts, for which statewide or locally developed academic standards apply, as determined by the school district. Public elementary and middle schools must offer at least three and require at least two of the

following four arts areas: dance; music; theater; and visual arts. Public high schools must offer at least three and require at least one of the following five arts areas: media arts; dance; music; theater; and visual arts.

The department received feedback that this requirement does not promote public education. The respondent instead requested that local school districts be allowed to align the number of classes required by law and the number of classes students must complete.

Special Education Transportation and Aid Entitlement: Minnesota Statutes 2017 Section 123B.92

School districts are required to provide transportation for resident special education students who open enroll outside of their resident district.

The department received feedback that this does not promote public education because it is unfunded; school districts use general fund dollars to cover special education cross subsidies for students who have services available in their provider district.

STAR Reporting: Minnesota Statutes 2017 Section 125B.07

STAR (STaff Automated Reporting) is a web-based system used by school districts to report employment and assignment information. This system is also used by districts to access the licensure/assignment discrepancy report and to complete "highly qualified" reporting. STAR is required through Minnesota Statutes 2017 section 125B.07, which states "The department shall maintain a list of essential data elements which must be recorded and stored about each pupil, licensed and non-licensed staff member, and educational program. Each school district must provide the essential data to the department in the form and format prescribed by the department."

The department received feedback STAR does not promote public education and that it is duplicative of other requirements, although what other requirements it duplicates was not identified.

Appendix A

Below is a list of the statutes referenced in this report.

120A.40 SCHOOL CALENDAR.

- (a) Except for learning programs during summer, flexible learning year programs authorized under sections [124D.12](#) to [124D.127](#), and learning year programs under section [124D.128](#), a district must not commence an elementary or secondary school year before Labor Day, except as provided under paragraph (b). Days devoted to teachers' workshops may be held before Labor Day. Districts that enter into cooperative agreements are encouraged to adopt similar school calendars.
- (b) A district may begin the school year on any day before Labor Day:

- (1) to accommodate a construction or remodeling project of \$400,000 or more affecting a district school facility;
- (2) if the district has an agreement under section [123A.30](#), [123A.32](#), or [123A.35](#) with a district that qualifies under clause (1); or
- (3) if the district agrees to the same schedule with a school district in an adjoining state.

120A.41 LENGTH OF SCHOOL YEAR; HOURS OF INSTRUCTION.

- (a) A school board's annual school calendar must include at least 425 hours of instruction for a kindergarten student without a disability, 935 hours of instruction for a student in grades 1 through 6, and 1,020 hours of instruction for a student in grades 7 through 12, not including summer school. The school calendar for all-day kindergarten must include at least 850 hours of instruction for the school year. The school calendar for a prekindergarten student under section [124D.151](#), if offered by the district, must include at least 350 hours of instruction for the school year. A school board's annual calendar must include at least 165 days of instruction for a student in grades 1 through 11 unless a four-day week schedule has been approved by the commissioner under section [124D.126](#).
- (b) A school board's annual school calendar may include plans for up to five days of instruction provided through online instruction due to inclement weather. The inclement weather plans must be developed according to section [120A.414](#).

120B.02 EDUCATIONAL EXPECTATIONS AND GRADUATION REQUIREMENTS FOR MINNESOTA'S STUDENTS.

Subd. 3. Required knowledge and understanding of civics.

- (a) For purposes of this subdivision, "civics test questions" means 50 of the 100 questions that, as of January 1, 2015, United States Citizenship and Immigration Services officers use to select the questions they pose to applicants for naturalization so the applicants can demonstrate their knowledge and understanding of the fundamentals of United States history and government, as required by United States Code, title 8, section 1423. The Learning Law and Democracy Foundation, in consultation with Minnesota civics teachers, must select by July 1 each year 50 of the 100 questions under this paragraph to serve as the state's civics test questions for the proximate school year and immediately transmit the 50 selected civics test questions to the department and to the Legislative Coordinating Commission, which must post the 50 questions it receives on the Minnesota's Legacy Web site by August 1 of that year.
- (b) A student enrolled in a public school must correctly answer at least 30 of the 50 civics test questions. A school or district may record on a student's transcript that the student answered at least 30 of 50 civics test questions correctly. A school or district may exempt a student with disabilities from this requirement if the student's individualized education program team determines the requirement is inappropriate and establishes an alternative requirement. A school or district may administer the civics test questions in a language other than English to students who qualify for English learner services.

(c) Schools and districts may administer civics test questions as part of the social studies curriculum. A district must not prevent a student from graduating or deny a student a high school diploma for failing to correctly answer at least 30 of 50 civics test questions.

(d) The commissioner and public schools and school districts must not charge students any fees related to this subdivision.

120B.024 CREDITS.

Subd. 1. Graduation requirements.

