OMB NO. 1820-0030
Expires: 8-31-2015

ANNUAL STATE APPLICATION UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004 FOR FEDERAL FISCAL YEAR 2014

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS
Washington, DC 20202-2600

Public Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 14 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain a grant under Section(s) 611 and/or 619 of the Individuals with Disabilities Education Act. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20202-4536 or email ICDocketMgr@ed.gov and reference the OMB Control Number 1820-0030. Note: Please do not return the completed *Annual State Application under Part B of The Individuals with Disabilities Education Act as Amended in 2004* to this address.

Section I

A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

__X__ 1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.

_____ 2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2015. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

_____ 3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

1. Conditional Approval Related to Assurances in Section II.A:

_____ a. Section II.A provides documentation of completion of all issues identified in the FFY 2013 conditional approval letter.

_____ b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2013 conditional approval letter.

2. **Conditional Approval Related to Other Issues:**

_____ a. The State previously submitted documentation of completion of all issues identified in the FFY 2013 conditional approval letter.

_____ b. The State is attaching documentation of completion of all issues identified in the FFY 2013 conditional approval letter. *(Attach documentation showing completion of all issues.)*

_____ c. The State has not completed all issues identified in the FFY 2013 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

Check and enter date(s) as applicable		
Yes (Assurance is given.)	**No** (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	**Assurances Related to Policies and Procedures**
X		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
X		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
X		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
X		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
X		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR

Check and enter date(s) as applicable		
Yes (Assurance is given.)	**No** (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	**Assurances Related to Policies and Procedures**
		§§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-

Check and enter date(s) as applicable		
Yes (Assurance is given.)	**No** (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	**Assurances Related to Policies and Procedures**
		300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.

Check and enter date(s) as applicable		**Assurances Related to Policies and Procedures**
Yes (Assurance is given.)	**No** (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. *(Note: Check either "23b.1" or "23b.2" whichever applies.*
X		23b.1 The State educational agency coordinates with the National Instructional

Check and enter date(s) as applicable		
Yes (Assurance is given.)	**No** (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	**Assurances Related to Policies and Procedures**
		Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	
X	1. The State certifies that ED Form 80-0013, *Certification Regarding Lobbying*, is on file with the Secretary of Education. With respect to the *Certification Regarding Lobbying,* the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
X	2. The State certifies that certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement

I certify that the State of ___MINNESOTA_____ can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2015. (34 CFR §76.104)

I, the undersigned authorized official of the

_____MINNESOTA DEPARTMENT OF EDUCATION_____,

(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2014 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State: DR. BRENDA CASSELLIUS, COMMISSIONER	
Signature: /s/	Date: 05/09/2014

Section III

Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act - 20 U.S.C. 1411(e)(5); 34 CFR §300.171

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the 2014 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).[1] The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR §300.704)

The State Education Agency receives input from the following committees:

- *Special Education Advisory Panel*
- *Special Education Directors' Forum*
- *Minnesota State Interagency Committee*
- *Leadership Committees*

State agency staff are present at each of the above committee meetings and provide agency updates as well as solicit input from the participants.

[1] Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or $800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or $35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) $800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Section IV

State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

(1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
(2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
(3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR §300.199)

Minnesota's 608 Reporting Memo is included as an attachment to this application.

OSEP has previously approved Minnesota's 427 Statement and the State has not revised that description.

Section V

Maintenance of State Financial Support

Pursuant to the authority established in IDEA section 618(a)(3), each applicant for funds under section 611 must provide the following State fiscal data with a certification of its accuracy by the State budget office or an authorized representative thereof. Amounts should be shown in whole dollars and are for the State fiscal year.

Total Amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities	
SFY 2012	$923,982,481
SFY 2013	$967,855,044

DENISE ANDERSON

State Budget Officer or Authorized Representative (Printed Name)

/s/

Signature of State Budget Officer or Authorized Representative

05/12/2014

Date

Minnesota FFY 2014

REGULAR AWARD AMOUNT Est.		$187,187,765
TOTAL AWARD AMOUNT		$187,187,765
ADMINISTRATION		
Maximum Available for Administration.	**Sec. III**	$3,942,450
How much do you want to set aside for Administration in dollars?		$3,942,450 **OK**

You must distribute, in whole dollars, the amount you want to set aside for Administration among the following activities:

For the purpose of administering IDEA Part B including Preschool Grants under 20 U.S.C. 1419, a High Cost Fund, and the coordination of activities under Part B with, and providing technical assistance to, other programs that provide services to children with disabilities. (Note: These funds may be used for Administering but not Financing a High Cost Fund)

a. $3,942,450

For the administration of Part C of IDEA, if the SEA is the Lead Agency for the State under Part C.

b.

