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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3780

02/14/2024 Authored by Hicks and Virnig
03/11/2024 The bill was read for the first time and referred to the Committee on Education Policy
Adoption of Report: Amended and re-referred to the Committee on Education Finance

1.1 A bill for an act
1.2 relating to education; special education; modifying requirements for developmental
1.3 adapted physical education assessments; requiring a report; amending Minnesota
1.4 Statutes 2023 Supplement, section 125A.08.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2023 Supplement, section 125A.08, is amended to read:

1.7 125A.08 INDIVIDUALIZED EDUCATION PROGRAMS.

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

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

1.12 (1) all students with disabilities are provided the special instruction and services which
1.13 are appropriate to their needs. Where the individualized education program team has
1.14 determined appropriate goals and objectives based on the student's needs, including the
1.15 extent to which the student can be included in the least restrictive environment, and where
1.16 there are essentially equivalent and effective instruction, related services, or assistive
1.17 technology devices available to meet the student's needs, cost to the district may be among
1.18 the factors considered by the team in choosing how to provide the appropriate services,
1.19 instruction, or devices that are to be made part of the student's individualized education
1.20 program. The individualized education program team shall consider and may authorize
1.21 services covered by medical assistance according to section 256B.0625, subdivision 26.
1.22 Before a school district evaluation team makes a determination of other health disability
1.23 under Minnesota Rules, part 3525.1335, subparts 1 and 2, item A, subitem (1), the evaluation

2.1 team must seek written documentation of the student's medically diagnosed chronic or acute  
2.2 health condition signed by a licensed physician or a licensed health care provider acting  
2.3 within the scope of the provider's practice. The student's needs and the special education  
2.4 instruction and services to be provided must be agreed upon through the development of  
2.5 an individualized education program. The program must address the student's need to develop  
2.6 skills to live and work as independently as possible within the community. The individualized  
2.7 education program team must consider positive behavioral interventions, strategies, and  
2.8 supports that address behavior needs for children. During grade 9, the program must address  
2.9 the student's needs for transition from secondary services to postsecondary education and  
2.10 training, employment, community participation, recreation, and leisure and home living. In  
2.11 developing the program, districts must inform parents of the full range of transitional goals  
2.12 and related services that should be considered. The program must include a statement of  
2.13 the needed transition services, including a statement of the interagency responsibilities or  
2.14 linkages or both before secondary services are concluded. If the individualized education  
2.15 program meets the plan components in section 120B.125, the individualized education  
2.16 program satisfies the requirement and no additional transition plan is needed;

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

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

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

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

2.32 (6) in accordance with recognized professional standards, testing and evaluation materials,  
2.33 and procedures used for the purposes of classification and placement of children with a

3.1 disability are selected and administered so as not to be racially or culturally discriminatory;  
3.2 and

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

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

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

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

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

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

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

3.32 **Subd. 4. Developmental adapted physical education assessment.** A school district  
3.33 may conduct an assessment for developmental adapted physical education, as defined in

4.1 Minnesota Rules, part 3525.1352, as a stand-alone evaluation without conducting a  
4.2 comprehensive evaluation of the student in accordance with prior written notice provisions  
4.3 in section 125A.091, subdivision 3a. A parent or guardian may request that a school district  
4.4 conduct a comprehensive evaluation of the parent's or guardian's student.

4.5 **EFFECTIVE DATE.** This section is effective July 1, 2024.

4.6 Sec. 2. **SPECIAL EDUCATION FUNDING RECOMMENDATIONS.**

4.7 (a) The commissioner of education must review special education delivery and costs in  
4.8 Minnesota and submit a written report to the legislature recommending changes to reduce  
4.9 costs. In developing the recommendations, the commissioner must consult with school  
4.10 districts, charter schools, intermediate school districts, special education cooperatives,  
4.11 education districts, and service cooperatives; special education teachers, administrators,  
4.12 and unlicensed staff providing support to students with disabilities; families of students  
4.13 with disabilities; advocacy organizations that provide support to students with disabilities;  
4.14 and other stakeholders. The report must:

4.15 (1) review how school districts, charter schools, intermediate school districts, special  
4.16 education cooperatives, education districts, and service cooperatives deliver special education  
4.17 services, and comply with paperwork requirements, and the costs and benefits;

4.18 (2) compare relevant state and federal special education laws and regulations;

4.19 (3) analyze trends in special education enrollment;

4.20 (4) identify funding disparities that decrease inclusion;

4.21 (5) identify strategies or programs and universal interventions that are evidence-based  
4.22 and would be effective in reducing the need for special education services; and

4.23 (6) analyze funding for nonresident children in accordance with Minnesota Statutes,  
4.24 sections 125A.11 and 127A.47.

4.25 (b) The commissioner must submit the report to the legislative committees with  
4.26 jurisdiction over education policy and finance by January 5, 2025, and in accordance with  
4.27 Minnesota Statutes, section 3.195.

4.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.