



**Delivery of Special
Education to
Non-Public School
Students by Public
School Districts**

April 2006

**FY 2006
Report
to the
Legislature**

**As required by
2005 Minnesota First
Special Session Laws,
Chapter 5, Article 3,
Section 17**

COMMISSIONER:

Alice Seagren

**Delivery of Special
Education to
Non-Public School
Students by Public
School Districts**

FOR MORE INFORMATION CONTACT:

Norena A. Hale, Ph.D.

Minnesota Department of Education

T: (651) 582-8289

E-MAIL: norena.hale@state.mn.us

April 2006

**FY 2006
Report
To the
Legislature**

**As required by
2005 Minnesota First
Special Session Laws,
Chapter 5, Article 3,
Section 17**

1500 Highway 36 West

Roseville, MN 55113-4266

TTY: (651) 582-8201

Upon request, this report can be made available in alternative formats.

Estimate Cost of Preparing This Report

This report provides information on the proceedings of the Task Force on Delivery of Special Education to Non-Public School Students by Public School Districts, as established by the 2005 Minnesota First Special Session Laws, Chapter 5, Article 3, Section 17. The cost of preparing the report does not include the costs associated with expenses of the members to participate.

Special funding was not provided for this task force.

Estimated cost for the report is \$9,634.

Background

The 2005 Minnesota First Special Session Laws, Chapter 5, Article 3, Section 17, established a Task Force on Delivery of Special Education to Non-Public School Students by Public School Districts to advise the commissioner on the delivery of special education to non-public school students by public school districts. The task force will make recommendations to the commissioner and/or the legislature about issues involving the delivery of special education to non-public school students by public school districts.

This report provides background and summary of the Task Force on Delivery of Special Education to Non-Public School Students by Public School Districts for the past few months. The committee was chaired by the manager of Special Education Policy.

Current Members

Dr. Norena A. Hale, Manager
MDE-Special Education Policy

Carol Hokenson, Supervisor
MDE-Special Education Funding

Kathy Ferguson, Public Special Education Teacher
Anoka Hennepin School District

Jamie Schachter, Non-public School Special
Education Teacher
Talmud Torah

Pat Geraghty, Director, Special Services
Bloomington School District #271

Dennis Senne, Non-public Special Education
Administrator
Concordia University

Hannah Shagalow, Advocate
Sha'arim: Gateways to Education

Virginia Richardson, Advocate
PACER Center, Inc.

Marcia Cohodes, Parent
Non-public School Special Education

Kim Stanley, Parent
Home School

Rhonda Smith, Elementary School Principal
School District #196

Dr. Robert Tift, Non-public School Principal
Benilde – St. Margaret's School

Debra Bowers, Public School Superintendent
St. Louis Park School District

Mary Kane, Non-public School Superintendent
Archdiocese of St. Paul & Minneapolis

Lois Rockney, Public School Business Official
St. Paul Public Schools

Rabbi Joel Waxman, Nonpublic School Business
Official
Torah Academy

Sandy Belkengren, Public School Board Official
Richfield School District

Donna MacGregor, Non-public School Board
Official
St. Andrew School

**TASK FORCE ON DELIVERY OF SPECIAL EDUCATION TO NON-PUBLIC
SCHOOL STUDENTS BY PUBLIC SCHOOL DISTRICTS
STATE LEGISLATIVE REPORT
APRIL 2006**

INTRODUCTION

The 2005 Minnesota First Special Session Legislature passed a statute (Chapter 5, Article 3, Section 17) directing the Minnesota Department of Education (MDE) to create a task force to "...compare and evaluate how the individual needs of each child (with a disability) are being met, if services are provided in the least restrictive environment, and whether best practices and program efficiencies are being used...." (See Appendix A). Members on the task force included:

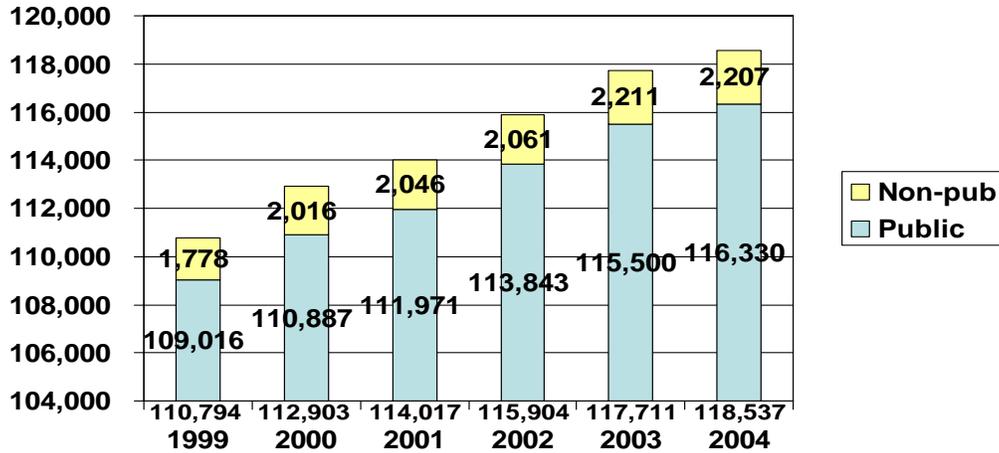
Dr. Norena A. Hale, MDE, Manager, Special Education Policy
Carol Hokenson, MDE, Supervisor, Special Education Funding
Kathy Ferguson, Anoka Hennepin School District, Public Special Education Teacher
Jamie Schachter, Talmud Torah, Nonpublic School Special Education Teacher
Pat Geraghty, Bloomington School District #271, Director, Special Services
Dennis Senne, Concordia University, Non-public Special Education Administrator
Hannah Shagalow, Sha'arim: Gateways to Education, Advocate
Virginia Richardson, PACER Center, Inc., Advocate
Marcia Cohodes, Parent, Non-public School Special Education
Kim Stanley, Parent, Home School
Rhonda Smith, School District #196, Elementary School Principal
Dr. Robert Tift, Benilde – St. Margaret's School, Non-public School Principal
Debra Bowers, St. Louis Park School District, Public School Superintendent
Mary Kane, Archdiocese of St. Paul & Minneapolis, Non-public School Superintendent
Lois Rockney, St. Paul Public Schools, Public School Business Official
Rabbi Joel Waxman, Torah Academy, Nonpublic School Business Official
Sandy Belkengren, Richfield School District, Public School Board Official
Donna MacGregor, St. Andrew School, Non-public School Board Official

