

Senate Counsel, Research, and Fiscal Analysis

Thomas S. Bottem, Director

Minnesota Senate Building
95 University Ave. W. Suite 3300
St. Paul, MN 55155-1800
(651) 296-4791
www.senate.mn/scrfa

Senate

State of Minnesota

TO: Senator Carla J. Nelson

FROM: Ann Marie Lewis, Senate Counsel (651/296-5301)

DATE: August 18, 2020

RE: School Districts Working with Community Partners

You requested information on legal considerations when a school district partners with a community organization to provide services to students when the students aren't physically present in the school building but are engaged in distance learning. The answer depends on the type of program being offered. There are many regulations around licensed childcare and school-aged care, which is care for children age 12 and under, or age 14 and under for special needs children, because the programs have licensure requirements in order to operate. Nonlicensed youth programs do not have the same licensing and regulatory restrictions as childcare settings and can serve students of any age.

Licensed School-Aged Care

The 2020-2021 school year is challenging for school districts and charter schools when it comes to providing instruction and compliance with health agency guidance. Minnesota Department of Education (MDE) instructed public schools to prepare for three scenarios: in-person instruction, hybrid, and distance learning. Families with students participating in the distance learning portion of the hybrid model or in 100 percent distance learning may need care for their students.

Executive Order 20-82 directed school districts and charter schools that operate a hybrid or distance learning model to provide school-aged care for the children of Tier 1 workers at no cost during the time those children are not receiving instruction in the school building during regular school hours. Each school district and charter school is encouraged to consider their local community needs related to care for children of workers beyond Tier 1. They may provide care, and charge fees, if there is capacity to provide care.

A school district or charter school providing care, whether it's to children of critical workers or to children of noncritical workers, must follow public health guidelines in providing the care, and meet licensing and other regulatory requirements. For example, if the school is providing care for a family participating in the Child Care Assistance Program (CCAP), the program must be certified to accept CCAP payments. The care provided may be in the school building or in other

space available, such as private childcare programs or other unused spaces within the community that meet MDH health and safety guidelines. If the community space is a certified childcare space, any changes to the space need to be approved by DHS.

A school district or charter school that works with a community partner to provide care must work collaboratively to minimize COVID-19 exposure to groups of children, such as by using a cohort model. In addition, the districts and charters schools need to consider how support staff and services the school is required to provide, such as a paraprofessional assistance included in a student's IEP, would be used in the settings in partnership with the community partner.

Nonlicensed Youth Programs

Nonlicensed youth programs do not have the same regulations surrounding licensed school-aged care. Often these programs are provided through a district's community education program using district buildings. Otherwise, they are provided in the community by nonprofit or for-profit organizations without partnering directly with a school district or charter school. For example, community organizations offer Spring Break, MEA break, or Summer day camps organized around a school district calendar, but are open to children residing in any school district. MDH has issued COVID-19 prevention guidance for youth and student programs.

A nonprofit that wants to partner with a school district or charter school may provide youth enrichment, homework help, art programs, sports program, academic enrichment, non-school day camps, etc. without needing to be a licensed provider. The families participating in the program cannot use state programs like CCAP to pay for their child's participation because these aren't licensed programs. These activities are considered extracurricular where participation is optional for the student and fees can be charged.

In this scenario, the community partner would be a contractor/vendor of the school district or charter school. The school board has the authority to contract for services under Minnesota Statutes, section 123B.02, subdivision 14. The community partner is offering a service to the school district. Under Minnesota Statutes, section 123B.03, the people working with students would need a completed background check before working with students, whether they are being paid or are volunteers. If the programs are being offered off school property, the school district or charter school and community partner should come to an agreement on liability insurance. The program also must follow the public health guidelines for youth and student programs. There may be other legal considerations depending on the type of program being offered.