Students beginning 9th grade in the 2011-2012 school year and later must successfully complete the following high school level credits for graduation:

- (1) four credits of language arts sufficient to satisfy all of the academic standards in English language arts;
- (2) three credits of mathematics, including an algebra II credit or its equivalent, sufficient to satisfy all of the academic standards in mathematics;
- (3) an algebra I credit by the end of 8th grade sufficient to satisfy all of the 8th grade standards in mathematics;
- (4) three credits of science, including at least one credit of biology, one credit of chemistry or physics, and one elective credit of science. The combination of credits under this clause must be sufficient to satisfy (i) all of the academic standards in either chemistry or physics and (ii) all other academic standards in science.

120B.11 SCHOOL DISTRICT PROCESS FOR REVIEWING CURRICULUM, INSTRUCTION, AND STUDENT ACHIEVEMENT; STRIVING FOR THE WORLD'S BEST WORKFORCE.

Subd. 1. Definitions.

For the purposes of this section and section [120B.10](#), the following terms have the meanings given them.

- (a) "Instruction" means methods of providing learning experiences that enable a student to meet state and district academic standards and graduation requirements including applied and experiential learning.
- (b) "Curriculum" means district or school adopted programs and written plans for providing students with learning experiences that lead to expected knowledge and skills and career and college readiness.
- (c) "World's best workforce" means striving to: meet school readiness goals; have all third grade students achieve grade-level literacy; close the academic achievement gap among all racial and ethnic groups of students and between students living in poverty and students not living in poverty; have all students attain career and college readiness before graduating from high school; and have all students graduate from high school.

(d) "Experiential learning" means learning for students that includes career exploration through a specific class or course or through work-based experiences such as job shadowing, mentoring, entrepreneurship, service learning, volunteering, internships, other cooperative work experience, youth apprenticeship, or employment.

Subd. 1a. Performance measures.

Measures to determine school district and school site progress in striving to create the world's best workforce must include at least:

- (1) the size of the academic achievement gap, rigorous course taking under section [120B.35, subdivision 3](#), paragraph (c), clause (2), and enrichment experiences by student subgroup;
- (2) student performance on the Minnesota Comprehensive Assessments;
- (3) high school graduation rates; and
- (4) career and college readiness under section [120B.30, subdivision 1](#).

Subd. 2. Adopting plans and budgets.

A school board, at a public meeting, shall adopt a comprehensive, long-term strategic plan to support and improve teaching and learning that is aligned with creating the world's best workforce and includes:

- (1) clearly defined district and school site goals and benchmarks for instruction and student achievement for all student subgroups identified in section [120B.35, subdivision 3](#), paragraph (b), clause (2);
- (2) a process to assess and evaluate each student's progress toward meeting state and local academic standards, assess and identify students to participate in gifted and talented programs and accelerate their instruction, and adopt early-admission procedures consistent with section [120B.15](#), and identifying the strengths and weaknesses of instruction in pursuit of student and school success and curriculum affecting students' progress and growth toward career and college readiness and leading to the world's best workforce;
- (3) a system to periodically review and evaluate the effectiveness of all instruction and curriculum, taking into account strategies and best practices, student outcomes, school principal evaluations under section [123B.147](#), subdivision 3, students' access to effective teachers who are members of populations underrepresented among the licensed teachers in the district or school and who reflect the diversity of enrolled students under section [120B.35, subdivision 3](#), paragraph (b), clause (2), and teacher evaluations under section [122A.40, subdivision 8](#), or [122A.41](#), subdivision 5;
- (4) strategies for improving instruction, curriculum, and student achievement, including the English and, where practicable, the native language development and the academic achievement of English learners;

(5) a process to examine the equitable distribution of teachers and strategies to ensure low-income and minority children are not taught at higher rates than other children by inexperienced, ineffective, or out-of-field teachers;

(6) education effectiveness practices that integrate high-quality instruction, rigorous curriculum, technology, and a collaborative professional culture that develops and supports teacher quality, performance, and effectiveness; and

(7) an annual budget for continuing to implement the district plan.

Subd. 3. District advisory committee.

Each school board shall establish an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards, consistent with subdivision 2. A district advisory committee, to the extent possible, shall reflect the diversity of the district and its school sites, include teachers, parents, support staff, students, and other community residents, and provide translation to the extent appropriate and practicable. The district advisory committee shall pursue community support to accelerate the academic and native literacy and achievement of English learners with varied needs, from young children to adults, consistent with section [124D.59, subdivisions 2](#) and 2a. The district may establish site teams as subcommittees of the district advisory committee under subdivision 4. The district advisory committee shall recommend to the school board rigorous academic standards, student achievement goals and measures consistent with subdivision 1a and sections [120B.022](#), subdivisions 1a and 1b, and [120B.35](#), district assessments, means to improve students' equitable access to effective and more diverse teachers, and program evaluations. School sites may expand upon district evaluations of instruction, curriculum, assessments, or programs. Whenever possible, parents and other community residents shall comprise at least two-thirds of advisory committee members.

Subd. 4. Site team.

A school must establish a site team to develop and implement strategies and education effectiveness practices to improve instruction, curriculum, cultural competencies, including cultural awareness and cross-cultural communication, and student achievement at the school site, consistent with subdivision 2. The site team must include an equal number of teachers and administrators and at least one parent. The site team advises the board and the advisory committee about developing the annual budget and creates an instruction and curriculum improvement plan to align curriculum, assessment of student progress, and growth in meeting state and district academic standards and instruction.

