


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

(469

Possibility of sub. change raised by AG — not found by CHE.

OUR FILE NO. 469

469

Attorney General

William Marshall
Special Assistant
Attorney General

October 10, 1978

Lee E. Sheehy
Special Assistant
Attorney General

296-1288

In the Matter of the Proposed Amendment of Rules of the Minnesota Arts Board Governing the Receiving and Reviewing of Requests for and Distribution of Grants, Loans, and Other Forms of Assistance

The above-captioned rules have not been approved by this office for the reasons discussed below. After agency consideration of these matters and appropriate agency action, if any, these ruels may be resubmitted to this office for review. I have retained copies of all relevant materials in this matter should you wish to discuss it with me.

The rules are returned for the following reason:

1. 5.009 as proposed for adoption: The agency appears to have failed to make an affirmative presentation of fact relating to the need for and reasonableness as proposed for adoption. Although the record submitted to this office does not contain a verbatum transcript of the hearing in this matter, Hearing Examiner Finding No. 14(B) does characterize the controversy surrounding this provision. Apparently, subsequent to public criticism of this provision, the agency proposed amendments at the hearing. See Hearing Examiner Finding No. 14. The agency's Amended Statement of Need offered and supported the language quoted by the Hearing Examiner. The agency then amended the rule subsequent to the close of the record limiting the appellate rights of regional arts council grant applicants. No adequate showing for limiting those rights was made on the record. Secondly, eliminating the appellate rights of regional council grant applicants may constitute a substantial change. Denying rights of appeal to a group which may have been afforded appeal rights in proposed § 5.007 T creates a rule which may be fundamentally different. This possibility is exacerbated by the fact that the agency took the position at the hearing that the proposed rule did grant regional council applicants such appellate rights. Then, it changed that position without an affirmative presentation on the record.

2. § 5.011: The last line on page 20 of the rules proposed for adoption was cut off of all copies of the Adopted Rules submitted to this office.

3. § 5.012 G: The citation to "Minn. Stat. Ch. 5.059, subd. 3: is incorrect. It should be "Minn. Stat. Ch. 15.059, subd. 3".

Finally, the Order Adopting and Agency Findings of Fact indicate that this matter came on for hearing before Sandy Hale and Stephen Sell, Arts Board Acting Chairperson and Executive Director respectively. While this is not necessarily a matter of form and legality, I think that it is more correctly stated that the matter came on before Hearing Examiner Peter C. Erickson, not the above-named individuals.

If you have any questions, do not hesitate to call me.

LES:mb

cc: Duane Harves
Chief Hearing Examiner

Enclosure

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

I, Sandy Hale , do hereby certify that I am chairperson of the Board of the Arts, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of the Arts duly and properly called and held on the 25th day of August, 1978; that a quorum was present at said meeting;(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 rules relating to Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance be and they hereby are approved and adopted, pursuant to authority vested in us by M.S. chapter 139 and that Philip Von Blon, one of the members of the Board of the Arts, be and hereby is authorized to sign an order adopting those rules ."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of August, 1978.

Sandy Hale
Chairperson

Olivia C. O'Brien

Attest by one other Officer

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE PHILIP VON BLON

MEMBER OF THE MINNESOTA STATE ARTS BOARD

In the matter of the Proposed Adoption of Rules of the State Arts Board Governing the Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Sandy Hale, Arts Board Chairperson, and Stephen Sell, Executive Director, Arts Board of the State of Minnesota on the 23rd and 26th days of June, 1978 at 9:00 A.M. in Room 15 of the State Capitol, St. Paul, Minnesota after proper notice required by M.S. 1976, Section 15.0412 wasserved 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 heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules.

NOW THEREFORE, IT IS ORDERED that these rules indentified as Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance are adopted this 25th day of August, 1978, pursuant to authority vested in me by the Board of the Arts.

STATE OF MINNESOTA

ARTS BOARD

Philip Von Blum

Member Minnesota State Arts Board

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE PHILIP VON BLON

MEMBER OF THE MINNESOTA STATE ARTS BOARD

FINDINGS OF FACT

In the matter of the Proposed Adoption of Rules of the State Board of the Arts Governing the Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance.

The above-entitled matter came on for hearing before Sandy Hale, Arts Board Chairperson and Stephen Sell, Executive Director of the State of Minnesota on the 23rd and 26th days of June, 1978, at 9:00 A.M. in Room 15, State Capitol, St. Paul, Minnesota, after proper notice required by M.S. 1976, 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 heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

The Board of the Arts accepts and incorporates the Hearing Examiner's findings and would further propose the following amendments to the Rules:

5.007 J. 1. a. and b. Before the word recommendations, insert the word "committee"

5.009 Deletion of the following words "both", regional arts council", and "and/or the regional arts council"

The latter change is in response to the accompanying memorandum from the Board's Special Assistant Attorney General, William Marshall, which more fully explains the actual legal authority of the Board regarding appeals procedures.

STATE OF MINNESOTA

BOARD OF THE ARTS

MEMBER OF THE MINNESOTA STATE ARTS BOARD

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General, William Marshall, 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.

William Marshall
Special Assistant Attorney General

Dated: 9/7/1973

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

August 16, 1978

Minnesota State Arts Board
314 Clifton Avenue
Minneapolis, Minnesota 55403

Re: Appeals of the decisions of regional arts councils

Dear Arts Board Members:

I am submitting this to you in order to indicate to you my opinion regarding applicant appeals of regional arts board decisions.

As I am sure you are aware, the Rules of the Arts Board as currently drafted allow an applicant to appeal a decision of a regional arts council pursuant to the contested case procedures of the Minnesota Administrative Procedures Act. This rule reflects a change from the original proposed rules in that the original rules allowed only applicants to the State Board recourse to the contested case procedures.

It is my opinion that the most appropriate course for the Board to follow is to not grant an applicant to a regional arts council the right to an appeal pursuant to the Administrative Procedures Act. The reasons for this are several. First, the Minnesota APA does not encompass in its purview regional arts councils. Rather, Minn. Stat. § 15.0411 indicates the only agencies who are required to submit to the provisions of the APA are those with statewide jurisdiction. Since regional arts councils do not have statewide jurisdiction, they are therefore not subject to APA strictures. There is then no requirement that applicants to the regional arts councils receive contested case review. While perhaps the Board could authorize this type of review if it saw fit, in my opinion this would cause a multitude of serious problems. For example, while regional arts councils are tied to the eligibility and standards requirements of the Arts Board, the regional councils have their own autonomy regarding the establishing of local procedures, the setting of their own definitions and the creating of their own appeals process. A statewide review of a local procedure or local rule would be anamolous at best and as a practical matter would force

the State Board to defend procedures with which it is unfamiliar or with which it disagrees. Moreover, the contested case procedure is rigorous and may become prohibitively expensive, particularly if a multitude of small vexatious claims are presented in the outlying regions.

Secondly, statewide review of regional arts board matters is also troublesome in that it severely undercuts the power of the regional arts council. Such a review procedure effectively allows a regional applicant to go over the heads of the local regional arts council. Thus, a good deal of the autonomy of the regional councils may be lost in the process.

Thirdly, statewide review may be also inappropriate in that there may be no statewide enforcement procedures. For example, even if a rejected applicant were able to show that a third party had been improperly extended a grant, there would still be no mechanism at the state level which could be undertaken in an effort to recoup the improperly granted funds. As such, the allowance of an appeal to the aggrieved party becomes nothing more than a paper gesture, particularly if the regional arts council has already extended all of its funds for that current year.

For these reasons, I strongly suggest that the Board does not adopt the provision which would allow state-contested case review of regional arts councils decisions. I am available to discuss this matter with any of you at your convenience and I will additionally be in attendance at the Board meeting on August 25, 1978, in order to more fully discuss these issues with you.

Very truly yours,

William P. Marshall

WILLIAM P. MARSHALL
Special Assistant
Attorney General

515 Transportation Building
St. Paul, Minnesota 55155
(612) 296-3369

WPM:dlm

ADDITIONAL CHANGES IN THE MSAB RULES

5.007 J. 1. a and b Before the word recommendations insert the word "committee".

5.009

Delete the words "both", "regional arts council", and "and/or the regional arts council".

MINNESOTA STATE ARTS BOARD AMENDED STATEMENT OF NEED

The Arts Board welcomes and appreciates the technical and substantive comments submitted to it by Chimera Theatre, the Southwest Minnesota Arts and Humanities Council, North Country Arts Council, as well as all other members of the public. The following is a response to all written comments submitted to date by Chimera Theatre and the Southwest Minnesota Arts and Humanities Council (SMAHC). In order to best respond to the numerous suggestions submitted by the two organizations, each rule section will be treated separately.

RESPONSE TO CHIMERA THEATRE'S TECHNICAL COMMENTS

5.001

The Arts Board agrees that the original citation of Minn. Stat. §§ 139.10 is incorrect in the rules to the extent that the date should properly read (1976) and not (Supp. 1977). The Arts Board does not believe that it is proper, however, to cite any more than the portion of the Minnesota Statutes and laws which provide the Arts Board with its rulemaking authority. Therefore, the Arts Board has elected not to cite any other Minnesota laws or statutes which do not bear directly upon the Board's rulemaking authority.

5.003

The Arts Board does not feel that the version of 5.003 as submitted by Chimera properly articulates the intent of the Board. Moreover, the Board is concerned about various language in Chimera's proposed rule including the use and meaning of the words "subservient" and "benefitting" among others. The Board does agree, however,that current proposed Rule 5.003A should be rewritten. The new proposed 5.003A would then read as follows:

These Rules govern the Board; advisory committees; regional arts councils and all individuals, ~~sponsoring~~ organizations, departments, and agencies of the state and political subdivisions who wish to receive grants, loans, or other forms of assistance from the Board and/or from regional arts councils.

Additionally, in 5.003B the capital letters in "Arts Councils" should be changed to lower case.

5.004

First, Chimera suggests deletion of 5.004 F and 5.004 H. It is the view of the Arts Board that both provisions substantially clarify the meaning of the Rules and therefore that their inclusion as definitions is appropriate. Additionally, the Board disagrees with Chimera that "local/regional arts development" as found in 5.004 F is a term that is presented inconsistently throughout the Rules and suggests that the Rules speak for themselves on this point.

Chimera's suggestion regarding 5.004 B, while substantially articulating the intent of the Board, does not in the Board's view provide the type of clarification desired in that definition. The Board has added the additional language defining "block grant" in order to be as clear as possible.

The Board feels that there is much merit to the suggestion by Chimera regarding Rule 5.004 I. This definition should now read as follows:

"(P) rogram information" means a document (s) issued annually describing programs and services of the Board which includes instructions, deadlines, and other aids for the applicant seeking Board assistance. Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria itself.

It is the Board's feeling that the remainder of the current rule is in fact substantive as claimed by Chimera and is therefore more properly placed as an addition to current Rule 5.002. This Rule should now be amended to read as follows:

5.002

> Purpose of the Rules: The purpose of these Rules is to set forth procedures and standards to be followed by the Board in receiving and reviewing requests for the distribution of grants, loans, and other forms of assistance. Any actions taken by the Board, its staff and advisory committees must be clearly based on the standards in rule form. Explanations of actions requested by applicants must be offered in the context of the standards in rule form.

5.005

The Board rejects Chimera's proposal that 5.005 be totally rewritten so as to be a general provision dealing with the way the Board conducts itself. It is the view of the Board that the Board's structure and purposes are properly defined in Minn. Stat. §§ 139.01, et seq. and need not be paraphrased nor rewritten in these Rules.

5.006

Chimera proposes the wholesale reorganization of Rule 5.006. Specifically, Chimera proposed that the various kinds of assistance that is available should be designated in rule form and that eligibility should then be examined on a program-by-program basis. The problem with this suggestion is that it is too inflexible. Critical to the effective functioning of the Arts Board is its ability to formulate and implement changes in available programs. The solution suggested by Chimera would force the Arts Board to undertake rulemaking virtually every time it desired to affect its program structure. A program information guide rather than a Rule is a more appropriate vehicle in order to provide the flexibility needed for arts development. An additional difficulty may lie in the Board's use of the word program. Board programs might better be described as funding categories. It is necessary to maintain flexibility in order to respond effectively to the market which impacts on the structure at virtually each deadline.

5.007

Regarding this Rule, Chimera first suggests that the definitions included herein be relocated to Rule 5.004. Prior to these proposed rules all definitions were located in 5.004, however, the Arts Board was informed that this location was confusing to potential applicants. In practice, 5.007 may very well be the only Rule read by a potential applicant and the Arts Board has elected to make this Rule as comprehensive and as self-contained as possible. In fact, it is this consideration which forms the entire basis of the structure of 5.007. While the Board agrees with Chimera that 5.007 K might be placed in a different locale, the Board felt that its inclusion here best assures this interest of setting forth to the reader the total step-by-step decision making process involved in the application procedure.

The following technical changes will be made by the Arts Board in response to suggestions by Chimera Theatre:

5.007J.1.,after letter a, letter b will be added, which reads as follows:

b. The regional arts development recommendations can only be for the full requested amount.

In item 4. the following addition will be made to the sentence before the word table, Recommend that the Board table...

Section 5.007 S will now become a separate Rule, 5.008, entitled, Procedures for obtaining regional arts council status, regional arts council review procedures and regional arts council reporting requirements.

Section 5.007 S.2.f. (old numbering will be used for ease of reference) The second sentence will now become letter g, with the addition of the following: A memorandum of agreement shall include that application decisions on artistic merit, applicant ability, and need for project or program must be reserved for consideration only by citizen advisory committees appointed for their expertise and experience in the arts.

Section 5.007 S. 2. g. now becomes letter h.

Section 5.007 T now becomes 5.009, Appeals process. This section is now reworded to read: Both MSAB and regional arts council applicants for grants, loans or other forms of assistance who believe that the established grant review

procedures have not been followed may appeal the decision of the Board and/or the regional arts council. This appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. ch. 15.0418- .0422.

5.008

This section is now 5.010.

5.009

This section is now 5.011.

5.010

This section is now 5.012.

5.008

The Board rejects the suggestion by Chimera that it use the term "criteria" instead of the terms standards, merit, in priority. It is the Board's view that the shades and meaning present in those terms substantially clarify the meaning of the Rule. These Rules were extensively rewritten using the term standards because this is the term used in Arts Board ennabling legislation and Arts Board rulemaking authority is limited to promulgating rules which are standards and procedures.

Finally, Chimera suggests its concern that "significant programs" have no meaningful criteria set out in the Rules. The Board strenuously objects to this characterization. In these Rules, the Board has set down specific and well-defined procedures. Additionally, the Board has set down standards to the greatest degree possible that can be formulated in dealing with the subject matter of the Board - art. It cannot be overemphasized that the Board is dealing with a highly abstract and subjective subject matter. Art is not easily amenable to technical definition and objective evaluation. Some flexibility in the review process is inescapable. The Board feels that any further complication of these Rules by subdivision into program eligibility would only needlessly confuse an applicant and would, in effect, be only a

vain attempt to provide technical definition where none is possible.

RESPONSE TO CHIMERA THEATRE'S PROPOSED MSAB RULES SUBSTANTIVE CHANGES

The greatest concern in the first part of this letter is regarding the issue that the Arts Board does not describe or define, in rule form, the word major. The Board, through policy decisions and defining the general operating support category of assistance, has determined that the word major, though in the legislation, has many negative ramifications, if used to describe the applicants in this category more than implicitly. The Board would argue that all of the eligibility criteria for the category, contained in the Rules, implicitly, but not explicitly, describe a "major" arts organization. Use of the word, however, not only implies, but states publicly, that any organization not eligible to apply in the category is by exclusion "minor", which is not a fair judgement of all of the other applicants. Further geographical impact is not the only eligibility criteria for the category. The use of this eligibility criteria is within the law, and it is further amplified in the context of some the concerns suggested by Chimera such as audience, fiscal responsibility etc.

5.004

The Board does not agree with Chimera's suggestion that geographical reference and inclusion of organizational impact be eliminated. The reference is not used as a qualitative standard, but as a means for the applicant to define his own eligibility.

5.006

The Board would argue with Chimera's suggestion that audience, production and staffing criteria are not part of the eligibility criteria.

Again these considerations are implicit in the criteria, when program dissemination, public participation and artistic leadership are cited as the means of demonstrating state-wide or multi-region impact.

5.007

The Board shares Chimera's concerns regarding the delegation of grant-making authority and responsibility. Although this rule addresses a major concern of the agency, the Arts Board feels that this problem of lines of responsibility and authority might best be addressed in changes in legislation rather than in the Rules at this time. Accordingly, Rule 5.007 S. 2. h. has been eliminated and Rule 5.007 S. 2. f. modified per the explanations given earlier in this statement.

5.008

The suggestion of Chimera that the leadership standard be further amplified the Board finds is without substance. The Arts Board feels that the language suggested by Chimera is already explicit in the Rules.

Chimera's suggested addition under the fiscal responsibility standard is also one which the Board feels is unnecessary. The standard suggested begins with a very negative assumption, which the Board feels is unreasonable. Item g. in this standard does address itself to special conditions which may arise. The assumption is that an applicant organization would address any of these shortfall fiscal conditions, if these arise, without further requirements.

Chimera's suggestion regarding educational standards is well taken. Their concern led the Board to discover a typographical error in the Rules, and to the following change: 5.008 B. 4. b. the word expected should be chang[illegible] to expended.

Finally, Chimera's concern regarding a standard which addresses the public acceptance of an organization's efforts which they feel should be addressed in 5.008 B. 5., the Board feels is adequately addressed in 5.008 B. 6.

