

Fiscal Standards

Fiscal resources are the means for purchasing and/or obtaining the supplies, materials, equipment, services, and personnel required to provide programs for children and students with disabilities. The district, in providing for the education of children and students with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State's policies and procedures. Each year the district must present to the Minnesota Department of Education (MDE) information to demonstrate that the amounts provided to the district under IDEA are expended in accordance with state and federal law.

In the following text, application refers to the district's submission of an approved local budget and the annual application for state and federal special education aids. Reporting refers to the reports that must be submitted to state and federal agencies, including all supporting documentation as required for an audit or monitoring.

Federal Revenue Sources

Federal Application Process

See 20 U.S.C. §§ 1401-1461.

Eligibility

A State shall be eligible for a grant under this section if such State (1) is eligible under the United States Code, title 20, section 1412 of this title to receive a grant under this subchapter and (2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State. (20 U.S.C. § 1419(b)(2).)

Part B of IDEA Flow-Through

State Plan: See 20 U.S.C. § 1412 (State educational agency eligibility) and 20 U.S.C. § 1413 (local educational agency eligibility).

Preschool Subgrants to Local Educational Agencies

Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) of this section to local educational agencies in the State that have established their eligibility under the United States Code, title 20, section 1413, of this title, as follows: (A) The State shall first award each local education agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 1419(c)(3) of this title, as such section was then in effect. (B) After making allocations under subparagraph (A), the State shall (i). allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and (ii). allocate 15 percent of those remaining funds to those

local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency. (20 U.S.C. § 1419(g)(1).)

State Waiver of Requirement Regarding Supplementing and not Supplanting with Part B Funds

(a) Except as provided under the Code of Federal Regulations, title 34, sections 300.202 through 300.205, funds paid to a State under Part B of the Act must be used to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of SEAs or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act and in no case to supplant those Federal, State, and local funds. A State may use funds it retains under section 300.704 (a) and (b) without regard to the prohibition on supplanting other funds.

(b) If a State provides clear and convincing evidence that all eligible children with disabilities throughout the State have FAPE available to them, the Secretary may waive for a period of one year in whole or in part the requirement under section 300.162 (regarding State-level nonsupplanting) if the Secretary concurs with the evidence provided by the State.

(d) If the Secretary determines that the request and supporting evidence submitted by the State makes a prima facie showing that FAPE is, and will remain, available to all eligible children with disabilities in the State, the Secretary, after notice to the public throughout the State, conducts a public hearing at which all interested persons and organizations may present evidence regarding the following issues: (1) Whether FAPE is currently available to all eligible children with disabilities in the State. (2) Whether the State will be able to ensure that FAPE remains available to all eligible children with disabilities in the State if the Secretary provides the requested waiver. (e). Following the hearing, the Secretary, based on all submitted evidence, will provide a waiver, in whole or in part, for a period of one year if the Secretary finds that the State has provided clear and convincing evidence that FAPE is currently available to all eligible children with disabilities in the State, and the State will be able to ensure that FAPE remains available to all eligible children with disabilities in the State if the Secretary provides the requested waiver. (34 C.F.R. § 300.164, Subd.(a),(b),(d), & (e).)

Fiscal Resources and Reporting Standards

Budget Approval and Annual Application

Local Budget Development and Approval

Prior to July 1 of each year, the board of each district must approve and adopt its revenue and expenditure budgets for the next school year. The budget document so adopted must be considered an expenditure authorizing or appropriations document. No funds shall be expended by any board or district for any purpose in any school year prior to the adoption of the budget document which authorizes that expenditure or prior to an amendment to the budget document by the board to authorize the expenditure. Expenditures of funds in violation of this subdivision shall be considered unlawful expenditures. (Minn. Stat. § 123B.77, Subd. 4).

Joint Powers Agreements

All governmental units formed by joint powers agreements entered into by districts pursuant to Minnesota Statutes, section 123A.22, 125A.03 to 125A.24, 125A.26 to 125A.48, 125A.65, 471.59, or any other law and all service cooperatives and education districts are subject to the provisions of this [Minn. Stat. § 123B.77] section. (Minn. Stat. § 123B.77, Subd. 5).

Program and Aid Approval

Before June 1 of each year, each district providing special instruction and services to children with a disability, including children eligible for Part C, as defined in Minnesota Statutes, section 125A.02, subdivision 1, and section 125A.27, subdivision 8, must submit to the commissioner an application for approval of these programs and their budgets for the next fiscal year. The application must include an enumeration of the costs proposed as eligible for state aid pursuant to this section and of the estimated number and grade level of children with a disability in the district who will receive special instruction and services during the next fiscal year. The application must also include any other information deemed necessary by the commissioner for the calculation of state aid and for the evaluation of the necessity of the program, the necessity of the personnel to be employed in the program, for determining the amount which the program will receive from grants from federal funds, or special grants from other state sources, and the program's compliance with the rules and standards of the Department of Education. The commissioner shall review each application to determine whether the program and the personnel to be employed in the program are actually necessary and essential to meet the district's obligation to provide special instruction and services to children with a disability pursuant to sections 125A.03 to 125A.24, 125A.259 to 125A.48, and 125A.65. The commissioner shall not approve aid pursuant to this section for any program or for the salary of any personnel determined to be unnecessary or unessential on the basis of this review. The commissioner may withhold all or any portion of the aid for programs which receive grants from federal funds, or special grants from other state sources. By August 31 the commissioner shall approve, disapprove, or modify each application, and notify each applying district of the action and of the estimated amount of aid for the programs. The commissioner shall provide procedures for districts to submit additional applications for program and budget approval during the fiscal year, for programs needed to meet any substantial changes in the needs of children with a disability in the district. Notwithstanding the provisions of section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid pursuant to this section without proceeding according to section 127A.42 at any time the commissioner determines that the program does not comply with rules of the Department of Education or that any facts concerning the program or its budget differ from the facts in the district's approved application. (Minn. Stat. § 125A.75, Subd. 4).

Sharing Information with State and Public

Information for State Education Agency

The LEA must provide the SEA with information necessary to enable the SEA to carry out its duties under Part B of the Act, including, with respect to the Code of Federal Regulations, title 34, sections 300.157 and 300.160, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act. (34 C.F.R. § 300.211).

Public Information

The LEA must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part B of the Act. (34 C.F.R. § 300.212).

Conditions of Eligibility

Consistency with State Policies

The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under the Code of Federal Regulations, title 34, section 300.101 through 300.163, and sections 300.165 through 300.174. (34 C.F.R. § 300.201).