Subd. 5. Report.

Consistent with requirements for school performance reports under section [120B.36, subdivision 1](#), the school board shall publish a report in the local newspaper with the largest circulation in the district, by mail, or by electronic means on the district Web site. The school board shall hold an annual public meeting to review, and revise where appropriate, student achievement goals, local assessment outcomes, plans, strategies, and practices for improving curriculum and instruction and cultural competency, and efforts to equitably distribute

diverse, effective, experienced, and in-field teachers, and to review district success in realizing the previously adopted student achievement goals and related benchmarks and the improvement plans leading to the world's best workforce. The school board must transmit an electronic summary of its report to the commissioner in the form and manner the commissioner determines.

Subd. 6.

[Repealed by amendment, [2013 c 116 art 2 s 6](#)]

Subd. 7. Periodic report.

Each school district shall periodically survey affected constituencies, in their native languages where appropriate and practicable, about their connection to and level of satisfaction with school. The district shall include the results of this evaluation in the summary report required under subdivision 5.

Subd. 8.

[Repealed by amendment, [2013 c 116 art 2 s 6](#)]

Subd. 9. Annual evaluation.

(a) The commissioner must identify effective strategies, practices, and use of resources by districts and school sites in striving for the world's best workforce. The commissioner must assist districts and sites throughout the state in implementing these effective strategies, practices, and use of resources.

(b) The commissioner must identify those districts in any consecutive three-year period not making sufficient progress toward improving teaching and learning for all students, including English learners with varied needs, consistent with section [124D.59](#), subdivisions 2 and 2a, and striving for the world's best workforce. The commissioner, in collaboration with the identified district, may require the district to use up to two percent of its basic general education revenue per fiscal year during the proximate three school years to implement commissioner-specified strategies and practices, consistent with paragraph (a), to improve and accelerate its progress in realizing its goals under this section. In implementing this section, the commissioner must consider districts' budget constraints and legal obligations.

(c) The commissioner shall report by January 25 of each year to the committees of the legislature having jurisdiction over kindergarten through grade 12 education the list of school districts that have not submitted their report to the commissioner under subdivision 5 and the list of school districts not achieving their performance goals established in their plan under subdivision 2.

120B.021 REQUIRED ACADEMIC STANDARDS.

Subd. 1. Required academic standards.

(a) The following subject areas are required for statewide accountability:

(1) language arts;

- (2) mathematics;
- (3) science;
- (4) social studies, including history, geography, economics, and government and citizenship that includes civics consistent with section [120B.02, subdivision 3](#);
- (5) physical education;
- (6) health, for which locally developed academic standards apply; and
- (7) the arts, for which statewide or locally developed academic standards apply, as determined by the school district. Public elementary and middle schools must offer at least three and require at least two of the following four arts areas: dance; music; theater; and visual arts. Public high schools must offer at least three and require at least one of the following five arts areas: media arts; dance; music; theater; and visual arts.

120B.35 STUDENT ACADEMIC ACHIEVEMENT AND GROWTH.

Subd. 3. State growth target; other state measures.

(a)(1) The state's educational assessment system measuring individual students' educational growth is based on indicators of achievement growth that show an individual student's prior achievement. Indicators of achievement and prior achievement must be based on highly reliable statewide or districtwide assessments.

(c) When reporting student performance under section [120B.36, subdivision 1](#), the commissioner annually, beginning July 1, 2011, must report two core measures indicating the extent to which current high school graduates are being prepared for postsecondary academic and career opportunities:

- (1) a preparation measure indicating the number and percentage of high school graduates in the most recent school year who completed course work important to preparing them for postsecondary academic and career opportunities, consistent with the core academic subjects required for admission to Minnesota's public colleges and universities as determined by the Office of Higher Education under chapter 136A; and
- (2) a rigorous coursework measure indicating the number and percentage of high school graduates in the most recent school year who successfully completed one or more college-level advanced placement, international baccalaureate, postsecondary enrollment options including concurrent enrollment, other rigorous courses of study under section [120B.021, subdivision 1a](#), or industry certification courses or programs.

When reporting the core measures under clauses (1) and (2), the commissioner must also analyze and report separate categories of information using the student categories identified under the federal Elementary and Secondary Education Act, as most recently reauthorized, and other student categories under paragraph (a), clause (2).

122A.61 RESERVED REVENUE FOR STAFF DEVELOPMENT.

Subd. 1. Staff development revenue.

A district is required to reserve an amount equal to at least two percent of the basic revenue under section [126C.10, subdivision 2](#), for:

- (1) teacher development and evaluation under section [122A.40, subdivision 8](#), or [122A.41, subdivision 5](#);
- (2) principal development and evaluation under section [123B.147, subdivision 3](#);
- (3) professional development under section [122A.60](#); and
- (4) in-service education for programs under section [120B.22, subdivision 2](#).

