

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

260

10-18-76

Michael J. Bradley
Special Assistant
Attorney General

- Edu 240-259 and Edu 684

RECEIVED
JUL 16 1976
OFFICE OF HEARING EXAMINERS

Ex. #4

NOTE: Proposed Rules for Adoption - Final Form

Minnesota Regulations Edu.

Proposed Amendments and Proposed New Regulations for State Board,

NOTE: Changes or additions from original proposed regulations indicated by underlining; deletions by ~~strikeouts~~.

CHAPTER THIRTEEN: EDU 240-259

RULES, OPERATION OF SCHOOL BUSES AND PUPIL TRANSPORTATION SAFETY EDUCATION PROGRAM

Edu 240 No change

Edu 241 No change

Edu 242 Edu 242 recoded as 243

Edu 242 Transportation of Handicapped Students

Under the provisions of M.S. 120.17, school districts are required to provide special education and services for handicapped school age residents. Accordingly, free transportation services shall be provided to any such handicapped child who requires special transportation services because of his or her handicapping conditions and/or special program needs.

These regulations shall apply when the handicapping conditions of the child are such that the child cannot be safely transported on the regular school bus route and/or when the child is transported on a special route for the purpose of attending an approved special education program. These regulations shall not be applicable to parents who transport their own child under contract with a school district.

(a) The length of time a handicapped child is transported shall be appropriate to the physical, mental, and emotional well-being of the child. In general, a handicapped child should not spend more time in transit than a non-handicapped child except as may be required because of the unique location of the child's educational program.

(b) The school district shall determine the type of vehicle used to transport handicapped students on the basis of the handicapping conditions of those students. Such vehicles shall comply with the provisions of Chapter Fourteen: Edu 260-279 of the Rules and Regulations of the State Board of Education.

(c) All vehicles used to transport handicapped students shall be equipped with a two-way communications system and/or have a responsible ~~an adult~~ aide to provide necessary assistance and/or supervision which cannot safely be provided by the driver. A school district may determine, however, that neither

a communications system and/or aide are required. The determination ~~on the~~ use of whether a communications system and/or an ~~adult~~ aide ~~shall be appropriate to~~ are required shall reflect the needs of the students and be based on such factors as: handicaps of students transported, distance traveled, density of population, terrain and any other factors which may affect the safety of the pupil passengers. Exceptions to this ~~rule~~ paragraph may be made upon mutual agreement between the parents and the school district.

(d) Specially adapted seats, support and/or protective devices shall be provided for all students who require such devices to insure their safe transportation. Such devices shall be selected by the school district in consultation with the child's parents and on the basis of the specific needs of the individual handicapped child. ~~In the event that there is disagreement on the need for such equipment, a written statement of such need signed by a licensed medical doctor shall be considered as ample evidence of the need for such equipment.~~

(e) Any school bus used to transport students in wheel chairs shall be equipped with fastening devices which will hold such wheel chairs securely in a fixed position.

(f) Each driver of a vehicle for handicapped students should be carefully selected to fulfill the unique requirements of the job. Drivers shall be assigned to each route on a regular basis whenever possible. Each ~~driver and/or~~ aide assigned to a vehicle transporting handicapped students, or driver if no aide is assigned, or both, shall:

(1) Have available to them in the vehicle a typewritten card indicating the student's name and address; the nature of the student's handicaps; emergency health care information; and the names and telephone numbers of the student's physician, parents, guardians and/or custodians and of some person other than the student's parents or custodians who can be contacted in case of an emergency.

(2) Be instructed in the proper emergency health care procedures for the students under their care. In addition, within one month after the effective date of assignment, participate in a program of in-service training on the proper methods for dealing with the specific needs and problems of those students.

(3) Assist such children on and off the bus when necessary for their safe ingress and egress from the bus.

(4) Insure that protective safety devices, as required in paragraph (d), are in use and fastened appropriately.

(g) The school district may adopt such additional operating rules governing transportation of handicapped students as deemed necessary to meet local conditions and needs, providing they do not conflict with state laws and regulations.

(h) Any parent of a handicapped child who believes that the transportation services provided for that child are not in compliance with these regulations may utilize the due process procedures provided ~~by Minnesota Statutes,~~ for in Chapter 211 (Laws 1976).

(i) Effective date: These regulations shall be effective beginning with the 1976-77 school year.

Edu 243 Edu 242 recoded as Edu 243. No change.

Edu 244-259 Reserved for future use.

NOTE: Proposed Rules for Adoption - Final Form - No Change from Original Proposed Rules.

CHAPTER THIRTY-ONE: EDU 680-699 COMMUNITY SERVICES

Edu 680 Philosophy No change

Edu 681 Inclusions No change

Edu 682 Limitation on Aids and Levies No change

Edu 683 Financing No change

Edu 684 The District Advisory Council

1. No change.

2. Recommendations for the use of Community Service Funds shall be made by the advisory council to the district board of education. The school board retains final authority in deciding which programs are to be adopted and how they are to be implemented.

3. No change.

Edu 685 Community School Directors No change

Edu 686 Levy Effort No change

Edu 687 Annual Report No change

Edu 688-699 Reserved for Later Use No change

APPROVED AS TO FORM AND LEGALITY
OCT 14 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 14 1976 - 3:10 pm
Joan Anderson Growe
Secretary of State

260

Dept of Education

Date Recd 8/31

Due Date 9/20

Findings of Fact

rec'd. 9/30 -

Due 10/8 (10 days)

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Michael Miller
Special Assistant Attorney General
G-19 Administration Building

DATE: September 28, 1976

FROM : Michael J. Bradley
Special Assistant Attorney General

PHONE: 3301

SUBJECT: Findings of Fact - Edu 242

Pursuant to your request, enclosed is Findings of Fact, original and two signed copies, relative to Edu 242.

MJB:li

Enc.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER ERICKSON
HEARING EXAMINER
OFFICE OF HEARING EXAMINER

In the matter of the proposed adoption and amendment of Rules of the State Board of Education amending "Minnesota Administration Rules and Regulations of the State Board of Education," 1973 Edition and as amended in 1974.