Use of Amounts

(a) General Amounts provided to the LEA under Part B of the Act (1) Must be expended in accordance with the applicable provisions of this part; (2) Must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with paragraph (b) of this section; and (3) Must be used to supplement State, local and other Federal funds and not to supplant those funds.

(b) (1) (i) The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to paragraph (b)(1)(ii) of this section. (ii) The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or State funds are available for nondisabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children. (2)(i) An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used. (ii) The amount described in paragraph (b)(2)(i) of this section is determined in accordance with the definition of excess costs in section 300.16. That amount may not include any capital or debt service. (3) If two or more LEAs jointly establish eligibility in accordance with the Code of Federal Regulations, title 34, section 300.223, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in section 300.16 in those agencies for elementary or secondary school students, as the case may be. (34 C.F.R. § 300.202).

Maintenance of Effort

Except as provided in the Code of Federal Regulations, title 34, sections 300.204 and 300.205, funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year. (34 C.F.R. § 300.203(a).)

Exception to Maintenance of Effort

Notwithstanding the restriction in the Code of Federal Regulations, title 34, section 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the

following: (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel. (b). A decrease in the enrollment of children with disabilities. (c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child (1) Has left the jurisdiction of the agency; (2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or (3) No longer needs the program of special education. (d). The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities. (e) The assumption of cost by the high cost fund operated by the SEA under section 300.704(c). (34 C.F.R. § 300.204).

Adjustment to Local Fiscal Efforts in Certain Fiscal Years

(a) Notwithstanding the Code of Federal Regulations, title 34, section 300.202(a)(2) and b) and section 300.203(a), and except as provided in paragraph (d) of this section and section 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under section § 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by section 300.203(a) by not more than 50 percent of the amount of that excess.

(b) If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be support with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

(c) Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.

(d) The amount of funds expended by an LEA for early intervening services under section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section. (34 C.F.R. § 300.205).

School-wide Programs under Title I of the ESEA

(a) Notwithstanding the provisions of the Code of Federal Regulations, title 34, sections 300.202 and 300.203 or any other provisions of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry out a schoolwide program under section 1114 of the ESEA, except that the amount used in any schoolwide program may not exceed (1)(i) The amount received by the LEA under Part B of that Act for that fiscal year; divided by (ii) The number of children with disabilities in the jurisdiction of the LEA; and multiplied by (2) The number of children with disabilities participating in the schoolwide program. (b) The funds described in paragraph (a) of this section are subject to the following conditions: (1) The funds must be considered as Federal Part B funds for purposes of the calculations required by sections 300.202(a)(2) and (a)(3). (2) The funds may be used without regard to the requirements of section 300.202(a)(1). (c) Except as provided in paragraph (b) of this section, all other requirements of Part B of the Act must be met by an LEA using Part B funds in

accordance with paragraph (a) of this section, including ensuring that children with disabilities in schoolwide program schools (1) Receive services in accordance with a properly developed IEP; and (2) Are afforded all of the rights and services guaranteed to children with disabilities under the Act. (34 C.F.R § 300.206).

Permissive Use of Funds(a) Notwithstanding §§ 300.202, 300.203(a), and section 300.162(b), funds provided to an LEA under Part B of the Act may be used for the following activities: (1) For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. (2) To develop and implement coordinated, early intervening educational services system in accordance with section 300.226. (3) To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high cost special education and related services. (b) An LEA may use funds received under Part B of the Act to purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities that is needed for the implementation of those case management activities. (34 C.F.R. § 300.208).

State Special Education Program Aid

Travel for Home-based Services

The state must pay each district one-half of the sum actually expended by the district, based on mileage, for necessary travel of essential personnel providing home-based or community-based services to children with a disability under age five and their families. (Minn. Stat. § 125A.75, Subd. 1).

Full State Payment (Special Pupils)

The state must pay each district the actual cost incurred in providing instruction and services for a child whose district of residence has been determined by section 125A.17 or 125A.51, paragraph (b), and who is temporarily placed in a state institution, a licensed residential facility, or foster facility for care and treatment. The regular education program at the facility must be an approved program according to section 125A.515. Upon following the procedure specified by the commissioner, the district may bill the state the actual cost incurred in providing the services including transportation costs and a proportionate amount of capital expenditures and debt service, minus the amount of the basic revenue, as defined in section 126C.10, subdivision 2, of the district for the child and the special education aid, transportation aid, and any other aid earned on behalf of the child. The limit in subdivision 2 applies to aid paid pursuant to this subdivision. To the extent possible, the commissioner shall obtain reimbursement from another state for the cost of serving any child whose parent or guardian resides in that state. The commissioner may contract with the appropriate authorities of other states to effect reimbursement. All money received from other states must be paid to the state treasury and placed in the general fund. (Minn. Stat. § 125A.75, Subd. 3).

Special Education Court Placed Non-Minnesota Residents

Notwithstanding Minnesota Statutes, section 125A.03 to 125A.24 and 125A.65, for children who are nonresidents of Minnesota, receive services under section 125A.76, subdivisions 1 and 2, and are placed in the serving school district by court action, the serving school district shall submit unreimbursed tuition bills for eligible services to the Department of Education instead of the resident school district. To be eligible for reimbursement, the serving school district, as part of its child intake procedures, must demonstrate good faith effort to obtain from the placing agency a financial commitment to pay tuition costs. (Minn. Stat. § 125A.79, Subd. 4).

Special Education Court Placed Out of State for Minnesota Residents

For children who are residents of the state, receive services under Minnesota Statutes, section 125A.76, subdivisions 1 and 2, and are placed in a care and treatment facility by court action in a state that does not have a reciprocity agreement with the commissioner under section 125A.155, the resident school district shall submit the balance of the tuition bills, minus the general education revenue, excluding basic skills revenue and alternative teacher compensation revenue, and referendum equalization aid attributable to the pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit minus the special education contracted services initial revenue attributable to the pupil. (Minn. Stat. § 125A.79, Subd. 8)

Allocation of Expenditures and Payment of Aid to Cooperative Centers, Service Cooperatives, Education Districts, and Intermediate Districts

For purposes of this section, a special education cooperative, service cooperative, education district, or an intermediate district must allocate its approved expenditures for special education programs among participating districts. Special education aid for services provided by a cooperative, service cooperative, education district, or intermediate district must be paid to the participating school districts. (Minn. Stat § 125A.75, Subd. 7).

Payments to Resident and Nonresident Districts

District of Residence for Pupil Ages 18 – 21 Years of Age

For a pupil who is age 18 through 21 years of age and is receiving special education, the district where the pupil's parents, legal guardian, or conservator lives shall be financially responsible for the cost of the special education program even in those cases where the pupil serves as the parent according to Code of Federal Regulations, title 34, section 300.20 for due process purposes. (Minn. R. 3525.0800, subp. 9).