To the extent extra funds remain, staff development revenue may be used for staff development plans, including plans for challenging instructional activities and experiences under section [122A.60](#), and for curriculum development and programs, other in-service education, teachers' mentoring under section [122A.70](#) and evaluation, teachers' workshops, teacher conferences, the cost of substitute teachers for staff development purposes, preservice and in-service education for special education professionals and paraprofessionals, and other related costs for staff development efforts. A district may annually waive the requirement to reserve their basic revenue under this section if a majority vote of the licensed teachers in the district and a majority vote of the school board agree to a resolution to waive the requirement. A district in statutory operating debt is exempt from reserving basic revenue according to this section. Districts may expend an additional amount of unreserved revenue for staff development based on their needs.

Subd. 2.

[Repealed, [2014 c 272 art 3 s 57](#)]

Subd. 3. Coursework and training.

A school district may use the revenue reserved under subdivision 1 for grants to the district's teachers to pay for coursework and training leading to certification as a college in the schools or concurrent enrollment teacher. In order to receive a grant, the teacher must be enrolled in a program that includes coursework and training focused on teaching a core subject.

123A.48 CONSOLIDATION.

Subd. 1. Proceeding to consolidate.

Common or independent districts or parts thereof, or any combination of the foregoing may consolidate into a single independent district by proceedings taken in accordance with this section. The proposed new district must contain at least 18 sections of land.

Subd. 2. Resolution.

(a) Upon a resolution of a board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is less, the county auditor of the county which contains the greatest land area of the proposed new district shall prepare a plat. The resolution or petition must show the approximate area proposed for consolidation.

(b) The resolution or petition may propose the following:

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, or that the taxable property in the newly created district will be taxable for the payment of all or a portion of the bonded debt previously incurred by any component district as provided in subdivision 18;

(2) that obligations for a capital loan or an energy loan made according to section [216C.37](#) or sections [298.292](#) to [298.298](#) outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that all or a portion of the loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the preexisting district that obtained the loan;

(3) that referendum levies previously approved by voters of the component districts pursuant to section [126C.17, subdivision 9](#), or its predecessor provision, be combined as provided in section [123A.73, subdivision 4](#) or 5, or that the referendum levies be discontinued;

(4) that the board of the newly created district consist of the number of members determined by the component districts, which may be six or seven members elected according to subdivision 20, or any number of existing school board members of the component districts, and a method to gradually reduce the membership to six or seven; or

(5) that separate election districts from which board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts be established.

The resolution must provide for election of board members from one of the following options: single-member districts; multimember districts; at large; or a combination of these options. The resolution must include a plan for the orderly transition to the option chosen.

A group of districts that operates a cooperative secondary facility funded under section [123A.443](#) may also propose a temporary board structure as specified in section [123A.443, subdivision 9](#).

If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected.

(c) The plat must show:

- (1) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,
- (2) The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,
- (3) The boundaries of any proposed separate election districts, and
- (4) Other pertinent information as determined by the county auditor.

123B.10 PUBLICATION OF FINANCIAL INFORMATION.

Subd. 1. Budgets; form of notification.

- (a) Every board must publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner within one week of the acceptance of the final audit by the board, or November 30, whichever is earlier. The forms prescribed must be designed so that year to year comparisons of revenue, expenditures and fund balances can be made.
- (b) A school board annually must notify the public of its revenue, expenditures, fund balances, and other relevant budget information. The board must post the materials in a conspicuous place on the district's official Web site, including a link to the district's school report card on the Department of Education's Web site, and publish a summary of the information and the address of the district's official Web site where the information can be found in a qualified newspaper of general circulation in the district.

Subd. 2. Debt summary.

The board must also publish at the same time a summary of bonds outstanding, paid, and sold; a summary of orders not paid for want of funds; certificates of indebtedness for the year ending June 30; the statutory operating debt of the district as defined and certified pursuant to section [123B.81](#); and the balance amount of the reserved fund balance reserve account for purposes of statutory operating debt reduction established pursuant to sections [126C.40](#) to [126C.45](#), [126C.48](#), and [124D.22](#).

Subd. 3. Budget inspection.

A statement must be included in the publication that the complete budget in detail may be inspected by any resident of the district upon request to the chief school administrator.

Subd. 4. Cost per pupil.

The board must also publish at the same time the average cost per pupil in average daily membership educated in that district in the preceding year. This computation must be made exclusive of debt service or capital outlay costs.

123B.52 CONTRACTS.

Subd. 1. Contracts.

A contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws and information systems software, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section [471.345, subdivision 3](#), must not be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. This notice must state the time and place of receiving bids and contain a brief description of the subject matter.

Additional publication in the official newspaper or elsewhere may be made as the board shall deem necessary.

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract for which a call for bids has been issued must be awarded to the lowest responsible bidder, be duly executed in writing, and be otherwise conditioned as required by law. The person to whom the contract is awarded shall give a sufficient bond to the board for its faithful performance. Notwithstanding section [574.26](#) or any other law to the contrary, on a contract limited to the purchase of a finished tangible product, a board may require, at its discretion, a performance bond of a contractor in the amount the board considers necessary. A record must be kept of all bids, with names of bidders and amount of bids, and with the successful bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid must be rejected unless the alteration or erasure is corrected as provided in this section. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may re-advertise. Standard requirement price contracts established for supplies or services to be purchased by the district must be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the contract may request that the other party demonstrate such increase or decrease. The term of such contracts must not exceed two years with an option on the part of the district to renew for an additional two years, except as provided in subdivision 7. Contracts for the purchase of perishable food items, except milk for school lunches and vocational training programs, in any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section [471.345, subdivision 3](#). All quotations obtained shall be kept on file for a period of at least one year after receipt.