The task force met five times during the winter of 2005-06: 12/8/05, 12/20/05, 1/6/06, 2/9/06 and 2/23/06. This report summarizes their issues and recommendations.

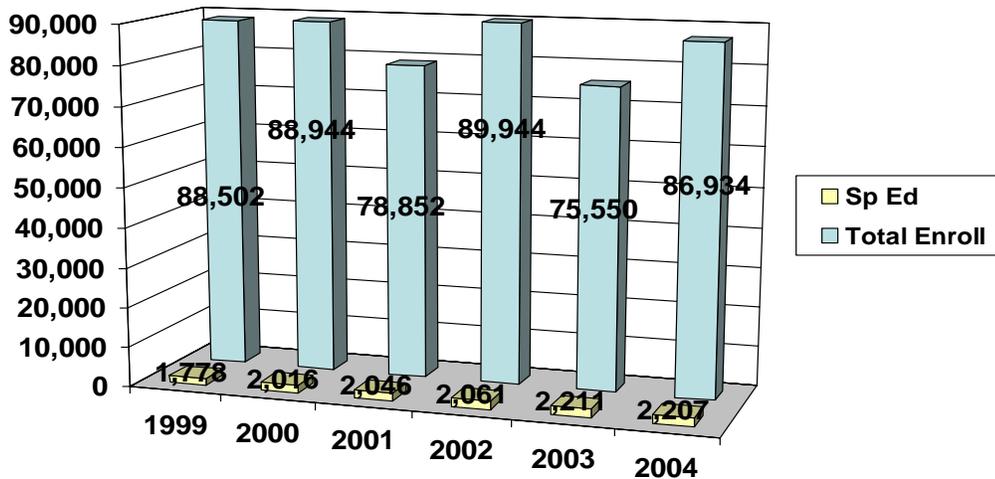
BACKGROUND

Minnesota has a long history of providing educational services to children with and children without disabilities in non-public schools. The discussion in this report will focus on the provision of special education services to children with disabilities in Minnesota's non-public schools. The Minnesota Department of Education (MDE) reported to the federal government through its annual IDEA Child Count that special education services were provided to 2,207 students with Individualized Education Programs (IEPs) in non-public schools on December 1, 2004. This represented 1.9 percent of the Minnesota's total reported Child Count of 118,537.

MN SPECIAL EDUCATION I.D.E.A. PUBLIC & NON-PUBLIC CHILD COUNT AGES 5-18



MN SPECIAL EDUCATION NON-PUBLIC TOTAL ENROLLMENT & I.D.E.A. CHILD COUNT AGES 5-18



The December 1, 2004, Child Count also revealed that the 2,207 non-public students receiving special education services represent 2.5 percent of the non-public school enrollment of 86,934. The historical non-public enrollment figures reported to MDE varied because of reporting issues beyond the scope of this Report. Two to 2.5 percent of the non-public school enrollment receiving special education services is a valid estimation of the special education services provided to children with disabilities in non-public schools in Minnesota.

Minnesota (MN) Statutes.

Historically, special education and related services have been made available because of mandates under Minnesota Statutes (MS) 126C.19 and 125A.18 and other related statutes. State funding for the provision of services is authorized and available under MS 126C for general education aid and shared-time aid and under MS 125A.75, MS 125A.76 and MS 125A.79 for special education state aid and excess cost aid.

MN Requirements for the Provision of Special Education Services in Non-public Schools.

MS 125A.18 requires that “No resident of a district who is eligible for special instruction and services... may be denied instruction and service on a shared-time basis...because of attending a nonpublic school...” It continues by defining the conditions where transportation will be provided between the public and non-public school. This section states that “Parties serving (these) students ...have access to the due process hearing ... and the complaint system(s)... (under the federal special requirements for special education).” The section concludes that “...In the event it is determined ... 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...” though this has not occurred to date.