RESPONSE TO SMAHC'S PROPOSED CHANGES

SMAHC's testimony contains an extensive description of both the SMAHC organization and the history of the Arts Board's regional arts development effort. The Arts Board feels that much of the historical information is not really relevent to the issues raised by the rule in contention. Like all presentations of historical data, by either the Arts Board or SMAHC, contain only selective information regarding the issue which would be supportive of the case at hand.

It is the position of the Arts Board that rule 5.006 F is reasonable with the inclusion of the following new and revised definitions:

5.004

B. "Block grant" means a grant to a regional arts council for the purpose of providing program services, re-grants, and direct programmin for local/regional arts development .

K. "Program services" means non-grant activities including, but not limited to, information services, technical and consultative services, planning, reporting, evaluation, and research efforts, cooperative program and service facilitation, and other program development efforts.

O. "Re-granting" means the process of allocating block grant funds to arts funding applicants to a regional arts council for the purpose(s) described in the application.

E. "Direct programming" means the implementation by a regional arts council of arts production or arts sponsorship activities.

Old K,now M. reworded as follows:
"Regional arts council" means an organization or a group designated by the Board to make final decisions on block grant funds granted to them for local/regional arts development.

With the addition of this material the following concerns raised by SMAHC are sufficiently addressed:

SMAHC CONCERNS:

1. Rule implementation is contrary to the intent of the state-wide plan regarding using existing regional structures or support of existing regional groups;

2. Rule implementation does not allow regional organizations to determine their own structure as determined by the people of the region;

3. Rule implementation does not allow planning, programming and grantmaking within the same organization;

4. Rule implementation does not encourage regional arts councils to raise funds from other sources and to maintain and expand their services.

MSAB RESPONSE:

1. The funding category under which an organization is eligible has no bearing on an applicant organization's structure. An eligible regional arts council can be structured as a non-profit, tax-exempt organization, or as a governmental unit. The organization can also be an already existing regional group. In fact, this was encouraged by the Arts Board.

2. Again the region is free to choose the structure which best accomadates its needs. This is not prohibited by the Rule.

3. The Rule does not prohibit planning, programming and grant-making within the same organization. It only describes that the context for this activity is local/regional arts development, which is consistent with the law.

4. The Rule also does not prohibit any fund-raising activities of the regional arts council. Conceivably a regional arts council can raise funds for any activity, even if it is not a local/regional arts development effort. The Arts Board specifies in several instances in the Rules that it is only concerned with activities related to the use of Arts Board funds.

By citing a suggestion proposed by the Arts Board staff reagrding a means by which the SMAHC application could be revised as an argument against this Rule (page 7 SMAHC letter), the SMAHC organization has confused a number of issues related to the tabling of their grant application with the Rule issue. The issues are related, but distinct from one another. Further, the Board, by policy directed that the panel reexamine the application and removed the staff from any suggested decisions regarding the disposition of the applica

The Rule does not prohibit any of the activities that SMAHC has engaged in, in the past, except acting as a fiscal agent on behalf of another organization. The rule does compel a regional arts council, if engaging in all of these activities, to closely examine its own local/regional priorities among these activities, and justify, within the context of the category, how regional arts development is best accomplished.

HEARING EXAMINER SUGGESTED CHANGES MADE

5.008

Section E. 4. Second line after "exhibitions" insert carried out exclusively.

Section F should now read:

The Board in addition to the criteria set forth above may allocate grant fuhds on a first-come, first-served basis to applicants who meet the procedures and standards contained herein during each fiscal year.

#469 State Arts Board

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 9-20 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 10/10

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved _____ Date Sent Back to Agency _____

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable ✓
4. Order for Hearing _____
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable ✓
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N.A.
17. Petition by Public, where applicable N.A.

+ Findings of Fact

① Order Adopting ^ incorrectly states who motion came — before for hearing

② See LCRAR letter dated 6-19-78

③ p. 20 - last line got chopped off

④ p. 21 (F) terminated w/ or without cause
No need for cause because at grantee request (any hearing

⑤ p. 23 - (G) incorrect citation

⑥ ~~Incorrect statement "came ~ for hearing before . . ." in order~~

⑦ Marshall advice @ appeal process

As Adopted

STATE ARTS BOARD

REVIEW OF REQUESTS FOR AND
DISTRIBUTION OF GRANTS, LOANS AND
OTHER FORMS OF ASSISTANCE

Contents

Rule
(6 MCAR 5)

~~MSAB-1:~~ 6MCAR § 5.001 Authority for the rules

~~MSAB-2:~~ 6MCAR § 5.002 Purpose of the rules

~~MSAB-3:~~ 6MCAR § 5.003 Whom the rules govern

~~MSAB-4:~~ 6MCAR § 5.004 Definitions

~~MSAB-5:~~ 6MCAR § 5.005 Requests for information

§ 5.006 Eligibility requirements for individuals and organizations

~~MSAB-6:~~ 6MCAR § 5.007 Procedure for obtaining grants, loans and other forms of assistance

§ 5.008 Procedures for obtaining regional arts council status, regional arts council review procedures, and regional arts council reporting requirements

§ 5.009 Appeals process

§ 5.010 Standards for requests for grants, loans and other forms of assistance

~~MSAB-7:~~ 6MCAR § 5.011 Responsibilities of grantee

~~MSAB-8:~~ 6MCAR § 5.012 Advisory committees

STATE ARTS BOARD

REVIEW OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS AND OTHER FORMS OF ASSISTANCE

~~MSAB-1:~~ § 5.001 Authority for the rules. These Rules are adopted pursuant to Minn. Stat. ch. 139.10, subds. (e) and (f) (1976).

~~MSAB-2:~~ § 5.002 Purpose of the rules. The purpose of these Rules is to set forth procedures and standards to be followed by the Board in receiving and reviewing requests for and distribution of grants, loans, and other forms of assistance. Any actions taken by the Board, its staff and advisory committees must be clearly based on the standards in rule form. Explanations of actions requested by applicants must be offered in the context of the standards in rule form.

~~MSAB-3:~~ § 5.003 Whom the rules govern.

A. These Rules govern the Board; advisory committees; regional arts councils; and all individuals, ~~sponsoring~~ organizations, departments, and agencies of the state and political subdivisions who wish to receive grants, loans or other forms of assistance from the Board and/or from regional arts councils.

B. Regional arts councils receiving block grants from the Board are required to follow Board rules pertaining to eligibility requirements and general standards in distributing local/regional arts development grants, loans and other forms of assistance which utilize Board funds.

~~MSAB-4:~~ § 5.004 Definitions. For the purpose of these Rules, the following terms shall have the meanings given to them:

A. "Advisory committee" means a group of citizens selected and convened by the Board to review and recommend on policy and distribution of forms of assistance offered by the Board.

B. "Block Grant" means grants to regional arts council for the purpose of providing program service, re-grants, and direct programming for local/regional arts development.

C. "Board" means the Minnesota State Arts Board.

D. "Certified audit report" means a document prepared and signed by a Certified Public Accountant showing the total fiscal activity of a project or program.

E. "Direct programming" means the implementation by a regional arts council of arts production or arts sponsorship activities.

F. "Local" means program or service distribution and organizational impact within a specific municipality or county.

G. "Local/regional arts development" means programs or projects which are for the development or enhancement of local or regional artists or art resources.

H. "Multi-regional" means program or service distribution and organizational impact over more than one of the State's official development regions.

I. "Other forms of assistance" means publications or staff consultation or workshops with individuals or groups who have developed or are interested in developing projects or programs in the arts but need advice on matters such as, but not limited to, budgeting, administration, production and technology.

J. "Program information" means a document(s) issued annually describing programs and services of the Board which includes instructions, deadlines, and other aids for the applicant

seeking Board assistance. Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria itself.

K. "Program services" means non-grant activities including, but not limited to, information services, technical and consultative services, planning, reporting, evaluation, and other program development efforts.

L. "Regional" means program or service distribution and organizational impact within the geographic area served by a regional arts task force or regional arts council. Formal combinations of two or more development regions under one regional arts council will be regarded as one region for this purpose.

M. "Regional arts council" means an organization or a group designated by the Board to make final decisions on block grant funds granted to them for local/regional arts development.

N. "Regional arts task force" means an advisory committee of the Board which reviews applications for local arts development projects serving the region(s) the arts task force represents. A regional arts task force may also be an advisory committee to a regional development commission or the Metropolitan Council ~~originating within its district. The state is divided into thirteen regional development commission districts~~.

O. "Re-granting" means the process of allocating block grant funds to arts funding applicants to a regional arts council for the purpose(s) described in the application.

P. "State-wide" means program or service distribution and organizational impact throughout most or all of the development regions of the state.

MSAB-5: § 5.005 Requests for information. All requests for information ~~concerning the grant application process~~ may be made ~~at~~ to the offices of the Board ~~in person, by phone or letter~~. Upon such a request, the Board will provide ~~a copy of these Rules, an official application form, a copy of the current guidelines and any other information which may be helpful~~ appropriate information.

§ 5.006 Eligibility requirements for individuals, organizations governmental units and schools applying for grant assistance.

A. Arts Board assistance is available to individuals, non-profit, tax-exempt organizations, schools and governmental units and departments and agencies of the state.

B. Local/regional arts development assistance is available to non-profit, tax-exempt organizations or units of government, including schools. This assistance is for the creation and production of arts programs or projects which are for the development or enhancement of local or regional artists or arts resources.

C. Arts Board grants assistance is available to the following individual applicants:

1. Artists who directly produce new works of art such as, but not limited to, playwrights, composers, librettists, creative prose writers, independent filmmakers, video artists, visual artists, craftspeople, choreographers, poets, fiction writers, conceptual artists and artists working in multi-media fields.

2. Arts teachers, only if the teacher is pursuing professional development as an artist, not as a teacher.

3. Individual artists, who have received an MSAB Fellowship grant, cannot apply for another Fellowship grant until two fiscal years after the receipt of the Fellowship grant.

4. Students, those who are pursuing either full-time or part-time a performance or academic degree in their creative field, may not apply for Fellowships, but may apply for Project or Works in Progress grants.

5. Individual artists, who have received a Project or Works in Progress grant, cannot apply for another Project or Works in Progress grant until one fiscal year after the receipt of the Project or Works in Progress grant.

D. Production grants assistance and Sponsor grants assistance are not available to schools if the project submitted is limited in access to, or only serves those attending school, including the staff.

E. Grants assistance for general operations (Subsidy) is only available to arts producing, exhibiting or educational (non-academic i.e., do not offer curricular programs) organizations.

1. Organizations may apply for general operations (Subsidy) grants only if:

   a. State-wide or multi-region impact is demonstrated by program dissemination, public participation or artistic leadership.

b. The organization has been in existence in its current form two full years prior to applying.

c. The organization has a certified audit of its accounts for the previous two years.

d. The organization has a commitment to professional management - at least one full-time paid management (not clerical) position for 12 months per year, or equivalent volunteer personnel. Documentation would include job description, time allocation and budget commitment, if applicable.

2. Organizations which receive grants for general operations (subsidy) are eligible to apply for project grants only if:

a. The application is for a special project, clearly identified as something that would not or could not take place without a grant.

b. The project clearly demonstrates that it is a one-time project. A pilot for contemplated future operation is eligible if a specific plan for absorbing it into on-going operations is presented with the application.

c. No overhead or on-going organizational costs be included as part of the project budget.

d. The grant from the MSAB would be matched at least 50-50 with funds from other sources, clearly identified for the project itself. No general budget funds of the applicant organization would be eligible as match.

F. Regional arts councils are eligible to apply only for block grants for the purpose of local/regional arts development.

G. The Board may initiate new assistance categories or pilots in which applicants for assistance may be selected specifically for the way in which the Board can learn from their experience.

1. No pilot assistance category will continue for longer than 2 years without the category being established on a permanent basis, or discontinued.

2. All pilot assistance categories will be specifically described as such in MSAB program information.

~~MSAB 6+~~ §5.007 ~~Grant application and review procedure~~. Procedure for obtaining grants, loans and other forms of assistance.

A. Definitions. For the purpose of this rule the following terms shall have the meanings given to them:

1. "Applicant" means (a) any Minnesota resident who submits an application for a grant, loan or other form of assistance, or (b) any ~~sponsoring~~ organization, department or agency of the state or political subdivision on whose behalf an application for a grant, or loan ~~or other forms of assistance~~ is submitted.

2. "Authorizing official" means ~~the~~ a person, empowered to enter into contracts for and who signs the grant application of an ~~sponsoring~~ organization, political subdivision, or department or agency of the state, or an individual artist who signs the grant application.

3. "Fiscal agent" means any non-profit, tax-exempt organization or governmental unit which applies to the Board on behalf of an organization or individual not meeting the non-profit, tax-exempt requirements, but qualifying in all other ways. The fiscal agent must sign the application and, if a grant is received, sign the grant letter/contract. The fiscal agent is legally responsible for the completion of the project and for the proper management of the grant funds.

4. "Grant" means an allocation of funds to an applicant which are to be used for the purpose(s) described in the application which are not repaid.

5. "Grant contract" means the ~~grant~~ notification letter signed by ~~grantee or grantee's~~ an authorizing official of an organization or an individual artist.

6. "Grantee" means an applicant whose application is ~~accepted~~ approved for funding by the Board. ~~and who signed the grant contract~~.

7. "Loans" mean monies given to an applicant which are to be repaid to the Board according to the conditions specified in the ~~grant~~ loan contract.

8. "Matching funds" means ~~grantee's~~ share of the financial support for a project or program raised by grantee from sources other than MSAB. ~~All grantee's other than individuals, are required to match grants dollar for dollar~~. The sources for matching funds may be one or more of the following:

   a. Cash. Applicant must be able to prove availability of cash matching funds by bank statements, ~~etc~~. or other indication of cash on hand.

   b. In Kind. Items such as materials, labor and space, etc. which can be given a dollar value. Applicant must be able to prove that in kind match is committed to the project program.

   c. Revenue. Anticipated receipts from sale of tickets or products.

   d. Other Grants. Grants received by other grant-making agencies, public or private.

9. "~~Grant~~ Notification letter" means the letter notifying an applicant of ~~aeeeptanee~~ approval or rejection of ~~his~~ the application.

10. "Project director" means person designated by an ~~sponsoring~~ organization, political subdivision or department ~~of~~ or agency of the state as the individual responsible for the implementation of the project or program for which the application is made.

11. ~~"Subsidy grants" means grants to sponsoring organizations for general purposes as opposed to a special project.~~

B. All applications for grants and loans must be made on official application forms available at the offices of the Board. Requests for other forms of assistance may be made directly to ~~MSAB staff~~ the Board at its offices ~~in person or by telephone or by letter~~.

C. A copy of these Rules and ~~the current guidelines~~ appropriate program information will be ~~included with each application form~~ provided to all applicants and to others upon request.

D. All applications must be made by the deadlines ~~and according to the instructions and conditions set forth in the guidelines~~ set by the Board in the current program information.

E. All applications submitted by individual artists to the Board for grants must include examples of works of art of the artist submitting. These examples will be specified in current program information of the Board.

F. All applications of an ~~sponsoring~~ organization, political subdivision or agency or department of the state must name a project director.

G. The staff will review all applications for accuracy and completeness. The ~~staff~~ Board ~~will~~ may ~~also~~ convene advisory committee meetings for purposes of reviewing ~~individual program~~ grant applications ~~and will convey pertinent information regarding each application to the advisory committee~~.

H. Applicants will be notified by mail of the receipts of ~~the~~ their applications and the need, if any, for changes or supplementary material. Failure by an applicant to provide this information may result in a rejection or deferral of the application.

~~H. Applications, when complete, will be submitted to the appropriate advisory committee for review.~~

I. ~~After its review~~ The advisory committee will submit its recommendations to the Board along with a statement explaining its reasons for recommending acceptance or rejection of the application.

J. Advisory committees, when reviewing applications under the standards listed, shall make one of the following recommendations to the Board:

1. Recommend approval of full requested amount.
   a. Individual Artist committee recommendations can only be for the full requested amount.
   b. The Regional Arts Development committee recommendations can only be for the full requested amount.
2. Recommend approval at less than full requested amount.
3. Recommend rejection.
4. Recommend that the Board table, pending receipt of additional information, or modifications.

K. The Board shall give considerable weight to the recommendations of the advisory committees.

L. The Board ~~will receive~~ may request comments and recommendations from the ~~professional~~ staff on all aspects of applications ~~with the exception of artistic merit~~.

M. The Board may request a revised budget and/or project description before taking final action on grant applications.

N. The Board shall make all final decisions as to ~~aeeeptanee~~ approval or rejection of grant applications, loan applications or requests for other forms of assistance.

O. If the Board approves a grant which is smaller or greater than the amount requested the applicant will be notified by mail, and will be required to submit a revised budget before a notification letter will be sent.

P. All applicants will receive a ~~grant~~ notification letter of acceptance or rejection within ~~30~~ 45 days of final review of the application by the Board, except when a revised budget is necessary. In that case, applicants will receive a grant notification letter within 30 days of the receipt of the revised budget by the Board.

Q. ~~Applications and~~ Supplementary materials will not be returned unless requested.

R. The Board will not assume responsibility for any loss or damage to materials submitted with applications.

§ 5.008 Procedures for obtaining regional arts council status, regional arts council review procedures and regional arts council reporting requirements.

A. The procedure for review of a block grant application developed by a regional arts council is as follows:

1. Each regional arts council shall develop an annual plan to be submitted by an annually announced date, determined by the Board. Regional arts task forces wishing to become regional arts councils must also submit an annual plan.