Every contract made without compliance with the provisions of this section shall be void. Except in the case of the destruction of buildings or injury thereto, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids.

123B.88 INDEPENDENT SCHOOL DISTRICTS; TRANSPORTATION.

Subd. 1. Providing transportation.

The board may provide for the transportation of pupils to and from school and for any other purpose. The board may also provide for the transportation of pupils to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year, as it may deem advisable, and subject to its rules. In any district, the board must arrange for the attendance of all pupils living two miles or more from the school, except pupils whose transportation privileges have been voluntarily surrendered under subdivision 2, or whose privileges have been revoked under section [123B.91, subdivision 1](#), clause (6), or [123B.90, subdivision 2](#). The district may provide for the transportation of or the boarding and rooming of the pupils who may be more economically and conveniently provided for by that means. Arrangements for attendance may include a requirement that parents or guardians request transportation before it is provided. The board must provide necessary transportation consistent with section [123B.92, subdivision 1](#), paragraph (b), clause (4), for a child with a disability not yet enrolled in kindergarten for the provision of special instruction and services under sections [125A.03](#) to [125A.24](#), [125A.26](#) to [125A.48](#), and [125A.65](#). Special instruction and services for a child with a disability not yet enrolled in kindergarten include an individualized education program team placement in an early childhood program when that placement is necessary to address the child's level of functioning and needs. When transportation is provided, scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children, the determination of fees, and any other matter relating thereto must be within the sole discretion, control, and management of the board. The district may provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by that means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Subd. 1a. Full-service school zones.

The board may establish a full-service school zone by adopting a written resolution and may provide transportation for students attending a school in that full-service school zone. A full-service school zone may be established for a school that is located in an area with higher than average crime or other social and economic challenges and that provides education, health or human services, or other parental support in collaboration with a city, county, state, or nonprofit agency. The pupil transportation must be intended to stabilize enrollment and reduce mobility at the school located in a full-service school zone.

Subd. 2. Voluntary surrender of transportation privileges.

The parent or guardian of a student may voluntarily surrender the student's to and from school transportation privileges granted under subdivision 1.

Subd. 3. Transportation services contracts.

The board may contract for the furnishing of authorized transportation under section [123B.52](#), and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.

Subd. 3a. Pupil transportation safety committee.

(a) A school board may establish a pupil transportation safety committee. The chair of the pupil transportation safety committee is the district's school transportation safety director. The school board shall appoint the other members of the pupil transportation safety committee. Membership may include parents, school bus drivers, representatives of school bus companies, local law enforcement officials, other school district staff, and representatives from other units of local government.

(b) The duties of the pupil transportation safety committee include: (1) reviewing and recommending changes to the district's pupil transportation safety policy required under subdivision 1; and (2) developing a comprehensive plan for the safe transportation of students who face hazardous transportation conditions. The comprehensive hazardous transportation plan shall consider safety factors including the types of roads that students must cross, the speed of traffic on those roads, the age of the students, and any other factors as determined by the committee.

(c) The pupil transportation safety committee must hold at least one public meeting before adopting its comprehensive plan for transporting students who face hazardous transportation conditions.

(d) Any recommended changes to the district's pupil transportation safety policy and the comprehensive plan for hazardous transportation must be submitted to the school board.

Subd. 4. Instruction in a nonresident district.

The board may provide for the instruction of any resident pupil in another district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in the pupil's own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged, pursuant to section [123A.488, subdivision 2](#), and may provide transportation; provided, that such pupil shall continue to be a pupil of the district of residence for the payment of apportionment and other state aids.

Subd. 5. Admission of nonresident pupils.

The board may provide for the admission to the schools of the district, of nonresident pupils, and those above school age, and fix the rates of tuition for such pupils.

Subd. 6. Nonresident pupil defined.

For the purposes of this subdivision, a "nonresident pupil" is a pupil who resides in one district, defined as the "resident district" and attends school in another district, defined as the "nonresident district."

If requested, a nonresident district shall transport a nonresident pupil within its borders and may transport a nonresident pupil within the pupil's resident district. If a nonresident district decides to transport a nonresident pupil within the pupil's resident district, the nonresident district must notify the pupil's resident district of its decision, in writing, prior to providing transportation.

Subd. 7. Attendance in another state.

If high school pupils from a district within this state are being transported to a school in another state, the board of the district from which the pupils are being transported may provide free transportation and tuition for any or all of its elementary pupils to such school in another state and be entitled to state aid as provided by law.

Subd. 8. Authority to rent buses.