127A.47 Payments to Resident and Nonresident Districts

Subdivision 1. Aid to serving district.

(a) Unless otherwise specifically provided by law, general education aid must be paid according to this subdivision.

(b) Except as provided in paragraph (c), general education aid must be paid to the serving district.

(c) If the resident district pays tuition for a pupil under Minnesota Statutes, section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, general education aid, excluding basic skills revenue under section 126C.10, subdivision 4, must be paid to the resident district.

Subd. 7. Alternative attendance programs.

The general education aid and special education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the greater of (1) the referendum equalization aid attributable to the pupil in the nonresident district; or (2) the product of the district's open enrollment concentration index, the maximum amount of referendum revenue in the first tier, and the district's net open enrollment pupil units for that year. A district's open enrollment concentration index equals the greater of: (i) zero, or (ii) the lesser of 1.0, or the difference between the district's ratio of open enrollment pupil units served to its resident pupil units for that year and 0.2. This clause does not apply to a school district where more than 50 percent of the open enrollment students are enrolled solely in online learning courses.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) For fiscal year 2006, the district of residence must pay tuition to a district or an area learning center, operated according to paragraph (f), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit.

(e) For fiscal year 2007 and later, special education aid paid to a resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services,

including special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, for a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit. Special education aid paid to the district or cooperative providing special instruction and services for the pupil, or to the fiscal agent district for a cooperative, must be increased by the amount of the reduction in the aid paid to the resident district. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aids due to the district.

(f) An area learning center operated by a service cooperative, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d) or (e), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without compensatory revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center.

Subd. 8. Charter schools.

(a) The general education aid for districts must be adjusted for each pupil attending a charter school under section 124D.10. The adjustments must be made according to this subdivision.

(b) General education aid paid to a district in which a charter school not providing transportation according to section 124D.10, subdivision 16, is located must be increased by an amount equal to the sum of:

(1) the product of: (i) the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the district; times (ii) the adjusted marginal cost pupil units attributable to the pupil; plus

(2) the product of \$223 and the extended time marginal cost pupil units attributable to the pupil.

Eligibility for State Special Education Funds

A. Use of State Aid for Personnel: Salaries for essential personnel who are teachers and related services and support services staff members are reimbursable for the following

activities: A. child find and pupil identification; B. necessary short-term indirect or consultative services that are provided in conjunction with regular education prereferral activities to an individual suspected of having a disabling condition to determine whether referrals for evaluations shall be made; C. evaluation, progress reporting, and IEP planning for individual pupils; D. instruction or related and support services to pupils who have an IEP; E. parental involvement and due process; F. school psychological services and school social worker services provided for pupils identified as emotional or behavioral disordered according to part 3525.1329 alone or in conjunction with the instructional program outlined in any pupil's IEP; G. other related services provided in conjunction with the instructional program as outlined in a pupil's IEP; H.. paraprofessional services provided under the direction of a regular or special education teacher or a related services provider that: (1) enhance the instruction provided by the teacher or related services staff; and (2) . supplement instructional activities or to provide extended practice in instances in which the paraprofessional has had training and ongoing support from a special education teacher or related services staff; I. program coordination; and J. due process facilitation, except for attorney costs for suit preparation. Ongoing services for at-risk students, for example, truancy, suicide prevention, child abuse, or protection are not reimbursable. (Minn. R. 3525.1310).

Care and Treatment

Special education services provided to pupils and regular education students who have been placed for care and treatment are reimbursable in accordance with parts 3525.0800 and 3525.1310. A.. When regular education and special education services are provided, only the special education portion shall be reimbursed with special education aid. B. The special education services provided to pupils in accordance with an IEP are reimbursable. C. The indirect or consultative services provided in conjunction with regular education prereferral interventions and evaluation provided to regular education students suspected of being disabled and who have demonstrated learning or emotional or behavioral problems in a screening are reimbursable. D. Regular education, including screening, provided to students, pupils, and regular education students are not reimbursable with special education categorical aids. (Minn. R. 3525.2325, subp. 7).

B. Use of State Aid for Personnel Providing Services for Private School Students: An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities (1) To the extent necessary to provide services under sections 300.130 through 300.144 for parentally-placed private school children with disabilities; and (2) If those services are not normally provided by the private school. (34 C.F.R. § 300.142(a).)

An LEA may use funds available under section 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under sections 300. 130 through 300.144 if (1) The employee performs the services outside of his or her regular hours of duty; and (2) The employee performs the services under public supervision and control. (34 C.F.R. § 300.142(b).)

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school. (b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting-

(1) The needs of a private school; or (2) The general needs of the students enrolled in the private school.. (34 C.F.R. § 300.141).

126C.19 SHARED TIME AID.

Subdivision 1. To resident district. Aid for shared time pupils must be paid to the district of the pupil's residence. If a pupil attends shared time classes in another district, the resident district must pay to the district of attendance an amount of tuition equal to the ratio in section 126C.01, subdivision 6, times the amount of tuition that would be charged and paid for a nonresident public school pupil in a similar circumstance. The district of residence is not obligated for tuition except by previous agreement.

Subd. 2.Exception.Notwithstanding subdivision 1, the resident district of a shared time pupil attending shared time classes in another district may grant the district of attendance, upon its request, permission to claim the pupil as a resident for state aid purposes. In this case, state aid must be paid to the district of attendance and, upon agreement, the district of attendance may bill the resident district for any unreimbursed education costs, but not for unreimbursed transportation costs. The agreement may, however, provide for the resident district to pay the cost of any of the particular transportation categories specified in section 123B.92, subdivision 1, and in this case, aid for those categories must be paid to the district of residence rather than to the district of attendance.

Subd. 3. Section 123B.44 services. Minutes of enrollment in a public school during which a nonpublic school pupil receives services pursuant to section 123B.44 must not be used in the computation of shared time aid.

Subd. 4. Location of services.(a) Public school programs that provide instruction in core curriculum may be provided to shared time pupils only at a public school building. Public school programs, excluding programs that provide instruction in core curriculum, may be provided to shared time pupils at a public school building, a neutral site, the nonpublic school, or any other suitable location. Guidance and counseling and diagnostic and health services required under sections 125A.03 to 125A.24 and 125A.65 may be provided at a nonpublic school building. As used in this subdivision, "diagnostic services" means speech, hearing, vision, psychological, medical and dental diagnostic services and "health services" means physician, nursing or optometric services provided to pupils in the field of physical and mental health.