You may set aside a portion of your Administration funds resulting from inflation for the following 4 Other State-Level Activities. Additional funds for these purposes may also be set aside under Other State-Level Activities. Based on the amount that you propose to set aside for Administration, the maximum amount of Administration funds that you may use for these 4 activities is:

$825,207

For support and direct services, including technical assistance, personnel preparation, and professional development and training.

c.

To assist local educational agencies in providing positive behavioral

interventions and supports and appropriate mental health services for children with disabilities.	d.	
To assist local educational agencies in meeting personnel shortages.	e.	
To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.	f.	
Subtotal, Administration funds used for Other State-Level Activities	$0	**OK**

If you receive a Preschool Grant under 20 U.S.C. 1419, you may use Administration funds, along with other funds, to develop and implement a State policy jointly with the lead agency under Part C and the SEA to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under the Preschool Grant program and who previously received services under Part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

g.

The total of details for your Administration set-aside is $3,942,450 **OK**

OTHER STATE-LEVEL ACTIVITIES

If you propose to set aside more than $850,000 for Administration and you DO wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

$20,553,169

Of the amount you set aside for Other State-Level Activities at least 10% must be used for the High Cost Fund.

If you propose to set aside more than $850,000 for Administration and you DO NOT wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

$18,497,852

If you propose to set aside $850,000 or less for Administration and you DO wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

$21,580,827

Of the amount you set aside for Other State-Level Activities at least 10% must be used for the High Cost Fund.

If you propose to set aside $850,000 or less for Administration and you DO NOT wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

$19,525,510

Do you wish to use funds for a High Cost Fund? (Yes or No) **No**

Based on the amount that you intend to set aside for Administration, the size of your total award, and your decision **NOT TO** use set aside funds to support a High Cost Fund, the maximum that you may use for Other State-Level Activities is: $18,497,852

How much do you want to set aside for Other State-Level Activities? $18,497,852 **OK**

You must distribute the amount you want to set aside for Other State-Level Activities the following activities. You can distribute amounts in any order you wish. The total balance remaining to be distributed at any time appears in red.

Leave Blank

Required Activities:			$0 More needs to be distril
For monitoring, enforcement, and complaint investigation. (You must use at least $1 for this purpose)	h.	$3,839,400	
To establish and implement the mediation process required by 20 U.S.C. 1415(e), including providing for the cost of mediators and support personnel. (You must use at least $1 for this purpose)	i.	$260,700	$0 More needs to be distril
Optional Authorized Activities:			$0 More needs to be distril
For support and direct services, including technical assistance, personnel preparation, and professional development and training	j.	$3,807,308	
To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.	k.	$1,100,000	$0 More needs to be distril
To assist local educational agencies in meeting personnel shortages.	l.	$275,000	$0 More needs to be distril
To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.	m.	$3,500,000	$0 More needs to be distril
To support paperwork reduction activities, including expanding the use of technology in the IEP process.	n.	$50,000	$0 More needs to be distril
To improve the use of technology in the classroom by children with disabilities to enhance learning.	o.	$175,000	$0 More needs to be distril
To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.	p.	$250,000	$0 More needs to be distril
Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.	q.	$250,000	$0 More needs to be distril

Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.	r.	$225,000	$0 More needs to be distril
To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.	s.	$4,265,444	$0 More needs to be distril
To provide technical assistance to schools and LEAs, and direct services, including supplemental educational services as defined in Section 1116(e) of the Elementary and Secondary Education Act of 1965 to children with disabilities, in schools or local educational agencies identified for improvement under Section 1116 of the Elementary and Secondary Education Act of 1965 on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the State under Section 1111(b)(2)(G) of the Elementary and Secondary Education Act of 1965.	t.	$500,000	$0 More needs to be distril

The total of details for your Other State-Level Activities set-aside is $18,497,852 **OK**

You are almost done.
If you are using money for a High Cost Fund. You must report how much you will use for each of the following two activities. You reported that you would use
$0

To establish and make disbursements from the high cost fund to local

educational agencies in accordance with 20 U.S.C. 1411(e)(3) during the first and succeeding fiscal years of the high cost fund.	u.		
To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to 20 U.S.C. 1411(e)(3)(B)(ii) (Amount may not be more than 5% of the amount reserved for the LEA Risk Pool.)	v.		
Establishment of High Cost Fund (20 U.S.C. 1411(e)(3)(B)(i) - A State shall not use any of the funds the State reserves pursuant to 20 U.S.C. 1411(e)(3)(A)(i), but may use the funds the State reserves under 20 U.S.C. 1411(e)(1), to establish and support the high cost fund.			
Subtotal, High Cost Fund		$0	**OK**

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($394,245)

$825,207

Minnesota Department of Education

TO: DISTRICT SUPERINTENDENTS AND SPECIAL EDUCATION DIRECTORS

FROM: PATRICIA TEMPLIN, DIRECTOR OF COMPLIANCE AND ASSISTANCE
BARBARA TROOLIN, DIRECTOR OF SPECIAL EDUCATION POLICY

DATE: MAY 5, 2014

SUBJECT: FEDERAL REPORTING REQUIREMENTS UNDER IDEA 2004, SECTION 608

CC: SECRETARY OF EDUCATION

Pursuant to the 2004 IDEA, states are required to identify state-level laws and rules that impose requirements not required by the federal laws or regulations. The exact language of this requirement is found at § 608(a):