The board may rent a bus owned by the district excluding a motor-coach bus to any person for any lawful purpose. Bus rental must not interfere with the transportation of pupils by the district. A lessee may use and operate the bus without payment of a motor vehicle tax. The lessee is liable for any claims for injuries and damages arising out of the use and operation of a bus leased from the district. Except as provided in subdivision 15, the lessee shall procure insurance at the lessee's expense protecting the board and the district against claims for injuries and damages arising out of the use and operation of the bus.

Subd. 9. Non-pupil transportation; insurance.

Notwithstanding the provisions of section [221.021](#), any public school district or school bus contractor providing transportation services to a district on a regular basis in this state may operate school buses, excluding motor coach buses, for the purpose of providing transportation to non-pupils of the school district attending school events, as defined in section [123B.49, subdivision 3](#) or 4, provided that no carrier having a charter carrier permit has its principal office and place of business or bus garage within 12 miles of the principal office of the district. District owned buses and the operators thereof shall otherwise comply with the provisions of this section and the rules of the commissioner of public safety and shall be insured in at least the amounts stated in section [466.04, subdivision 1](#). In all cases the total cost of providing such services, as determined by sound accounting procedures, shall be paid by charges made against those using the buses.

Subd. 10. Transportation of any person.

Districts may use district owned or contractor operated school buses to provide transportation along regular school bus routes on a space available basis for any person. Such use of a bus must not interfere with the transportation of pupils to and from school or other authorized transportation of pupils. In all cases, the total additional cost of providing these services, as determined by sound accounting procedures, must be paid by charges made against those using these services or some third-party payor. In no case shall the additional cost of this transportation be paid by the district.

The provisions of section [65B.47, subdivision 4](#), shall be applicable to any person being transported pursuant to this subdivision.

Subd. 11. Part-time secondary students.

Districts may provide bus transportation along regular school bus routes on a space available basis for part-time students enrolled in secondary classes pursuant to section [124D.02, subdivisions 2, 3, and 4](#). Such use of a bus must not interfere with the transportation of pupils to and from school or other authorized transportation of pupils. The total additional cost of providing these services, as determined by sound accounting procedures, shall be paid by charges made against those using the services or some third-party payor.

Subd. 12. Early childhood family education participants.

Districts may provide bus transportation along school bus routes when space is available for participants in early childhood family education programs and school readiness programs if these services do not result in an increase in the district's expenditures for transportation. The costs allocated to these services, as determined by generally accepted accounting principles, shall be considered part of the authorized cost for transportation for the purposes of section [123B.92](#).

Subd. 13. Area learning center pupils between buildings.

Districts may provide between-building bus transportation along school bus routes when space is available, for pupils attending programs at an area learning center. The transportation is permitted between schools if it does not increase the district's expenditures for transportation. The cost of these services shall be considered part of the authorized cost for the purpose of section [123B.92](#).

Subd. 14. Transportation insurance.

The board may provide for the protection of pupils transported for school purposes or activities in district owned, operated, leased, or controlled motor vehicles against injuries or damages arising out of the operation of these vehicles. The board may purchase and pay for insurance from any funds available. An insurance contract covering this risk shall contain a waiver of the defense of governmental immunity. The payment of any insurance premiums by the district does not in itself make the district liable for any injuries or damages incurred by the transportation.

Subd. 15. Insurance; indemnity.

If a school board has obtained insurance pursuant to subdivision 14 or section [466.06](#), it may also obtain and pay for insurance coverage to indemnify a lessee and to protect the board and the district, in any amount not exceeding the limits of coverage provided for the insurance obtained pursuant to subdivision 14 or section [466.06](#) against claims for injuries and damages arising out of the use and operation of a district-owned bus while it is leased or rented to the lessee pursuant to subdivision 8. The rental charge shall include the cost of this additional insurance coverage. The procurement of this additional insurance coverage constitutes a waiver of the defense of governmental immunity to the extent of the additional coverage but has no effect on the liability of the board, the district, or its employees beyond the coverage so provided.

Subd. 16. Payment of insurance premiums; non-liability.

The board may provide and pay the premiums for the protection for school children, instructors and automobile owners, and any other agency cooperating in providing cars for districts where driver training courses are being

offered, against public liability, property damage, collision, fire and theft, arising out of the operation of any vehicle used in the courses. Nothing herein shall make the district liable for injuries resulting from the actions of such persons.

Subd. 17. Insurance; school safety patrol.

The board may provide and pay the premiums for insurance against injuries resulting to its pupils while assigned to and acting on a school safety patrol. Such insurance may provide for the payment of either cash benefits to such injured pupil or for the payment of hospital and medical benefits to or for such injured pupil, or both. Nothing herein shall be construed to make the district liable for such injuries.

Subd. 18. Snow removal.

The board may enter into contracts for the removal of snow from roads used for regular bus routes transporting pupils to and from school either within or outside the district.

Subd. 19. Disabled person transport to day training and habilitation program.