(b) For those children with a disability under sections 125A.03 to 125A.24 who attend nonpublic school at their parent's choice, a school district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than a nonpublic school as defined in section 123B.41, subdivision 13. The school district shall determine the location at which to provide services on a student-by-student basis, consistent with federal law.

Special Education Revenue

Computing Special Education Initial Aid

The special education initial aid equals the sum of the following amounts computed using current year data: (1) 68 percent of the salary of each essential person employed in the district's program for children with a disability during the fiscal year, whether the person is employed by

one or more districts or a Minnesota correctional facility operating on a fee-for-service basis; (2) for the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind, 68 percent of the salary of each one to one instructional and behavior management aide assigned to a child attending the academy, if the aides are required by the child's individualized education program; (3) for special instruction and services provided to any pupil by contracting with public, private, or voluntary agencies other than school districts, in place of special instruction and services provided by the district, 52 percent of the difference between the amount of the contract and the general education revenue, excluding basic skills revenue and alternative teacher compensation revenue, and referendum equalization aid attributable to a pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit for the fraction of the school day the pupil receives services under the contract. This includes children who are residents of the state, receive services under this subdivision and subdivision 1, and are placed in a care and treatment facility by court action in a state that does not have a reciprocity agreement with the commissioner under Minnesota Statutes, section 125A.155 as provided for in section 125A.79, subdivision 8; (4) for special instruction and services provided to any pupil by contracting for services with public, private, or voluntary agencies other than school districts, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract for that pupil; (5) for supplies and equipment purchased or rented for use in the instruction of children with a disability, an amount equal to 47 percent of the sum actually expended by the district, or a Minnesota correctional facility operating on a fee-for-service basis, but not to exceed an average of \$47 in any one school year for each child with a disability receiving instruction; (6) for fiscal years 1997 and later, special education base revenue shall include amounts under clauses (1) to (5) for special education summer programs provided during the base year for that fiscal year; (7) the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4); and (8) the district's transition-disabled program initial aid according to section 124D.454, subdivision 3. The department shall establish procedures through the uniform financial accounting and reporting system to identify and track all revenues generated from third-party billings as special education revenue at the school district level; include revenue generated from third-party billings as special education revenue in the annual cross-subsidy report; and exclude third-party revenue from calculation of excess cost aid to the districts. (Minn. Stat. § 125A.76, Subd. 2).

Total State Aid for Fiscal Year 2007, and Later

The state total special education aid equals \$529,247,000 for fiscal year 2007, \$694,063,000 for fiscal year 2008, \$719,470,000 for fiscal year 2009, \$735,693,000 for fiscal year 2010, and \$786,586,000 for fiscal year 2011. The state total special education aid for later fiscal years equals: (1) the state total special education aid for the preceding fiscal year; times (2) the program growth factor, times (3) the greater of one, or the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year. (Minn. Stat. § 125A.76, Subd. 4).

School District Special Education Aid for 2008 and Later

A school district's special education aid for fiscal year 2008 and later equals the state total special education aid times the ratio of the district's initial special education aid to the state total initial special education aid. (Minn. Stat. § 125A.76 Subd. 5).

Special Education Excess Cost Aid

Subdivision 1. Definitions. For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under Minnesota Statutes, section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, equipment, and transportation services under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" for a school district means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, minus transportation sparsity revenue minus total operating capital revenue. "General revenue" for a charter school means the sum of the general education revenue according to section 124D.11, subdivision 1, and transportation revenue according to section 124D.11, subdivision 2, excluding alternative teacher compensation revenue, minus referendum equalization aid minus transportation sparsity revenue minus operating capital revenue.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.02 for fiscal year 2012 and later.

Subd. 5. Initial excess cost aid.

For fiscal years 2008 and later, a district's initial excess cost aid equals the greater of:

(1) 75 percent of the difference between (i) the district's unreimbursed special education cost and (ii) 4.36 percent of the district's general revenue; or

(2) zero.

Subd. 6. State total special education excess cost aid.

The state total special education excess cost aid equals \$104,700,000 for fiscal year 2007, \$110,641,000 for fiscal year 2008, \$110,918,000 for fiscal year 2009, \$110,847,000 for fiscal year 2010, and \$110,892,000 for fiscal year 2011. The state total special education excess cost aid for later fiscal years equals:

(1) the state total special education excess cost aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the greater of one, or the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

Subd. 7. District special education excess cost aid.

A district's special education excess cost aid for fiscal year 2002 and later equals the state total special education excess cost aid times the ratio of the district's initial excess cost aid to the state total initial excess cost aid. (Minn. Stat. §125A.79)

Third Party Payments

Third Party Obligation to Payment

Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public benefits or insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program. (34 C.F.R. § 300.154(h).)

Part B of the Act may not be construed to permit a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act, with respect to the provision of FAPE for children with disabilities in the State. (34 C.F.R. § 300.186).

Subdivision 1. Nothing in Minnesota Statutes, section 125A.03 to 125A.24 and 125A.65 relieves an insurer or similar third party from an otherwise valid obligation to pay, or changes the validity of an obligation to pay, for services rendered to a child with a disability, and the child's family. A school district shall pay the nonfederal share of medical assistance services provided according to section 256B.0625, subdivision 26. Eligible expenditures must not be made from federal funds or funds used to match other federal funds. Any federal disallowances are the responsibility of the school district. A school district may pay or reimburse co-payments, coinsurance, deductibles, and other enrollee cost-sharing amounts, on behalf of the student or family, in connection with health and related services provided under an individual educational plan.

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

(b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health coverage, a district shall provide an initial and annual written notice to the enrolled child's parent or legal representative of its intent to seek reimbursement from medical assistance or MinnesotaCare for the individual education program 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 individual

education program health-related services provided by the district; (2) the right of the parent or legal representative to request a copy of all records concerning individual education program health-related services disclosed by the district to any third party; and (3) the right of the parent or legal representative to withdraw consent for disclosure of a child's records at any time without consequence. The written notice shall be provided as part of the written notice required by the Code of Federal Regulations, title 34, section 300.504. The district must ensure that the parent of a child with a disability is given notice, in understandable language, of federal and state procedural safeguards available to the parent under this paragraph and paragraph (b). (d) In order to access the private health care coverage of a child who is covered by private health care coverage in whole or in part, a district must: (1) obtain annual written informed consent from the parent or legal representative, in compliance with subdivision 5; and (2) inform the parent or legal representative that a refusal to permit the district or state Medicaid agency to access their private health care coverage does not relieve the district of its responsibility to provide all services necessary to provide free and appropriate public education at no cost to the parent or legal representative. (e) If the commissioner of human services obtains federal approval to exempt covered individual education program health-related services from the requirement that private health care coverage refuse payment before medical assistance may be billed, paragraphs (b), (c), and (d) shall also apply to students with a combination of private health care coverage and health care coverage through medical assistance or MinnesotaCare. (f) In the event that Congress or any federal agency or the Minnesota legislature or any state agency establishes lifetime limits, limits for any health care services, cost-sharing provisions, or otherwise provides that individual education plan health-related services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the amendments to this subdivision adopted in 2002 are repealed on the effective date of any federal or state law or regulation that imposes the limits. In that event, districts must obtain informed consent consistent with this subdivision as it existed prior to the 2002 amendments and subdivision 5, before seeking reimbursement for children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health care coverage.