FINDINGS OF FACT

The above-entitled matter came on for hearing before Peter Erickson, Hearing Examiner of the Office of Hearing Examiner of the State of Minnesota on the 24th day of May, 1976, at 10:00 a.m. in Room 716 of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101 after proper notice required by Minn. Stat., Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, having reviewed all of the testimony, having considered all of the evidence adduced, having considered the Findings of Fact, Conclusions and Recommendation of the Hearing Examiner, and upon all of the testimony and proceedings herein, and applicable statutory standards or criteria, having withheld action on the proposed Rules for the required period of time after receipt of the Hearing Examiner's Findings and having confirmed the need for the above-captioned rules I find the following:

1. That the findings of fact of the Hearing Examiner accurately reflect the facts in the record.

2. That the recommended changes made by the Hearing Examiner, with two minor exceptions, will result in the proposed rules being clearer and less subject to misinterpretation.

3. That the two exceptions to the Hearing Examiner's Recommendations should be: In Edu 242 second paragraph after the phrase "on the regular school bus route or" add the phrase "when the child is transported." In Edu 242 fourth paragraph after the phrase "Insure that protective safety devices" insert the phrase "as required in paragraph (d)"

4. The recommended additions to the Hearing Examiner's Findings of Fact, Conclusions and Recommendations, will serve to clarify the additions to the proposed rules which were suggested by the Hearing Examiner, and do not change the meaning of any portion of the regulations.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

HOWARD B. CASMEY
COMMISSIONER,
State Department of
EDUCATION

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER ERICKSON
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OFFICE OF HEARING EXAMINER

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After affording interested persons an opportunity to present written and oral data, statements, and arguments, having reviewed all of the testimony, having considered all of the evidence adduced, having considered the Findings of Fact, Conclusions and Recommendation of the Hearing Examiner, and upon all of the testimony and proceedings herein, and applicable statutory standards or criteria, having withheld action on the proposed Rules for the required period of time after receipt of the Hearing Examiner's Findings and having confirmed the need for the above-captioned rules I find the following:

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STATE OF MINNESOTA
STATE BOARD OF EDUCATION

HOWARD B. CASMEY
COMMISSIONER,
State Department of
EDUCATION

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Michael J. Bradley, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Michael J. Bradley

Special Assistant Attorney General

Dated: Aug 30, 1976

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER ERICKSON
HEARING EXAMINER
OFFICE OF HEARING EXAMINER

In the matter of the proposed adoption and amendment of Rules of the State Board of Education amending "Minnesota Administration Rules and Regulations of the State Board of Education," 1973 Edition and as amended in 1974.

ORDER ADOPTING RECOMMENDATION OF HEARING EXAMINER AND RULES

The above-entitled matter came on for hearing before Peter Erickson, Hearing Examiner of the Office of Hearing Examiner of the State of Minnesota on the 24th day of May, 1976, at 10:00 a.m. in Room 716 of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101 after proper notice required by Minn. Stat., Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, having reviewed all of the testimony, having considered all of the evidence adduced, having considered the Findings of Fact, Conclusions and Recommendation of the Hearing Examiner, and upon all of the testimony and proceedings herein, and applicable statutory standards or criteria, having withheld action on the proposed Rules for the required period of time after receipt of the Hearing Examiner's Findings and having confirmed the need for the above-captioned rules

NOW, THEREFORE, BE IT RESOLVED that the State Board of Education hereby adopts and incorporates herein the Findings of Fact, Conclusions and Recommendation of Peter Erickson, Hearing Examiner, dated June 30, 1976, relative to the above-entitled matters with the following additions: In Edu. 242 second paragraph after the phrase "on the regular school bus route or" add the phrase "when the child is transported." In Edu. 242 fourth paragraph after the phrase "Insure that protective safety devices" insert the phrase ", as required in paragraph (d)."

THEREFORE, IT IS ORDERED that these Rules, identified as Edu. 240-259, and Edu.684 are adopted this 12th day of July, 1976, pursuant to authority vested in us by Minn. Stat., Ch. 121.07.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

By Lorin A. Gustafson
President, State Board of Education

CERTIFICATION

I, Howard B. Casmey, do hereby certify that I am the Executive Officer and Secretary of the State Board of Education, a Board duly authorized under the laws of the State of Minnesota, and that the foregoing is a true, complete and correct copy of an Order adopted at a meeting of the Board duly and properly called and held on the 12th day of July, 1976, that a quorum was present at said meeting, that a majority of those present voted for the adoption of the Order and that said Order is set forth in the minutes of said meeting and has not been rescinded or modified.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of August, 1976.

Howard B. Casmey
Executive Officer and Secretary,
State Board of Education

Attest: Louis R. Amerling
Member, State Board of Education

State of Minnesota

Department of Education
Capitol Square, 550 Cedar Street
St. Paul, Minnesota 55101

RECEIVED
JUL 16 1976
OFFICE OF HEARING EXAMINERS

Ex. #2

STATE OF MINNESOTA
County of Ramsey

IN THE MATTER OF: The proposed adoption of rules of the state board of education amending "Minnesota Administration Rules and Regulations --- Rules and Regulations of the State Board of Education," 1973 Edition and as amended in 1974.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1974 Section 15.0412, Subdivision 4, on the above entitled matter in the Capitol Square Building, Room 716, St. Paul, Minnesota 55101, on Monday, May 24th, 1976, commencing at 10:00 a.m. and continuing until all representatives of school districts, associations or other interested persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing; such statement must be submitted within twenty (20) days after the public hearing ends.

The Commissioner proposes to adopt rules relating to the following matters:

> This notice proposes to amend the Rules and Regulations of the State Board of Education, Chapter Thirteen, by adding New regulations to govern the transportation of handicapped students as mandated by the 1975 Legislature.
>
> And, this notice sets forth rules and regulations of the State Board of Education, Chapter Thirty-One, governing policies to guide District Advisory Councils for Community Services in school districts.

These rules are being proposed pursuant to statutory authority contained within Minnesota Statutes 1974, Section 121.07 and Section 121.86.

Under M.S. 1974, Section 10A.01, Subd. 11, any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

A copy of the proposed rules, Edu 240-259 and Edu 684, is attached hereto. Additional copies will be available at the door on the date of the hearing.

STATE OF MINNESOTA
Department of Education

Commissioner of Education

AN EQUAL OPPORTUNITY EMPLOYER

Minnesota Administrative Rules and Regulations

Rules and Regulations of

THE STATE BOARD OF EDUCATION

PROPOSED AMENDMENTS TO:
REGULATIONS OF THE BOARD OF EDUCATION
OF THE STATE OF MINNESOTA

To Be Submitted At A

PUBLIC HEARING

May 24, 1976

A Public Hearing on Proposed New and Amended Regulations will be held on Monday, May 24, 1976, beginning at 10:00 a.m., in the Capitol Square Building, Room 716, St. Paul, Minnesota 55101.