The board must contract with any licensed day training and habilitation program attended by a resident disabled person who fulfills the eligibility requirements of section [256B.092](#), to transport the resident disabled person to the program in return for payment by the program of the cost of the transportation, if transportation by the board is in the best interest of the disabled person and is not unreasonably burdensome to the district and if a less expensive, reasonable, alternative means of transporting the disabled person does not exist. If the board and the program are unable to agree to a contract, either the board or the program may appeal to the commissioner to resolve the conflict. All decisions of the commissioner shall be final and binding upon the board and the program.

Subd. 20. Custodial parent transportation.

The board may provide transportation for a pupil who is a custodial parent and that pupil's child between the pupil's home and a child care provider and between the provider and the school. The board must establish criteria for transportation it provides according to this subdivision.

Subd. 21. Pupil transport on staff development days.

A district may provide bus transportation between home and school for pupils on days devoted to parent-teacher conferences, teacher's workshops, or other staff development opportunities. If approved by the commissioner as part of a program of educational improvement, the cost of providing this transportation, as determined by generally accepted accounting principles, must be considered part of the authorized cost for regular transportation for the purposes of section [123B.92](#). The commissioner shall approve inclusion of these costs in the regular transportation category only if the total number of instructional hours in the school year divided by the total number of days for which transportation is provided equals or exceeds the number of instructional hours per day prescribed in the rules of the Department of Education.

Subd. 22. Postsecondary enrollment options pupils.

Districts may provide bus transportation along school bus routes when space is available, for pupils attending programs at a postsecondary institution under the postsecondary enrollment options program. Fees collected for this service under section [123B.36, subdivision 1](#), paragraph (13), shall be subtracted from the authorized cost for non-regular transportation for the purpose of section [123B.92](#). A school district may provide transportation for a pupil participating in an articulated program operated under an agreement between the school district and the postsecondary institution.

123B.92 TRANSPORTATION AID ENTITLEMENT.

Subd. 1. Definitions.

For purposes of this section and section [125A.76](#), the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section [124D.128](#) for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type III vehicles, as defined in section [169.011, subdivision 71](#), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections [123B.84](#) to [123B.87](#);

- (ii) transportation of resident pupils to and from language immersion programs;
- (iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;
- (iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and
- (v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person or other location chosen by the pupil's parent or guardian, or an after-school program for children operated by a political subdivision of the state, as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility, residence, or program is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

- (i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards; and
- (ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

- (i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

- (ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections [125A.03](#) to [125A.24](#), [125A.26](#) to [125A.48](#), and [125A.65](#) are provided, within or outside the district where services are provided;
- (iii) necessary transportation for resident pupils with disabilities required by sections [125A.12](#), and [125A.26](#) to [125A.48](#);
- (iv) board and lodging for pupils with disabilities in a district maintaining special classes;
- (v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections [125A.18](#), and [125A.26](#) to [125A.48](#), for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;
- (vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes;
- (vii) transportation of pupils for a curricular field trip activity on a school bus equipped with a power lift when the power lift is required by a student's disability or section 504 plan; and
- (viii) services described in clauses (i) to (vii), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individualized education program or in conjunction with a learning year program established under section [124D.128](#).

For purposes of computing special education initial aid under section 125A.76, the cost of providing transportation for children with disabilities includes (A) 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; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a). For purposes of sub-item (A), a school district may transport a child who does not have a school of origin to the same school attended by that child's sibling, if the siblings are homeless or in a shelter care facility.

(5) "Nonpublic non-regular transportation" is:

- (i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section [123B.44](#); and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section [123B.41, subdivision 13](#).

Subd. 2.

[Repealed, [1999 c 241 art 1 s 69](#)]

Subd. 3. Alternative attendance programs.

(a) A district that enrolls nonresident pupils in programs under sections [123A.05](#) to [123A.08](#), [124D.03](#), [124D.08](#), and [124D.68](#), must provide authorized transportation to the pupil within the attendance area for the school that the pupil attends at the same level of service that is provided to resident pupils within the attendance area. The resident district need not provide or pay for transportation between the pupil's residence and the district's border.

(b) A district may provide transportation to allow a student who attends a high-need English learner program and who resides within the transportation attendance area of the program to continue in the program until the student completes the highest grade level offered by the program.

(c) A homeless nonresident pupil enrolled under section [124D.08, subdivision 2a](#), must be provided transportation from the pupil's district of residence to and from the school of enrollment.

Subd. 4.

[Repealed, [1999 c 241 art 1 s 69](#)]

Subd. 5. District reports.

(a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated as the district transportation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) A school district that contracts for transportation service may allocate transportation expense to transportation categories based upon contract rates. Districts may only allocate transportation expense to transportation categories based upon contract rates if contract rates are reasonably consistent on a cost-per-hour, cost-per-mile, cost-per-route, or cost-per-student basis. In order to allocate transportation expense based upon contract rates, a school district, if audited, must be able to demonstrate to the auditor that variances in the application of transportation cost basis rates are appropriate.

(e) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, may be allocated among transportation categories based on cost-per-mile or cost-per-student regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among transportation categories based on cost-per-mile or cost-per-student. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

124D.122 ESTABLISHMENT OF FLEXIBLE LEARNING YEAR PROGRAM.