> *(a) RULEMAKING – Each State that receives funds under this title shall--*
>
> *(1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;*
>
> *(2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and*
>
> *(3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.*

This memorandum serves to provide public notice of Minnesota requirements not required by Federal laws. The organizational structure for this memorandum is the Minnesota regulations and statutes, and the discussion is ordered sequentially by the Minnesota laws and rules. For the purpose of this notice "state-imposed requirements" result in the following list of items that require a district to do something it would not have to do absent the state law or rule.

Minnesota has few requirements that exceed the federal law because Minnesota has, over the last decade, had two formal stakeholder committees review and recommend revisions of Minnesota's special education laws. These committees generally sought to reduce the instances Minnesota duplicated or exceeded federal law. Some requirements are unique to Minnesota and are not driven by federal law but rather constitute Minnesota's own formulation and evolution of special education policy. Minnesota provided special education services before these services were mandated by the federal government and has developed its own policy at times exclusive of the IDEA.

MINNESOTA STATUTORY PROVISIONS THAT IMPOSE A REQUIREMENT NOT REQUIRED BY THE FEDERAL LAWS OR REGULATIONS

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY

Minnesota provides special education services from birth to age 21. By comparison, the federal requirement is that services must be provided from age 3 to age 21.

125A.04 HIGH SCHOOL DIPLOMA

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

> *Upon completion of secondary school or the equivalent, a pupil with a disability who satisfactorily attains the objectives in the pupil's individualized education program must be granted a high school diploma that is identical to the diploma granted to a pupil without a disability.*

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

125A.08 SCHOOL DISTRICT OBLIGATIONS

Minnesota's special education statute 125A.08 enumerates a number of provisions related to the general school district obligations to provide a free appropriate public education (FAPE). Transition services are discussed with a beginning date of grade 9:

> *During grade 9, the plan must address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;*

As discussed and in the corollary Minn. Rules 3500.2900, the legislature has directed the department to provide transition services beginning by grade 9 or at age 14, whichever comes first. The federal requirement is that transition services begin at 16. This statutory section reiterates the provision in 125A.03 that services are provided in Minnesota before the age at which services are federally required.

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS

> *Subd. 3a.**Additional requirements for prior written notice.** In addition to federal law requirements, a prior written notice shall:*
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> *(1) inform the parent that except for the initial placement of a child in special education, the school district will proceed with its proposal for the child's placement or for providing special education services unless the child's parent notifies the district of an objection within 14 days of when the district sends the prior written notice to the parent; and*
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> *(2) state that a parent who objects to a proposal or refusal in the prior written notice may request a conciliation conference under subdivision 7 or another alternative dispute resolution procedure under subdivision 8 or 9.*

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

> *Subd. 5. **Initial action; parent consent.** (a) The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.*

In Minnesota, override procedures cannot be used to override a parent's refusal to consent to a reevaluation. This is not the case with the federal regulations. Although the federal regulations regarding parental consent, found at § 300.300, make clear that due process procedures may not be used to override a parent's lack of consent for an initial evaluation, they do not address a failure to consent to a reevaluation:

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

34 C.F.R. 300.300(b)(3). While not strictly requiring districts to do something they would not otherwise be required to do, this provision restricts districts from changing or deleting services by allowing parents to refuse reevaluation.

> *Subd. 7.* ***Conciliation conference****. A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision 3a. A district must hold a conciliation conference within ten calendar days from the date the district receives a parent's objection to a proposal or refusal in the prior written notice. Except as provided in this section, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.*
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> *Subd. 8.* ***Voluntary dispute resolution options****. In addition to offering at least one conciliation conference, a district must inform a parent of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under federal special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.*
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> *Subd. 11.* ***Facilitated team meeting.*** *A facilitated team meeting is an IEP, IFSP, or IIIP team meeting led by an impartial state-provided facilitator to promote effective communication and assist a team in developing an individualized education program.*

The Minnesota legislature requires that districts provide and participate in a conciliation conference if the parent objects to a district's proposal or refusal in a prior written notice. In addition, Minnesota offers facilitated IEP meetings as a dispute resolution option, although these are voluntary on the part of all parties. Neither of these dispute resolution processes is required by the IDEA. Minnesota has implemented these requirements in rules discussed below. IDEA 2004 places extensive emphasis on alternative dispute resolution, including the resolution sessions found at 615(f)(1)(B)[1]. It is clear that the federal structure contemplates early

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[1] The federal statute explains the resolution session thusly:

(B) RESOLUTION SESSION.-

(i) PRELIMINARY MEETING.-Prior to the opportunity for an impartial due process hearing under subparagraph (A) the local educational agency shall convene a meeting with the parents and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint-

(I) within 15 days of receiving notice of the parents' complaint;

(II) which shall include a representative of the agency who has decision-making authority on behalf of such agency;

(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and

opportunities for dispute resolution. However, conciliation conferences and facilitated IEP meetings are not federal requirements.