* * * * * * * * *

The official rules and regulations of the State Board of Education are contained in the 1973 Edition and as amended in 1974: "Minnesota Administrative Rules and Regulations," one copy of which has been sent to school heads of districts maintaining graded elementary and secondary schools and additional copies made available for purchase by the Documents Section, Department of Administration, 140 Centennial Building, St. Paul, Minnesota 55101.

Proposed amendments and proposed new regulations, "Minnesota Administrative Rules and Regulations: (EDUCATION) are contained herein.

STATE OF MINNESOTA -- DEPARTMENT OF EDUCATION

ST. PAUL, MINNESOTA 55101

MINNESOTA RULES AND REGULATIONS: EDUCATION

Proposed Amendments, State Board of Education

Rules for Public Hearing: May 24, 1976, St. Paul, Minn.

CONTENTS

Edu Section Number	
240 - 259	Enumerates all phases of a school district's transporting handicapped students such as mandated by 1975 legislative action.
684	Sets forth governing policies for District Advisory Councils for Community Service Programs in school districts.

NOTE: Original Proposed Rules

MINNESOTA REGULATIONS EDU.

Proposed Amendments and Proposed New Regulations
for State Board,

NOTE: Changes or additions indicated by underlining; deletions by ~~strikeouts~~.

CHAPTER THIRTEEN: EDU 240-259

RULES, OPERATION OF SCHOOL BUSES
AND PUPIL TRANSPORTATION
SAFETY EDUCATION PROGRAM

Edu 240 No change

Edu 241 No change

~~Edu--242~~ Edu 242 recoded as 243

Edu 242 Transportation of Handicapped Students

Under the provisions of M.S. 120.17, school districts are required to provide special education and services for handicapped school age residents. Accordingly, free transportation services shall be provided to any such handicapped child who requires special transportation services because of his or her handicapping conditions and/or special program needs.

These regulations shall apply when the handicapping conditions of the child are such that the child cannot be safely transported on the regular school bus route and/or when the child is transported on a special route for the purpose of attending an approved special education program. These regulations shall not be applicable to parents who transport their own child under contract with a school district.

(a) The length of time a handicapped child is transported shall be appropriate to the physical, mental, and emotional well-being of the child. In general, a handicapped child should not spend more time in transit than a non-handicapped child except as may be required because of the unique location of the child's educational program.

(b) The school district shall determine the type of vehicle used to transport handicapped students on the basis of the handicapping conditions of those students. Such vehicles shall comply with the provisions of Chapter Fourteen: Edu 260-279 of the Rules and Regulations of the State Board of Education.

(c) All vehicles used to transport handicapped students shall be equipped with a two-way communications system and/or have an adult aide to provide necessary assistance and/or supervision which cannot safely be provided by the driver. The determination on the use of a communications system and/or adult aide shall be appropriate to the needs of the students and based on such factors as: handicaps of students transported, distance traveled, density of population, terrain and any other factors which may affect the safety of the pupil passengers. Exceptions to this rule may be made upon mutual agreement between the parents and the school district.

(d) Specially adapted seats, support and/or protective devices shall be provided for all students who require such devices to insure their safe transportation. Such devices shall be selected by the school district in consultation with the child's parents and on the basis of the specific needs of the individual handicapped child. In the event that there is disagreement on the need for such equipment, a written statement of such need signed by a licensed medical doctor shall be considered as ample evidence of the need for such equipment.

(e) Any school bus used to transport students in wheel chairs shall be equipped with fastening devices which will hold such wheel chairs securely in a fixed position.

(f) Each driver of a vehicle for handicapped students should be carefully selected to fulfill the unique requirements of the job. Drivers shall be assigned to each route on a regular basis whenever possible. Each driver and/or aide assigned to a vehicle transporting handicapped students shall:

(1) Have available to them in the vehicle a typewritten card indicating the student's name and address; the nature of the student's handicaps; emergency health care information; and the names and telephone numbers of the student's physician, parents, guardians and/or custodians and of some person other than the student's parents or custodians who can be contacted in case of an emergency.

(2) Be instructed in the proper emergency health care procedures for the students under their care. In addition, within one month after the effective date of assignment, participate in a program of in-service training on the proper methods for dealing with the specific needs and problems of those students.

(3) Assist such children on and off the bus when necessary for their safe ingress and egress from the bus.

(g) The school district may adopt such additional operating rules governing transportation of handicapped students as deemed necessary to meet local conditions and needs, providing they do not conflict with state laws and regulations.

(h) Any parent of a handicapped child who believes that the transportation services provided for that child are not in compliance with these regulations may utilize the due process procedures provided by Minnesota Statutes.

(i) Effective date: These regulations shall be effective beginning with the 1976-77 school year.

Edu 243 Edu 242 recoded as Edu 243. No change

Edu ~~243~~ 244-259 Reserved for future use.

NOTE: Original Proposed Rules

CHAPTER THIRTY-ONE: EDU 680-699
COMMUNITY SERVICES

Edu 680 Philosophy No change

Edu 681 Inclusions No change

Edu 682 Limitation on Aids and Levies No change

Edu 683 Financing No change

Edu 684 The District Advisory Council

1. No change

2. Recommendations for the use of Community Service Funds shall be made by the advisory council to the district board of education. The school board retains final authority in deciding which programs are to be adopted and how they are to be implemented. ~~The school board shall not initiate any programs which do not have prior approval and favorable recommendation of the advisory council.~~

3. No change

Edu 685 Community School Directors No change

Edu 686 Levy Effort No change

Edu 687 Annual Report No change

Edu 688-699 Reserved for Later Use No change

AFFIDAVIT OF MAILING

In the matter of the proposed adoption of rules of the state board of education amending and supplementing MINNESOTA ADMINISTRATIVE RULES AND REGULATIONS -- Rules and Regulations of the State Board of Education, 1973 Edition as amended in 1974:

I, Linda Alberg, being first duly sworn, deposes and says: That on the 22 day of April, 1976, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Linda Alberg

Linda Alberg
Research, State Aids & Statistics

(6)

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Howard B. Casmey, do hereby certify that I am secretary of the state board of education, a board duly authorized under the laws of the State of Minnesota, and that the following is true, complete and correct copy of a resolution, adopted at a meeting of the state board of education duly and properly called and held on the 8th day of March 1976; that a quorum was present at said meeting; and that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the State Board of Education shall call a hearing for the purpose of informing the public concerning proposed rules of the Board amending Minnesota Rules and Regulations, 1973 Edition and the 1974 Supplement; and that the Commissioner of Education or his Deputy is authorized to sign an order and notice of such hearing to be conducted under the rules of the board. IT IS FURTHER RESOLVED that the hearing on these proposed rules shall be held on Monday, May 24, 1976 in Room 716 of the Capitol Square Building, Saint Paul, Minnesota 55101, at 10:00 a.m.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 1st day of April 1976.