2. The annual plan will include:

   a. Statement of goals established by the regional arts council. This shall be periodically reviewed and updated by the regional arts council.

   b. Needs assessment which will be carried out in a manner which ensures input from the arts community and the general public. This needs assessment will be updated at intervals determined and announced by the Board and the results included in the plan. The needs assessment will be conducted to determine the need to develop new or continued program services offered by the regional arts council.

   c. Description of the planning process including a list of the steps in the development of the plan and the participants in the planning process. Before the plan is submitted to the Board at least one public meeting must be held for the purpose of soliciting public reaction to the plan.

   d. Work plan which includes a description of program services, if any.

   e. Program information which will describe grants and other forms of assistance available, the methods for such assistance, eligibility requirements, review standards, the review process, the terms of the grant contract with grant recipients, the time needed and process followed in paying grant recipients, and the responsibilities of the grantees.

   f. Organizational structure and membership must include

bylaws, an identification of the arts experience and background requirements for the members of the regional arts council, a description of rotation system which will ensure replacement of members on a regular basis, and an outline of the open nominations process used to appoint the members.

g. When applicable, a memorandum of agreement with the regional development commission(s) or the Metropolitan Council, a letter of agreement between the regional arts council and a fiscal agent or the tax-exemption letter for non-profit organizations will be included. A memorandum of agreement shall include that application decisions on artistic merit, applicant ability, and need for project or program must be reserved for consideration only by citizen advisory committees appointed for their expertise and experience in the arts.

h. General description of all programs and services provided with, or independent of Arts Board funds; budget which will be a total projected budget identifying all local, regional, state and federal sources of support, public and private.

3. All regional arts council annual plans shall be reviewed by a regional arts development advisory committee of the Board.

4. A representative of the regional arts council shall have the opportunity to present the plan and respond to questions raised by either the regional arts development advisory committee, the Board staff, or the Board.

5. The Regional Arts Development advisory committee shall submit its recommendations to the Board for final review.

6. The Board shall approve, defer or reject annual plans submitted by the regional arts councils.

7. After the Board review, but prior to final action, the regional arts council shall have at least 30 days to make any revisions in the plan required by the Board.

8. The Board will award only one regional block grant in each region during a fiscal year.

9. Copies of the Board approved regional arts council annual plan will be available for distribution to the public by the regional arts council.

10. Each regional arts council shall submit an annual fiscal report and evaluation by 60 days, after the end of the Board's fiscal year which shall include:

    a. Total fiscal statement, not an audit, for the year in which the annual plan was in effect.

    b. Review of the relationship between the proposed annual plan and the actual grants, and other forms of assistance provided during the year with Arts Board block grant funds.

§ 5.009 Appeals process. Any applicant for a grant, loan, or other form of assistance who believes that the established grant review procedures have not been followed may appeal the decision of the Board. This appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. ch. 15.0418 - .0422.

§ 5.010 Standards for requests for grants, loans and other forms of assistance.

A. The Board and advisory committees and regional arts councils in reviewing applications on a competitive basis will consider the following factors ~~generally as well as specific factors or conditions set by the guidelines~~ in order of priority:

1. For organizations

a. Merit and artistic quality of project or program in the case of project applications. ~~Of necessity this must be a subjective recommendation by committee members~~. In the case of service programs and projects the merit and quality of that service to the arts will be reviewed.

~~b. Technical skills of applicant or ability of applicant to retain individual with the necessary technical skills~~.

b. The ability of the organization to accomplish the project or program they describe or the organizational goals as presented. This is demonstrated by providing evidence of a planning process, qualifications of personnel, marketing and publicity efforts and previous successful efforts.

c. ~~Demand or need for the project~~. Applicants must demonstrate demand or need for the project or program.

d. ~~If~~ In the sponsor assistance category the matching funds statement ~~are~~ required of an applicant, must show ~~whether applicant has obtained these funds from local community or region. Support from local community or region is highly desirable.~~ evidence of match from the participants or beneficiaries of the project or program, or the reason why such match cannot be obtained.

2. For individual artists

a. The quality of the creative work submitted by the artist.

b. The ability of the artist to accomplish the project or plan described in the application.

c. The relationship of the application to the artist's career goals.

B. Applications for general support, (subsidy grants), will be reviewed on the following standards with the first standard listed as top priority, and the remaining five of lower priority, but not differentiated among each other. These standards shall be demonstrated using the indicators specified in program information and through the application form.

1. Artistic Excellence and Leadership

   a. Service to the organization's principal art form(s), i.e., preservation of artistic heritage(s), presentation of new works, new artists.

   b. Serving as an example of excellence for others - setting standards. Recognition and impact in state and nation.

   c. Uniqueness of service, in nature or method.

   d. Sharing of expertise.

   e. Variety of program offering.

   f. Qualifications and achievements of artistic leadership.

   g. Qualifications, achievements and methods of selection of other principal artistic personnel.

2. Financial Position/Condition, including Need

   a. Total fiscal condition - assets and liabilities (review of audits).

   b. Operational plan and budget for fiscal year of grant. Longer range plans and budget would enhance review of one-year plan.

   c. Projections of all income sources including MSAB; relative changes in all categories with justifications and plans for achievements.

   d. Building ownership and operations as factors in financial activity.

   e. Programmatic activities of importance which are regarded as most financially vulnerable or least remunerative; amounts of costs and projected levels of effort.

   f. Relationship of projected earnings to earning capacity - potential for growth of earnings.

g. Special financial conditions or considerations of short-range nature, i.e., other special fund-raising, change of leadership, location, building program, etc.

h. Ability to sustain short-term financial short-fall.

3. Fiscal responsibility and management

a. Board membership and responsibilities.

b. Staff qualifications and achievements; levels of compensation; methods of recruitment; standards for recruitment.

c. Job descriptions and role relationships of Board and staff.

d. Comparison of previous program and financial projections with achievements.

e. Budgeting and controlling functions; financial planning.

f. Long-range fiscal stability; endowment or capital assets.

4. Commitment to education

a. Of its regular public/market; percentage of effort to education as opposed to public programming.

b. Funds expended for education vs. earned income from educational programs.

c. In collaboration with schools and colleges; services in schools; services to students at arts organization's headquarters; services to educators.

5. Extension to broad audiences/public; formats and marketing

a. Touring.

b. Publications.

c. Recordings, films, broadcasting.

d. Marketing efforts - types; financial commitments to marketing.

e. Special and non-traditional programming.

6. Size and distribution of audience/public

a. Numbers served, by program type, if possible.

b. Numbers of subscribers and/or regular members; enumeration of individuals served.

c. Numbers of persons served divided by those served in headquarters facilities and those served away from home (tour).

d. Indications of audience/public demographics, if available.

e. Special efforts for economically disadvantaged.

C. Other forms of assistance will be available on a case by case basis dependent upon the nature of the request, and the availability of Board resources in response to the request.

D. Regional arts council annual plans submitted to the Board will be reviewed on the following standards:

1. Consistency with Board legislation and rules.

2. Community participation in the planning process.

3. Equitability, fiscal accountability and accessibility to the grants process and other forms of assistance.

4. Consistency in the relationship among the regional arts council's goals, needs assessment and work plans.

5. Demonstrated ability of the region to carry out its plan.

6. Evidence that decisions on artistic merit, applicant ability and need for the project or program, are made only by citizen committees appointed for their expertise and experience in the arts according to MCAR 5.008, sec. A, 2.g.

E. Applications for grants assistance will not be accepted for review when one of the following conditions exists:

1. Artists are required to pay entry or exhibition fees in order to exhibit and/or perform in the project or program.

2. Funds are requested for capital improvement or construction, purchase of real property or endowment funds.

3. Funds are requested to account for fund deficiencies in projects completed prior to the application deadline.

4. Funds are requested to pay fees for touring costs, performances or exhibitions carried out exclusively by student organizations or schools.

F. The Board in addition to the criteria set forth above may allocate grant funds on a first-come, first-served basis to applicants who meet the procedures and standards contained herein during each fiscal year.

G. The Board may give priority to one form of assistance over others during a fiscal year.

~~MSAB 7~~ §5.011 Responsibilities of Grantee.

A. Grantee or authorizing official must sign ~~or~~ and return to the Board, within 30 days from date of mailing, one copy of the ~~grant~~ notification letter, if notification is of grant approval. No action required on notification of rejection.

B. Grantee must acknowledge assistance by the Board on all written materials relating to the project or program such as programs, news releases and posters ~~etc~~. Grantee must use the acknowledgement statement as found in the notification letter. Grantees of regional arts councils must also use the Board acknowledgement statement on all materials relating to the project or program.

C. Grantee must notify the Board in writing if the program or project is changed ~~in any way, at any time~~ from the way in which it was described in the grant application.

~~D. Grantee must permit the Board a reasonable opportunity to view the project or program at any time for purposes of evaluation.~~

D. Grantee must comply with all Federal regulations specified in the grant notification letter.

E. Grantee ~~must-submit,-upon-request-by-the-Board~~, may be required to submit a certified audit report ~~at-any-time-during-the-project-or-after completion-of-the-project~~ of the organization or of a project funded by the Board.

F. A grant contract may be terminated at any time upon the written request of the grantee, but such termination shall not necessarily relieve the grantee of its responsibilities as set forth in the grant contract.

G. A grant contract may be terminated by the Board at any time upon the failure of the grantee to comply with one or more of the conditions of the grant contract. Such termination shall be effective upon receipt of written notice by the grantee.

H. A grant contract may be terminated at any time by mutual written agreement of the Board and grantee.

I. A grant commitment to a grantee may be rescinded by the Board if one of the following conditions exists:

1. The grantee does not return the signed notification letter, within 30 days of the date of the Board letter.
2. The grantee does not return a revised budget and/or project description within 45 days of the date of the notification of Board action by letter.
3. The grantee does not request the grant amount within 30 days of the date of the grant notification letter.

J. Grantee must submit a ~~fiseal~~ final report, within 30 days of the completed project or program, to be completed by grantee ~~or-authorizing official~~ on forms provided by the Board.

K. The Board may require that regional arts councils, which have not committed all of their grant funds by April 15 of a given fiscal year, return the uncommitted grant funds to the Board by May 1 of the same fiscal year.

~~5.008~~ § 5.012 Advisory committees.

A. The Board ~~shall~~ may appoint advisory committees ~~in each of the following areas of the arts~~ to review grant applications and provide recommendations on policy issues. The Board ~~shall~~ may appoint advisory committees in ~~each of~~ the ~~following~~ areas of ~~the arts~~, ~~to review applications in those areas:~~

~~1. architecture~~

~~2. dance~~

~~3. music~~

~~4. literature~~

~~5. theatre~~

~~6. visual arts~~

~~7. special projects~~

~~8. film/video~~

~~9. regional arts task force~~

general operating support (subsidy), individual artist assistance, production assistance, sponsor assistance, regional arts development and also regional arts task forces.

B. The Board may ~~appoint advisory committees in additional areas of the arts~~ or discontinue the advisory committees ~~in any of the above listed areas~~ as it deems necessary.

~~C. The Board will appoint an advisory committee to review applications for subsidy grants.~~

C. ~~D.~~ Members of each advisory committee shall ~~be individuals with special~~ have expertise and/or experience in ~~that~~ a particular area of the arts, arts support or administration. Committee members will be selected by the Board from among practitioners, administrators, educators, volunteer directors of arts organizations, trustees of arts organizations and consumers of arts forms. At least one of the regional arts development

panel from each region will be appointed from nominees of the designated regional arts task force or arts council. The remaining members will be selected from among the previously listed groups through the open nominations process.

D. ~~E.~~ Appointments to advisory committees shall be made by majority vote of the Board. Members shall serve at the pleasure of the Board for three year terms. One-third of the terms of the members of each committee shall expire each year.

E. ~~F.~~ At least sixty days prior to expiration of terms of advisory committee members, the Board will publish and post notice of such openings. Nominations will be actively solicited and accepted by the Board. Nominations ~~should~~ must be in writing and should include all pertinent information including nominees' qualifications and experience in the arts ~~generally and in the particular area of the arts of the advisory committee on which the advisory committee on which the nominee will serve~~.

F. ~~G.~~ Advisory committees will, insofar as reasonably possible, be geographically balanced. However, the regional arts development panel shall have two members from each of the regions represented by a regional arts council or regional arts task force.

G. ~~H.~~ Members of the advisory committees and regional arts task forces shall be compensated for expenses incuured to attend advisory committee meetings as provided in Minn. Stat. ch.15.059, subd. 3, except that they shall not be eligible for the per diem.

H. ~~The Board and advisory committees, in reviewing applications, will consider the following factors generally as well as specific factors or conditions set by guidelines.~~

APPROVED AS TO FORM AND LEGALITY
OCT. 24 1978
19
WARREN SPANNAUS, ATTORNEY GENERAL
BY Lee E. Shurly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 25 1978
James Andrew Howe
Secretary of State
9:35 AM

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Solicitor General

# Office Memorandum

TO : Lee Sheehy
S.A.A.G.

DATE: Oct. 23, 1978

FROM : William P. Marshall
Special Assistant
Attorney General

PHONE:

SUBJECT: Arts Board Rules

Enclosed please find four copies of the rules adopted by the Arts Board including changes made pursuant to your memorandum. Also enclosed is a copy of the Arts Board memorandum explaining these changes. Finally, please find enclosed a copy of the Arts Board order adopting the rules. Thank you.

WPM:bj

minnesota state arts board
314 Clifton Avenue,
Minneapolis, MN 55403
(612) 874-1335

MEMORANDUM

OCTOBER 19, 1978

TO: WILLIAM MARSHALL, SPECIAL ASSISTANT ATTORNEY GENERAL

FROM: JOHN M. ONDOV, EXECUTIVE DIRECTOR

RE: THE PROPOSED AMENDMENT OF RULES OF THE MINNESOTA STATE ARTS BOARD GOVERNING THE RECEIVING AND REVIEWING OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS, AND OTHER FORMS OF ASSISTANCE

In response to the memorandum which you received from Lee E. Sheehy, Special Assistant Attorney General the Minnesota State Arts Board has corrected its amended Rules and Regulations in response to all of the changes recommended by Mr. Sheehy. I hope that this action will result in the agency's Rules being approved as submitted and corrected as soon as possible.

The corrections are as follows:

1. 5.009. Appeals Process. This rule has been rewritten as proposed in the MSAB hearing. (See attached)

2. 5.011. This page of the Rules is attached in its entirety.

3. 5.012 G. This correction of the Rule has been made and is attached.

4. After submission of the Rules the MSAB staff discovered another citation error on page 19 of the Rules, 5.010 D. This has been corrected and is attached.

Finally the Order Adopting and Agency Findings of Fact will be properly annotated per Mr. Sheehy's suggestion upon the return of the Arts Board Hearing file to our office.

If there are any questions please do not hesitate to call me.

ATTORNEY GENERAL
SOLICITOR GENERAL
RECEIVED
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A.M. 7 8 9 10 11 12 1 2 3 4 5 6 7 P.M.

"An Equal Opportunity Employer"

5. The Regional Arts Development advisory committee shall submit its recommendations to the Board for final review.

6. The Board shall approve, defer or reject annual plans submitted by the regional arts councils.

7. After the Board review, but prior to final action, the regional arts council shall have at least 30 days to make any revisions in the plan required by the Board.

8. The Board will award only one regional block grant in each region during a fiscal year.

9. Copies of the Board approved regional arts council annual plan will be available for distribution to the public by the regional arts council.

10. Each regional arts council shall submit an annual fiscal report and evaluation by 60 days, after the end of the Board's fiscal year which shall include:

    a. Total fiscal statement, not an audit, for the year in which the annual plan was in effect.

    b. Review of the relationship between the proposed annual plan and the actual grants, and other forms of assistance provided during the year with Arts Board block grant funds.

§ 5.009 Appeals process. Any applicant for a grant, loan, or other form of assistance who believes that the established grant review procedures have not been followed may appeal the decision of the Board. This appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. ch. 15.0418 - .0422.

6. Size and distribution of audience/public

   a. Numbers served, by program type, if possible.

   b. Numbers of subscribers and/or regular members; enumeration of individuals served.

   c. Numbers of persons served divided by those served in headquarters facilities and those served away from home (tour).

   d. Indications of audience/public demographics, if available.

   e. Special efforts for economically disadvantaged.

C. Other forms of assistance will be available on a case by case basis dependent upon the nature of the request, and the availability of Board resources in response to the request.

D. Regional arts council annual plans submitted to the Board will be reviewed on the following standards:

1. Consistency with Board legislation and rules.

2. Community participation in the planning process.

3. Equitability, fiscal accountability and accessibility to the grants process and other forms of assistance.

4. Consistency in the relationship among the regional arts council's goals, needs assessment and work plans.

5. Demonstrated ability of the region to carry out its plan.

6. Evidence that decisions on artistic merit, applicant ability and need for the project or program, are made only by citizen committees appointed for their expertise and experience in the arts according to MCAR 5.008, sec. A, 2.g.

E. Applications for grants assistance will not be accepted for review when one of the following conditions exists:

1. Artists are required to pay entry or exhibition fees in order to exhibit and/or perform in the project or program.

2. Funds are requested for capital improvement or construction, purchase of real property or endowment funds.

3. Funds are requested to account for fund deficiencies in projects completed prior to the application deadline.

4. Funds are requested to pay fees for touring costs, performances or exhibitions carried out exclusively by student organizations or schools.