Subd. 3. Of the reimbursements received, districts may: (1) retain an amount sufficient to compensate the district for its administrative costs of obtaining reimbursements; (2) regularly obtain from education- and health-related entities training and other appropriate technical assistance designed to improve the district's ability to access third-party payments for individualized education program health-related services; or (3) reallocate reimbursements for the benefit of students with individualized education programs or individual family service plans in the district.

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

Subd. 5. When obtaining informed consent, consistent with sections 13.05, subdivision 4a; 256B.77, subdivision 2, paragraph (p); and Code of Federal Regulations, title 34, parts 99 and 300, to bill health plans for covered services, the school district must notify the legal representative (1) that the cost of the person's private health insurance premium may increase due to providing the covered service in the school setting, (2) that the school district may pay certain enrollee health plan costs, including but not limited to, co-payments, coinsurance,

deductibles, premium increases or other enrollee cost-sharing amounts for health and related services required by an individual service plan, or individual family service plan, and (3) that the school's billing for each type of covered service may affect service limits and prior authorization thresholds. The informed consent may be revoked in writing at any time by the person authorizing the billing of the health plan.

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

Subd. 7. A school district may disclose information contained in a student's individual education program, consistent with section 13.32, subdivision 3, paragraph (a), and Code of Federal Regulations, title 34, parts 99 and 300; including records of the student's diagnosis and treatment, to a health plan company only with the signed and dated consent of the student's parent, or other legally authorized individual, including consent that the parent or legal representative gave as part of the application process for MinnesotaCare or medical assistance under section 256B.08, subdivision 1. The school district shall disclose only that information necessary for the health plan company to decide matters of coverage and payment. A health plan company may use the information only for making decisions regarding coverage and payment, and for any other use permitted by law. (Minn. Stat. § 125A.21).

Nothing in this section relieves an insurer or similar third party from an otherwise valid obligation to pay, or changes the validity of an obligation to pay, for services rendered to a child with a disability, and the child's family. (Minn. Stat. § 125A.40).

A county human services agency or county board must continue to provide services set forth in their county social service agency plan. The county human services agency or county board must serve children with disabilities under age five and their families, or as specified in the IFSP for children with disabilities, birth through age two, or the individual service plan of each child. Special instruction and related services for which a child with a disability is eligible under this section are the responsibility of the local school board. It is the joint responsibility of county boards and school boards to coordinate, provide, and pay for all appropriate services required in Minn. Stat. §125A.29 and to facilitate payment for services from public and private sources. (Minn. Stat. § 125A.38).

Child with a Disability Covered by Public Insurance

A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph (d)(2) of this section. (34 C.F.R. § 300.154 (d)(1).)

Parental Rights Regarding Insurance Programs

With regard to services required to provide FAPE to an eligible child under this part, the public agency (i) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of the Act; (ii) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay

amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph (g)(2) of this section, may pay the cost that the parent otherwise would be required to pay; (iii) May not use a child's benefits under a public insurance program if that use would (A) Decrease available lifetime coverage or any other insured benefit; (B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school; (C) Increase premiums or lead to the discontinuation of benefits or insurance; or (D) Risk loss of eligibility for home and community-based waivers, based on aggregate health related expenditures; and (v) Must obtain parental consent consistent with section 300.9 each time that access to public benefits or insurance is sought; (34 C.F.R. § 300.154(d)(2).)

Child with a Disability Covered by Private Insurance

(1) With regard to services required to provide FAPE to an eligible child under this part, a public agency may access the parents' private insurance proceeds only if the parents provides consent consistent with section 300.9. (2) Each time the public agency proposes to access the parents' private insurance proceeds, the agency must (i) Obtain parental consent in accordance with paragraph (e)(1) of this section; and (ii) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents. (34 C.F.R. § 300.154(e).

Use of Part B Funds to Pay Costs When Parents Refuse to the Use their Insurance

(1) If a public agency is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the public agency may use its Part B funds to pay for the service. (2) To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts). (34 C.F.R. § 300.154(f).)

Funds as Payor of Last Resort

Nonsubstitution Funds provided under section 1443 of this title may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 1443of this title may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment. (20 U.S.C. § 1440(a).)

Proceeds from Public or Private Insurance

(1) Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of the Code of Federal Regulations, title 34, section 80.25. (2) If a public agency spends reimbursements from Federal funds (e.g., Medicaid) for services under

this part, those funds will not be considered "State or Local" funds for purposes of the maintenance of effort provisions in sections 300.163 and 300.203. (34 C.F.R. § 300.154(g).)

Reduction of Other Benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to Medicaid for infants or toddlers with disabilities) within the State. (20 U.S.C. § 1440(b).)

Payment of Special Education Aid in Special Situations

Reimbursement to District for Nonresident Pupils, Including Day Program Placement

For the purposes of this section any school district may enter into an agreement, upon mutually agreed upon terms and conditions, to provide special instruction and services for children with a disability. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts. Each participating unit must reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid. (Minn. Stat. § 125A.11, Subd. 3).

Other State Aids

Vocational Education Revenue for Children with a Disability

Subdivision 1. Purpose. The purpose of this section is to provide a method to fund career and technical education programs for children with a disability that are components of the student's transition plan. As used in this section, the term "children with a disability" shall have the meaning ascribed to it in Minnesota Statutes, section 125A.02.

Subd. 2. Definitions. For the purposes of this section, the definitions in this subdivision apply. (a) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1. (b) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12. This definition is not intended to change or modify the definition of essential employee in chapter 179A.