Howard B. Casmey
Secretary, State Board of Education

David C. Bandon
President, State Board of Education

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE
STATE BOARD OF EDUCATION

In the matter of Proposed
Rules relating to Edu 242-243

STATEMENT OF NEED

The above captioned rules are recoded and contain new rules which need approval by the State Board of Education.

Minnesota Laws 1975, Chapter 123.80, Subdivision 2 requires that the State Board of Education promulgate rules and regulations which will assure the safe and efficient transportation of handicapped students who because of their special handicapping conditions require special transportation arrangements. That law also requires that the rules and regulations developed give particular attention to standards for vehicles, safety equipment, and the qualifications for drivers and aides providing transportation services.

The following are the reasons in support of the specific rules which are proposed:

1. Edu 240 and 241 currently regulate the operation of school buses while Edu 242 regulates the pupil transportation safety education program. The proposed rules also regulate the operation of school buses. By recoding the present Edu 242 as Edu 243 and inserting the proposed rules in that position, all rules for operation of school buses will be grouped consecutively. This proposed order will adhere more closely to the chapter title.

2. Minnesota Statutes 120.17 requires that school districts provide special education and services for handicapped school age residents. Differences in interpretation of the term "services" have occurred and some school districts have denied pupils transportation on the basis that transportation is not a service. The first paragraph of Edu 242 clarifies the interpretation, and will ensure that all handicapped students receive the transportation services to which they are entitled.

3. Parents and educators generally agree that, to the degree possible, handicapped students should be kept in the mainstream of school life. This philosophy is also applied to such services as school transportation. M.S. 123.80, Subd. 2 recognizes this philosophy and requires that the rules adopted cover students who require special transportation services. The first sentence of the second paragraph explains the conditions under which these rules will apply. These conditions are those instances in which a child is handicapped to the extent that mainstreaming is not possible.

4. In certain cases, parents transport their own children to and from school under contract with the school district. Application of these rules in such situations would be an unreasonable burden and expense for such parents and does not appear to have been contemplated by the legislature. The last sentence in the second paragraph exempts such parents from complying with these rules.

5. Because of the relatively small number of handicapped students and appropriate educational programs, and because of the widely scattered locations of both student residences and programs, handicapped students have at times been provided transportation services which required relatively long periods of time in transit. The well-being of the child was not given primary consideration. Paragraph (a) requires school districts to consider the physical, mental and emotional well-being of the child when establishing routes while at the same time recognizing the unique problems and circumstances involved in transporting handicapped children.

6. Many types of vehicles are available for transporting handicapped students. Certain vehicle types may be more appropriate for transporting pupils with particular handicapping conditions. The first sentence of paragraph (b) requires that the handicapping conditions of the students transported be considered in selecting the type of vehicle used.

7. Edu 260-279 establish minimum standards for school buses in order to provide a high level of safety. The second sentence of paragraph (b) requires that school buses transporting handicapped students shall comply with these minimum standards. This sentence responds to the requirement in M.S. 123.80, Subd. 2 that particular attention be given to standards for vehicles.

8. The driver of a school bus transporting handicapped students cannot always provide the assistance and/or supervision needed by the students without sacrificing a degree of safety. The first sentence of paragraph (c) requires that a two-way communications system and/or an adult aide shall be provided to assist the driver in such instances.

9. A number of factors must be considered in determining the means by which appropriate assistance and/or supervision may be provided. Paragraph (c), second sentence, responds to this problem by requiring that the decision on whether a two-way communications system, adult aide, or both should be required be based on the needs of the students and by listing certain factors on which to base such decisions.

10. Circumstances may exist where it is not necessary or desirable to require the use of a communications system and/or adult aides. The final sentence in paragraph (c) provides that exceptions can be made upon mutual consent of parents and the school district.

11. Some handicapped students require special equipment to ensure their safe transportation. M.S. 123.80, Subd. 2 requires that the rules give particular attention to safety equipment. Paragraph (d), first sentence, responds to these needs by requiring that appropriate safety equipment be provided when necessary.

12. School district officials and parents may differ in opinion over the types of special equipment to be used. The second sentence of paragraph (d) requires that the school district, in consultation with the parents, select such equipment on the basis of the child's needs.

13. Cases may arise where the parents and the school district cannot agree on the need for special equipment. In such cases, a licensed medical doctor can make the final decision. The last sentence of paragraph (d) provides that in such cases, a written statement of such need signed by a licensed medical doctor is proof that the special equipment shall be provided.

14. In instances where students are transported in wheel chairs, it is possible that the wheel chairs could roll about or tip over, creating hazards for the students and the driver. Paragraph (e) will reduce the possibility of such danger by requiring that wheel chairs be held in a fixed position by fastening devices.

15. Driving a school bus which transports handicapped students is a job which requires unique characteristics. The first sentence of paragraph (f) recognizes this fact and the need to select drivers who can fulfill these unique requirements.

16. Many handicapped students require special handling and care. Some are easily upset by changes in established routine. School bus drivers may require special training and instruction in the care of specific students. The second sentence of paragraph (f) recognizes these facts and requires that drivers be regularly assigned whenever possible.

17. Emergency situations can occur which are complicated by the handicapping conditions of the students. In order to provide the greatest degree of safety and care, certain information must be readily available to enable drivers and/or aides to chose the correct course of action. Paragraph (f)(1) responds to this need by requiring that certain information is readily available.

18. Many handicapped students require special emergency health care. This health care will have to be provided by the driver and/or aide in emergency situations. The first sentence of paragraph (f)(2) requires that drivers and aids be instructed in such emergency health care procedures.