F. The Board in addition to the criteria set forth above may allocate grant funds on a first-come, first-served basis to applicants who meet the procedures and standards contained herein during each fiscal year.

G. The Board may give priority to one form of assistance over others during a fiscal year.

MSAB ~~7~~ §5.011 Responsibilities of Grantee.

A. Grantee or authorizing official must sign ~~or~~ and return to the Board, within 30 days from date of mailing, one copy of the ~~grant~~ notification letter, if notification is of grant approval. No action required on notification of rejection.

B. Grantee must acknowledge assistance by the Board on all written materials relating to the project or program such as programs, news releases and posters ~~etc~~. Grantee must use the acknowledgement statement as found in the notification letter. Grantees of regional arts councils must also use the Board acknowledgement statement on all materials relating to the project or program.

C. Grantee must notify the Board in writing if the program or project is changed ~~in any way, at any time~~ from the way in which it was described in the grant application.

~~D. Grantee must permit the Board a reasonable opportunity to view the project or program at any time for purposes of evaluation.~~

D. Grantee must comply with all Federal regulations specified in the grant notification letter.

panel from each region will be appointed from nominees of the designated regional arts task force or arts council. The remaining members will be selected from among the previously listed groups through the open nominations process.

D. ~~E.~~ Appointments to advisory committees shall be made by majority vote of the Board. Members shall serve at the pleasure of the Board for three year terms. One-third of the terms of the members of each committee shall expire each year.

E. ~~F.~~ At least sixty days prior to expiration of terms of advisory committee members, the Board will publish and post notice of such openings. Nominations will be actively solicited and accepted by the Board. Nominations ~~should~~ must be in writing and should include all pertinent information including nominees' qualifications and experience in the arts ~~generally and in the particular area of the arts of the advisory committee on which the advisory committee on which the nominee will serve~~.

F. ~~G.~~ Advisory committees will, insofar as reasonably possible, be geographically balanced. However, the regional arts development panel shall have two members from each of the regions represented by a regional arts council or regional arts task force.

G. ~~H.~~ Members of the advisory committees and regional arts task forces shall be compensated for expenses incuured to attend advisory committee meetings as provided in Minn. Stat. ch.15.059, subd. 3, except that they shall not be eligible for the per diem.

H. ~~The Board and advisory committees, in reviewing applications, will consider the following factors generally as well as specific factors or conditions set by guidelines.~~

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 2nd day of August, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached ~~Report of Hearing Examiner, SAB-78-001-PB~~ upon the State Arts Board by handing to and leaving the same with Mary Sulerud, Public Information Officer.

Eileen A. Gaiovnik

Subscribed and sworn to before me
this 2nd day of August, 1978.

Steve M. Mihalchick

STEVE M. MIHALCHICK
NOTARY PUBLIC - MINNESOTA
ANOKA COUNTY
My Commission Expires D.c. 29, 1982

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE STATE ARTS BOARD

In the Matter of the Proposed Amendment of Rules of the Minnesota State Arts Board Governing the Receiving and Reviewing of Requests for and Distribution of Grants, Loans and Other Forms of Assistance.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners on June 23 and 26, 1978 in Room 15 of the State Capitol Building, St. Paul, Minnesota.

William Marshall, Special Assistant Attorney General, appeared as counsel for the State Arts Board. Stephen Sell, Executive Director of the Board, and Sandy Hale, Board Chairperson, testified in support of the proposed rules. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The State Arts Board shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Board on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Board shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On April 26, 1978, the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On May 22, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 2088.

3. On May 17, 1978, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On May 1, 1978, the Board filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;

(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called; and
(h) The names of Board personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through July 13, 1978 for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. § 139.10, subds. (e) and (f) (1976). The proposed rules are amendments to the present rules of the State Arts Board.

7. After public hearing, the Board revised several of the proposed rules based upon the comments made at hearing. The restructured Table of Contents reads as follows:

Contents

| Rule (6 MCAR 5) | | | |
|---|---|---|---|
| ~~MSAB-1:~~ | 6 MCAR | § 5.001 | Authority for the rules |
| ~~MSAB-2:~~ | 6 MCAR | § 5.002 | Purpose of the rules |
| ~~MSAB-3:~~ | 6 MCAR | § 5.003 | Whom the rules govern |
| ~~MSAB-4:~~ | 6 MCAR | § 5.004 | Definitions |
| ~~MSAB-5:~~ | 6 MCAR | § 5.005 | Requests for information |
| | | § 5.006 | Eligibility requirements for individuals and organizations |
| ~~MSAB-6:~~ | 6 MCAR | § 5.007 | Procedure for obtaining grants, loans and other forms of assistance |
| | | § 5.008 | Procedures for obtaining regional arts council status, regional arts council review procedures, and regional arts council reporting requirements. |
| | | § 5.009 | Appeals process |
| | | § 5.010 | Standards for requests for grants, loans and other forms of assistance |
| ~~MSAB-7:~~ | 6 MCAR | § 5.011 | Responsibilities of grantee |
| ~~MSAB-8:~~ | 6 MCAR | § 5.012 | Advisory committees |

8. Proposed § 5.001 sets out the statutory authority for the rules. The Board corrected the citation to read (1976) rather than "(Supp. 1977)."

9. Proposed § 5.002 sets forth the purpose and scope of the rules. The Board suggested a revision of § 5.002 to include language contained in the definition of "Program Information" in § 5.004 as it speaks to the scope of the rules. As revised, § 5.002 reads as follows:

> Purpose of the Rules: The purpose of these Rules is to set forth procedures and standards to be followed by the Board in receiving and reviewing requests for the distribution of grants, loans, and other forms of assistance. Any actions taken by the Board, its staff and advisory committees must be clearly based on the standards in rule form. Explanations of actions requested by applicants must be offered in the context of the standards in rule form.

10. Proposed § 5.003 spells out specifically who is governed by the rule. The Board suggested a clarifying amendment to § 5.003 to read:

These Rules govern the Board; advisory committees; regional arts councils and all individuals, ~~sponsoring~~ organizations, departments, and agencies of the state and political subdivisions who wish to receive grants, loans, or other forms of assistance from the Board and/or from regional arts councils.

Additionally, in 5.003B the capital letters in "Arts Councils" should be changed to lower case.

a. Chimera Theatre commented on § 5.003 as follows:

MSAB 5.003, A and B ought to be stricken and rewritten as follows:

> Scope and applicability. These rules shall govern the conduct of the Board and any subservient local or regional bodies, providing assitance of any kind under Minn. Stat. 139.10 and related appropriation laws, any and all advisors or advisory groups to the Board or such other bodies, any and all persons, groups or organizations benefitting from or seeking to benefit from Board programs. These persons and groups shall be governed by these rules in any and all activities which constitute financial assistance of any kind and technical or "in kind" assistance which is more than merely incidental advice or consultation on the procedural requirements of the Board.

We feel that this change will better describe the legal requirement that the rules govern all activities and groups equally. The current proposed rule is difficult to work with because it has unclear language and awkward grammar, and is redundant. It also is ambiguous in that by listing the various activities that are governed, it raises serious questions as to other possible programs that are not listed and thus outside of the rules.

b. The Examiner concludes that proposed § 5.003, as amended by the Board above, is both needed and reasonable.

11. Proposed § 5.004 sets out the definitions of several terms which are necessary for the interpretation and implementation of the rules.

a. The Southwest Minnesota Arts and Humanities Council, Inc. (SMAHC) suggested that an additional definition be added to § 5.004. The Council commented:

> SMAHC is opposed to the implementation of rule 5.006F which reads, "Regional arts councils are eligible only to apply for the block grant for the purpose of local/regional arts development." For clarification, SMAHC is also proposing the addition of a definition of program services. The proposed section, 5.004N, would read, "Program services include those non-grantmaking activities which may be undertaken by a regional arts council which will enhance the development of local/regional arts activity in that region. This may include, but is not limited to, such things as information services, technical assistance workshops, or direct programming."

b. Chimera Theatre commented that the ". . . definitions in proposed Rule 5.004, E, G, J, and M dealing with geographic terms, ought to be amended to eliminate completely the reference to 'organizational impact.'" Also, that definitions F and H be deleted. Chimera suggested that 5.004, I be amended to read:

> "'Program information' means a document or documents issued by the Board which provide instructions, deadlines and other advice for applicants seeking Board assistance.

c. Pursuant to these comments, the Board recommended that § 5.004 be revised to read:

MSAB-4: § 5.004 Definitions. For the purpose of these Rules, the following terms shall have the meanings given to them:

A. "Advisory committee" means a group of citizens selected and convened by the Board to review and recommend on policy and distribution of forms of assistance offered by the Board.

B. "Block Grant" means grants to regional arts council for the purpose of providing program service, re-grants, and direct programming for local/regional arts development.

C. "Board" means the Minnesota State Arts Board.

D. "Certified audit report" means a document prepared and signed by a Certified Public Accountant showing the total fiscal activity of a project or program.

E. "Direct programming" means the implementation by a regional arts council of arts production or arts sponsorship activities.

F. "Local" means program or service distribution and organizational impact within a specific municipality or county.

G. "Local/regional arts development" means programs or projects which are for the development or enhancement of local or regional artists or art resources.

H. "Multi/regional" means program or service distribution and organizational impact over more than one of the State's official development regions.

I. "Other forms of assistance" means publication or staff consultation or workshops with individuals or groups who have developed or are interested in developing projects or programs in the arts but need advice on matters such as, but not limited to, budgeting, administration, production and technology.

J. "Program information" means a document(s) issued annually describing programs and services of the Board which includes instructions, deadlines, and other aids for the applicant seeking Board assistance. Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria itself.

K. "Program services" means non-grant activities including, but not limited to, information services, technical and consultative services, planning, reporting, evaluation, and other program development efforts.

L. "Regional" means program or service distribution and organizational impact within the geographic area served by a regional arts task force or regional arts council. Formal combinations of two or more development regions under one regional arts council will be regarded as one region for this purpose.

M. "Regional arts council" means an organization or a group designated by the Board to make final decisions on block grant funds granted to them for local/regional arts development.

N. "Regional arts task force" means an advisory committee of the board which reviews applications for local arts development projects serving the region(s) the arts task force represents. A regional arts task force may also be an advisory committee to a regional development commission or the Metropolitan Council ~~originating within its district. The state is divided into thirteen regional development commission districts.~~

O. "Re-granting" means the process of allocating block grant funds to arts funding applicants to a regional arts council for the purpose(s) described in the application.

P. "State-wide" means program or service distribution and organizational impact throughout most or all of the development regions of the state.

d. The Examiner concludes that proposed § 5.004, as amended by the Board above, is both needed and reasonable.

12. Proposed § 5.005 simplifies and clarifies how the Board handles requests for information. Chimera suggested that § 5.005 be substantially rewritten to deal "with the way the Board conducts itself." The Examiner concludes that § 5.005, as proposed, is both needed and reasonable.

13. Proposed § 5.006 sets forth the eligibility requirements for obtaining grant assistance.

a. Chimera proposed that s 5.006 be restructured, "relating the type of assistance to the respective granting authority . . . and defining eligibility . . . on a program by program basis."

b. Several persons and groups commented in opposition to § 5.006 F. which reads, "Regional arts councils are eligible to apply only for block grants for the purpose of local/regional arts development." Because the definition of "block grant" in § 5.004 did not include direct programming, many regional arts councils which participate in much direct programming could not receive funding for that purpose.

c. The Board responded by revising the definition of "block grant" to include direct programming and added definitions of "program services" and"re-granting." (See Finding 11.c.)

d. The Examiner finds that proposed § 5.006, in conjunction with the amendments proposed to § 5.004, is both needed and reasonable.

Start here →

14. Proposed § 5.007 sets forth the procedural requirements for obtaining grants, loans and other forms of assistance.

a. Chimera Theatre commented on § 5.007 as follows:

> With reference to Rule 5.007, as noted above, item "A" ought to be in Rule 5.004. Items "B" through "J", "L" through "R", and item "T", ought to be under one section regarding general procedures; ("J" ought to be amended, however, to delete the substantive requirements on the committees' recommendations, and "K" ought to appear in the rule on "Standards"). As to the remaining portion of this rule (S), we urge that it be completely restructured in the same format as recommended for "Eligibility", i.e., separated into the categories of grantors (Board or regional arts council) on a program by program basis. Also these changes should be made: Under 5.007, S.5, the term "regional arts development advisory committee" is used when they mean "task force." Under Rule 5.007.S. 6 and 7, the word "required" would be better than "desired" or "recommended."

Chimera also commented that 5.2.h, provides for improper delegation of responsibility.

b. The Board responded to Chimera's comments by proposing that § 5.007 be amended as follows:

> 5.007J.1., after letter a, letter b will be added, which reads as follows:
>
> b. The regional arts development recommendations can only for the full requested amount.

In item 4, the following addition will be made to the sentence before the word table, Recommend that the Board table. . .

Section 5.007 S will now become a separate Rule, 5.008, entitled, Procedures for obtaining regional arts council status, regional arts council review procedures and regional arts council reporting requirements.

Section 5.007 S.2.f. (old numbering will be used for ease of reference) The second sentence will now become letter g, with the addition of the following: A memorandum of agreement shall include that application decisions on artistic merit, applicant ability, and need for project or program must be reserved for consideration only by citizen advisory committees appointed for their expertise and experience in the arts.

Section 5.007 S.2.g. now becomes letter h.

Section 5.007 T now becomes 5.009, Appeals process. This section is now reworded to read: Both MSAB and regional arts council applicants for grants, loans or other forms of assistance who believe that the established grant review procedures have not been followed may appeal the decision of the Board and/or the regional arts council. This appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. Ch. 15.

5.008 - This section is now 5.010.

5.009 - This section is now 5.011.

5.010 - This section is now 5.012.

c. The Examiner finds that proposed § 5.007 (together with newly numbered §§ 5.008 and 5.009 as set forth above) is both needed and reasonable.

15. Proposed § 5.008 (newly numbered § 5.010) sets forth the standards used by the Board and regional arts councils in determining who should receive grants, loans and other forms of assistance.

a. The Board proposed several clerical amendments to § 5.008 as follows:

A.1.d. ~~If~~ In the sponsor assistance category the matching funds statement ~~are~~ required of an applicant, must show ~~whether applicant has obtained these funds from local community or region. Support from local community or region is highly desirable~~ evidence of match from the participants or beneficiaries of the project or program, or the reason why such match cannot be obtained.

B.4.b. Funds expended for education vs. earned income from educational programs.

E.4. Funds are requested to pay fees for touring costs, performances or exhibitions carried out exclusively by student organizations or schools.

F. The Board in addition to the criteria set forth above may allocate grant funds on a first-come, first-served basis to applicants who meet the procedures and standards contained herein during each fiscal year.

b. The Examiner concludes that proposed § 5.008, as amended above, is both needed and reasonable.

16. Proposed § 5.009 (newly numbered § 5.011) sets forth the responsibilities of a grantee in the funding approval and use process. The Examiner finds that proposed § 5.009 is both needed and reasonable.

17. Proposed § 5.010 describes the process by which advisory committees are appointed and requirements for membership on the committees pursuant to Minn. Stat. § 139.10, subd. 1 (h). The Examiner points out that the word "may" is used several times in this rule. However, in this instance, the use of "may" rather than "shall" is consistent with Minn. Stat. § 139.10, subd. 1 (h), which reads:

> (h) appoint advisory committees which the board determines are essential to the performance of its powers and duties under this section; provided that no member of an advisory committee shall within two years prior to his appointment have received or applied for in his own name a grant, loan or other form of assistance from the board or its predecessor.

The Examiner finds that proposed § 5.010 is both needed and reasonable.

Based upon the foregoing Findings of Fact, the Examiner makes the following:

## C O N C L U S I O N S

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the State Arts Board.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1976), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action. . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. The Examiner concludes that the Board has documented its statutory authority to promulgate the proposed rules.

4. The Examiner concludes that the Board has demonstrated the need for and reasonableness of the proposed rules, as amended, with an affirmative presentation of facts.

5. The Examiner concludes that none of the revisions to the rules proposed by the Board constitute a substantial change.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

## R E C O M M E N D A T I O N

That the State Arts Board adopt the proposed rules, as revised and recommended to be amended in this Report.

Dated this 2 date of August, 1978.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

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STATE ARTS BOARD

REVIEW OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS AND OTHER FORMS OF ASSISTANCE

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Board's Exhibit No. A
File No. SAB-78-001-SM
Date

STATE ARTS BOARD

REVIEW OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS AND OTHER FORMS OF ASSISTANCE

5.001 Authority for the rules. These Rules are adopted pursuant to Minn. Stat. ch. 139.10, subds. (e) and (f) (Supp. 1977).

5.002 Purpose of the rules. The purpose of these Rules is to set forth procedures and standards to be followed by the Board in receiving and reviewing requests for and distribution of grants, loans and other forms of assistance.

5.003 Whom the rules govern.

A. These Rules govern the Board; advisory committees; regional arts councils; and all individuals, ~~sponsoring~~ organizations, departments, and agencies of the state and political subdivisions who wish to receive grants, loans or other forms of assistance, including applicants of regional arts councils.

B. Regional Arts Councils receiving block grants from the Board are required to follow Board rules pertaining to eligibility requirements and general standards in distributing local/regional arts development grants, loans and other forms of assistance which utilize Board funds.

5.004 Definitions. For the purpose of these Rules, the following terms shall have the meanings given to them:

A. "Advisory committee" means a group of citizens selected and convened by the Board to review and recommend on policy and distribution of forms of assistance offered by the Board.