Subd. 3. Initial aid. The transition-disabled program initial aid equals the sum of the following amounts computed using current year data: (1) 68 percent of the salary of each essential licensed person or approved paraprofessional who provides direct instructional services to students employed during that fiscal year for services rendered in that district's transition program for children with a disability; (2) 47 percent of the costs of necessary equipment for transition programs for children with a disability; (3) 47 percent of the costs of necessary travel between instructional sites by transition program teachers of children with a disability but not including travel to and from local, regional, district, state, or national career and technical student organization meetings; (4) 47 percent of the costs of necessary supplies for transition

programs for children with a disability but not to exceed an average of \$47 in any one school year for each child with a disability receiving these services; (5) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, in place of programs provided by the district, 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the fraction of the school day the pupil receives services under the contract; (6) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract; and (7) for a contract approved by the commissioner with another Minnesota school district or cooperative center for vocational evaluation services for children with a disability for children that are not yet enrolled in grade 12, 52 percent of the amount of the contract.

Subd. 8. Use of aid. The aid provided under this section shall be paid only for services rendered or for the costs which are incurred according to this section for transition programs for children with a disability which are approved by the commissioner of education and operated in accordance with rules promulgated by the commissioner. These rules shall be subject to the restrictions provided in subdivision 12. The procedure for application for approval of these programs shall be as provided in section 125A.75, subdivisions 4 and 6, and the application review process shall be conducted by the Division of Federal Programs in the department.

Subd. 9. Payment of aid. All aid pursuant to this section shall be paid to the district or cooperative center providing the services. All aid received by a district or center from any source for transition programs for children with a disability shall be utilized solely for that purpose.

Subd. 10. Exclusion. A district shall not receive aid pursuant to section 125A.76 for salaries, supplies, travel or equipment for which the district receives aid pursuant to this section.

Subd. 11. Revenue allocation from cooperative centers and intermediate districts. For purposes of this section, a cooperative center or an intermediate district must allocate its approved expenditures for transition programs for children with a disability among participating school districts. Aid for transition programs for children with a disability for services provided by a cooperative or intermediate district shall be paid to the participating districts.

Subd. 12. Compliance with rules. Aid must be paid under this section only for services rendered or for costs incurred in career and technical education programs approved by the commissioner and operated in accordance with rules promulgated by the commissioner. This aid shall be paid only for services rendered and for costs incurred by essential, licensed personnel who meet the requirements for licensure pursuant to the rules of the Minnesota Board of Teaching. Licensed personnel means persons holding a valid career and technical license issued by the commissioner. If an average of five or fewer secondary full-time equivalent students are enrolled per teacher in an approved postsecondary program at Intermediate District No. 287, 916, or 917, licensed personnel means persons holding a valid vocational license issued by the commissioner or the Board of Trustees of the Minnesota State Colleges and Universities. Notwithstanding section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid under this section without proceeding under section 127A.42 at any

time. To do so, the commissioner must determine that the program does not comply with rules of the Department of Education or that any facts concerning the program or its budget differ from the facts in the district's approved application. (Minn. Stat. § 124D.454).

Limited English Proficiency Programs Aid

Subd. 5. School district LEP revenue.(a) A district's limited English proficiency programs revenue equals the product of (1) \$700 in fiscal year 2004 and later times (2) the greater of 20 or the adjusted marginal cost average daily membership of eligible pupils of limited English proficiency enrolled in the district during the current fiscal year.

(b) A pupil ceases to generate state limited English proficiency aid in the school year following the school year in which the pupil attains the state cutoff score on a commissioner-provided assessment that measures the pupil's emerging academic English.

Subd. 6. Participation of nonpublic school pupils. In counting the number of pupils of limited English proficiency for purposes of this section, districts may include pupils of limited English proficiency who attend nonpublic schools in the district. A district which counts those pupils and receives aid pursuant to this section must offer those pupils the same programs on the same terms that it offers to pupils of limited English proficiency who attend the public school. A program provided for a nonpublic school pupil pursuant to this subdivision must be provided at a public school or a neutral site as defined in section 123B.41, subdivision 13. Nonpublic school pupils served by a district's educational program for pupils of limited English proficiency must be counted for average daily membership pursuant to sections 126C.01, subdivisions 6 to 8, and 126C.19, subdivisions 1 to 4.

Subd. 7. Application dates. To obtain aid for limited English proficiency programs, a district must submit information required by the department to implement this section.

Subd. 8. Notification; revenue. The department must promptly inform each applicant district of the amount of revenue it will receive pursuant to this section.

Subd. 9. Records; audit. A district which applies for aid pursuant to this section must maintain records which support the information contained in all of its applications. The commissioner may audit these records upon request. A district which receives aid pursuant to this section must keep additional records in the manner prescribed by the commissioner to ensure that an educational program for pupils of limited English proficiency is implemented and operated in accordance with sections 124D.58 to 124D.64.

Subd. 10. Money from other sources. A district providing a program for pupils of limited English proficiency must be eligible to receive moneys for these programs from other government agencies and from private sources when these moneys are available.

Subd. 11. Allocations from cooperative units. For the purposes of this section, pupils of limited English proficiency enrolled in a cooperative or intermediate school district unit shall be counted by the school district of residence, and the cooperative unit shall allocate its approved expenditures for limited English proficiency programs among participating school districts. Limited English proficiency aid for services provided by a cooperative or intermediate school district shall be paid to the participating school districts. (Minn. Stat. § 124D.65).

Responsibility for Services

Extended School Year Programs

A district may provide extended school year services for children with a disability living within the district and nonresident children temporarily placed in the district pursuant to Minnesota Statutes, section 125A.15. Prior to March 31 or 30 days after the child with a disability is placed in the district, whichever is later, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to section 125A.15, of its intention to provide these programs. Notwithstanding any contrary provisions in sections 125A.15, the district providing the special instruction and services must apply for special education aid for the extended school year services. The unreimbursed actual cost of providing the program for nonresident children with a disability, including the cost of board and lodging, may be billed to the district of the child's residence and must be paid by the resident district. Transportation costs must be paid by the district responsible for providing transportation pursuant to section 125A.15 and transportation aid must be paid to that district. (Minn. Stat. § 125A.14).

Charter Schools

In carrying out Part B of the Act and these regulations with respect to charter schools that are public schools of the LEA, the LEA must (i) Serve children with disabilities attending those schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and (ii). Provides funds under Part B of the Act to those charter schools (A) On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and (B) At the same time as the LEA distributes other Federal funds to the LEA's other public schools, consistent with the State's charter school law. (2) If the public charter school is a school of an LEA that receives funding under the Code of Federal Regulations, title 34, section 300.705 and includes other public schools (i) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and (ii) The LEA must meet the requirements of paragraph (b)(1) of this section. (34 C.F.R. § 300.209(b).)