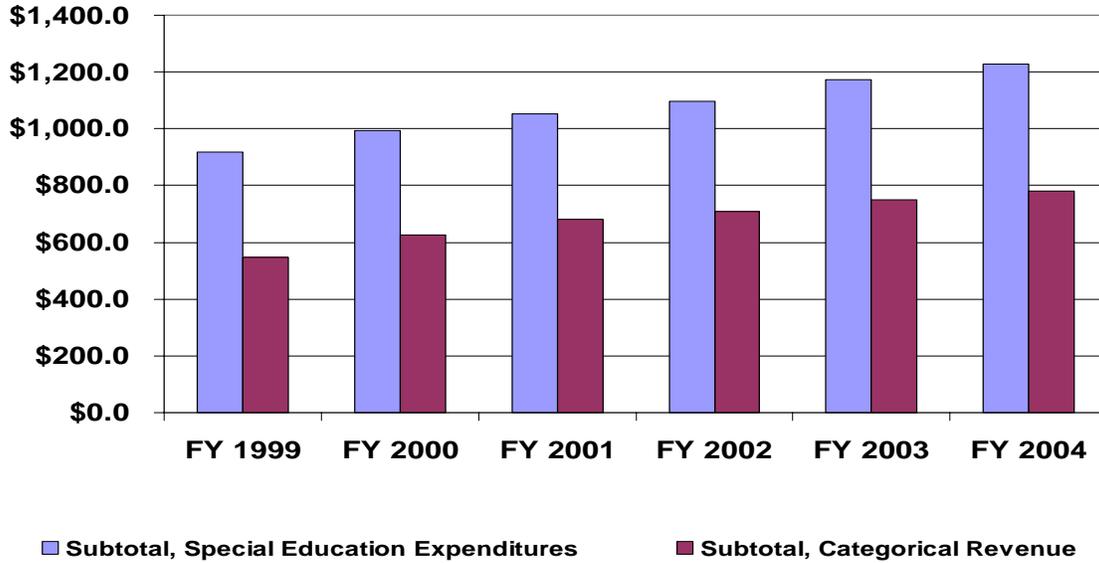
MS 125A.19 provides for the location of the provision of special education services. Subdivision 4 (b) states “...For those children with a disability ...who attend nonpublic school at their parent’s choice, a school district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than a nonpublic school...The school district shall determine the location at which to provide services on a student-by-student basis, consistent with federal law.”

MN Funding for the Provision of Special Education Services. In general, each district is responsible for identifying and serving all children with disabilities from birth to age 21 within its boundaries, including children with disabilities who are attending non-public schools. This district is called the providing district and it directly receives state special education aid (MS 125A.75) to cover the majority of the services provided. Excess costs are tuition billed back to each child’s resident district which then pays the costs from the general education aid it received for the respective child. The MDE now handles these calculations statewide electronically for districts. The statute concludes, “...The total amount of aid paid may not exceed the amount expended for children with a disability in the year for which the aid is paid.”

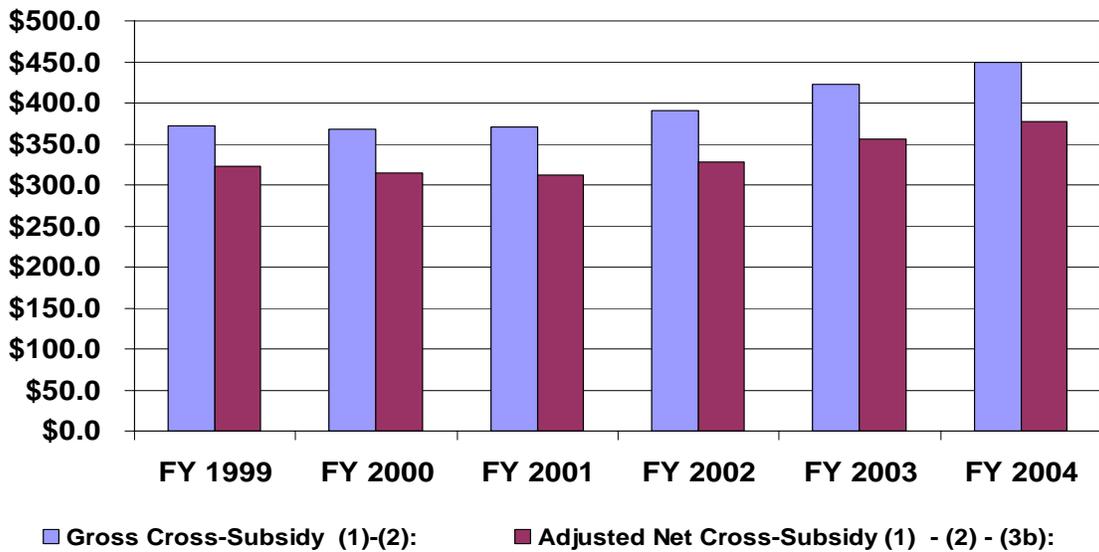
In brief, the same state funding sources available to public schools for the provision of special education services to children with disabilities in public schools are available to the public schools to provide special education services to children with disabilities in non-public schools. Shared-time aid (MS 12C.19) is the one exception since it is a categorical fund available for covering the cost of nonpublic school students who take core curriculum and other classes within the public school. The state funding sources available to cover the costs of providing special education services include: general education aid (MS 126C.10), special education state aid (MS 125A.76), excess cost aid (MS 125A.79) and regular and special transportation aid (MS 123B.92).

Following is a chart that shows the increase in total special education expenditures in Minnesota from FY 1999 through FY 2004 compared to the special education categorical revenues available to cover those expenditures. The second chart shows the amount and increase in the general education revenues used to fund the increased difference between special education expenditures and the categorical aids to cover those expenditures.

**MN State Total Special Education Expenditures
And Categorical Revenues
Fiscal Years 1999-2004
\$ In Millions**



**General Education Gross And Adjusted Net Cross-Subsidy of MN Special Education
Fiscal Years 1999-2004
\$ In Millions**



Total state and federal expenditures in special education for children and youth with disabilities in MN increased from \$917,900,000 in state fiscal year (SFY) 1999 to \$1,098,300,000 in SFY 2002 and \$1,229,600,000 in SFY 2004. (See Appendices B and C for details.) While the state tracks expenditures by the category of funding source, it does not track or separate out expenditures for children with disabilities in non-public schools from the expenditures in public schools. A difficulty in tracking such expenditures is that Minnesota special education funding formulas are based on approved expenditures. For example, a teacher may be providing special education services to both public and non-public students and the teacher may be providing educational services in either the public or non-public schools. It is the expenditure for the teacher's services that is reported to MDE for federal reimbursement or for state base revenue, not the individual costs for a child.