The board of any district or a consortium of districts, with the approval of the commissioner, may establish and operate a flexible learning year program in one or more of the day or residential facilities for children with a disability within the district. Consortia may use a single application and evaluation process, though results, public hearings, and board approvals must be obtained for each district as required under appropriate sections. The commissioner must approve or disapprove of a flexible learning year application within 45 business days of receiving the application. If the commissioner disapproves the application, the commissioner must give the district or consortium detailed reasons for the disapproval.

125B.07 DEPARTMENT DUTIES.

Subd. 1. Data acquisition calendar.

The Department of Education shall maintain a current annual data acquisition calendar specifying the reports which districts are required to provide to the department and the dates these reports are due.

Subd. 2. Exemption from chapter 14.

The annual data acquisition calendar and the essential data elements are exempt from the Administrative Procedure Act.

Subd. 3. Data system.

The department shall develop and operate a computerized data system. The system shall include: (1) information required by federal or state law or rule; and (2) information needed by the divisions of the department in order to disburse funds, to implement research or special projects approved by the commissioner, and to meet goals or provide information required by the commissioner, the governor, the legislature or the federal government.

Subd. 4. Certification of software vendors.

The commissioner shall maintain a list of certified service providers for administrative data processing software and support. To be certified, a service provider must provide the commissioner with a written statement identifying software products and support functions that will be provided to school districts and stating its intent to meet state standards for software, data elements, edits, and support services. The standards must ensure the quality of the data reported to the state. The commissioner must conduct regular training sessions for service providers on the standards. If a service provider fails to meet the standards, the commissioner must notify the service provider of areas of noncompliance and assist the service provider in correcting the problem. If the provider fails to comply with standards within two months of being notified of noncompliance, the commissioner may remove the service provider from the list of certified providers. The commissioner may recertify a service provider when the commissioner determines that the areas of noncompliance have been corrected.

Subd. 5. Information on certified service providers.

The commissioner must include the list of certified service providers in the annual data acquisition calendar. The commissioner must notify school districts if a service provider is removed from the list and of the areas of noncompliance.

Subd. 6. Essential data.

The department shall maintain a list of essential data elements which must be recorded and stored about each pupil, licensed and non-licensed staff member, and educational program. Each school district must provide the essential data to the department in the form and format prescribed by the department.

Subd. 7. Contracting.

The department may provide by contract for the technical support of and the development of applications software by a regional management information center or by any other appropriate provider.

126C.12 LEARNING AND DEVELOPMENT REVENUE AMOUNT AND USE.

Subd. 1. Revenue.

Of a district's general education revenue for fiscal year 2015 and thereafter each school district shall reserve an amount equal to the following calculation:

- (1) average daily membership, according to section [126C.05, subdivision 5](#), in kindergarten times \$299; plus
- (2) average daily membership, according to section [126C.05, subdivision 5](#), in grades 1 to 6 times \$459.

Subd. 2. Definitions.

- (a) "Classroom teacher" means a public employee licensed by the Professional Educator Licensing and Standards Board who is authorized to teach all subjects to children in any grade in kindergarten through grade 6 and whose duties are full-time regular classroom instruction, excluding a teacher for whom federal aids are received or for whom categorical aids are received under section [125A.76](#) or who is an itinerant teacher or provides instruction outside of the regular classroom. Except as provided in section [122A.68, subdivision 6](#), classroom teacher does not include supervisory and support personnel defined in section [122A.15](#). A classroom teacher whose duties are less than full-time instruction must be included as an equivalent only for the number of hours of instruction in kindergarten through grade 3.
- (b) "Class size" means the districtwide ratio at each grade level of the number of full-time students in kindergarten through grade 3 served at least 40 percent of the time in regular classrooms to the number of full-time classroom teachers in kindergarten through grade 3, determined as of October 1 of each school year.

Subd. 3. Instruction contact time.

Instruction may be provided by a classroom teacher or by a team of classroom teachers, or by a teacher resident supervised by a classroom teacher. The district must maximize classroom teacher to learner average instructional contact time in the core subjects of reading and mathematics.

Subd. 4. Revenue use.

- (a) Revenue must be used to reduce and maintain the district's average class size in kindergarten through grade 3 to a level of 17 to 1 on average in each of the respective grades.
- (b) A district must not increase the districtwide class sizes in other grades as a result of reducing class sizes in kindergarten through grade 3. Revenue may not be used to provide instructor preparation. A district may use a portion of the revenue reserved under this section to employ up to the same number of full-time equivalent education assistants or aides as the district employed during the 1992-1993 school year under Minnesota Statutes 1992, section [124.331, subdivision 2](#), through fiscal year 2002. Beginning in fiscal year 2003, class size reduction revenue may only be reserved to employ classroom teachers contributing to lower class sizes in kindergarten through grade 3.

Subd. 5. Additional revenue use.

If the board of a district determines that the district has achieved and is maintaining the class sizes specified in subdivision 4, the board may use the revenue to reduce class size in grades 4, 5, and 6, prepare and use individualized learning plans, improve program offerings, purchase instructional material, services, or technology, or provide staff development needed for reduced class sizes.