B. "Block Grant" means grants to regional arts councils for the purpose of providing program services and re-grants for local/regional arts developmer.

C. "Board" means the Minnesota State Arts Board.

D. "Certified audit report" means a document prepared and signed by a Certified Public Accountant showing the total fiscal activity of a project or program.

E. "Local" means program or service distribution and organizational impact within a specific municipality or county.

F. "Local/regional arts development" means programs or projects which are for the development or enhancement of local or regional artists or art resources.

G. "Multi-regional" means program or service distribution and organizational impact over more than one of the State's official development regions.

H. "Other forms of assistance" means publications or staff consultation or workshops with individuals or groups who have developed or are interested in developing projects or programs in the arts but need advice on matters such as, but not limited to, budgeting, administration, production and technology.

I. "Program information" means a document(s) issued annually describing programs and services of the Board which includes instructions, deadlines, and other aids for the applicant seeking Board assistance. Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria themselves. Any actions taken by the Board, its staff and advisory committees must be clearly based on the standards in rule form. Explanations of actions requested by applicants must be offered in the context of the standards in rule form.

J. "Regional" means program or service distribution and organizational impact within the geographic area served by a regional arts task force or regional arts council. Formal combinations of two or more development regions under one regional arts task force or regional arts council will be regarded as one region for this purpose.

K. "Regional arts council" means an organization or a group designated by the Board to make final decisions on block grant funds granted to them for grants-making and program services to the region the arts council represents for local/regional arts development.

L. "Regional arts task force" means an advisory committee of the Board which reviews applications for local arts development projects serving the region(s) the arts task force represents. A regional arts task force may also be an advisory committee to a regional development commission or the Metropolitan Council ~~originating within its district. The state is divided into thirteen regional development commission districts~~.

M. "State-wide" means program or service distribution and organizational impact throughout most or all of the development regions of the state.

5.005 Requests for information. All requests for information ~~concerning the grant application process~~ may be made ~~at~~ to the offices of the Board ~~in person, by phone or letter~~. Upon such a request, the Board will provide ~~a copy of these Rules, an official application form, a copy of the current guidelines and any other information which may be helpful~~ appropriate information.

5.006 Eligibility requirements for individuals, organizations governmental units and schools applying for grant assistance.

A. Arts Board assistance is available to individuals, non-profit, tax-exempt organizations, schools and governmental units and departments and agencies of the state.

B. Local/regional arts development assistance is available to non-profit, tax-exempt organizations or units of government, including schools. This assistance is for the creation and production of arts programs or projects which are for the development or enhancement of local or regional artists or arts resources.

C. Arts Board grants assistance is available to the following individual applicants:

1. Artists who directly produce new works of art such as, but not limited to, playwrights, composers, librettists, creative prose writers, independent filmmakers, video artists, visual artists, craftspeople, choreographers, poets, fiction writers, conceptual artists and artists working in multi-media fields.

2. Arts teachers, only if the teacher is pursuing professional development as an artist, not as a teacher.

3. Individual artists, who have received an MSAB Fellowship grant, cannot apply for another Fellowship grant until two fiscal years after the receipt of the Fellowship grant.

4. Students, those who are pursuing either full-time or part-time a performance or academic degree in their creative field, may not apply for Fellowships, but may apply for Project or Works in Progress grants.

5. Individual artists, who have received a Project or Works in Progress grant, cannot apply for another Project or Works in Progress grant until one fiscal year after the receipt of the Project or Works in Progress grant.

D. Production grants assistance and Sponsor grants assistance are not available to schools if the project submitted is limited in access to, or only serves those attending school, including the staff.

E. Grants assistance for general operations (Subsidy) is only available to arts producing, exhibiting or educational (non-academic i.e., do not offer curricular programs) organizations.

1. Organizations may apply for general operations (Subsidy) grants only if:

a. State-wide or multi-region impact is demonstrated by program dissemination, public participation or artistic leadership.

b. The organization has been in existence in its current form two full years prior to applying.

c. The organization has a certified audit of its accounts for the previous two years.

d. The organization has a commitment to professional management - at least one full-time paid management (not clerical) position for 12 months per year, or equivalent volunteer personnel. Documentation would include job description, time allocation and budget commitment, if applicable.

2. Organizations which receive grants for general operations (subsidy) are eligible to apply for project grants only if:

a. The application is for a special project, clearly identified as something that would not or could not take place without a grant.

b. The project clearly demonstrates that it is a one-time project. A pilot for contemplated future operation is eligible if a specific plan for absorbing it into on-going operations is presented with the application.

c. No overhead or on-going organizational costs be included as part of the project budget.

d. The grant from the MSAB would be matched at least 50-50 with funds from other sources, clearly identified for the project itself. No general budget funds of the applicant organization would be eligible as match.

F. Regional arts councils are eligible to apply only for block grants for the purpose of local/regional arts development.

G. The Board may initiate new assistance categories or pilots in which applicants for assistance may be selected specifically for the way in which the Board can learn from their experience.

1. No pilot assistance category will continue for longer than 2 years without the category being established on a permanent basis, or discontinued.

2. All pilot assistance categories will be specifically described as such in MSAB program information.

5.007 ~~Grant-application-and-review-proeedure~~. Procedure for obtaining grants, loans and other forms of assistance.

A. Definitions. For the purpose of this rule the following terms shall have the meanings given to them:

1. "Applicant" means (a) any Minnesota resident who submits an application for a grant, loan or other form of assistance, or (b) any ~~sponsoring~~ organization, department or agency of the state or political subdivision on whose behalf an application for a grant, or loan ~~or-other-forms-of-assistanee~~ is submitted.

2. "Authorizing official" means ~~the~~ a person, empowered to enter into contracts for and who signs the grant application of an ~~sponsoring~~ organization, political subdivision, or department or agency of the state, or an individual artist who signs the grant application.

3. "Fiscal agent" means any non-profit, tax-exempt organization or governmental unit which applies to the Board on behalf of an organization or individual not meeting the non-profit, tax-exempt requirements, but qualifying in all other ways. The fiscal agent must sign the application and, if a grant is received, sign the grant letter/contract. The fiscal agent is legally responsible for the completion of the project and for the proper management of the grant funds.

4. "Grant" means an allocation of funds to an applicant which are to be used for the purpose(s) described in the application which are not repaid.

5. "Grant contract" means the ~~grant~~ notification letter signed by ~~grantee-or-grantee's~~ an authorizing official of an organization or an individual artist.

6. "Grantee" means an applicant whose application is ~~aeeepted~~ approved for funding by the Board. ~~and-who-signed-the-grant-contract.~~

7. "Loans" mean monies given to an applicant which are to be repaid to the Board according to the conditions specified in the ~~grant~~ loan contract.

8. "Matching funds" means ~~grantee's~~ share of the financial support for a project or program raised by grantee from sources other than MSAB. ~~All-grantee's-other-than-individuals,-are-required to-match-grants-dollar-for-dollar~~. The sources for matching funds may be one or more of the following:

   a. Cash. Applicant must be able to prove availability of cash matching funds by bank statements, ~~etc~~. or other indication of cash on hand.

   b. In Kind. Items such as materials, labor and space, etc. which can be given a dollar value. Applicant must be able to prove that in kind match is committed to the project program.

   c. Revenue. Anticipated receipts from sale of tickets or products.

   d. Other Grants. Grants received by other grant-making agencies, public or private.

9. "~~Grant~~ Notification letter" means the letter notifying an applicant of ~~aeeeptanee~~ approval or rejection of ~~his~~ the application.

10. "Project director" means person designated by an ~~sponsoring~~ organization, political subdivision or department ~~of~~ or agency of the state as the individual responsible for the implementation of the project or program for which the application is made.

11. ~~"Subsidy grants" means grants to sponsoring organizations for general purposes as opposed to a special project.~~

B. All applications for grants and loans must be made on official application forms available at the offices of the Board. Requests for other forms of assistance may be made directly to ~~MSAB staff~~ the Board at its offices ~~in person or by telephone or by letter~~.

C. A copy of these Rules and ~~the current guidelines~~ appropriate program information will be ~~included with each application form~~ provided to all applicants and to others upon request.

D. All applications must be made by the deadlines ~~and according to the instructions and conditions set forth in the guidelines~~ set by the Board in the current program information.

E. All applications submitted by individual artists to the Board for grants must include examples of works of art of the artist submitting. These examples will be specified in current program information of the Board.

F. All applications of an ~~sponsoring~~ organization, political subdivision or agency or department of the state must name a project director.

G. The staff will review all applications for accuracy and completeness. The ~~staff~~ Board ~~will~~ may ~~also~~ convene advisory committee meetings for purposes of reviewing ~~individual program~~ grant applications ~~and will convey pertinent information regarding each application to the advisory committee~~.

H. Applicants will be notified by mail of the receipts of ~~the~~ their applications and the need, if any, for changes or supplementary material. Failure by an applicant to provide this information may result in a rejection or deferral of the application.

~~H. Applications, when complete, will be submitted to the appropriate advisory committee for review.~~

I. ~~After its review~~ The advisory committee will submit its recommendations to the Board along with a statement explaining its reasons for recommending acceptance or rejection of the application.

J. Advisory committees, when reviewing applications under the standards listed, shall make one of the following recommendations to the Board:

1. Recommend approval of full requested amount.
   a. Individual Artist recommendations can only be for the full requested amount.
2. Recommend approval at less than full requested amount.
3. Recommend rejection.
4. Table, pending receipt of additional information, or modifications.

K. The Board shall give considerable weight to the recommendations of the advisory committees.

L. The Board ~~will receive~~ may request comments and recommendations from the ~~professional~~ staff on all aspects of applications ~~with the exception of artistic merit~~.

M. The Board may request a revised budget and/or project description before taking final action on grant applications.

N. The Board shall make all final decisions as to ~~acceptance~~ approval or rejection of grant applications, loan applications or requests for other forms of assistance.

O. If the Board approves a grant which is smaller or greater than the amount requested the applicant will be notified by mail, and will be required to submit a revised budget before a notification letter will be sent.

P. All applicants will receive a ~~grant~~ notification letter of acceptance or rejection within ~~30~~ 45 days of final review of the application by the Board, except when a revised budget is necessary. In that case, applicants will receive a grant notification letter within 30 days of the receipt of the revised budget by the Board.

Q. ~~Applications and~~ Supplementary materials will not be returned unless requested.

R. The Board will not assume responsibility for any loss or damage to materials submitted with applications.

S. The procedure for review of a block grant application developed by a regional arts council is as follows:

1. Each regional arts council shall develop an annual plan to be submitted by an annually announced date, determined by the Board. Regional arts task forces wishing to become regional arts councils must also submit an annual plan.

2. The annual plan will include:

   a. Statement of goals established by the regional arts council. This shall be periodically reviewed and updated by the regional arts council.

   b. Needs assessment which will be carried out in a manner which ensures input from the arts community and the general public. This needs assessment will be updated at intervals determined and announced by the Board and the results included in the plan. The needs assessment will be conducted to determine the need to develop new or continued program services offered by the regional arts council.

c. Description of the planning process including a list of the steps in the development of the plan and the participants in the planning process. Before the plan is submitted to the Board at least one public meeting must be held for the purpose of soliciting public reaction to the plan.

d. Work plan which includes a description of program services, if any.

e. Program information which will describe grants and other forms of assistance available, the methods for applying for such assistance, eligibility requirements, review standards, the review process, the terms of the grant contract with grant recipients, the time needed and process followed in paying grant recipients, and the responsibilities of the grantees.

f. Organizational structure and membership must include bylaws, an identification of the arts experience and background requirements for the members of the regional arts council, a description of rotation system which will ensure replacement of members on a regular basis, and an outline of the open nominations process used to appoint the members. When applicable, a memorandum of agreement with the regional development commission(s) or the Metropolitan Council, a letter of agreement between the regional arts council and a fiscal agent or the tax-exemption letter for non-profit organizations will be included.

g. General description of all programs and services provided with, or independent of Arts Board funds; budget which will be a total projected budget identifying all local, regional, state and federal sources of support, public and private.

h. Procedures embodied in the regional arts council's internal decision-making processes pertaining to arts matters. Application decisions on artistic merit, applicant ability, and need for project or program must be reserved for consideration only by citizen advisory committees appointed for their expertise and experience in the arts according to MCAR 5.007, sec. S, 2.f.

3. All regional arts council annual plans shall be reviewed by a regional arts development advisory committee of the Board.

4. A representative of the regional arts council shall have the opportunity to present the plan and respond to questions raised by either the regional arts development advisory committee, the Board staff, or the Board.

5. The Regional Arts Development advisory committee shall submit its recommendations to the Board for final review.

6. The Board shall approve, defer or reject annual plans submitted by the regional arts councils.

7. After the Board review, but prior to final action, the regional arts council shall have at least 30 days to make any revisions in the plan required by the Board.

8. The Board will award only one regional block grant in each region during a fiscal year.

9. Copies of the Board approved regional arts council annual plan will be available for distribution to the public by the regional arts council.

10. Each regional arts council shall submit an annual fiscal report and evaluation by 60 days, after the end of the Board's fiscal year which shall include:

a. Total fiscal statement, not an audit, for the year in which the annual plan was in effect.

b. Review of the relationship between the proposed annual plan and the actual grants, and other forms of assistance provided during the year with Arts Board block grant funds.

T. Any applicant for a grant, loan or other form of assistance who believes that the established grant review procedures have not been followed may appeal the decision of the Board, to the Board. If the appeal to the Board is not resolved to the satisfaction of the applicant, this appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. ch. 15.0418 - .0422.

5.008 Standards for requests for grants, loans and other forms of assistance

A. The Board and advisory committees and regional arts councils in reviewing applications on a competitive basis will consider the following factors ~~generally-as-well-as-specific-factors-or-conditions-set-by-the-guidelines~~ in order of priority:

1. For organizations

a. Merit and artistic quality of project or program in the case of project applications. ~~Of-necessity-this-must-be-a-subjective-recommendation-by-committee-members~~. In the case of service programs and projects the merit and quality of that service to the arts will be reviewed.

~~b. Technical skills of applicant or ability of applicant to retain individual with the necessary technical skills.~~

b. The ability of the organization to accomplish the project or program they describe or the organizational goals as presented. This is demonstrated by providing evidence of a planning process, qualifications of personnel, marketing and publicity efforts and previous successful efforts.

c. ~~Demand or need for project~~. Applicants must demonstrate demand or need for the project or program.

d. ~~If~~ In the sponsor assistance category the matching funds ~~are~~ required of an applicant, should show ~~whether applicant has obtained these funds from local community or region. Support from local community or region is highly desirable~~. evidence of such match from the participants or beneficiaries of the project or program, or the reason why such match cannot be obtained, should be included.

2. For individual artists

a. The quality of the creative work submitted by the artist.

b. The ability of the artist to accomplish the project or plan described in the application.

c. The relationship of the application to the artist's career goals.

B. Applications for general support, (subsidy grants), will be reviewed on the following standards with the first standard listed as top priority, and the remaining five of lower priority, but not differentiated among each other. These standards shall be demonstrated using the indicators specified in program information and through the application form.

1. Artistic Excellence and Leadership

   a. Service to the organization's principal art form(s), i.e., preservation of artistic heritage(s), presentation of new works, new artists.

   b. Serving as an example of excellence for others - setting standards. Recognition and impact in state and nation.

   c. Uniqueness of service, in nature or method.

   d. Sharing of expertise.

   e. Variety of program offering.

   f. Qualifications and achievements of artistic leadership.

   g. Qualifications, achievements and methods of selection of other principal artistic personnel.

2. Financial Position/Condition, including Need

   a. Total fiscal condition - assets and liabilities (review of audits).

   b. Operational plan and budget for fiscal year of grant. Longer range plans and budget would enhance review of one-year plan.

   c. Projections of all income sources including MSAB; relative changes in all categories with justifications and plans for achievements.

   d. Building ownership and operations as factors in financial activity.

   e. Programmatic activities of importance which are regarded as most financially vulnerable or least remunerative; amounts of costs and projected levels of effort.

   f. Relationship of projected earnings to earning capacity - potential for growth of earnings.

g. Special financial conditions or considerations of short-range nature, i.e., other special fund-raising, change of leadership, location, building program, etc.

h. Ability to sustain short-term financial short-fall.

3. Fiscal responsibility and management

a. Board membership and responsibilities.

b. Staff qualifications and achievements; levels of compensation; methods of recruitment; standards for recruitment.

c. Job descriptions and role relationships of Board and staff.

d. Comparison of previous program and financial projections with achievements.

e. Budgeting and controlling functions; financial planning.

f. Long-range fiscal stability; endowment or capital assets.

4. Commitment to education

a. Of its regular public/market; percentage of effort to education as opposed to public programming.

b. Funds expected for education vs. earned income from educational programs.

c. In collaboration with schools and colleges; services in schools; services to students at arts organization's headquarters; services to educators.

5. Extension to broad audiences/public; formats and marketing

a. Touring.

b. Publications.

c. Recordings, films, broadcasting.

d. Marketing efforts - types; financial commitments to marketing.

e. Special and non-traditional programming.

6. Size and distribution of audience/public

   a. Numbers served, by program type, if possible.

   b. Numbers of subscribers and/or regular members; enumeration of individuals served.

   c. Numbers of persons served divided by those served in headquarters facilities and those served away from home (tour).

   d. Indications of audience/public demographics, if available.

   e. Special efforts for economically disadvantaged.

C. Other forms of assistance will be available on a case by case basis dependent upon the nature of the request, and the availability of Board resources in response to the request.