Minnesota requires that parents be informed of their right to various alternative dispute resolution options, including conciliation conferences, mediation, and facilitated IEP team meetings whenever they object to any proposal for which they receive notice. The federal statutes and regulations require that parents be informed of the availability of mediation only after parents have requested a due process hearing.

> *(2) CONTENTS.-The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to-*
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> *(A) independent educational evaluation;*
>
> *(B) prior written notice;*
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> *(C) parental consent;*
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> *(D) access to educational records;*
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> *(E) the opportunity to present and resolve complaints, including-*
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> *(i) the time period in which to make a complaint;*
>
> *(ii) the opportunity for the agency to resolve the complaint; and*
>
> *(iii) the availability of mediation;*

IDEA 2004 § 615(d)(2)(E)(iii).[2] Minnesota's procedural safeguards notice, available on the web at: http://education.state.mn.us/MDE/SchSup/ComplAssist/ProcSafe/index.html informs parents of the availability of mediation in keeping with the federal requirements. Minnesota's requirement that parents be informed of the availability of mediation after entering into the formal dispute resolution process by filing a state administrative complaint does not have a federal analog. Minnesota imposes an additional requirement upon LEAs that is not contemplated in the federal scheme.

> *Subd. 15.* ***Prehearing conference****. A prehearing conference must be held within five business days of the date the commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by telephone. The hearing officer must create a written verbatim record of the prehearing conference which is*

(IV) where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint, unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).

[2] Similar, albeit expanded, language is found in the federal rules at § 300.504(c).

available to either party upon request. At the prehearing conference, the hearing officer must:

(1) identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;

(2) set a scheduling order for the hearing and additional prehearing activities;

(3) determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and

(4) establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

Federal regulations do not require a prehearing conference prior to a due process hearing. This requirement is imposed on the independent hearing officers conducting special education due process hearings in Minnesota.

Subd. 28. ***District liability****. A district is not liable for harmless technical violations of federal or state laws, rules, or regulations governing special education if the school district can demonstrate that the violations did not harm a student's educational progress or the parent's right to notice, participation, or due process. This subdivision is applicable to due process hearings and special education complaints filed with the department.*

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

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

125A.0941 RESTRICTIVE PROCEDURES FOR CHILDREN WITH DISABILITIES

The use of restrictive procedures for children with disabilities is governed by sections 125A.0941 and 125A.0942.

125A.0941 DEFINITIONS

(b) "Emergency" means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as: a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table; a child who does not respond to a staff person's request unless failing to respond would

result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists.

(c) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement, where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a child in order to protect a child or other individual from physical injury. The term physical holding does not mean physical contact that:

(1) helps a child respond or complete a task;

(2) assists a child without restricting the child's movement;

(3) is needed to administer an authorized health-related service or procedure; or

(4) is needed to physically escort a child when the child does not resist or the child's resistance is minimal.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately.

(e) "Prone restraint" means placing a child in a face down position.

(f) "Restrictive procedures" means the use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a child.

(g) "Seclusion" means confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.

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

125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES

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

Subdivision 1. Restrictive procedures plan. (a) Schools that intend to use restrictive procedures shall maintain and make publicly accessible in an

electronic format on a school or district Web site or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities that at least:

(1) lists the restrictive procedures the school intends to use;

(2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services;

(3) describes how the school will monitor and review the use of restrictive procedures, including:

(i) conducting post-use debriefings, consistent with subdivision 3, paragraph (a), clause (5); and

(ii) convening an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarityes in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children, the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and

(4) includes a written description and documentation of the training staff completed under subdivision 5.

(b) Schools annually must publicly identify oversight committee members who must at least include:

(1) a mental health professional, school psychologist, or school social worker;

(2) an expert in positive behavior strategies;

(3) a special education administrator; and

(4) a general education administrator.

Subd. 2. Restrictive procedures. (a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed educational professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5.

(b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (d).

(c) The district must hold a meeting of the individualized education program team, conduct or review a functional behavioral analysis, review data, consider developing additional or revised positive behavioral interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the individualized education program or behavior intervention plan as appropriate. The district must hold the meeting: within ten calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days or a pattern of use emerges and the child's individualized education program or behavior intervention plan does not provide for using restrictive procedures in an emergency, or at the request of a parent or the district after restrictive procedures are used. The district must review use of restrictive procedures at a child's annual individualized education program meeting when the child's individualized education program provides for using restrictive procedures in an emergency.

