

## **608 INSTRUCTIONAL SERVICES – SPECIAL EDUCATION**

*[Note: The provisions of this policy substantially reflect statutory and regulatory requirements.]*

### **I. PURPOSE**

The purpose of this policy is to set forth the position of the education district board on the need to provide special educational services to some students in the education district.

### **II. GENERAL STATEMENT OF POLICY**

The education district board recognizes that some students need special education and further recognizes the importance of providing a free appropriate public education and delivery system for students in need of special education.

### **III. CHILDREN FROM BIRTH THROUGH AGE SEVEN EXPERIENCING DEVELOPMENTAL DELAYS**

- A. "Child with a disability" means a child identified under federal and state special education law as deaf or hard-of-hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical impairment, other health disability, developmental cognitive disability, an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple impairments, and who needs special education and related services, as determined by the rules of the Commissioner of the Minnesota Department of Children, Youth, and Families for children from birth through age two and by the rules of the Commissioner of the Minnesota Department of Education for all other children. A licensed physician, an advanced practice registered nurse, a physician assistant, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.
- B. In addition to Paragraph A, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the rules of the Commissioner of the Minnesota Department of Children, Youth, and Families for children from birth through age two and by the rules of the Commissioner of the Minnesota Department of Education for children ages three through seven, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

- C. A child with a short-term or temporary physical or emotional illness or disability, as determined by the rules of the Commissioner of the Minnesota Department of Children, Youth, and Families for children from birth through age two and by the rules of the Commissioner of the Minnesota Department of Education for all other children, is not a child with a disability.

**[NOTE: The 2024 Minnesota legislature revised these provisions in part to account for the responsibilities of the new Department of Children, Youth, and Families. The provisions quote Minnesota Statutes, section 125A.02.]**

#### **IV. RESPONSIBILITIES**

- A. The education district board accepts its responsibility to identify, evaluate, and provide special education and related services for children with a disability who are properly the responsibility of the education district and who meet the criteria to qualify for special education and related services as set forth in Minnesota and federal law.
- B. The education district shall ensure that all qualified children with a disability are provided special education and related services that are appropriate to their educational needs.
- C. When such services require or result from interagency cooperation, the education district shall participate in such interagency activities in compliance with applicable federal and state law.
- D. The education district may conduct an assessment for developmental adapted physical education, as defined in Minnesota Rules, part 3525.1352, as a stand-alone evaluation without conducting a comprehensive evaluation of the student in accordance with prior written notice provisions in Minnesota Statutes, section 125A.091, subdivision 3a. A parent or guardian may request that the education district conduct a comprehensive evaluation of the parent's or guardian's student.

**[NOTE: The 2024 Minnesota legislature enacted paragraph D. This provision is permissive, not mandatory. A school board can decide whether to add it to a policy.]**

**Legal References:** Minn. Stat. § 124D.03 (Enrollment Options Program)  
Minn. Stat. § 125A.02 (Definition of Child with a Disability)  
Minn. Stat. §§ 125A.027, 125A.03, 125A.08, 125A.15, and 125A.29 (District Obligations)  
20 U.S.C. § 1400 *et seq.* (Individuals with Disabilities Education Improvement Act of 2004)

***Cross References:*** MSBA/MASA Model Policy 402 (Disability Nondiscrimination Policy)  
MSBA/MASA Model Policy 508 (Extended School Year for Certain Students with Individualized Education Programs)  
MSBA/MASA Model Policy 509 (Enrollment of Nonresident Students)  
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)