19. In addition to the emergency health care described in Item 18, special education students have other specific problems and needs. These problems and needs are not as critical as the emergency health care needs. Sentence two of paragraph (f)(2) recognizes these facts and provides a period of one month in which the in-service training of this nature can be provided for bus drivers and/or aides. The provision of a one month period for the in-service training also responds to the problem of the turn-over in staffing of handicapped transportation vehicles.

20. Some handicapped students require assistance in entering and leaving the school bus. Some drivers and aides are reluctant to provide such assistance because of concern over personal liability. Paragraph (f)(3) requires that drivers and/or aides provide such assistance when necessary for the safety of the child or children under their care.

21. Because of the unique nature of some children's transportation problems, additional operating rules may be required beyond those provided in Department of Education rules and regulations. Such rules are best developed and adopted by the school district providing the transportation services. Paragraph (g) provides that school districts may adopt additional operating rules to govern such local conditions providing they do not conflict with state laws and regulations.

22. Some parents of handicapped children have expressed concern that their children do not receive the transportation services to which they are entitled. They were concerned that provision be made for ensuring that such services are provided. Paragraph (h) responds to these concerns by informing such parents that they can seek resolution of such concerns through the due process procedures provided.

23. Historically, the Department of Education has made any new rules and regulation effective for the beginning of a new school year. Paragraph (i) continues this trend by establishing the effective date of these rules as the beginning of the 1976-77 school year. The purpose of the delayed implementation is to give school districts adequate time to comply with these proposed rules.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE HOWARD B. CASMEY
COMMISSIONER OF EDUCATION

In the matter of Proposed Rules
Relating to Community Services,
Edu 684(b)

STATEMENT OF NEED

The above captioned rule is an amendment to existing rules of the State Board of Education. The last time the above captioned rule was amended was January 12, 1976.

The need to adopt this rule arises because Edu 684(b), as presently written, removes the power that a board of a school district would otherwise have to initiate and implement programs that the board in its sole discretion deemed desirable. Therefore, it is necessary to repeal the last sentence of Edu 684(b) to restore that discretionary power.

COMMISSIONER OF EDUCATION

HOWARD B. CASMEY

CHAPTER THIRTY-ONE: EDU 680-699
COMMUNITY SERVICES

Edu 680 Philosophy No change

Edu 681 Inclusions No change

Edu 682 Limitation on Aids and Levies No change

Edu 683 Financing No change

Edu 684 The District Advisory Council No change

1. No change

2. Recommendations for the use of Community Service Funds shall be made by the advisory council to the district board of education. The school board retains final authority in deciding which programs are to be adopted and how they are to be implemented. ~~The school board shall not initiate any programs which do not have prior approval and favorable recommendation of the advisory council.~~

3. No change

Edu 685 Community School Directors No change

Edu 686 Levy Effort No change

Edu 687 Annual Report No change

Edu 688-699 Reserved for Later Use No change

CERTIFICATE

STATE OF MINNESOTA
County of Ramsey

In the matter of the proposed adoption of rules of the state board of education amending and supplementing MINNESOTA ADMINISTRATIVE RULES AND REGULATIONS — Rules and Regulations of the State Board of Education, 1973 Edition and as amended in 1974.

I hereby certify that the attached 478 labels and 4 1/8 sheets which constitute the complete list of persons, associations, and other interested groups who as of 10:00, o'clock a.m., this 14th day of April, 1976, have requested pursuant to M.S. 1967 Section 15.0412 Subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Joan Anderson Growe
Secretary of State

By Ceil Dion

STATE OF MINNESOTA
County of Ramsey

IN THE MATTER OF: The proposed adoption of rules of the state board of education amending "Minnesota Administrative Rules and Regulations--Rules and Regulations of the State Board of Education" 1973 Edition and the 1974 Supplement.

ORDER FOR HEARING

To effectively implement the rules and regulations of the Minnesota State Board of Education, the board deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in it by M.S. 1974.

NOW, THEREFORE, IT IS ORDERED this 8th day of March, 1976, that a public hearing on the proposed rules captioned above be held at Room 716 Capitol Square Building, Saint Paul, Minnesota 55101 on Monday, May 24, 1976, commencing at 10:00 a.m. and continuing until all representatives of school districts, associations or other interested persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups of persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota legislature.

STATE OF MINNESOTA
Department of Education

Howard B. Swanson
Commissioner of Education

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

July 21, 1976

Mr. Farley D. Bright
Assistant Commissioner
for Administration
Department of Education
Capitol Square Building
St. Paul, MN 55101

Dear Mr. Bright:

Enclosed please find the entire record which you submitted to us for review on the issue of substantial change, together with the Report of the Acting Chief Hearing Examiner, pursuant to Minn. Stat. §15.052, Subd. 3.

The enclosures consist of the following:

1. Report of the Acting Chief Hearing Examiner
2. Exhibit #1 - Report of Hearing Examiner
3. Exhibit #2 - Rules as Proposed
4. Exhibit #3 - Memo from Ronald Laliberte to Commissioner Casey suggesting additions to Hearing Examiner recommendations
5. Exhibit #4 - Rules as adopted
6. Original Transcript

Yours very truly,

DUANE R. HARVES
Acting Chief Hearing Examiner

DRH:sh
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

EDU-76-001-PE

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF EDUCATION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE BOARD OF EDUCATION AMENDING "MINNESOTA ADMINISTRATION RULES AND REGULATIONS -- RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION", 1973 EDITION AND AS AMENDED IN 1974.

REPORT OF THE ACTING CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on May 24, 1976, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, was issued to the Department of Education on June 30, 1976; and

WHEREAS, the Department of Education has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Department of Education has submitted said rules to the Acting Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Acting Chief Hearing Examiner finds that there are no substantial changes in said rules as originally proposed.

NOW, THEREFORE, upon receipt of this Report, the Department of Education has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 21st day of July, 1976.

DUANE R. HARVES
Acting Chief Hearing Examiner

RECEIVED
JUL 16 1976
OFFICE OF HEARING EXAMINERS

Ex #1

STATE OF MINNESOTA
OFFICE OF HEARINGS EXAMINERS

FOR THE DEPARTMENT OF EDUCATION



In the Matter of the Proposed Adoption of Rules of the State Board of Education amending "Minnesota Administration Rules and Regulations -- Rules and Regulations of the State Board of Education," 1973 Edition and as amended in 1974.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the Minnesota Office of Hearings Examiners at 10:00 a.m. on May 24, 1976 in Room 716 of the Capitol Square Building.