(d) If the individualized education program team under paragraph (c) determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on ten or more school days during the same school year, the team, as appropriate, either must consult with other professionals working with the child; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the child.

(e) At the individualized education program meeting under paragraph (c), the team must review any known medical or psychological limitations, including any medical information the parent provides voluntarily, that contraindicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the individualized education program or behavior intervention plan.

(f) An individualized education program team may plan for using restrictive procedures and may include these procedures in a child's individualized education program or behavior intervention plan; however, the restrictive procedures may be used only in response to behavior that constitutes an emergency, consistent with this section. The individualized education program or behavior intervention plan shall indicate how the parent wants to be notified when a restrictive procedure is used.

Subd. 3.Physical holding or seclusion.(a) Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

(1) physical holding or seclusion is the least intrusive intervention that effectively responds to the emergency;

(2) physical holding or seclusion is not used to discipline a noncompliant child;

(3) physical holding or seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;

(4) staff directly observes the child while physical holding or seclusion is being used;

(5) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes, the following information:

(i) a description of the incident that led to the physical holding or seclusion;

(ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;

(iii) the time the physical holding or seclusion began and the time the child was released; and

(iv) a brief record of the child's behavioral and physical status;

(6) the room used for seclusion must:

(i) be at least six feet by five feet;

(ii) be well lit, well ventilated, adequately heated, and clean;

(iii) have a window that allows staff to directly observe a child in seclusion;

(iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;

(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and

(vi) not contain objects that a child may use to injure the child or others;

(7) before using a room for seclusion, a school must:

(i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and

(ii) register the room with the commissioner, who may view that room; and

(8) until August 1, 2015, a school district may use prone restraints with children age five or older if:

(i) the district has provided to the department a list of staff who have had specific training on the use of prone restraints;

(ii) the district provides information on the type of training that was provided and by whom;

(iii) only staff who received specific training use prone restraints;

(iv) each incident of the use of prone restraints is reported to the department within five working days on a form provided by the department; and

(v) the district, before using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints.

The department must collect data on districts' use of prone restraints and publish the data in a readily accessible format on the department's Web site on a quarterly basis.

(b) By March 1, 2014, stakeholders must recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures and the commissioner must submit to the legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of prone restraints. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of prone restraints; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner.

Subd. 4.Prohibitions.The following actions or procedures are prohibited:

(1) engaging in conduct prohibited under section 121A.58;

(2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;

(3) totally or partially restricting a child's senses as punishment;

(4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;

(5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

(6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556;

(7) withholding regularly scheduled meals or water;

(8) denying access to bathroom facilities; and

(9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso.

Subd. 5.Training for staff. (a) To meet the requirements of subdivision 1, staff who use restrictive procedures, including paraprofessionals, shall complete training in the following skills and knowledge areas:

(1) positive behavioral interventions;

(2) communicative intent of behaviors;

(3) relationship building;

(4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;

(5) de-escalation methods;

(6) standards for using restrictive procedures only in an emergency;

(7) obtaining emergency medical assistance;

(8) the physiological and psychological impact of physical holding and seclusion;

(9) monitoring and responding to a child's physical signs of distress when physical holding is being used;

(10) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used;

(11) district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and

(12) schoolwide programs on positive behavior strategies.

(b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The commissioner also must develop and maintain a list of experts to help individualized education program teams reduce the use of restrictive procedures. The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings.

Subd. 6.Behavior supports. School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports. Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379.

The restrictive procedures plan, parental notification, documentation of restrictive procedure use, IEP meeting, FBA review, seclusion room features, staff training and prohibited actions are state-imposed requirements for school districts choosing to use restrictive procedures with children with disabilities.

125A.18 SPECIAL INSTRUCTION; NONPUBLIC SCHOOLS

No resident of a district who is eligible for special instruction and services under this section may be denied instruction and service on a shared time basis consistent with section 126C.19, subdivision 4, because of attending a nonpublic school defined in section 123B.41, subdivision 9. If a resident pupil with a disability attends a nonpublic school located within the district of residence, the district must provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident pupil with a disability attends a nonpublic school located in another

district and if no agreement exists under section 126C.19, subdivision 1 or 2, for providing special instruction and services on a shared time basis to that pupil by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence must provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the district boundary.

Parties serving students on a shared time basis have access to the due process hearing system described under United States Code, title 20, and the complaint system under Code of Federal Regulations, title 34, section 300.660-662. In the event it is determined under these systems that the nonpublic school or staff impeded the public school district's provision of a free appropriate education, the commissioner may withhold public funds available to the nonpublic school proportionally applicable to that student under section 123B.42.

This Minnesota statute, providing that special instruction and services be provided to nonpublic school students, and two relevant court decisions, are interpreted as conferring a right to FAPE on nonpublic school students in Minnesota. *See* ISD 709 v. Bonney, 705 N.W.2d 209 (Minn. Ct. App. 2005) and ISD 281 v. Minnesota Dept. of Educ., 743 N.W.2d 315 (Minn. Ct. App. 2008).