Federal Statutes.

The federal commitment for the provision of public special education services for children with disabilities in non-public schools has evolved over time. It has been clear that if a public school district placed a child in a non-public school then that child was entitled to receive a free appropriate public education (FAPE) or full services from that district. The provision of services has been less clear when parents placed their child in a non-public school without agreement from the public school. The Individual's With Disabilities Education Act (IDEA) of 1997 allowed that public schools did not have to provide special education services to "parentally placed" children in non-public schools unless it could be proven through due process that the public school did not make FAPE available.

These requirements changed when the President signed IDEA 2004 into effect on December 3, 2004. The Act stipulates that a "...provision is made for the participation of those (parentally placed) children in the program assisted or carried out under ... (IDEA) by providing for such children special education and related services in accordance with ... (IDEA)" (20 USCS § 1412 (10)(A)(I). For funding it continues "...Amounts to be expended for the provision of those services (including direct services to parentally placed private school children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under ...(IDEA)." It explains that "...State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended...."

Section 1412 (3)(A) stipulates that, "In general. All children with disabilities residing in the State, including...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...."

Section 1412 continues, "...the local educational agency, after timely and meaningful consultation with representatives of private schools...shall conduct a thorough and complete child find process..." It emphasizes, though it does not define, "... The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities...." And it lists criteria for, but it does not define, the "Provision of equitable services... (d)irectly or through contracts...."

The section highlights that "Children placed in, or referred to, private schools by public agencies...are provided special education and related services, in accordance with an Individualized Education Program (IEP), at no cost to their parents..." This subpart (where children are referred by the district to a private school) concludes "...children so serviced have all the rights the children would have if served by such agencies."

The federal Office of Special Education Programs (OSEP) announced and received public comments on proposed IDEA 2004 regulations during the spring of 2005. Final regulations have not been promulgated to date and when finalized, they may have an impact on the concerns and recommendations of this task force.

TASK FORCE IDENTIFIED PRIORITIES TO ADDRESS

The task force identified the following issue/concern priorities to address in order of significance.

Issue #1 – Balancing Cost Benefit, Best Practices and Program Efficiencies

How do we balance state and federal fiscal responsibilities for the public school resources available with the best interest in serving each child who has a disability and is attending a non-public school in Minnesota?

What can be done to ensure adequate resources for meeting the special education needs of children with disabilities in non-public schools as required under IDEA 2004 and state statutes? How can effective special education services be provided to children with disabilities in non-public schools with the existing resources available?

Issue #2 - Child Find/Child Assessment

What are Minnesota's procedures and eligibility criteria for identifying and evaluating children with disabilities – including those for specific learning disabilities and those for data privacy? How can the public and non-public schools consistently work together to identify, locate and evaluate children with disabilities in non-public schools so they can “participate equitably” as required under IDEA 2004?

Issue #3 - District/Non-Public School Communications

How can ongoing communications by/with public/non-public schools at the state and local levels be organized to include: clear definitions of terms; regular staff training and development; effective consultation models; and participation in local special education advisory committees (SEACs) to promote consistency and effectiveness and better serve children with disabilities in non-public and public schools?

Issue #4 - Least Restrictive Environment (LRE)

How is LRE defined and documented for children with disabilities attending non-public schools?

Issue #5 - Location of Special Education Services

What processes and criteria should be used for determining location of special education services on a student-by-student basis with the following in mind: separation of church and state; impact on each child's social and emotional well-being; effectiveness of services; teacher communications and impact on student progress and outcomes?

Issue #6 - Individual Service Plans (ISPs) vs. IEPs

What are the legal requirements for an ISP process vs. an IEP process for children with disabilities in non-public schools? Included in this issue are the due process requirements, the ISP or IEP team requirements, documentation requirements, and the level of special education services provided.

Issue #7 - Other

Are home schools included in the definition of non-public schools in Minnesota? Are non-public online learning schools included? Definition of terms is critical to any understanding. What are the due process requirements for serving children with disabilities in non-public schools?

TASK FORCE DIALOGUE

The task force participated in dialogues with MDE and local experts to better understand the genesis of each issue/concern area and to identify challenges.

ISSUE #1 – BALANCING COST BENEFIT, BEST PRACTICE AND PROGRAM EFFICIENCIES

Summary of Background Information.

MDE staff Mona Regan, Mike Landers and Carol Hokenson provided an overview of federal special education under IDEA, state special education categorical aid, state general revenue, and other state funding sources such as shared-time aid and excess cost revenue.

As summarized in the chart above, staff shared that total special education expenditures in Minnesota's public school districts during fiscal year 2002 was \$1,098.3 Billion and preliminary figures for fiscal year 2004 is \$1.23 Billion. The major categorical revenue to cover the costs in this 2004 figure includes: (1) State – regular special education aid including transportation at \$523.9 Million; (2) State – excess cost aid at \$92.1 Million; (3) Federal IDEA aid at \$131.3 Million and (4) State Cross Subsidy from General Education Aid ranged from \$291 to \$449 Million depending on the formula used. While this data provided important background information for the task force, staff were unable to specifically delineate the statewide expenditures for providing special education services to children with disabilities in Minnesota's non-public schools. For Historical Expenditure Chart See Appendix B.

Identified Challenges in Balancing Cost Benefit, Best Practice and Program Efficiencies.