Michael Bradley, Special Assistant Attorney General, 303 Capitol Square Building, appeared as counsel for the Department of Education. Ronald Laliberte, Assistant Commission; E. Raymond Peterson, Assistant Commissioner, and Robert Fischer, all with the Department of Education, Capitol Square Building, testified on behalf of the Department. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.052, subd. 3 (1975 Supp.), this report will include Findings of Fact, Conclusions and Recommendations. The Department of Education shall make a copy of this report available for review to any interested person upon request.

The Board shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. It shall include the rules as originally proposed, and the rules as proposed for adoption in final form.

The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Board on the issue of substantial changes in the rule within ten calendar days. The Board shall be responsible for filing the rules with the Attorney General.

Based upon the proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. The Notice of Hearing was in all respects proper in form, content, execution and filing.

2. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Education. All other substantive and procedural requirements of statute or rule have been complied with.

3. Statutory authority to amend Edu 684 is found in Minn. Stat.§§ 121.07 and 121.86. Authority to promulgate new rule Edu 242 is found in Minn. Stat. § 123.80, subd. 2 (1975 Supp.). which states as follows:

> "Subd. 2. Not later than January 1, 1976, the state board of education shall promulgate rules which will assure the safe and efficient transportation of handicapped pupils who because of their special handicapping conditions require special transportation arrangements. In drafting these rules, the board shall give particular attention to standards for vehicles used in transporting handicapped pupils, equipment to assure the safety of these pupils, and the qualifications of the drivers and aides providing transportation services."

4. The Board proposes to amend Edu 684 by deleting the last sentence in paragraph B. As it is presently written, 684 removes the power which a school district board would otherwise have to initiate and implement programs that the board, in its sole discretion, deemed desirable. The Advisory Council in the Community Services program wants to be merely an advisory body and not take power away from the local school boards. It is necessary to delete the sentence in order to restore that discretionary and important power.

5. The Board proposes to renumber current EDU 242 as EDU 243 and number the new rule, "Transportation of Handicapped Students", as EDU 242. This renumbering is necessary to group all of the rules for the operation of school buses in consecutive order.

6. Minnesota Statutes § 120.17 requires that school districts provide special education and services for handicapped school age residents. Differences in interpretation of the

term "services" have occurred, and some school districts have denied pupils transportation on the basis that transportation is not a service. The first paragraph of Edu 242 clarifies the interpretation and is needed to ensure that all handicapped students receive the transportation services to which they are entitled.

7. Parents and educators generally agree that, to the degree possible, handicapped students should be kept in the mainstream of school life. This philosophy is also applied to such services as school transportation. M.S. 123.80, subd. 2, recognizes this philosophy and requires that the rules adopted cover students who require special transportation services. The first sentence of the second paragraph is necessary to explain the conditions under which these rules will apply.

However, testimony and an actual reading of the sentence indicates that the language used does not reflect the intent desired. Many mildly handicapped children who must be transported on special routes do not need the special services that this rule prescribes. That alternative is not available the way the sentence reads unless the school district enters into mutual agreements with the parents as set out in paragraph (c).

8. In certain cases, parents transport their own children to and from school under contract with the school district. Application of these rules in such situations would be an unreasonable burden and expense for such parents. The last sentence in the second paragraph is needed to exempt such parents from complying with these rules.

9. Because of the relatively small number of handicapped students and appropriate educational programs, and because of the widely scattered locations of both student residences and programs, handicapped students have at times been provided transportation services which required relatively long periods of time in transit. The well-being of the child was not given primary consideration.

Paragraph (a) is needed in order to require school districts to consider the physical, mental and emotional well-being

of the child when establishing routes while at the same time recognizing the unique problems and circumstances involved in transporting handicapped children.

Testimony and comments spoke to the costs of compliance with the "time" provision, desirability of parent input on the time schedules, and a requirement for cooperative planning among school districts.

10. Many types of vehicles are available for transporting handicapped students. Certain vehicle types may be more appropriate for transporting pupils with particular handicapping conditions. The first sentence of paragraph (b) is needed to require that the handicapping conditions of the students transported be considered in selecting the type of vehicle used.

Edu 260-279 establish minimum standards for school buses in order to provide a high level of safety. The second sentence of paragraph (b) is necessary to require that school buses transporting handicapped students shall comply with these minimum standards. This sentence responds to the requirement in M.S. 123.80, subd. 2 that particular attention be given to standards for vehicles.

Testimony was given suggesting that distance traveled be an enumerated factor to be considered when a district selects the type of vehicle to be used.

11. The driver of a school bus transporting handicapped students cannot always provide the assistance and/or supervision needed by the students without sacrificing a degree of safety. The first sentence of paragraph (c) is necessary to require that a two-way communications system and/or an adult aide shall be provided to assist the driver in such instances.

A number of factors must be considered in determining the means by which appropriate assistance and/or supervision may be provided. Paragraph (c), second sentence, responds to this problem by requiring that the decision on whether a two-way communications system, adult aide, or both should be required be based on the needs of the students and by listing certain factors on which to base such decisions.

Circumstances may exist where it is not necessary or desirable to require the use of a communications system and/or adult aides. The final sentence in paragraph (c) is needed to provide that exceptions can be made upon mutual consent of parents and the school district.

Oral and written testimony were submitted in regard to: (1) the specific type of two-way communication system to be used; (2) the cost-funding factors; (3) the interpretation of the language; (4) elimination of the word "adult" so that trained student aides could be used; and (5) amending the second sentence of the paragraph to make it clear that neither an aide or a communications system may be required.

12. Some handicapped students require special equipment to ensure their safe transportation. M.S. 123.80, subd. 2 requires that the rules give particular attention to safety equipment. Paragraph (d), first sentence, is necessary to respond to these needs by requiring that appropriate safety equipment be provided. School district officials and parents may differ in opinion over the types of special equipment to be used. The second sentence of paragraph (d) requires that the school district, in consultation with the parents, select such equipment on the basis of the child's needs.