125A.22 COMMUNITY TRANSITION INTERAGENCY COMMITTEE

A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, must establish a community transition interagency committee for youth with disabilities, beginning at grade 9 or age equivalent, and their families. Members of the committee must consist of representatives from special education, vocational and regular education, community education, postsecondary education and training institutions, mental health, adults with disabilities who have received transition services if such persons are available, parents of youth with disabilities, local business or industry, rehabilitation services, county social services, health agencies, and additional public or private adult service providers as appropriate. The committee must elect a chair and must meet regularly. The committee must:

(1) identify current services, programs, and funding sources provided within the community for secondary and postsecondary aged youth with disabilities and their families;

(2) facilitate the development of multiagency teams to address present and future transition needs of individual students on their individualized education programs;

(3) develop a community plan to include mission, goals, and objectives, and an implementation plan to assure that transition needs of individuals with disabilities are met;

(4) recommend changes or improvements in the community system of transition services;

(5) exchange agency information such as appropriate data, effectiveness studies, special projects, exemplary programs, and creative funding of programs; and

(6) following procedures determined by the commissioner, prepare a yearly summary assessing the progress of transition services in the community including follow-up of individuals with disabilities who were provided transition services to determine postschool outcomes. The summary must be disseminated to all adult services agencies involved in the planning and to the commissioner by October 1 of each year.

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

125A.24 PARENT ADVISORY COUNCILS

In order to increase the involvement of parents of children with disabilities in district policy making and decision making, school districts must have a special education advisory council that is incorporated into the district's special education system plan.

(1) This advisory council may be established either for individual districts or in cooperation with other districts who are members of the same special education cooperative.

(2) A district may set up this council as a subgroup of an existing board, council, or committee.

(3) At least half of the designated council members must be parents of students with a disability. When a nonpublic school is located in the district, the council must include at least one member who is a parent of a nonpublic school student with a disability, or an employee of a nonpublic school if no parent of a nonpublic school student with a disability is available to serve. Each local council must meet no less than once each year. The number of members, frequency of meetings, and operational procedures are to be locally determined.

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

125A.30 INTERAGENCY EARLY INTERVENTION COMMITTEES

(a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, must establish an Interagency Early Intervention Committee for children with

disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local health, education, and county human service agencies, county boards, school boards, early childhood family education programs, Head Start, parents of young children with disabilities under age 12, child care resource and referral agencies, school readiness programs, current service providers, and may also include representatives from other private or public agencies and school nurses. The committee must elect a chair from among its members and must meet at least quarterly.

(b) The committee must develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families, especially parents with premature infants, or infants with other physical risk factors associated with learning or development complications, of available programs and services;

(2) to reduce families' need for future services, and especially parents with premature infants, or infants with other physical risk factors associated with learning or development complications, implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities, including a child under the age of three who: (i) the subject of a substantiated case of abuse or neglect or (ii) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;

(3) establish and evaluate the identification, referral, screening, evaluation, child- and family-directed assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individualized education programs and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(5) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(6) facilitate the development of a transition plan in the individual family service plan by the time a child is two years and nine months old;

(7) identify the current services and funding being provided within the community for children with disabilities under age five and their families;

(8) develop a plan for the allocation and expenditure of federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law 89-313); and

(9) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public.

(c) The local committee shall also participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families.

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

125A.56 ALTERNATE INSTRUCTION REQUIRED BEFORE ASSESSMENT REFERRAL

Subdivision 1.Requirement. (a) Before a pupil is referred for a special education evaluation, the district must conduct and document at least two instructional strategies, alternatives, or interventions using a system of scientific, research-based instruction and intervention in academics or behavior, based on the pupil's needs, while the pupil is in the regular classroom. The pupil's teacher must document the results. A special education evaluation team may waive this requirement when it determines the pupil's need for the evaluation is urgent. This section may not be used to deny a pupil's right to a special education evaluation.

(b) A school district shall use alternative intervention services, including the assurance of mastery program under section 124D.66, or an early intervening services program under subdivision 2 to serve at-risk pupils who demonstrate a need for alternative instructional strategies or interventions.

Subd. 2.Early intervening services program. (a) A district may meet the requirement under subdivision 1 by establishing an early intervening services program that includes:

(1) a system of valid and reliable general outcome measures aligned to state academic standards that is administered at least three times per year to pupils in kindergarten through grade 8 who need additional academic or behavioral support to succeed in the general education environment. The school must provide interim assessments that measure pupils' performance three times per year and implement progress monitoring appropriate to the pupil. For purposes of this section, "progress monitoring" means the frequent and continuous measurement of a pupil's performance that includes these three interim assessments and other pupil assessments during the school year. A school, at its discretion, may allow pupils in grades 9 through 12 to participate in interim assessments;

(2) a system of scientific, research-based instruction and intervention; and

(3) an organizational plan that allows teachers, paraprofessionals, and volunteers funded through various sources to work as a grade-level team or use another configuration across grades and settings to deliver instruction. The team must be trained in scientific, research-based instruction and intervention. Teachers and paraprofessionals at a site operating under this paragraph must work collaboratively with those pupils who need additional academic or behavioral support to succeed in a general education environment.