The following challenges were identified by the task force:

- What are **best practices in special education services** in Minnesota's non-public schools? Compared to special education in Minnesota's public schools?
- What are/could be the various statewide options for uniform and cost effective **delivery of special education services** in Minnesota's non-public schools? Ideas include:
 - creating an independent special district or pooling services through cooperatives using federal dollars as new initiatives;
 - creating supplemental contracted services (as in the No Child Left Behind Act (NCLB))
 - hiring itinerant special education teachers;
 - clarifying the role of the providing and the resident districts; and/or
 - clarifying what is LRE.
- How can **administrative differences** in school schedules, length of school day, classes, quarters versus semesters, school year, transportation, etc., between public schools and between public and non-public schools be addressed so that each student with a disability receives effective special education services?

- ❑ How can staff and parents in public and non-public schools **become better informed** regarding special education and the state and federal requirements that guide its implementation? How can effective communications be developed between public and non-public schools?
- ❑ What does it or would it **cost to provide** special education services to children with disabilities in Minnesota’s non-public schools? What would it take to get IDEA 2004 fully funded as authorized?

ISSUE #2 – CHILD FIND/CHILD ASSESSMENT

Ms. Kathy Ferguson, Anoka, shared with the task force how the public school district adapted an “Invitation to Consult on Federal Programs” from a model invitation highlighted in the *IDEA Compliance Insider*, June 2005. They use the invitation to seek input, dialogue and develop an agreement with private schools to implement the requirements of IDEA 2004. See Appendix D for a model invitation and Appendix E for a model communication with parents regarding special education evaluations for their child.

ISSUE #3 – DISTRICT/NON-PUBLIC SCHOOL COMMUNICATIONS

Ms. Molly Whinnery, St. Paul, shared with the task force how the public school district created an ongoing communication process with non-public school principals and contacts for dialogue on issues in implementing NCLB. The task force recommended that this could be made available as a model for implementing IDEA 2004 in non-public schools. See Appendix F for a model communication.

ISSUE #4 – LEAST RESTRICTIVE ENVIRONMENT (LRE)

The task force members discussed the lack of a legal definition of LRE, especially when students attend non-public schools but receive special education services from public school districts. They continued discussions but did not reach agreement on a recommendation to change the LRE determination to the general education program in the non-public school from current state law that stipulates “...the school district shall determine the location...” as per MS 125A.19, Subd. 4(b).

ISSUE #5 – LOCATION OF SPECIAL EDUCATION SERVICES

Task force members discussed MS 125A.19, Subd. 4(b) where “...For those children with a disability....who attend nonpublic school at their parent’s choice, a school district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than a nonpublic school...The school district shall determine the location at which to provide services on a student-by-student basis, consistent with federal law.” The task force did not reach an agreement on a recommendation that would change the current policy. It was questioned whether IDEA 2004 regulations may address this issue for parentally placed children with disabilities.

ISSUE #6 – INDIVIDUAL SERVICE PLANS (ISPs) VS IEPs

Task force members discussed the proposed IDEA regulations highlighting past (IDEA 1997) and proposed (IDEA 2004) ISP requirements for children with disabilities in non-public schools. It is clear in IDEA 2004 that the IEP requirements apply for children with disabilities who are placed by public school districts into non-public schools. However, it is not clear what the individual planning requirements are for children with disabilities who are placed by their parents (parentally placed) in

non-public schools. It is expected that the IDEA 2004 regulations will address this when the regulations have been finalized, hence there will be a need to follow up on this issue.

ISSUE #7 – OTHER

Task force members discussed the lack of clarity regarding parental rights for serving children with disabilities who are parentally placed in non-public schools. It was noted by members that until this issue can be resolved, it would be difficult to resolve other ISP/IEP, service and due process issues.

It was clarified that for compulsory education in Minnesota, home schools are included in the definition of non-public schools (MS 120A.22 Subd. 4) so any policies, funding or guidelines for non-public schools would also apply to home schools. However, there are some state laws that exclude home schools when referring to non-public schools, e.g., telecommunication aid.

It was also clarified, that in Minnesota, independent school districts, intermediate school districts, joint powers and charter schools may apply to MDE to be approved for online learning as per MS 124D.095.

NON-PUBLIC SCHOOL TASK FORCE RECOMMENDATIONS

The Task Force on the Delivery of Special Education to Non-Public School Students by Public School Districts makes the following recommendations to address the special education needs of children with disabilities in non-public schools in Minnesota:

- 1.0 That during the 2006-2007 school year, the leaders in public school districts:**
 - 1.1 Invite non-public schools staff to participate in in-service training to meet the special educational needs of children with disabilities in the non-public schools.**
 - 1.2 Increase and/or improve special education related communications between public and non-public school administrators, parents and teachers.**
 - 1.2.1 Adapt and use model invitation letters.**
- 2.0 That during the 2006-2007 school year and using workgroups as appropriate, MDE:**
 - 2.1 Develop a Guidelines Manual for meeting the special education needs of children with disabilities in Minnesota's non-public schools and disseminate via the Web, in-service training or other means.**
 - 2.1.1 Include IDEA 2004 requirements for child find, assessment, individual service (education) plans, due process, etc., for parentally placed and for district placed children with disabilities in non-public schools.**
 - 2.1.2 Include best practices options for pre-referral, positive behavioral interventions, student support teams, early intervening services (IDEA 2004), and differentiated instruction in regular education in non-public schools before children are referred to special education.**
 - 2.1.3 Include best practices options for regular education teachers to appropriately instruct students who have disabilities.**
 - 2.1.4 Include the role of local special education advisory committees which now must include non-public school representatives.**
 - 2.2 Identify special education related best practices used by public school districts and non-public schools and share those practices with schools statewide.**
 - 2.2.1 Host a special education summit or conference by July 2007 to share the best practices, to identify gaps in special education services for these children and to communicate and clarify state/federal laws and policies.**
 - 2.3 Develop and disseminate resource information statewide for parents of children with disabilities in non-public schools. Examples of dissemination include the Web, in-service, seminars and other means to reach parents.**
 - 2.3.1 Include parent rights under IDEA 2004 and state laws as they are clarified.**
 - 2.3.2 Include information for addressing the special education needs of their children.**
 - 2.4 Expand the state reporting system to delineate data regarding children with disabilities in non-public schools:**
 - 2.4.1 To calculate the proportionate amount of federal funds for children with disabilities in non-public schools (as noted in the June 27, 2005, memorandum from the federal Office of Special Education Programs).**
 - 2.4.2 Study the cost of providing transportation for children with disabilities receiving special education on a shared-time basis between public school districts and non-public schools.**
 - 2.4.3 Research and evaluate alternative service delivery providers, financial resources and fiscal agents for providing public special education services to children with disabilities in non-public schools.**