If the public charter school is an LEA, consistent with section 300.28, that receives funding under section 300.705, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity. (34 C.F.R. § 300.209(c).)

If the public charter school is not an LEA receiving funds under section 300.705, or a school that is part of an LEA receiving funding under section 300.705, or a school that is part of an LEA receiving funding under section 300.705, the SEA is responsible for ensuring that the requirements of this part are met. (2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring that the requirements of this part are met to another entity. However, the SEA must maintain the ultimate responsibility for ensuring compliance with this part, consistent with section 300.149. (34 C.F.R. § 300.209(d).)

Minnesota State Academies

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

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

Subd. 3. When it is determined pursuant to Minnesota Statutes, section 125A.69, subdivision 1 or 2, that the child is entitled to attend either school, the board of the Minnesota State Academies must provide the appropriate educational program for the child. For fiscal year 2006, the board of the Minnesota State Academies must make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged must not exceed the sum of (1) the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child, for the amount of time the child is in the program, plus (2), if the child was enrolled at the Minnesota State Academies on October 1 of the previous fiscal year, the compensatory education revenue attributable to that child under section 126C.10, subdivision 3. The district of the child's residence must pay the tuition and may claim general education aid for the child. Tuition received by the board of the Minnesota State Academies, except for tuition for compensatory education revenue under this paragraph and tuition received under subdivision 4, must be deposited in the state treasury as provided in subdivision 8. For fiscal year 2007 and later, the district of the child's residence shall claim general education revenue for the child, except as provided in this paragraph. Notwithstanding section 127A.47, subdivision 1, an amount equal to the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child for the amount of time the child is in the program, as adjusted according to subdivision 8, paragraph (d), must be paid to the Minnesota State Academies. Notwithstanding section 126C.15, subdivision 2, paragraph (d), the compensatory education revenue under section 126C.10, subdivision 3, attributable to children enrolled at the Minnesota State Academies on October 1 of the previous fiscal year must be paid to the Minnesota State Academies. General education aid paid to the Minnesota State Academies under this paragraph must be credited to their general operation account. Other general education aid attributable to the child must be paid to the district of the child's residence.

Subd. 4. For fiscal year 2006, in addition to the tuition charge allowed in subdivision 3, the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, after deducting the special education aid under section 125A.76, attributable to the child, if that aide is required by the child's individualized education program. Tuition received under this paragraph must be used by the academies to provide the required service. For fiscal year 2008 and later, the special education aid paid to the academies shall be increased by the academy's unreimbursed cost of providing one to one instructional and behavioral management aides assigned to a child, after deducting the special education aid under section 125A.76 attributable to the child, if the aides are required by the child's individualized education program. Aid received under this paragraph must be used by the academies to provide the required service. For fiscal year 2008 and later, the special education aid paid to the district of the child's residence shall be reduced by the amount paid to the academies for district residents under paragraph (b). Notwithstanding

section 127A.45, subdivision 3, beginning in fiscal year 2008, the commissioner shall make an estimated final adjustment payment to the Minnesota State Academies for general education aid and special education aid for the prior fiscal year by August 15. For fiscal year 2007, the academies may retain receipts received through mutual agreements with school districts for one to one behavior management aides.

Subd. 5. When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the district where the institution is located must provide an appropriate educational program for the child and must make a tuition charge to the board of the Minnesota State Academies for the actual cost of providing the program, less any amount of aid received pursuant to section 125A.75. The board of the Minnesota State Academies must pay the tuition and other program costs including the unreimbursed transportation costs. Aids for children with a disability must be paid to the district providing the special instruction and services. Special transportation must be provided by the district providing the educational program and the state must reimburse that district within the limits provided by law.

Subd. 6. Notwithstanding the provisions of subdivisions 3 and 5, the board of the Minnesota State Academies may agree to make a tuition charge, or receive an aid adjustment, as applicable, for less than the amount specified in subdivision 3 for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the board of the Minnesota State Academies for less than the amount specified in subdivision 5 for providing appropriate educational programs to pupils attending the applicable school.

Subd. 7. Notwithstanding the provisions of subdivisions 3 and 5, the board of the Minnesota State Academies may agree to supply staff from the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools. (Minn. Stat. § 125A.65, Subd. (1)-(7).)

Choice Options/Open Enrollment

When a pupil is placed outside of the district residence by the parent or pupil for the purpose of education and in accordance with a statutory education choice enrollment act, the resident district shall be responsible for assuming the cost of the education program when notified in accordance with Minnesota Statutes, section 127A.47, subdivision 5. The providing district shall be responsible for assuring that an appropriate program is available for the pupil including the notice and hearing provisions. Responsibility for transportation costs between the pupil's home and the providing school district shall be determined in accordance with Minnesota Statutes. (Minn. R. 3525.0800, subp. 8).

If requested by the parent of a pupil, the nonresident district shall provide transportation within the district. The resident district is not required to provide or pay for transportation between the pupil's residence and the border of the nonresident district. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual

cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week. At the time a nonresident district notifies a parent or guardian that an application has been accepted under subdivision 4 or 5, the nonresident district must provide the parent or guardian with the following information regarding the transportation of nonresident pupils under section 123B.88, subdivision 6. (Minn. Stat. § 124D.03, Subd. 8).

Agency Financial Responsibility for Interagency Early Intervention Services

The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each noneducational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are needed to ensure FAPE are provided, including the provision of those services during the pendency of any dispute under paragraph (a)(3) of this section. The agreement or mechanism must include the following: (1) An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in paragraph (b) of this section, including the State Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA (or the State agency responsible for developing the child's IEP). (34 C.F.R. § 300.154 (a)(1).)

Non-Regular Transportation Responsibilities and Aid

Transportation for Pupils with Disabilities

Notwithstanding the provisions of Minnesota Statutes, section 125A.11, 125A.14, and 125A.15, when a child receives special instruction and services in a day program outside the resident district, the resident district and the nonresident district where the child is placed may enter into an agreement providing for the nonresident district to pay the cost of any particular transportation categories specified in section 123B.92, subdivision 1, and claim transportation aid for those categories. In this case, the nonresident district may not obtain any payment from the resident district for the categories covered by the agreement. (Minn. Stat. § 125A.20).