(b) As an intervention under paragraph (a), clause (2), staff generating special education aid under section 125A.76 may provide small group instruction to pupils who need additional academic or behavioral support to succeed in the general education environment. Small group instruction that includes pupils with a disability may be provided in the general education environment if the needs of the pupils with a disability are met, consistent with their individualized education programs, and all pupils in the group receive the same level of instruction and make the same progress in the instruction or intervention. Teachers and paraprofessionals must ensure that the needs of pupils with a disability participating in small group instruction under this paragraph remain the focus of the instruction. Expenditures attributable to the time special education staff spends providing instruction to nondisabled pupils in this circumstance is eligible for special education aid under section 125A.76 as an incidental benefit if:

(1) the group consists primarily of disabled pupils;

(2) no special education staff are added to meet nondisabled pupils' needs; and

(3) the primary purpose of the instruction is to implement the individualized education programs of pupils with a disability in this group.

Expenditures attributable to the time special education staff spends providing small group instruction to nondisabled pupils that affords more than an incidental benefit to such pupils is not eligible for special education aid under section 125A.76, except that such expenditures may be included in the alternative delivery initial aid adjustment under section 125A.78 if the district has an approved program under section 125A.50. During each 60-day period that a nondisabled pupil participates in small group instruction under this paragraph, the pupil's progress monitoring data must be examined to determine whether the pupil is making progress and, if the pupil is not making progress, the pupil's intervention strategies must be changed or the pupil must be referred for a special education evaluation.

Federal rules and statutes do not require pre-referral interventions in the regular classroom before an evaluation for special education is conducted.

MINNESOTA RULES THAT IMPOSE A REQUIREMENT NOT REQUIRED BY THE FEDERAL LAWS OR REGULATIONS

3525.0550 PUPIL IEP MANAGER

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

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

3525.0800 RESPONSIBILITY FOR ENSURING PROVISION OF INSTRUCTION AND SERVICES

> *Subp. 2.* ***Purchased services****. The district shall not purchase special educational services for a pupil from a public or private agency when the service is available or can be made available and can be more appropriately provided as the least restrictive alternative within the district. Whenever it is appropriate for a district to purchase special education service for pupils with disabilities who reside in the district, it continues to be the responsibility of the school district, consistent with Minnesota Statutes and parts 3525.0210 to 3525.4770, to assure and ascertain that such pupils and youth receive the education and related services and rights to which they are entitled.*

Federal rules and statutes do not place this restriction on districts' ability to spend their money on services. In fact, language in the IDEA statute can be said to directly contradict such a restriction. IDEA 2004 contains a provision that explicitly authorizes LEAs to purchase appropriate technology for a number of services, including recordkeeping, data collection, and case management activities, and places no restrictions where LEAs make those purchases. *See* IDEA 2004, § 613(a)(4)(B). As this provision places a restriction on the abilities of districts to procure services, a restriction not found in the federal scheme, such a rule exceeds the federal requirements.

3525.2340 CASE LOADS

Subp. 4. ***Case loads for school-age educational service alternatives.***

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

(1) for pupils who receive direct special instruction from a teacher 50 percent or more of the instructional day, but less than a full school day:

(a) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired, three pupils;

(b) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one program support assistant, six pupils;

(c) developmental cognitive disability: mild-moderate range or specific learning disabled, 12 pupils;

(d) developmental cognitive disability: mild-moderate range or specific learning disabled with one program support assistant, 15 pupils;

(e) all other disabilities with one program support assistant, ten pupils; and

(f) all other disabilities with two program support assistants, 12 pupils; and

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

(a) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one program support assistant, four pupils;

(b) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with two program support assistants, six pupils; and

(c) all other disabilities with one program support assistant, eight pupils.

B. For pupils who receive direct special education less than 50 percent of the instructional day, caseloads are to be determined by the local district's policy based on the amount of time and services required by pupils' IEP plans.

Subp. 5. ***Case loads for early childhood program alternatives.*** *A teacher's case load must be adjusted downward based on pupils' severity of disability or delay, travel time necessary to serve pupils in more than one program alternative, and if the pupils on the teacher's case loads are receiving services in*

more than one program alternative or the pupils are involved with other agencies. The maximum number of pupils that can be assigned to a teacher in any early childhood program alternative is:

A. birth through two years: 12 pupils per teacher;

B. three through six years: 16 pupils per teacher; and

C. birth through six years: 14 pupils per teacher.

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

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

3525.2405 DIRECTORS

The school board in every district shall employ, either singly or cooperatively, a director of special education to be responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration in the district's total special education system. Cooperative employment of a director may be through a host district, joint powers agreement, or a service cooperative. A director may not be assigned direct instructional duties.