Cases may arise where the parents and the school district cannot agree on the need for special equipment. In such cases, a licensed medical doctor can make the final decision. The last sentence of paragraph (d) is necessary to provide that in such cases, a written statement of such need, signed by a licensed medical doctor, is proof of the need for the special equipment.

It was brought out that there may be a real problem in allowing one medical doctor to make the decision as to what kind of special equipment is needed. The doctor may not be aware of the nature of safety devices or may be overly solicitous in his role as the family physician. The school district has no recourse if it disagrees with the doctor's decision.

13. In instances where students are transported in wheel chairs, it is possible that the wheel chairs could roll about or tip over creating hazards for the students and the driver. Paragraph (e) is needed to reduce the possibility of such danger by requiring that wheel chairs be held in a fixed position by fastening devices.

14. Driving a school bus which transports handicapped students is a job which requires unique characteristics. The first sentence of paragraph (f) recognizes this fact and the need to select drivers who can fulfill these unique requirements.

Many handicapped students require special handling and care. Some are easily upset by changes in established routine. School bus drivers may require special training and instruction in the care of specific students. The second sentence of paragraph (f) recognizes these facts and requires that drivers be regularly assigned whenever possible.

15. Emergency situations can occur which are complicated by the handicapping conditions of the students. In order to provide the greatest degree of safety and care, certain information must be readily available to enable drivers and/or aides to choose the correct course of action. Paragraph (f)(1) is necessary to respond to this need by requiring that certain information is readily available.

16. Many handicapped students require special emergency health care. This health care will have to be provided by the driver and/or aide in emergency situations. The first sentence of paragraph (f)(2) is necessary to require that drivers and/or aides be instructed in such emergency health care procedures.

Sentence two of paragraph (f)(2) recognizes that handicapped students have other special problems and needs besides emergency health care. This sentence is needed to provide for in-service training to equip drivers and/or aides to deal with these specific problems. A one-month-after-assignment period is allowed for the training and responds to the turn-over in staffing of these vehicles.

Testimony spoke to the: (1) funding problem associated with the training; (2) rather broad language of the paragraph; and (3) desirability of extending the mandated training period from within one month to within 60 days so it could be done quarterly during the school year.

17. Some handicapped students require assistance in entering and leaving the school bus. Some drivers and aides are reluctant to provide such assistance because of concern over personal liability. Paragraph (f)(3) is needed to require that drivers and/or aides provide such assistance when necessary for the safety of the child or children under their care.

18. Testimony was submitted suggesting that a new section, (f)(4), be added stating that the driver and/or aid shall: (4) ensure that protective safety devices are in use and fastened appropriately. This addition would make the driver and/or aide responsible to make sure that the devices enumerated in paragraph (d) were, in fact, being used.

19. Because of the unique nature of some children's transportation problems, additional operating rules may be required beyond those provided in Department of Education rules and regulations. Such rules are best developed and adopted by the school district providing the transportation services. Paragraph (g) is necessary to provide that school districts may adopt additional operating rules to govern such local conditions providing they do not conflict with state laws and regulations.

20. Some parents of handicapped children have expressed concern that their children do not receive the transportation services to which they are entitled. They were concerned that provision be made for ensuring that such services are provided. Paragraph (h) is needed to respond to these concerns by informing such parents that they can seek resolution of such concerns through the due process procedures provided. Procedures are currently being promulgated pursuant to Chapter 211 (Laws 1976) to provide for protective remedies for handicapped children and their parents.

Testimony was given sugeesting that new Edu 242 be tabled until the due process rules are adopted.

21. Historically, the Department of Education has made any new rules and regulations effective for the beginning of a new school year. Paragraph (i) continues this trend by establishing the effective date of these rules as the beginning of the 1976-77 school year. The purpose of the delayed implementation is to give school districts adequate time to comply with these proposed rules.

Some concern was raised, however, as to the short time span before the effective date. Some school districts do not feel that they will have enough time to implement the proposed rules by the beginning of the 1976-77 school year.

CONCLUSIONS

1. The costs of implementing the proposed rules was a major concern of many school districts. The legislature did provide funding, however, in Minn. Stat. § 124.222, subd. 2a (1975 Supp.), and Chapter 271, § 49 (Laws 1976). These appropriations will not cover 100 percent of the expenditures, but it will reimburse a substantial portion of the costs. The Examiner concludes that any additional costs which must be borne by the school districts will not be a prohibitive factor in the implementation of the proposed rules.

2. The proposed rules are to be effective in the upcoming 1976-77 school year. Presently, many school districts are providing services which in large part conform to the proposed rules. The Examiner concludes that the need for a transportation program such as the one proposed greatly outweighs the hardships which may be incurred in implementation this Fall.

3. A focal point of the proposed rules is paragraph (h) which provides for procedures by which a dissatisfied parent may contest the transportation services given his handicapped child. These procedures are only now in the process of being promulgated, and, as such, leave a gap in the proposed rules. Hearings on the due process rules are scheduled for mid-July.

The Examiner concludes that the failure to have due process procedures presently in effect should not prohibit the adoption of the proposed rules.

4. The Examiner concludes that the proposed amendment to Edu 684 is reasonable and necessary.

5. The first sentence of the second introductory paragraph is unclear and should be amended to read:

> "These regulations shall apply when the handicapping conditions of the child are such that the child cannot be safely transported on the regular school bus route or on a special route for the purpose of attending an approved special education program."

6. The first sentence of paragraph (c) should be amended to eliminate the and/or conjunction before the word "supervision". Assistance and supervision are so much the same, all that is needed is an "and". The and/or in this instance is only confusing.

The sentence should also be amended by deleting the words "an adult" and replacing them with the words "a responsible". This change will allow for the use of trained student aides in the transportation program.

A new sentence should be added between the first and second sentences of paragraph (c) to reflect the neither alternative more clearly. The second sentence should also be amended to show that change. It should read:

> ". . . be provided by the driver. A school district may determine, however, that neither a communications system and/or an aide are required. The determination of whether a communications system and/or an aide are required shall reflect the needs of the students and be based on such factors as: . . ." (Omitted material)

The last sentence of paragraph (c) should be amended by deleting the word "rule" and putting in its place the word "paragraph." This change will show more clearly the intent that the exception clause just apply to paragraph (c) and not to all of Edu 242.