D. Regional arts council annual plans submitted to the Board will be reviewed on the following standards:

1. Consistency with Board legislation and rules.

2. Community participation in the planning process.

3. Equitability, fiscal accountability and accessibility to the grants process and other forms of assistance.

4. Consistency in the relationship among the regional arts council's goals, needs assessment and work plans.

5. Demonstrated ability of the region to carry out its plan.

6. Evidence that decisions on artistic merit, applicant ability and need for the project or program, are made only by citizen committees appointed for their expertise and experience in the arts according to MCAR 5.007, sec. S, 2.f.

E. Applications for grants assistance will not be accepted for review when one of the following conditions exists:

1. Artists are required to pay entry or exhibition fees in order to exhibit and/or perform in the project or program.

2. Funds are requested for capital improvements or construction, purchase of real property or endowment funds.

3. Funds are requested to account for fund deficiencies in projects completed prior to the application deadline.

4. Funds are requested to pay fees for touring costs, performances or exhibitions by student organizations or schools.

F. The Board may allocate grant funds on a first-come, first-served basis during each fiscal year.

G. The Board may give priority to one form of assistance over others during a fiscal year.

5.009 Responsibilities of Grantee

A. Grantee or authorizing official must sign ~~or~~ and return to the Board, within 30 days from date of mailing, one copy of the ~~grant~~ notification letter, if notification is of grant approval. No action required on notification of rejection.

B. Grantee must acknowledge assistance by the Board on all written materials relating to the project or program such as programs, news releases and posters ~~etc~~. Grantee must use the acknowledgement statement as found in the notification letter. Grantees of regional arts councils must also use the Board acknowledgement statement on all materials relating to the project or program.

C. Grantee must notify the Board in writing if the program or project is changed ~~in any way, at any time~~ from the way in which it was described in the grant application.

~~D. Grantee must permit the Board a reasonable opportunity to view the project or program at any time for purposes of evaluation.~~

D. Grantee must comply with all Federal regulations specified in the grant notification letter.

E. Grantee ~~must-submit,-upon-request-by-the-Board~~, may be required to submit a certified audit report ~~at-any-time-during-the-project-or-after completion-of-the-project~~ of the organization or of a project funded by the Board.

F. A grant contract may be terminated at any time upon the written request of the grantee, but such termination shall not necessarily relieve the grantee of its responsibilities as set forth in the grant contract.

G. A grant contract may be terminated by the Board at any time upon the failure of the grantee to comply with one or more of the conditions of the grant contract. Such termination shall be effective upon receipt of written notice by the grantee.

H. A grant contract may be terminated at any time by mutual written agreement of the Board and grantee.

I. A grant commitment to a grantee may be rescinded by the Board if one of the following conditions exists:

1. The grantee does not return the signed notification letter, within 30 days of the date of the Board letter.
2. The grantee does not return a revised budget and/or project description within 45 days of the date of the notification of Board action by letter.
3. The grantee does not request the grant amount within 30 days of the date of the grant notification letter.

J. Grantee must submit a ~~fiseal~~ final report, within 30 days of the completed project or program, to be completed by grantee ~~or-authorizing official~~ on forms provided by the Board.

K. The Board may require that regional arts councils, which have not committed all of their grant funds by April 15 of a given fiscal year, return the uncommitted grant funds to the Board by May 1 of the same fiscal year.

5.010 Advisory committees

A. The Board ~~shall~~ may appoint advisory committees ~~in each of the following areas of the arts~~ to review grant applications and provide recommendations on policy issues. The Board ~~shall~~ may appoint advisory committees in ~~each of~~ the ~~following~~ areas of ~~the arts~~ general operating support (subsidy), individual artist assistance, production assistance, sponsor assistance, regional arts development and also regional arts task forces.

B. The Board may ~~appoint advisory committees in additional areas of the arts or~~ discontinue the advisory committees ~~in any of the above listed areas~~ as it deems necessary.

~~C. The Board will appoint an advisory committee to review applications for subsidy grants.~~

C. Members of each advisory committee shall ~~be individuals with special~~ have expertise and/or experience in ~~that~~ a particular area of the arts, arts support or administration. Committee members will be selected by the Board from among practitioners, administrators, educators, volunteer directors of arts organizations, trustees of arts organizations and consumers of arts forms. At least one of the regional arts development panel from each region will be appointed from nominees of the designated regional arts task force or arts council. The remaining members will be selected from among the previously listed groups through the open nominations process.

D. Appointments to advisory committees shall be made by majority vote of the Board. Members shall serve at the pleasure of the Board for three year terms. One-third of the terms of the members of each committee shall expire each year.

E. At least sixty days prior to expiration of terms of advisory committee members, the Board will publish and post notice of such openings. Nominations will be actively solicited and accepted by the Board. Nominations ~~should~~ must be in writing and should include all pertinent information including nominees' qualifications and experience in the arts ~~generally-and-in-the-particular-area-of-the arts-of-the-advisory-committee-on-which-the-advisory-committee-on which-the-nominee-will-serve~~.

F. Advisory committees will, insofar as reasonably possible, be geographically balanced. However, the regional arts development panel shall have two members from each of the regions represented by a regional arts council or regional arts task force.

G. Members of the advisory committees and regional arts task forces shall be compensated for expenses incurred to attend advisory committee meetings as provided in Minn. Stat. ch. 5.059, subd. 3, except that they shall not be eligible for the per diem.

H. A member vacancy which occurs on any advisory committee prior to the expiration of a member's term may be filled, at the discretion of the Board.

5 MCAR § 5.001

# Minnesota State Arts Board (MSAB)

## Proposed Rules Governing the Receiving and Reviewing of Requests for and Distribution of Grants, Loans and Other Forms of Assistance

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the State Capitol, Room 15, on June 23 and 26, 1978, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The MSAB expects that 50 persons including members of the Arts Board, agency staff, and members of the public will attend.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, hearing examiner, 1745 University Avenue, St. Paul, Minnesota 55104 (612) 296-8112, either before the hearing or within 5 days after the close of the hearing.

The rules proposed by the Minnesota State Arts Board will amend the adopted rules MSAB 1-8 governing the receiving and reviewing of requests for and distribution of grants, loans and other forms of assistance.

The proposed rules are attached hereto. Additional copies of the proposed rules are now available and one additional free copy may be obtained by writing to the Minnesota State Arts Board, 314 Clifton Avenue, Minneapolis, Minnesota 55403. Additional copies will also be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 139.10, subds. (e) and (f) (1976). A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone number (612) 296-5615.

May 5, 1978

## Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance

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Rule
(5 MCAR 5)

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~~MSAB 5:~~ § 5.005 Requests for information

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~~MSAB 8:~~ § 5.010 Advisory committees

### Rules as Proposed

~~MSAB 1:~~ **§ 5.001 Authority for the rules** These rules are adopted pursuant to Minn. Stat. § 139.10, subds. (e) and (f) (Supp. 1977).

~~MSAB 2:~~ **§ 5.002 Purpose of the rules.** The purpose of these rules is to set forth procedures and standards to be



Bd's (CITE 2 S.R. 2088) EXHIBIT NO. F
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followed by the Board in receiving and reviewing requests for and distribution of grants, loans and other forms of assistance.

~~MSAB 3.~~ § 5.003 **Whom the rules govern.**

A. These Rules govern the Board; advisory committees; regional arts councils; and all individuals, ~~sponsoring~~ organizations, departments, and agencies of the state and political subdivisions who wish to receive grants, loans or other forms of assistance, including applicants of regional arts councils.

B. Regional Arts Councils receiving block grants from the Board are required to follow Board rules pertaining to eligibility requirements and general standards in distributing local/regional arts development grants, loans and other forms of assistance which utilize Board funds.

~~MSAB 4.~~ § 5.004 **Definitions.** For the purpose of these rules, the following terms shall have the meanings given to them:

A. "Advisory committee" means a group of citizens selected and convened by the Board to review and recommend on policy and distribution of forms of assistance offered by the Board.

(MSAB 4.B. through O. are incorporated into 5 MCAR §§ 5.004 and 5.007.)

B. "Block Grant" means grants to regional arts councils for the purpose of providing program services and regrants for local/regional arts development.

C. "Board" means the Minnesota State Arts Board.

D. "Certified audit report" means a document prepared and signed by a Certified Public Accountant showing the total fiscal activity of a project or program.

E. "Local" means program or service distribution and organizational impact within a specific municipality or county.

F. "Local/regional arts development" means programs or projects which are for the development or enhancement of local or regional artists or art resources.

G. "Multi-regional" means program or service distribution and organizational impact over more than one of the state's official development regions.

**5 MCAR § 5.005**

H. "Other forms of assistance" means publications or staff consultation or workshops with individuals or groups who have developed or are interested in developing projects or programs in the arts but need advice on matters such as, but not limited to, budgeting, administration, production and technology.

I. "Program information" means a document(s) issued annually describing programs and services of the Board which includes instructions, deadlines, and other aids for the applicant seeking Board assistance. Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria themselves. Any actions taken by the Board, its staff and advisory committees must be clearly based on the standards in rule form. Explanations of actions requested by applicants must be offered in the context of the standards in rule form.

J. "Regional" means program or service distribution and organizational impact within the geographic area served by a regional arts task force or regional arts council. Formal combinations of two or more development regions under one regional arts task force or regional arts council will be regarded as one region for this purpose.

K. "Regional arts council" means an organization or a group designated by the Board to make final decisions on block grant funds granted to them for grants-making and program services to the region the arts council represents for local/regional arts development.

L. "Regional arts task force" means an advisory committee of the Board which reviews applications for local arts development projects serving the region(s) the arts task force represents. A regional arts task force may also be an advisory committee to a regional development commission or the Metropolitan Council.

M. "State-wide" means program or service distribution and organizational impact throughout most or all of the development regions of the state.

~~MSAB 5.~~ § 5.005 **Requests for information.** All requests for information ~~concerning the grant application process~~ may be made ~~at~~ to the offices of the Board ~~in person, by phone or letter.~~ Upon such a request, the Board will provide ~~a copy of these rules, an official application form, a copy of the current guidelines and any other information which may be helpful~~ appropriate information.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

**5 MCAR § 5.005**

**§ 5.006 Eligibility requirements for individuals, organizations, governmental units and schools applying for grant assistance.**

A. Arts Board assistance is available to individuals, non-profit, tax-exempt organizations, schools and governmental units and departments and agencies of the state.

B. Local/regional arts development assistance is available to non-profit, tax-exempt organizations or units of government, including schools. This assistance is for the creation and production of arts programs or projects which are for the development or enhancement of local or regional artists or arts resources.

C. Arts Board grants assistance is available to the following individual applicants:

1. Artists who directly produce new works of art such as, but not limited to, playwrights, composers, librettists, creative prose writers, independent filmmakers, video artists, visual artists, craftspeople, choreographers, poets, fiction writers, conceptual artists and artists working in multi-media fields.

2. Arts teachers, only if the teacher is pursuing professional development as an artist, not as a teacher.

3. Individual artists, who have received an MSAB Fellowship grant, cannot apply for another Fellowship grant until two fiscal years after the receipt of the Fellowship grant.

4. Students, those who are pursuing either full-time or part-time a performance or academic degree in their creative field, may not apply for Fellowships, but may apply for Project or Works in Progress grants.

5. Individual artists, who have received a Project or Works in Progress grant, cannot apply for another Project or Works in Progress grant until one fiscal year after the receipt of the Project or Works in Progress grant.

D. Production grants assistance and Sponsor grants assistance are not available to schools if the project submitted is limited in access to, or only serves those attending school, including the staff.

E. Grants assistance for general operations (Subsidy) is only available to arts producing, exhibiting or educational (non-academic i.e., do not offer curricular programs) organizations.

1. Organizations may apply for general operations (Subsidy) grants only if:

a. State-wide or multi-region impact is demonstrated by program dissemination, public participation or artistic leadership.

b. The organization has been in existence in its current form two full years prior to applying.

c. The organization has a certified audit of its accounts for the previous two years.

d. The organization has a commitment to professional management — at least one full-time paid management (not clerical) position for 12 months per year, or equivalent volunteer personnel. Documentation would include job description, time allocation and budget commitment, if applicable.

2. Organizations which receive grants for general operations (subsidy) are eligible to apply for project grants only if:

a. The application is for a special project, clearly identified as something that would not or could not take place without a grant.

b. The project clearly demonstrates that it is a one-time project. A pilot for contemplated future operation is eligible if a specific plan for absorbing it into on-going operations is presented with the application.

c. No overhead or on-going organizational costs be included as part of the project budget.

d. The grant from the MSAB would be matched at least 50-50 with funds from other sources, clearly identified for the project itself. No general budget funds of the applicant organization would be eligible as match.

F. Regional arts councils are eligible to apply only for block grants for the purpose of local/regional arts development.

G. The Board may initiate new assistance categories or pilots in which applicants for assistance may be selected specifically for the way in which the Board can learn from their experience.

1. No pilot assistance category will continue for longer than 2 years without the category being established on a permanent basis, or discontinued.

2. All pilot assistance categories will be specifically described as such in MSAB program information.

(Language from MSAB 4 and MSAB 6 are incorporated into 5 MCAR § 5.007.)

~~MSAB 6:~~ § 5.007 ~~Grant application and review procedure.~~ **Procedure for obtaining grants, loans and other forms of assistance.**

A. Definitions. For the purpose of this rule the following terms shall have the meanings given to them:

1. "Applicant" means (a) any Minnesota resident who submits an application for a grant, loan or other form of assistance, or (b) any organization, department or agency of the state or political subdivision on whose behalf an application for a grant, or loan is submitted.

2. "Authorizing official" means a person, empowered to enter into contracts for and who signs the grant application of an organization, political subdivision, or department or agency of the state, or an individual artist who signs the grant application.

3. "Fiscal agent" means any non-profit, tax-exempt organization or governmental unit which applies to the Board on behalf of an organization or individual not meeting the non-profit, tax-exempt requirements, but qualifying in all other ways. The fiscal agent must sign the application and, if a grant is received, sign the grant letter/contract. The fiscal agent is legally responsible for the completion of the project and for the proper management of the grant funds.

4. "Grant" means an allocation of funds to an applicant which are to be used for the purpose(s) described in the application which are not repaid.

5. "Grant contract" means the notification letter signed by an authorizing official of an organization or an individual artist.

6. "Grantee" means an applicant whose application is approved for funding by the Board.

7. "Loans" means monies given to an applicant which are to be repaid to the Board according to the conditions specified in the loan contract.

8. "Matching funds" means share of the financial support for a project or program raised by grantee from sources other than MSAB. The sources for matching funds may be one or more of the following:

a. Cash. Applicant must be able to prove availability of cash matching funds by bank statements, or other indication of cash on hand.

b. In kind. Items such as materials, labor and space, etc. which can be given a dollar value. Applicant must be able to prove that in kind match is committed to the project program.

c. Revenue. Anticipated receipts from sale of tickets or products.

d. Other grants. Grants received by other grantmaking agencies, public or private.

9. "Notification letter" means the letter notifying an applicant of approval or rejection of ~~his~~ the application.

10. "Project director" means person designated by an organization, political subdivision or department or agency of the state as the individual responsible for the implementation of the project or program for which the application is made.

B. All applications for grants and loans must be made on official application forms available at the offices of the Board. Requests for other forms of assistance may be made directly to the Board at its offices.

C. A copy of these rules and appropriate program information will be provided to all applicants and to others upon request.

D. All applications must be made by the deadlines set by the Board in the current program information.

E. All applications submitted by individual artists to the Board for grants must include examples of works of art of the artist submitting. These examples will be specified in current program information of the Board.

F. All applications of an organization, political subdivision or agency or department of the state must name a project director.

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**5 MCAR § 5.007**

G. The staff will review all applications for accuracy and completeness. The Board may convene advisory committee meetings for purposes of reviewing grant applications.

H. Applicants will be notified by mail of the receipts of their applications and the need, if any, for changes or supplementary material. Failure by an applicant to provide this information may result in a rejection or deferral of the application.

I. The advisory committee will submit its recommendations to the Board along with a statement explaining its reasons for recommending acceptance or rejection of the application.

J. Advisory committees, when reviewing applications under the standards listed, shall make one of the following recommendations to the Board:

1. Recommend approval of full requested amount.

a. Individual artist recommendations can only be for the full requested amount.

2. Recommend approval at less than full requested amount.

3. Recommend rejection.

4. Table, pending receipt of additional information, or modifications.

K. The Board shall give considerable weight to the recommendations of the advisory committees.

L. The Board may request comments and recommendations from the staff on all aspects of applications.

M. The Board may request a revised budget and/or project description before taking final action on grant applications.

N. The Board shall make all final decisions as to approval or rejection of grant applications, loan applications or requests for other forms of assistance.

O. If the Board approves a grant which is smaller or greater than the amount requested the applicant will be notified by mail, and will be required to submit a revised budget before a notification letter will be sent.

P. All applicants will receive a notification letter of acceptance or rejection within 45 days of final review of the application by the Board, except when a revised budget is necessary. In that case, applicants will receive a grant notification letter within 30 days of the receipt of the revised budget by the Board.

Q. Supplementary materials will not be returned unless requested.

R. The Board will not assume responsibility for any loss or damage to materials submitted with applications.

S. The procedure for review of a block grant application developed by a regional arts council is as follows:

1. Each regional arts council shall develop an annual plan to be submitted by an annually announced date, determined by the Board. Regional arts task forces wishing to become regional arts councils must also submit an annual plan.