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

3525.2550 CONDUCT BEFORE EVALUATION

*Subp. 2. **Team duties**. The team shall conduct an evaluation for special education purposes within a reasonable time not to exceed 30 school days from the date the district receives parental permission to conduct the evaluation or the expiration of the 14-calendar day parental response time in cases other than initial evaluation, unless a conciliation conference or hearing is requested.*

Federal regulations require that an initial evaluation be conducted within 60 days of receiving parental consent. There is no such requirement for reevaluations. Federal regulations permit States to establish a timeframe within which an evaluation must be conducted. Minnesota has established a 30 school day timeline for evaluations.

3525.2810 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM PLAN

The current rule substantially reflects the requirements of federal law. A few provisions of the rule are remnants of the previous federal requirements. Specifically, the need for benchmarks or short-term objectives has been removed from the IDEA. The Minnesota requirement for these progress markers exceeds federal law.

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

3525.2900 TRANSITION AND BEHAVIORAL INTERVENTION PLANNING

> *Subp. 4.* ***Transition planning.*** *By grade nine or age 14, whichever comes first, the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment, and community living.*

Minnesota's transition planning rule is based on the 1997 IDEA regulations, which allowed for a two-tiered transition planning option, beginning at either age 14 or age 16, as appropriate.[3] *See* 34 C.F.R. § 300.347. Minnesota's legislature directed MDE to begin all transition planning during grade 9. *See* Minn. Stat. § 125A.08, subd. (a)(1). The new IDEA, however, begins transition planning at age 16 only. *See* § 614(d)(1)(A)(i)(VIII)(aa). This constitutes a state-imposed requirement not demanded by IDEA.

3525.3600 PRIOR WRITTEN NOTICE

> *When a district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a pupil, or the provision of FAPE to the pupil, the district must serve prior written notice on the parent. The district must serve the notice on the parent within a reasonable time, and in no case less than 14 calendar days before the proposed effective date of change or evaluation. If the notice only includes a refusal of a request, it must be served on the parent within 14 calendar days of the date the request was made.*
>
> *The notice must meet the requirements of Minnesota Statutes, section 125A.091, subdivisions 3 and 4. The notice must also:*
>
> *A. inform the parents that the school district will not proceed with the initial placement and provision of services as defined in part 3525.0210 without prior written consent of the pupil's parents;*

[3] Transition planning during grade 9 is mandated by the Minnesota statutes. *See* Minn. Stat. § 125.08.

B. inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within 14 calendar days after the receipt of the notice; and

C. inform the parents that if they refuse to provide prior written consent for initial evaluation or initial placement or object in writing to any proposal, or if the district refuses to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education to the pupil, the parent may request a conciliation conference.

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

Minnesota has established a 14 calendar day timeline for prior written notice. School districts are also required to provide additional notice beyond the requirements found in 34 C.F.R. § 300.503, as required by Minn. Stat. § 125A.091, discussed above.

3525.3700 CONCILIATION CONFERENCE

The conciliation conference is a dispute resolution option unique to Minnesota although the 2004 IDEA mandates a similar pre-hearing procedure termed a “resolution session.” The Minnesota legislature requires that districts provide a conciliation conference if requested by parents. The district must participate in the conciliation conference if requested by the parents. This provision is not required by federal law.

3525.3900 INITIATING A DUE PROCESS HEARING

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

3525.4110 PREHEARING CONFERENCE

*Subpart 1.**Generally**. A prehearing conference must be held within five business days of the date the department appoints the hearing officer. The hearing officer will initiate the prehearing conference which may be conducted by telephone or in person at a location within the district. The hearing officer will have a written verbatim record of the prehearing conference created which must be made available to both parties if either party requests the record.*

*Subp. 2.**Purpose**. The hearing officer has the following duties at a prehearing conference:*

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

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

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

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

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

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

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

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

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

*Subp. 3.**Hearing officer authority**. The hearing officer has the authority to take any actions necessary to ensure the compliance with all requirements of law and may dismiss the matter, with or without prejudice, if the party requesting the hearing fails to provide information required or ordered by the hearing officer.*

*Subp. 4.**Subpoenas**. Parties may request subpoenas for witnesses from the hearing officer. A subpoena must include a statement that federal law gives parties to a special*

education due process hearing the right to compel the attendance of witnesses. A hearing officer may refuse to issue a subpoena for a proposed witness who is to offer evidence the hearing officer determines will be incompetent, irrelevant, immaterial, or unduly repetitious.

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

CONCLUSION

This document serves as a comprehensive and definitive report of Minnesota's requirements under Section 608 of the federal law.