- 2.5 Seek further legal and/or federal clarifications on the following within six months or as soon as possible after the promulgation of IDEA 2004 regulations:**
- 2.5.1 MS 125A.18 “...Parties serving students...have access to the due process...” Does this mean only “public school districts serving” and not the parents or the non-public school involved?**
 - 2.5.2 What are the requirements for Individual Service Plans (ISPs) for parentally placed students with disabilities in non-public schools, versus the requirements for Individualized Education Programs (IEPs) for students with disabilities in public schools or for students with disabilities placed by public school districts into non-public schools?**
 - 2.5.3 IDEA 2004 refers to the “child find process...designed to ensure the equitable participation...” and “...provision of equitable services... (d)irectly or through contracts...” The same “equitable” language appears in the No Child Left Behind Act (NCLBA). What is the definition of “equitable” when used in this manner?**
 - 2.5.4 Provide clarity for due process and special education services when a student with a disability receives special education services from both the non-public school and the public school.**
 - 2.5.5 Determine more specifically how and when public and non-public school teachers can legally collaborate to provide special education services to children with disabilities in non-public schools.**
 - 2.5.6 Determine the rights of parents of children with disabilities in non-public schools who receive public special education services.**

3.0 That the Minnesota State Legislature:

- 3.1 Increase special education state funding to help alleviate the public school districts’ need to use general education dollars for special education services, e.g., remove the state special education aid cap.**
- 3.2 Expand state reporting requirements to delineate data regarding children with disabilities in non-public schools.**

There were other issues raised by the task force members but due to time constraints, issue complexities, and the need for final IDEA regulations, the task force was not able to reach agreement on recommendations to resolve those issues. One example includes a lack of a legal definition of least restrictive environment (LRE) when students in non-public schools receive public special education services. The task force found it difficult to have an in-depth discussion without such legal definitions to guide making a recommendation and within the constraints noted.

Members agreed that this process worked for developing the Legislated Report and as a first step for working together to address the needs of children with disabilities in non-public schools, though they questioned why the department waited until November to start the process. They also agreed there were more topics that needed to be discussed and that there was a need for continued dialogue, especially after the IDEA 2004 regulations are finalized.

APPENDIX A

Excerpt from 2005 Minnesota First Special Session Laws, Chapter 5, Article 3, Section 17

Sec. 17. TASK FORCE ON DELIVERY OF SPECIAL EDUCATION TO NONPUBLIC SCHOOL STUDENTS BY PUBLIC SCHOOL DISTRICTS.

Subdivision 1. [PURPOSE; ESTABLISHMENT.] A task force on the delivery of special education services to nonpublic school students by public school districts shall be established to compare and evaluate how the individual needs of each child are being met, if services are provided in the least restrictive environment, and whether best practices and program efficiencies are being used in the specific areas of transportation, location of services, and shared time aid.

Subd. 2. [MEMBERS.] The governor shall appoint the members of the task force from each of the following:

- (1) two members from the Department of Education, one representing special education programs and policy and one representing district finances;
- (2) two special education teachers with one member from a public school and one member from a nonpublic school;
- (3) two special education administrators with one member from a public school and one member from a nonpublic school;
- (4) two members with one from each of two special education advocacy organizations;
- (5) two parents of children receiving special education services with one member from a public school and one member from a nonpublic school;
- (6) two elementary school principals with one member from a public school and one member from a nonpublic school;
- (7) two superintendents with one member from a public school district and one member from a nonpublic school district;
- (8) two school business officials with one from a public school and one from a nonpublic school; and
- (9) two school board officials with one from a public school and one from a nonpublic school.

The task force may select additional members to work on the task force. The commissioner of education shall provide necessary materials and assistance.

Subd. 3. [REPORT.] The task force shall submit a report by January 15, 2006, to the house of representatives and senate committees having jurisdiction over education on the delivery of special education services to nonpublic school students by public school districts, to compare and evaluate how the individual needs of each child are being met in the least restrictive environment, and whether best practices and program efficiencies are being used.

Subd. 4. [EXPIRATION.] This section expires January 31, 2006. [EFFECTIVE DATE.] This section is effective the day following final enactment.

