

The Minnesota Department of Education (MDE), Division of Compliance and Monitoring has developed this document to provide technical assistance to school districts and parents that have raised questions about Minnesota care and treatment facilities and the transportation requirements pertaining to students within the care and treatment facilities. The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal situation. This document may not include a complete rendition of applicable state and federal law.

Question 1: What facilities are considered to be care and treatment placements under the Minnesota laws?

Answer: Under the Minnesota Care and Treatment Rule (Minn. R. 3525.2325), when someone other than the district places students in the following facilities, they are considered to be placed for care and treatment:

1. chemical dependency and other substance abuse treatment centers;
2. shelter care facilities;
3. home, due to accident or illness;
4. hospitals;
5. day treatment centers;
6. correctional facilities;
7. residential treatment centers; and
8. mental health programs.

However, this list is not exclusive. When a child with a disability is placed in a foster facility, that is also considered a care and treatment facility under Minnesota statute. Therefore, if a student is placed for care and treatment by someone other than the district in a facility that is not explicitly itemized in this list found in Minnesota rule that student is not then denied the protections of the law. The rule is broadly construed to assure services to those students for whom it was intended—those who are unable to attend their regular school for medical, mental health, correctional or family situation reasons.

Authority: Minn. R. 3525.2325, subp. 1; Minn. Stat. § 125A.17.

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

Answer: Yes. Partial hospitalization consists of multiple intensive short-term therapeutic services provided by a multi-disciplinary staff to treat the client's mental illness. These services are provided in an outpatient hospital facility or community mental health center that meets Medicare requirements to provide partial hospitalization services. Both hospital and mental health program facilities are listed as care and treatment facilities. Therefore, a student placed in partial hospitalization by someone other than the district is considered to be placed for care and treatment.

Authority: Minn. R. 9505.0370; Minn. R. 9505.0372.

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

Answer: The district in which the student's parent or guardian resides is the resident district. If a student is homeless, the district, which enrolls the student, is the resident district.

Authority: Minn. Stat. § 125A.15; Minn. Stat. § 125A.51; Minn. R. 3525.0210, subp. 39.

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

Answer: When a student is temporarily placed for care and treatment in a day program located in another district and continues to live within the resident district during the care and treatment, the resident district must provide necessary transportation to and from the care and treatment program for the student.

The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the student placed at a day 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.

Authority: Minn. Stat. § 125A.51.

Question 5: When a special education student is temporarily placed for care and treatment in a day program, which district is responsible to provide transportation?

Answer: When a special education student is temporarily placed for care and treatment in a day program located within another district and continues to live in the resident district during the care and treatment, the resident district must provide necessary transportation to and from the care and treatment program for the student.

The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the student placed at a day 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.

Authority: Minn. Stat. § 125A.15.

Question 6: When a regular education student is temporarily placed in a residential program for care and treatment, which district is responsible to provide transportation?

Answer: When a regular education student is temporarily placed in a residential program for care and treatment, the district in which the student is placed must provide necessary transportation while the student is receiving instruction.

Authority: Minn. Stat. § 125A.51.

Question 7: When a special education student is temporarily placed in a residential program for care and treatment, which district is responsible to provide transportation?

Answer: When a special education student is temporarily placed in a residential program for care and treatment, the nonresident district in which the student is placed must provide necessary transportation while the student is attending the educational program.

Authority: Minn. Stat. § 125A.15.

Question 8: Which district pays for the transportation of students placed for care and treatment?

Answer: If the student is placed outside the resident district, the nonresident district may not bill the resident district for transportation costs. Transportation costs must be paid by the district responsible for providing the transportation and the state must pay transportation aid to that district.

Authority: Minn. Stat. §§ 125A.51; 125A.15.

Question 9: When a special education student is temporarily placed in a state institution, which district is responsible to provide transportation?

Answer: When a special education student is temporarily placed in a state institution, the district where the institution is located is responsible for providing transportation. Transportation costs must be paid by the district where the institution is located and the state must pay transportation aid to that district.

Authority: Minn. Stat. § 125A.16.