Out-of-District Placement Transportation

No resident of a district who is eligible for special instruction and services pursuant to this section may be denied provision of this instruction and service because of attending a public school in another district pursuant to Minnesota Statutes, section 123B.88, subdivision 5, if the attendance is not subject to section 124D.08. If the pupil attends a public school located in a contiguous district and the district of attendance does not provide special instruction and services, the district of residence must provide necessary transportation for the pupil between the boundary of the district of residence and the educational facility where special instruction and services are provided within the district of residence. The district of residence may provide necessary transportation for the pupil between its boundary and the school attended in the contiguous district, but must not pay the cost of transportation provided outside the boundary of the district of residence. (Minn. Stat. § 125A.12).

Care and Treatment

A. Day Program Placement: When a district provides instruction and services in a day program outside the district of residence, the district of residence is responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the district of residence, the nonresident district in which the child is placed is responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state shall pay transportation aid to that district. (Minn. Stat. § 125A.11, Subd. 2).

When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation to and from the care and treatment program and an appropriate educational program for the child. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district. (Minn. Stat. § 125A.15(c).)

B. Residential Program Placement: When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program, as outlined in Minnesota Statutes, section 125A.11, except as provided in paragraph (e). However, the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than providing for the child's special educational needs must not become the responsibility of either the district providing the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment. (Minn. Stat. § 125A.15(d).)

A privately owned and operated residential facility may enter into a contract to obtain appropriate educational programs for special education children and services with a joint powers entity. The entity with which the private facility contracts for special education services shall be the district responsible for providing students placed in that facility an appropriate educational program in place of the district in which the facility is located. If a privately owned and operated residential facility does not enter into a contract under this paragraph, then paragraph (d) applies. (Minn. Stat. § 125A.15(e).)

C. Providing District: The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education aid for the child as provided by law. Transportation

costs must be paid by the district responsible for providing the transportation and the state must pay transportation aid to that district. (Minn. Stat. § 125A.15 (f).)

D. Board and Lodging for Nonresident Pupils with Disabilities: When a district provides instruction and services in a day program outside the district of residence, the district of residence is responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the district of residence, the nonresident district in which the child is placed is responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state shall pay transportation aid to that district. (Minn. Stat. § 125A.11, Subd. 2).

Minnesota Academies for the Deaf and Blind

When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the district where the institution is located must provide an appropriate educational program for the child and must make a tuition charge to the board of the Minnesota State Academies for the actual cost of providing the program, less any amount of aid received pursuant to Minnesota Statutes, section 125A.75. The board of the Minnesota State Academies must pay the tuition and other program costs including the unreimbursed transportation costs. Aids for children with a disability must be paid to the district providing the special instruction and services. Special transportation must be provided by the district providing the educational program and the state must reimburse that district within the limits provided by law. (Minn. Stat. § 125A.65, Subd. 5).

Extended School Year Programs

A district may provide extended school year services for children with a disability living within the district and nonresident children temporarily placed in the district pursuant to Minnesota Statutes, section 125A.15 . Prior to March 31 or 30 days after the child with a disability is placed in the district, whichever is later, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to section 125A.15 or 125A.16, of its intention to provide these programs. Notwithstanding any contrary provisions in sections 125A.15, the district providing the special instruction and services must apply for special education aid for the extended school year services . The unreimbursed actual cost of providing the program for nonresident children with a disability, including the cost of board and lodging, may be billed to the district of the child's residence and must be paid by the resident district. Transportation costs must be paid by the district responsible for providing transportation pursuant to section 125A.15 and transportation aid must be paid to that district. (Minn. Stat. § 125A.14).

Reporting Standards

Financial Reporting

Subdivision 1. Uniform financial accounting and reporting standards. Each Minnesota school district must adopt the uniform financial accounting and reporting standards for Minnesota school districts provided for in guidelines adopted by the department.

Subd. 1a. School district consolidated financial statement. The commissioner, in consultation with the advisory committee on financial management, accounting, and reporting, shall develop and maintain a school district consolidated financial statement format that converts uniform financial accounting and reporting standards data under subdivision 1 into a more understandable format.

Subd. 2. Audited financial statement. Each district must submit to the commissioner by September 15 of each year unaudited financial data for the preceding fiscal year. These financial data must be submitted in the format prescribed by the commissioner.

Subd. 3. Statement for comparison and correction.(a) By November 30 of the calendar year of the submission of the unaudited financial data, the district must provide to the commissioner audited financial data for the preceding fiscal year. The audit must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, and the Minnesota legal compliance guide issued by the Office of the State Auditor. An audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited financial data shall be submitted to the commissioner and the state auditor by December 31. The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance and a copy of the management letter submitted to the district by the school district's auditor.

(b) By February 15 of the calendar year following the submission of the unaudited financial data, the commissioner shall convert the audited financial data required by this subdivision into the consolidated financial statement format required under subdivision 1a and publish the information on the department's Web site. (Minn. Stat. § 123B.77, Subd. 1, 2, 3).

Records Subject to Fiscal Monitoring Compliance Review

A State may require a subgrantee to submit reports in a manner and format that assists the State in complying with the requirements under the Code of Federal Regulations, title 34, section 76.720 and in carrying out other responsibilities under the program. (34 C.F.R. § 76.722).

A State and a subgrantee shall keep records that fully show: (a) The amount of funds under the grant or subgrant; (b). How the State or subgrantee uses the funds; (c) The total cost of the project; (d) The share of that cost provided from other sources; and (e) Other records to facilitate an effective audit. 34 C.F.R. § 76.730. A State and a subgrantee shall keep records to show its compliance with program requirements. (34 C.F.R. § 76.731).

A State or subgrantee may use funds under more than one program to support different parts of the same project if the State or subgrantee meets the following conditions: (a) The State or subgrantee complies with the requirements of each program with respect to the part of the project assisted with funds under that program. (b). The State or subgrantee has an accounting system that permits identification of the costs paid under each program. (34 C.F.R. § 76.760).

Accounting Processes

A State or subgrantee may use funds under more than one program to support different parts of the same project if the State or subgrantee meets the following conditions: a. The State or subgrantee complies with the requirements of each program with respect to part of the project

assisted with funds under that program. b. The State or subgrantee has an accounting system that permits identification of the costs paid for under each program. (34 C.F.R. § 76.760).

Each recipient of Federal funds under any applicable program through any grant, subgrant, cooperative agreement, loan, or other arrangement shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective financial or programmatic audit. The recipient shall maintain such records for three years after the completion of the activity for which the funds are used. (20 U.S.C. § 1232f(a).)

Availability of Documentation

The person in charge of providing instruction to a child must maintain documentation indicating that the subjects required in Minnesota Statutes, section 120A.22, subdivision 9 are being taught and proof that the tests under section 120A.22, subdivision 11, have been administered. This documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement. (Minn. Stat. § 120A.24, Subd. 2).