2. The annual plan will include:

a. Statement of goals established by the regional arts council. This shall be periodically reviewed and updated by the regional arts council.

b. Needs assessment which will be carried out in a manner which ensures input from the arts community and the general public. This needs assessment will be updated at intervals determined and announced by the Board and the results included in the plan. The needs assessment will be conducted to determine the need to develop new or continued program services offered by the regional arts council.

c. Description of the planning process including a list of the steps in the development of the plan and the participants in the planning process. Before the plan is submitted to the Board at least one public meeting must be held for the purpose of soliciting public reaction to the plan.

d. Work plan which includes a description of program services, if any.

e. Program information which will describe grants and other forms of assistance available, the methods for applying for such assistance, eligibility requirements, review standards, the review process, the terms of the grant contract with grant recipients, the time needed and process followed in paying grant recipients, and the responsibilities of the grantees.

f. Organizational structure and membership must include bylaws, an identification of the arts experience and

background requirements for the members of the regional arts council, a description of rotation system which will ensure replacement of members on a regular basis, and an outline of the open nominations process used to appoint the members. When applicable, a memorandum of agreement with the regional development commission(s) or the Metropolitan Council, a letter of agreement between the regional arts council and a fiscal agent or the tax-exemption letter for non-profit organizations will be included.

g. General description of all programs and services provided with or independent of Arts Board funds; budget which will be a total projected budget identifying all local, regional, state and federal sources of support, public and private.

h. Procedures embodied in the regional arts council's internal decision-making processes pertaining to arts matters. Application decisions on artistic merit, applicant ability, and need for project or program must be reserved for consideration only by citizen advisory committees appointed for their expertise and experience in the arts according to MCAR 5.007 S. 2.f.

3. All regional arts council annual plans shall be reviewed by a regional arts development advisory committee of the Board.

4. A representative of the regional arts council shall have the opportunity to present the plan and respond to questions raised by either the regional arts development advisory committee, the Board staff, or the Board.

5. The Regional Arts Development advisory committee shall submit its recommendations to the Board for final review.

6. The Board shall approve, defer or reject annual plans submitted by the regional arts councils.

7. After the Board review, but prior to final action, the regional arts council shall have at least 30 days to make any revisions in the plan required by the Board.

8. The Board will award only one regional block grant in each region during a fiscal year.

9. Copies of the Board approved regional arts council annual plan will be available for distribution to the public by the regional arts council.

10. Each regional arts council shall submit an annual fiscal report and evaluation by 60 days, after the end of the Board's fiscal year which shall include:

a. Total fiscal statement, not an audit, for the year in which the annual plan was in effect.

b. Review of the relationship between the proposed annual plan and the actual grants, and other forms of assistance provided during the year with Arts Board block grant funds.

T. Any applicant for a grant, loan or other form of assistance who believes that the established grant review procedures have not been followed may appeal the decision of the Board, to the Board. If the appeal to the Board is not resolved to the satisfaction of the applicant, this appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. § 15.0418-.0422.

**§ 5.008 Standards for requests for grants, loans and other forms of assistance.**

A. The Board and advisory committees and regional arts councils in reviewing applications on a competitive basis will consider the following factors in order of priority:

1. For organizations.

a. Merit and artistic quality of project or program in the case of project applications. In the case of service programs and projects the merit and quality of that service to the arts will be reviewed.

b. The ability of the organization to accomplish the project or program they describe or the organizational goals as presented. This is demonstrated by providing evidence of a planning process, qualifications of personnel, marketing and publicity efforts and previous successful efforts.

c. Applicants must demonstrate demand or need for the project or program.

d. In the sponsor assistance category the matching funds required of an applicant should show evidence of such match from the participants or beneficiaries of the project or program, or the reason why such match cannot be obtained should be included.

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5 MCAR § 5.007

2. For individual artists.

a. The quality of the creative work submitted by the artist.

b. The ability of the artist to accomplish the project or plan described in the application.

c. The relationship of the application to the artist's career goals.

B. Applications for general support (subsidy grants) will be reviewed on the following standards with the first standard listed as top priority, and the remaining five of lower priority, but not differentiated among each other. These standards shall be demonstrated using the indicators specified in program information and through the application form.

1. Artistic excellence and leadership.

a. Service to the organization's principal art form(s), i.e., preservation of artistic heritage(s), presentation of new works, new artists.

b. Serving as an example of excellence for others — setting standards. Recognition and impact in state and nation.

c. Uniqueness of service, in nature or method.

d. Sharing of expertise.

e. Variety of program offering.

f. Qualifications and achievements of artistic leadership.

g. Qualifications, achievements and methods of selection of other principal artistic personnel.

2. Financial position/condition, including need.

a. Total fiscal condition — assets and liabilities (review of audits).

b. Operational plan and budget for fiscal year of grant. Longer range plans and budget would enhance review of one-year plan.

c. Projections of all income sources including MSAB; relative changes in all categories with justifications and plans for achievements.

d. Building ownership and operations as factors in financial activity.

e. Programmatic activities of importance which are regarded as most financially vulnerable or least remunerative; amounts of costs and projected levels of effort.

f. Relationship of projected earnings to earning capacity — potential for growth of earnings.

g. Special financial conditions or considerations of short-range nature, i.e., other special fund-raising, change of leadership, location, building program, etc.

h. Ability to sustain short-term financial short-fall.

3. Fiscal responsibility and management.

a. Board membership and responsibilities.

b. Staff qualifications and achievements; levels of compensation; methods of recruitment; standards for recruitment.

c. Job descriptions and role relationships of Board and staff.

d. Comparison of previous program and financial projections with achievements.

e. Budgeting and controlling functions; financial planning.

f. Long-range fiscal stability; endowment or capital assets.

4. Commitment to education.

a. Of its regular public/market; percentage of effort to education as opposed to public programming.

b. Funds expected for education vs. earned income from educational programs.

c. In collaboration with schools and colleges; services in schools; services to students at arts organization's headquarters; services to educators.

5. Extension to broad audiences/public; formats and marketing.

a. Touring.

b. Publications.

c. Recordings, films, broadcasting.

d. Marketing efforts — types; financial commitments to marketing.

e. Special and non-traditional programming.

6. Size and distribution of audience/public.

a. Numbers served, by program type, if possible.

b. Numbers of subscribers and/or regular members; enumeration of individuals served.

c. Numbers of persons served divided by those served in headquarters facilities and those served away from home (tour).

d. Indications of audience/public demographics, if available.

e. Special efforts for economically disadvantaged.

C. Other forms of assistance will be available on a case by case basis dependent upon the nature of the request, and the availability of Board resources in response to the request.

D. Regional arts council annual plans submitted to the Board will be reviewed on the following standards:

1. Consistency with Board legislation and rules.

2. Community participation in the planning process.

3. Equitability, fiscal accountability and accessibility to the grants process and other forms of assistance.

4. Consistency in the relationship among the regional arts council's goals, needs assessment and work plans.

5. Demonstrated ability of the region to carry out its plan.

6. Evidence that decisions on artistic merit, applicant ability and need for the project or program are made only by citizen committees appointed for their expertise and experience in the arts according to MCAR 5.007. S. 2.f.

E. Applications for grants assistance will not be accepted for review when one of the following conditions exists:

1. Artists are required to pay entry or exhibition fees in order to exhibit and/or perform in the project or program.

2. Funds are requested for capital improvements or construction, purchase of real property or endowment funds.

3. Funds are requested to account for fund deficiencies in projects completed prior to the application deadline.

4. Funds are requested to pay fees for touring costs, performances or exhibitions by student organizations or schools.

F. The Board may allocate grant funds on a first-come, first-served basis during each fiscal year.

G. The Board may give priority to one form of assistance over others during a fiscal year.

~~MSAB 7:~~ § 5.009 **Responsibilities of grantee.**

A. Grantee or authorizing official must sign ~~or~~ and return to the Board, within 30 days from date of mailing, one copy of the ~~grant~~ notification letter, if notification is of grant approval. No action required on notification of rejection.

B. Grantee must acknowledge assistance by the Board on all written materials relating to the project or program such as programs, news releases and posters ~~etc.~~ Grantee must use the acknowledgement statement as found in the notification letter. Grantees of regional arts councils must also use the Board acknowledgement statement on all materials relating to the project or program.

C. Grantee must notify the Board in writing if the program or project is changed ~~in any way, at any time~~ from the way in which it was described in the grant application.

~~D. Grantee must permit the Board a reasonable opportu-~~

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5 MCAR § 5.009

~~nity to view the project or program at any time for purposes of evaluation.~~

D. Grantee must comply with all Federal regulations specified in the grant notification letter.

E. Grantee ~~must submit, upon request by the Board,~~ may be required to submit a certified audit report ~~at any time during the project or after completion of the project~~ of the organization or of a project funded by the Board.

F. A grant contract may be terminated at any time upon the written request of the grantee, but such termination shall not necessarily relieve the grantee of its responsibilities as set forth in the grant contract.

G. A grant contract may be terminated by the Board at any time upon the failure of the grantee to comply with one or more of the conditions of the grant contract. Such termination shall be effective upon receipt of written notice by the grantee.

H. A grant contract may be terminated at any time by mutual written agreement of the Board and grantee.

I. A grant commitment to a grantee may be rescinded by the Board if one of the following conditions exists:

1. The grantee does not return the signed notification letter, within 30 days of the date of the Board letter.

2. The grantee does not return a revised budget and/or project description within 45 days of the date of the notification of Board action by letter.

3. The grantee does not request the grant amount within 30 days of the date of the grant notification letter.

J. Grantee must submit a ~~fiscal~~ final report, within 30 days of the completed project or program, to be completed by grantee ~~or authorizing official~~ on forms provided by the Board.

K. The Board may require that regional arts councils, which have not committed all of their grant funds by April 15 of a given fiscal year, return the uncommitted grant funds to the Board by May 1 of the same fiscal year.

~~MSAB 8:~~ § 5.010 **Advisory committees.**

A. The Board ~~shall~~ may appoint advisory committees ~~in each of the following areas of the arts~~ to review grant applications and provide recommendations on policy issues. The Board ~~shall~~ may appoint advisory committees in ~~each of~~ the ~~following~~ areas of ~~the arts, to review applications in those areas:~~

~~1. architecture~~

~~2. dance~~

~~3. music~~

~~4. literature~~

~~5. theatre~~

~~6. visual arts~~

~~7. special projects~~

~~8. film/video~~

~~9. regional arts task force~~

general operating support (subsidy), individual artist assistance, production assistance, sponsor assistance, regional arts development and also regional arts task forces.

B. The Board may ~~appoint advisory committees in additional areas of the arts or~~ discontinue the advisory committees ~~in any of the above listed areas~~ as it deems necessary.

~~C. The Board will appoint an advisory committee to review applications for subsidy grants.~~

C. ~~D.~~ Members of each advisory committee shall ~~be individuals with special~~ have expertise and/or experience in ~~that~~ a particular area of the arts, arts support or administration. Committee members will be selected by the Board from among practitioners, administrators, educators, volunteer directors of arts organizations, trustees of arts organizations and consumers of arts forms. At least one of the regional arts development panel from each region will be appointed from nominees of the designated regional arts task force or arts council. The remaining members will be selected from among the previously listed groups through the open nominations process.

D. ~~E.~~ Appointments to advisory committees shall be made by majority vote of the Board. Members shall serve at the pleasure of the Board for three year terms. One-third of the terms of the members of each committee shall expire each year.

E. ~~F.~~ At least sixty days prior to expiration of terms of advisory committee members, the Board will publish and post notice of such openings. Nominations will be actively

solicited and accepted by the Board. Nominations ~~should~~ must be in writing and should include all pertinent information including nominees' qualifications and experience in the arts ~~generally and in the particular area of the arts of the advisory committee on which the advisory committee on which the nominee will serve.~~

F. ~~G.~~ Advisory committees will, insofar as reasonably possible, be geographically balanced. However, the regional arts development panel shall have two members from each of the regions represented by a regional arts council or regional arts task force.

G. ~~F.~~ Members of the advisory committees and regional arts task forces shall be compensated for expenses incurred to attend advisory committee meetings as provided in Minn. Stat. ch. 5.059, subd. 3, except that they shall not be eligible for the per diem.

H. ~~The Board and advisory committees, in reviewing applications, will consider the following factors generally as well as specific factors or conditions set by guidelines:~~

~~1. Merit and quality of project generally. Of necessity this must be a subjective recommendation by committee members.~~

~~2. Technical skills of applicant or ability of applicant to retain individual with the necessary technical skills.~~

~~3. If matching funds are required of an applicant, whether applicant has obtained those funds from local community or region. Support from local community or region is highly desirable.~~

~~4. Demand or need for project. Applicants may include market studies, surveys, endorsements, etc.~~

A member vacancy which occurs on any advisory committee prior to the expiration of a member's term may be filled, at the discretion of the Board.

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LCRAR

Legislative Commission to
Review Administrative Rules

Marshall R. Whitlock
Executive Secretary

RECEIVED
JUN 19 1978
OFFICE OF HEARING
EXAMINERS

June 19, 1978

Mr. Steve Mihalchick, Hearing Examiner
1745 University Avenue
St. Paul, MN 55104

RE: Minnesota State Arts Board Rules Hearing

Dear Mr. Mihalchick:

The Legislative Commission to Review Administrative Rules requests the following materials be considered part of the hearing record on the proposed Minnesota State Arts Board Rules.

The Legislative Commission to Review Administrative Rules received a complaint from an arts group on July 14, 1977. The major concern of that arts group was that panel review of applications was contrary to legislative intent. In addition, the arts group expressed concern about existing procedures of the arts board as outlined in their rules and their Guides to Program. Pursuant to the authority granted the LCRAR contained in M.S. 3.965, the Commission held a number of hearings and investigated the matter in detail.

The LCRAR has expressed a number of concerns with regard to the adequacy of current MSAB rules. Those concerns are as follows:

1. MSAB rules allow the creation of additional review criteria which are not found in rule form (in violation of the dictates of M.S. 139.10, Subd. e and f.)

2. MSAB review criteria found in rule form are extremely ambiguous, leading to confusion and inconsistent application.

3. MSAB rules and current operating procedures do not allow for an appeals procedure.

4. Current operating procedures are not outlined in rule form, including instructions to advisory panels as to how to make decisions regarding approving or rejecting grant applications.

In addition, the Commission found that certain corrective action needed to be taken by the Board in order that existing problems be eliminated. As a result of concerns expressed by complainants to the Commission, and as a result of Commission review, a resolution was approved by the

LCRAR concerning actions which it felt necessary to resolve the problem. At its meeting held on November 21, 1977, the LCRAR approved the following resolution as a guide for the Arts Board to follow in drafting new rules.

WHEREAS, the Minnesota State Arts Board has used criteria, and standards in evaluating grant applications which are not contained in rule form, and

WHEREAS, these criteria and standards have been a subject of a number of complaints, and

WHEREAS, the Minnesota State Arts Board needs to clarify the relationship between their rules and these Guide to Program criteria:

THEREFORE, the LCRAR requests the following:

1. The Minnesota State Arts Board will utilize only the rule standards, and review criteria which have been printed in the Guides to Programs, which are in force and effect on November 1, 1977. The Board will not evaluate grant applications using criteria other than those which were in existence on that date. Furthermore, this commitment will also apply to all Minnesota State Arts Board committees, sub-committees, task forces and panels.

2. The Minnesota State Arts Board will adopt more specific rules relating to grant application review criteria and standards. This will be done before June 30, 1978.

3. The Arts Board will not after June 30, 1978, review applications using criteria other than found in rule form.

4. The Minnesota State Arts Board will report to the appropriate standing committees of the legislature in the 1978 Legislative Session on the concerns and complaints which have been received over Arts Board procedures. At that time, the Arts Board may recommend amendments to M. S. 139, and will cooperate with both the standing committees of the legislature in implementing statutory amendments, and the Legislative Commission to Review Administrative Rules.

In response to the request of the LCRAR, the Minnesota State Arts Board has engaged in rule-making activities. The rules which are currently proposed, as contained in the State Register of May 22, 1978, include material which was the subject of the Commission's review. In addition, the State Arts Board used the opportunity to also revise its existing procedures in other ways unrelated to the Commission's review.

In order to clear up what the LCRAR has perceived as a violation of legislative intent, the Arts Board has proposed a number of rule changes. This letter is in support of those changes as follows:

5.004I. Program Information. The Commission has supported the change in this definition, so as to explain the relationship of such guides to program, and the rules promulgated by the MSAB. The Commission supports, in particular, the statement, "Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria themselves. Any actions taken by the Board, its staff and advisory committees, must be clearly based on standards in rule form. Explanations of actions requested by applicants must be offered in the context of standards and rule form." The LCRAR believes that this clarification will clean up any ambiguity with respect to the applicability of program information to grant applicants.

5.007J. During its investigation, the LCRAR found that advisory committees did not have adequate direction as to the actions which they could take with regard to recommendations to the Board. This section clearly indicates the action which is within the scope of such advisory committees. The LCRAR has supported such change, so as to clear up existing ambiguity and eliminate inconsistent application of procedures to grant applicants.

5.007T. This appeals process has been created in recognition of the need for a process which responds to problems which occur at the advisory panel level. The LCRAR expressed great concern over lack of such a procedure, in that it did not grant regress of grievance to those applicants who believe that the established grant review procedures had not been followed. The LCRAR found that one of the major weaknesses of the existing rules was the lack of an appropriate procedure for such persons. This procedure satisfies that concern.