APPENDIX B

State Total Special Education Cross Subsidies, FY 2004 compared to FY 2003, FY 2002, FY 2001, FY 2000 and FY 1999										1/13/2006	
Preliminary FY 2004 Data											
(\$ in Millions)											
	FY 1999	FY 2000	DIFFERENCE FY 2000	FY 2001	DIFFERENCE FY 2001	FY 2002	DIFFERENCE FY 2002	FY 2003	DIFFERENCE FY 2003	FY 2004	DIFFERENCE
						Final		Final		Prelim	
1 Special Education Expenditures:											
* State (excluding transportation & fringe benefits)	620.5	689.4	48.9	700.1	30.7	732.9	32.8	765	32.1	788.6	23.6
* State Fringe benefits (estimated)	140	152.3	12.3	154.6	2.3	161.3	6.7	178.2	16.9	181.7	3.5
* State transportation	71.6	78.7	7.1	86.2	7.5	94.6	8.4	101	6.4	108.5	7.5
* Federal (including fringe benefits)	61.1	65.5	4.4	75.9	10.4	89.3	13.4	109.7	20.4	130.1	20.4
* Tuition	24.7	28.8	4.1	34.9	6.1	20.2	-14.7	20.1	-0.1	20.7	0.6
Subtotal, Special Education Expenditures	917.9	994.7	76.8	1,051.7	57.0	1,098.3	46.6	1,174.0	75.7	1,229.6	55.6
2 Special Education Categorical Revenues:											
* State - regular special education aid, includes transportation	369.8	459.6	89.8	469.4	9.8	506.3	36.9	525.1	18.8	523.9	-1.2
* State - excess cost aid	27.9	68.2	40.3	87	18.8	90.8	3.8	92.1	1.3	92.1	0
* State - levy equalization revenue	46.6	0	-46.6	0	0	0	0	0	0	0	0
* State - special pupil aid	0.5	0.5	0	0.6	0.1	1.2	0.6	1.8	0.6	2.1	0.3
* State - home based travel aid	0.1	0.1	0	0.1	0	0.2	0.1	0.2	0	0.2	0
* State - cross-subsidy aid	0	7.9	7.9	18.4	10.5	0	-18.4	0	0	5	5
Third Party Billing											
* Federal	56.9	63.8	4.9	74.9	11.1	89.4	14.5	109.7	20.3	131.3	21.6
* Tuition	22.2	26.4	4.2	30.6	4.2	17	-13.6	16.8	-0.2	16.8	0
Subtotal, Categorical Revenue	546	626.5	80.5	681.6	55.1	707.5	25.9	751.3	43.8	780.6	29.3
3 General Education Revenue Attributable to Special Education Students for time spent receiving specialized education services Outside Of The Regular Classroom:											
a) All special education students	111.3	120.9	9.6	129.3	8.4	137	7.7	148.4	11.4	158.3	9.9
b) students served more than 60% of the time outside of the regular classroom	49.3	54.0	4.7	58.5	4.5	62.2	3.7	67.1	4.9	71.5	4.4
4 Cross-Subsidies:											
(a) Gross Cross-Subsidy (1)-(2):	371.9	368.2	-3.7	370.1	1.9	390.8	20.7	422.7	31.9	449	26.3
(b) Net Cross-Subsidy (1) - (2) - (3a)	260.6	247.3	-13.3	240.8	-6.5	253.8	13	274.3	20.5	290.7	16.4
c) Adjusted Net Cross-Subsidy (1) - (2) - (3b):	322.6	314.2	-8.4	311.6	-2.6	328.6	17	355.6	27	377.5	21.9

cross chart_04_prelim011306.xls

APPENDIX C

DEFINITION OF MINNESOTA SPECIAL EDUCATION FUNDING TERMS

Special Education Expenditures: Includes all special education expenditures reported for state or federal funding purposes, plus estimated fringe benefits for special education staff funded with state aids (fringe benefits are not included in the state funding base), plus tuition expenditures.

State Transportation Expenditures: Expenditures for transportation to students, who, because of a disability, require special accommodations, e.g., vehicle with a lift, transportation assistant or special route or schedule.

State Regular Special Education Aid: A state aid program that provides funds to support specially designed instruction and related services for children and youth with disabilities ages Birth-21.

Excess Cost Aid: A state aid program that provides school districts with assistance for unreimbursed costs of special education and related services.

Special Pupil Aid: A state aid program that provides funding for individuals who are placed in a state institution, a licensed residential facility, or foster facility for care and treatment and for whom no district of residence can be determined.

Home-Based Travel: A state aid program that provides funding to assist school districts with travel costs for early childhood special education staff delivering services to children with disabilities and their families, in the home and at early childhood education center-based sites within the community.

Cross Subsidy Aid: A one-time aid for FY 2004 and FY 2005. It is to be used to pay for unfunded special education costs that would otherwise be cross-subsidized by general education revenue.

Third Party Billing: Reimbursement to school districts from insurers and similar third parties for the cost of services provided by a district whenever these services are otherwise covered by the child's health coverage.

Federal: Individual Disability Education Act (IDEA) funds to be used in the delivery of special education services. These funds are intended to supplement, not to replace (supplant) local funds.

Tuition Expenditures: The unreimbursed costs paid to another Minnesota school district for providing an educational program to a student with a disability from the resident district. These unreimbursed costs are limited to salaries of essential personnel providing direct services to the student, contracted services for the student and supplies and equipment purchased or rented for use in the student's instructional program.

Tuition Revenue: The unreimbursed costs received from another Minnesota school district for providing an educational program to a non-resident student with a disability. These unreimbursed costs are limited to salaries of essential personnel providing direct services to the student, contracted services for the student and supplies and equipment purchased or rented for use in the students instructional program.

General Education Revenue: General Education Revenue is the primary source of state funds for local school districts. It supports the education for all public school students in kindergarten through grade 12 including pupils with disabilities as well as prekindergarten students with disabilities.