7. Paragraph (d) should be amended by deleting the last sentence. The Examiner feels that disagreements of this nature should be resolved by due process procedures at which time both the school district's opinion and doctors' statements could be

weighted accordingly. Allowing one doctor's statement to constitute the final decision on the use of devices does a disservice to the school district. The paragraph states quite clearly that devices "shall be provided" to "insure . . . safe transportation."

8. The last sentence in the introductory paragraph to section (f) should be amended to read as follows:

> "Each aide assigned to a vehicle transporting handicapped students, or driver if no aide is assigned, or both shall: . . ." (Omitted material)

This change will make it clear that the most appropriate person to handle problems, the aide, be equipped to do just that. The option of both fulfilling the requirements is still available.

A new sentence, (f)(4), should be added to read as follows:

> "(4) Insure that protective safety devices are in use and fastened appropriately.

This addition would help insure that the required safety devices were being used.

9. Paragraph (h) should be amended by adding the statutory citation which authorizes the promulgation of due process procedures. It should read:

> ". . . the due process procedures provided for in Chapter 211 (1976 Laws)."

Chapter 211 (1976 Laws) will always be Chapter 211 (1976 Laws) and this change will narrow the scope of the broadly-worded paragraph.

10. Many useful comments and suggestions were made regarding the other provisions of the rules. The Examiner feels that further amendments to the proposed rules are not warranted at this time. The flexibility and broad language embodied in the rules will allow for some parameters of application by local school districts. Further specificity may only retard their effectiveness on the local level.

The Examiner concludes that proposed new rule Edu 242 is both reasonable and necessary.

11. The Examiner concludes that the changes he is suggesting to the rules as originally proposed do not consitute substantial differences.

RECOMMENDATION

The Hearing Examiner recommends that the proposed rules, as attached and amended pursuant to the preceding conclusions, be adopted by the State Board of Education.

Dated this 30 day of June, 1976.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

Amendments made by the Hearing Examiner are underlined.

Edu 684 The District Advisory Council

1. No change

2. Recommendations for the use of Community Service Funds shall be made by the advisory council to the district board of education. The school board retains final authority in deciding which programs are to be adopted and how they are to be implemented.

3. No change

Edu 242 recoded as 243

Edu 242 Transportation of Handicapped Students

Under the provisions of M.S. 120.17, school districts are required to provide special education and services for handicapped school age residents. Accordingly, free transportation services shall be provided to any such handicapped child who requires special transportation services because of his or her handicapping conditions and/or special program needs.

These regulations shall apply when the handicapping conditions of the child are such that the child cannot be safely transported on the regular school bus route or on a special route for the purpose of attending an approved special education program. These regulations shall not be applicable to parents who transport their own child under contract with a school district.

(a) The length of time a handicapped child is transported shall be appropriate to the physical, mental, and emotional well-being of the child. In general, a handicapped child should not spend more time in transit than a non-handicapped child except as may be required because of the unique location of the child's educational program.

(b) The school district shall determine the type of vehicle used to transport handicapped students on the basis of the handicapping conditions of those students. Such vehicles shall comply with the provisions of Chapter Fourteen: Edu 269-279 of the Rules and Regulations of the State Board of Education.

(c) All vehicles used to transport handicapped students shall be equipped with a two-way communications system and/or have a responsible aide to provide necessary assistance and supervision which cannot safely be provided by the driver. A school district may determine, however, that neither a communications system and/or an aide are required. The determination of whether a communications system and/or an aide are required shall reflect the needs of the students and be based on such factors as: handicaps of students transported, distance traveled, density of population, terrain and any other factors which may affect the safety of the pupil passengers. Exceptions to this paragraph may be made upon mutual agreement between the parents and the school district.

(d) Specially adapted seats, support and/or protective devices shall be provided for all students who require such devices to insure their safe transportation. Such devices shall be selected by the school district in consultation with the child's parents and on the basis of the specific needs of the individual handicapped child.

(e) Any school bus used to transport students in wheel chairs shall be equipped with fastening devices which will hold such wheel chairs securely in a fixed position.

(f) Each driver of a vehicle for handicapped students should be carefully selected to fulfill the unique requirements of the job. Drivers shall be assigned to each route on a regular basis whenever possible. Each aide assigned to a vehicle transporting handicapped students, or driver if no aide is assigned, or both shall:

(1) Have available to them in the vehicle a typewritten card indicating the student's name and address; the nature of the student's handicaps; emergency health care information; and the names and telephone numbers of the student's physician, parents, guardians and/or custodians and of some person other than the student's parents or custodians who can be contacted in case of an emergency.

(2) Be instructed in the proper emergency health care procedures for the students under their care. In addition, within one month after the effective date of assignment, participate in a program of in-service training on the proper methods for dealing with the specific needs and problems of those students.

(3) Assist such children on and off the bus when necessary for their safe ingress and egress from the bus.

(4) Insure that protective safety devices are in use and fastened appropriately.

(g) The school district may adopt such additional operating rules governing transportation of handicapped students as deemed necessary to meet local conditions and needs, providing they do not conflict with state laws and regulations.

(h) Any parent of a handicapped child who believes that the transportation services provided for that child are not in compliance with these regulations may utilize the due process procedures provided for in Chapter 211 (Laws 1976).

(i) Effective date: These regulations shall be effective beginning with the 1976-77 school year.

Edu 243 Edu 242 recoded as Edu 243. No change.

Edu 244-259 Reserved for future use.

ADMIN 262

STATE OF MINNESOTA

DEPARTMENT of Education

Memorandum

RECEIVED
JUL 16 1976
OFFICE OF HEARING EXAMINERS

TO : Howard B. Casmey, Commissioner
State Board of Education

DATE: July 7, 1976

FROM : Ronald Laliberte

Ex. # 3

SUBJECT: Proposed rule, Edu 242; Report of Hearing Examiner

Suggested additions to Hearing Examiner's recommendations. Suggested additions underscored.

*Page 12, second paragraph under Edu 242:

These regulations shall apply when the handicapping conditions of the child are such that the child cannot be safely transported on the regular school bus route or <u>when the child is transported on a special route for the purpose of attending an approved special education program.</u>

*Page 14, paragraph (4):

Insure that protective safety devices<u>, as required in paragraph (d),</u> are in use and fastened appropriately.

The above suggestions have been discussed with Peter Erickson, Hearing Examiner. Mr. Erickson agreed that the suggested additions are desirable.

The Pupil Transportation Section and I agree with all other recommendations of the Hearing Examiner.