Gross Cross-Subsidy: The difference between special education expenditures and categorical special education revenues, without regard to general education revenue following students.

Net Cross-Subsidy: The difference between special education expenditures and categorical special education revenues, less the amount of general education revenue attributable to all special education students for the time they spend receiving special education services outside of the regular classroom.

Adjusted Net Cross Subsidy: The difference between special education expenditures and categorical special education revenues, less the amount of general education revenue attributable to those special education students served more than 60% of the time outside of the regular classroom for the time they spend receiving special education services outside of the regular classroom.

APPENDIX D
(DISTRICT NAME AND ADDRESS)
**INVITATION TO CONSULT ON THE PROVISION OF
SPECIAL EDUCATION SERVICES IN NON-PUBLIC SCHOOLS**

_____ School District invites representatives of _____ (*non-public school*) to a consultation regarding our district's design and development of special education and related services for children with disabilities ages birth to 21 who are enrolled in your school. Minnesota Statutes (MS) 125A.18 requires that children with disabilities in Minnesota's non-public schools be given an opportunity to receive special education instruction and related services as needed under the requirements of the Individuals with Disabilities Education Act (IDEA) 2004. The IDEA 2004 Section 1412 requires "...timely and meaningful consultation with representatives of private schools...." to plan for how this will occur.

We have scheduled a meeting for:

Date:

Time:

Location:

Please check one of items numbered 1-3 below and return this form to us postmarked no later than _____ (*insert deadline*)

AUTHORIZED PUBLIC
SCHOOL OFFICIAL _____

PHONE/E-MAIL _____ DATE _____

PUBLIC SCHOOL DISTRICT _____

PLEASE CHECK AT LEAST ONE OF OPTIONS 1-3 BELOW.

- 1. YES**, we will consult with the public school administrator regarding the district's design and development of special education and related services for children, age's birth to 21, with disabilities under MS 125A.18 and IDEA and the extent to which those services will be offered to children with disabilities in non-public schools. We understand that the consultation(s) will be meaningful and substantial.
- We can meet at the scheduled time and location. The following person(s) will be present at the meeting: _____

- We are unable to attend the meeting and would like to reschedule. Please contact us at _____
- 2. NO**, we will NOT participate in the consultation at this time.
- 3. I have additional questions. Please contact me.**

SIGNATURE OF AUTHORIZED
NON-PUBLIC SCHOOL OFFICIAL _____ DATE _____
NON-PUBLIC SCHOOL'S NAME _____

APPENDIX E

LETTER TO PARENTS IN NON-PUBLIC SCHOOLS

(DATE)

Dear Parents of _____:

I am writing to explain your rights under the Individual's With Disabilities Education Improvement Act (IDEA 2004) which now requires public school districts to identify children in non-public schools who have disabilities within its district's boundaries.

Should you perceive that your child has a disability and is not making satisfactory academic, social, behavioral and/or communicative progress and has a substantial limitation in the areas of learning and communicating, you may seek a screening and evaluation through the _____ (*public school district*). The evaluation will be designed to determine whether or not your child has a disability as defined by special education eligibility criteria in Minnesota Rules (MR) 3525. For children with disabilities who are found eligible to receive special education services, parents will be invited to participate on a planning team that will review the information and propose services. The process is as follows:

1. You will be invited to attend the planning team meeting at the public school. Representatives from the non-public school will be invited to attend also. The team will review the information presented by your child's teacher, evaluator, and/or other staff. You will also have an opportunity to share information as you deem appropriate.
2. You will receive a written notice of the proposed evaluation for your approval. This notice requires written permission by the parent prior to the public school conducting the evaluation.
3. Once written parental permission is received, then the public school special education staff will conduct your child's evaluation. You will have an opportunity to provide further information about your child's needs as a part of the evaluation.
4. The planning team will complete an Evaluation Summary Report and they will make a decision regarding your child's eligibility for special education.

Children eligible for special education services under MR 3525 will have an Individual Service Plan developed by a planning team of public school special education staff, non-public school staff and you.

Please let _____ (*me or staff*) know if you have questions about the communications between our public school and your non-public school and the identification process we are about to undertake.

Sincerely,

Director of Special Education

C:
Public School Special Education Lead Staff
Non-public School Representative

APPENDIX F

PUBLIC SCHOOL – NON-PUBLIC SCHOOL COMMUNICATIONS

(District Name or Letterhead)

TO: Non-public School Principals and Contacts

FROM: _____ *(Name)*
Director of Special Education
_____ *(Public School District)*

DATE:

SUBJECT: Special Education Consultation Meeting Schedule for 2006-2007

I appreciate your ongoing commitment to meet the special education needs of the children with disabilities in your non-public school. As you are aware, the Individual's With Disabilities Education Implementation Act (IDEA 2004) requires "...timely and meaningful consultation with representatives of private schools..." to plan how these services will be provided.

As we begin the new school year, I wanted to propose a schedule for ongoing consultation and program meetings throughout the year. I have attempted to consider all major religious feasts/holidays as well as school breaks and other meetings that have conflicted. Here is my proposed schedule – we can discuss and adjust, as appropriate, the dates and times at our first meeting.

(School District) Non-Public Consultation Schedule – School Year 2006-2007

Date	Time	Place
August		
October		
December		
February		
April		
June		

Tentative agendas will include updates on the implementation of IDEA 2004 and its regulations and other policy updates that impact the provision of special education services to children with disabilities in your school. Agendas will also include time to dialogue about and resolve communication and collaboration issues that may arise in providing those services.

If you have questions or concerns, please contact me at *(Phone)* or *(E-mail)*