5.008. Standards for requests for grants, loans, and other forms of assistance. The LCRAR found that the existing standards utilizied by the Arts Board were extremely ambiguous, leading to misapplication and inconsistent application. There was a great deal of confusion as to the meanings of specific phrases found in the existing rules, and it was recommended by the LCRAR that the MSAB proceed to delineate in more detail the exact meanings of the grant review standards. This section of the proposed rules speaks to that concern. The LCRAR believes that this will alleviate current confusion as to the use of certain phrases by the Arts Board in reviewing grant applications.

In addition, the LCRAR has supported the changes which have been undertaken by the Minnesota State Arts Board in detailing its operating procedures. It is believed that the proposed changes will more adequately reflect the statutory directive to, "promulgate by rule procedures to be followed by the Board in receiving and reviewing requests for grants, loans or other forms of assistance, and promulgate by rule standards

consistent with this chapter to be followed by the Board in the distribution of grants, loans and other forms of assistance."

During the period between November and January, the Arts Board has been responsive to the changes which the Commission has recommended. The Commission has been satisfied that the Minnesota State Arts Board has drafted changes which more adequately respond to legislative intent.

Sincerely yours,

Wayne Olhoft

Wayne Olhoft, Chairman
Legis. Commission to Review Admin. Rules

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INTRODUCTION TO STATEMENT OF NEED- MINNESOTA STATE ARTS BOARD

The Minnesota State Arts Board, created and operating under the terms of Minnesota Statutes, Chapter 139.07-18, is charged to "stimulate and encourage the creation, performance and appreciation of the arts in the state." In carrying out the specific legislated mandate of this chapter, as well as additional mandates incorporated in biennial appropriation language, the agency operates with a professional staff of qualified arts administrators, reporting to a Board of eleven citizens who are appointed by the Governor with the advice and consent of the Senate. It is this Board which is empowered to establish agency policy, under the terms of the legislation, and to make all decisions regarding the conduct of the agency's business.

In carrying out its mandate, the agency utilizes two principal sources of financing: biennial legislative appropriation and Federal funds, primarily from the National Endowment for the Arts. While there is legislative authority for the agency to receive and disburse private funds, this avenue is not actively pursued, since the agency would be in competition with its own clientele for those funds. The services of the agency fall into two principal categories: grants and services. Grants are direct financial payments to individuals and organizations for the accomplishment of artistic programs and projects, for general operations or creative time. Agency services are of great variety, including information, consultation, technical assistance, publications, workshops and the like.

A major principle of operation of the agency is the utilization of citizen advisory committees for the development of priority and policy options and review and recommendation on the processing of applications for assistance. These committees serve in an advisory capacity to the Board itself, which considers their advice in reaching final decisions on the matters under consideration. Advisory committees serve without compensation, other thab expense reimbursements.

The structure if the agency, its Board terms and residence requirements, the roles of the staff, the advisory committees and conditions relating to them, as well as the agency's duties are spelled out in the statute. Authority for rule-making is also incorporated in the statute. The proposed and amended rules under current consideration are the second set of rules promulgated since this authority was granted the agency in January 1976 (Minn. Stat. § 139.10 subds. (e) and (f)). This set of proposed rules is substantially more detailed than its predecessor and represents the rapid development and sophistication of the sgency.

The major purposes of the rules are to provide clients with clear guidance regarding 1) access and availability to agency services; 2) decision -making procedures and timing; 3) applied criteria and standards for review. In addition there are rules regarding procedures of general applicability for all applicants and grantees, as well as substantially new sections covering the agnecy's decentralization program through the state's regions.

The rules and regulations represent one of two principal information documents circulated to the sgency's clientele. In addition to rules, we provide program information which offers additional material and clarifications of on the sgency, but does not contain any eligibility or review standards which are not also covered in rule form. It is felt that an additional document beyond rules is necessary because the nature of the arts and an arts support agency cannot be adequately described in the limited context of the rules.

With specific reference to the proposed rules on the regional program, which is not directly mandated by statute, although it is in the appropriation law, it is felt that clarification in rule form is necessary because of the major importance

of this process in the operating format of the agency. An operation of such magnitude left unclarified and unexamined publically through the rule-making process, would permit ambiguity and misunderstanding to handicap the agency's effort.

Finally, rules and regulations relating to eligibility and review standards are necessary to the agency in order to permit priorities and standards of quality to be exercised in manner understandable and acceptable to the clientele . In a situation in which demand invariably exceeds resources, clarity in eligibility and decision-making is a protection for the agency, and a source of understanding for the clientele .

The need for each rule individually is as follows:

MCAR 5.003 A.

This rule is amended to include the regional arts councils and their applicants as part of the Board's constituency to ensure that through the Board's regional decentralization of grants and other forms of assistance, that applicants at any level, state or regional, receive fair and equitable treatment.

The word "sponsoring" has been deleted to conform to the terminology of the Board. The use of this word in this context throughout the current rules is confusing to the applicants.

MCAR 5.003 B.

This rule is necessary to clarify the relationship of the regional arts councils to the Board and to specify the standards and eligibility requirements the regional arts councils must use in receiving and reviewing requests for assistance.

In attempting to clarify the relationship of the Board to the regional arts councils in conformity with our statute we concluded that the simplest, most accountable, and only legal, relationship can be on the basis of a grant. This grant is made for the purpose of providing re-grants and services toward the particular goal of local arts development.

MCAR 5.004 B, K, L.

These definitions are necessary as these are the basis for the delineation of the authorities and responsibilities of the Board and the regional arts councils and arts task forces in providing assistance to constituents. The Board's regional arts development and decentralization effort has greatly expanded since the current rules were promulgated. These definitions reflect the changes in this area at each phase of development, regional arts task force and regional arts council, and the nature of the relationships of the regional arts councils and

regional arts task forces to the Board and the appropriate regional development commission(s).

It should be noted in definition "L" that regional arts task forces can have an advisory relationship to both the Board and the regional development commission. If the arts task force members are appointed by open nominations process, with arts expertise as a criterion for appointment, the regional development commission can appoint these people, who are then subsequently appointed by the Board. This arrangement pertains only to regions in which there are regional arts task forces (Phase II, of development), regional arts councils have no advisory relationship to the Board in this sense.

MCAR 5.004 E, F, G, J, M.

These definitions are necessary as the basis by which the applicant determines whether or not projects, programs, activities, and services are eligible to receive assistance at the state or local/regional level.

It should be noted in definition "F" that in general, touring and other packaged presentations which are principally audience events, are not considered devices for local arts development. The determining factor is the relationship of the program to local arts development on a functional basis.

MCAR 5.004 I.

This definition is necessary to distinguish the annual announcement of the Board's program services and the information contained therein from the rules. This rule specifies that the program information will only contain those standards and eligibility requirements promulgated in rule form. This differs from the current rules in that standards and eligibility criteria could potentially be different in the "guidelines" from those in rule form. The use of the word "guidelines" has been discontinued altogether; the operating phrase now is "program information". In addition standards, procedures and eligibility requirements can only be introduced in the program information if first promulgated as rules.

MCAR 5.005

Changes in this rule were made for the purpose of simplifying the language in the current rule. The Board has also determined through day to day interaction with its clients that it is not necessary to automatically provide rules and/or program information to everyone making an inquiry about the Board. Other information such as annual reports, or the MSAB newsletter may, in effect, be more useful, depending upon the request. The Board makes an active effort to make the public more aware of all of the documents available regarding the agency and allow the public simply to request the items they want and need.

MCAR 5.006 A-G.

This rule is introduced to expand upon the single eligiblity requirement in Minn. Stat. § 139 which is stated in item A. Because of the limited resources of the Board, and in an effort to clarify its priorities, and, thereby, not create false expectations on the part of clients, it is necessary to limit the field of applicants for grants assistance through the use of eligibility requirements. In all cases it is the responsibility of the applicant to determine his/her eligibility for assistance.

MCAR 5.006 B.

This rule is necessary to inform applicants of their eligiblity for this category of assistance. Because the purpose of local/regional arts development assistance is to foster and develop local arts resources, eligibility has been limited to projects or programs which are for creation or production of art or arts services related only to local/regional arts producing or service organizations.

MCAR 5.006 C. 1-5.

Individual artist assistance is limited in eligibility in the ways specified to reflect the purpose of individual artist grants assistance, which is to assist artists only with those needs related to creative time for professional

development, and the expenses associated with the creation of works of art.

MCAR 5.006 D.

This rule is a specific result of the education policy developed by the Board. This rule ensures that the general public has reasonable access to all Board funded school projects. This rule also addresses the Board's concern that MSAB funds support arts projects and programs which are not strictly curricular.

MCAR 5.006 E. 1-2.

The eligibility for general operating support is limited in the ways specified to ensure that the legislative intent (MSAB 78-79 Biennial Appropriation) of the program is met, which is to assist arts organizations of state-wide or multi-region impact. The eligibility requirements specify how the organization demonstrates its eligibility.

General operating support recipients are further restricted in their eligibility for project grants to ensure that such grants assistance is distributed equitably and broadly to as many other qualifying applicants as possible.

MCAR 5.006 F.

This rule clarifies the purpose of the regional arts council's eligibility for Board funds. It is not intended to limit any regional arts council from conducting other activities with other funding sources, however. One corollary result of this rule, however, is that regional arts councils will be unable to serve as fiscal agents for non-profit, but non-exempt, applicants to the Board. However, although this may pose an inconvenience initially for some applicants, a large number of potential non-profit, tax-exempt organizations exist within any community which can serve this function. Most importantly this rule clarifies the regional arts council's role in relationship to its local/regional arts development purposes. It also prevents the possibility that a regional arts council might show favoritism to those organizations for which it is serving as fiscal agent, to the disadvantage of others.

MCAR 5.006 G. 1-2.

This rule is necessary in order to provide the Board with a certain flexibility to expand existing, or develop new categories of assistance in response to constituent demand. The duration of such categories has purposely been limited in order that the applicant can be assured that the Board is not arbitrarily continuing a category of assistance with standards not in rule form.

MCAR 5.007 A-T.

This rule has been amended to include procedures for applying for all forms of Board assistance. This better describes, in rule form, the full range of Board activities. This rule also includes a number of definitions which in the previous rules were contained under the definitions rule, MCAR 5.004. These rules have been deleted from this section and placed here because they directly apply to grant, loan procedures, as opposed to all of the rules in general.

MCAR 5.007 A. 1.

"Minnesota resident" has been added here to clarify which individuals the Board will assist. "Other forms of assistance" has been deleted because it is not necessary for a Board client to complete a formal application in order to receive technical assistance.

MCAR 5.007 A. 2.

This rule is amended to more accurately reflect the legal status of an authorizing official of an organization, and distinquish organizational authorizing officials from individual artists.

MCAR 5.007 A. 3.

This definition is necessary in order to clarify the authority and responsibilities of a fiscal agent in relationship to the Board and the organization carrying out the project.

MCAR 5.007 A. 4.

This definition is required in order to distinquish a Board grant from a loan.

MCAR 5.007 A. 5-11.

These definitions have been amended to accurately reflect the nature of the grant application form and contract. Amended language is also clearer and more readable.

MCAR 5.007 B-R.

These rules have been amended in order to make the rules more concise and readable.

MCAR 5.007 E.

This rule is necessary in order that the Board can request examples or representations of an artist's work for review of his/her grant application. The Board and its advisory committees have determined that this is the only way to review an individual artist application and apply the standard of merit or quality or an artist's work.

MCAR 5.007 J.

This rule is necessary to ensure that the Board's advisory committees make recommendations which have a direct relationship to review standards, and do not direct the applicant, through their action, to violate the intent of his/her project or program.

MCAR 5.007 L.

This change, which in essence permits the staff to make all types of qualitative statements on applications, at the request of the Board, is made in response to the request of the Board for this opportunity. It was originally intended that staff not participate in this type of discussion, but practical conditions have made this limitation unrealistic. The Board, in exercising its final decision-making

authority, may or may not give weight to the information and opinions conveyed by staff.

MCAR 5.007 S. 1-10.

These rules pertain to the Board's regional effort. Although this developmental and decentralization effort is a relatively new Board initiative. those clients most affected by it have requested that the Board begin to promulgate rules regarding regional arts development.

MCAR 5.007 S. 1.

These items specify how and in what manner a regional arts council or regional arts task force applies for a block grant from the Board.

MCAR 5.007 S. 2. b.

The needs assessment is for the principal purpose of determining needs for new and/or continued program services offered by a regional arts council. This is a change from previous use of this device as a tool for developing a regional arts council's grant-making priorities. This is a result of observations that it is difficult to quantify in a needs assessment the relative grants demand or type. It also reflects the fact that goal-oriented, categorical grant programs are not necessarily the most effective means towards the goal of local arts development.

MCAR 5.007 S. 2. F.

The requirements for appointment of regional advisory committees, their rotation and appointment process are separate from direct reference to Board appointment processes and specific rotation requirements, although the concept of an open nominations process, and the use of arts interested and/or experienced people is the same.

MCAR 5.007 S. 2. g.

To eliminate the possible misunderstanding that the Board would exercise

control over non-Board funded activities of a regional arts council, the block grant application would only require a general description of those other activities, for purposes of providing an overview of the regional arts council's total operation. This would form the context for the Board's review of the specifics of the plan, which would refer to the block grant distribution and/or program services expenditures.

MCAR 5.007 S. 2. h.

This rule expresses the Board's requirement regarding the expertise necessary to make decisions on re-granting. Without being specific about internal relationships in regional development commissions, it leaves little room for ambiguity about the desired decision-making process.

MCAR 5.007 S. 3-7.

These rules simply outline the review process of regional block grant applications. This process is similar to the review processes used in reviewing other grant applications.

MCAR 5.007 S. 8.

This assures that there will be only one Regional Arts Council, which receives a block grant from the Board, serving any region.

MCAR 5.007 S. 10. a-b.

This rule provides a reporting requirement for the regional arts council to the Board. This rule recognizes that this report should deal only with Board-funded activities specifically, as opposed to detailed reporting on the regional arts council's entire activities.

MCAR 5.007 T.

This rule formalizes any appeal to the Board and states the grounds under which the appeal can be conducted. This rule recognizes the possibility that not all applicant concerns or complaints may be resolved to the applicant's satisfaction at either the advisory committee, staff or Board level.

MCAR 5.008 A. 1-2 B- G.

This rule was created in response to client concerns that the standards in current rules are not always generally applicable in each category of assistance. This rule illustrates the specific differences in standards and the application of these standards in each category of assistance.

MCAR 5.008 B. 1-6.

This rule is necessary because review standards for the category of general operating support have not yet been promulgated in the current rules. This rule not only indicates the standards for review, but also how an applicant in this category demonstrates that the standards are met.

In addition this category of assistance poses particular problems, which are addressed in the standards, in that the applicant is not applying for a specific, time-limited, goal-oriented, project, but rather for the overall, general operation of an organization. As a consequence the review of these applications necessitates a more specific set of standards, in order to ensure a fair review of an application, than those standards previously cited for project application review, provide.

MCAR 5.008 C.

The Board has determined that the most equitable means to provide assistance, other than grants and loans, is to respond to each request for staff/Board help, i.e. consultant services, workshops, etc., on a case-by-case basis.

MCAR 5.008 D. 1-6.

Because of the nature of the application submitted by a regional arts council or arts task force for a block grant, separate review standards are necessary. These standards correspond closely to each element of the annual plan which is outlined in the previous rule. These standards are analogous to the other standards cited in A. of this rule for organizational project application review, however these standards are related to effective and qualitative planning

processes in the arts, as opposed to effective or qualitative arts projects.

MCAR 5.008 E. 1-4.

These restrictions express the priorities the Board has established through its work and contact with clients. These restrictions recognize the limit to the Board's resources in response to the demand for them. However, item 1 reflects a strong feeling on the part of the Board, in terms of policy, that requiring artists to place themselves in a speculative position in which they must not only pay to show their own work, but also subsidize the work of others, is discriminatory.

MCAR 5.008 F-G.

These rules permit the Board to grant funds, or give priority to grants assistance categories in response to client demand.

MCAR 5.009 A.-C., J.

These rules were amended to more accurately reflect the responsibilities of the grantee than the current rules provide. The rules were also rewritten for readability and to simplify grantee responsibilities.

MCAR 5.009 D.

This rule is necessary in order to ensure that the Board and its grantees which receive Federal funds are in compliance with Federal rules and regulations.

MCAR 5.009 F-I.

These rules specify the conditions under which the Board or a grantee can terminate a grant contract. These rules are necessary in that instances do occur in which the grantee cannot, or will not, execute a project under the terms of a grant contract. Although these instances are comparatively rare, these rules do clarify, before such an occurrence, the Board's actions and the relationship of the Board to the grantee.

MCAR 5.009 K.

A provision for re-allocation of unexpended funds must be incorporated as an element of the Board's accountability for public funds. Note that the language indicates "may" rather than "shall", permitting response to individual circumstances which may suggest that a re-allocation should not be made. Block grants, however, will be granted for specific purposes for the period of one fiscal year. Should one or more of those purposes i.e., re-granting, not be carried out at the magnitude originally anticipated, the Board has the authority to recall the funds and re-allocate them in areas which have greater demand or priority.

MCAR 5.010 A.

This rule has been amended to reflect the change in Board advisory committee structure. This rule also reflects the increased responsibilities of the advisory committees in the area of policy development. The word "shall" has been changed to "may" to conform with the Board's statute (Minn. Stat. § 139) there is no intent on the part of the Board to discontinue the use of this advisory structure.

MCAR 5.010 B.-H.

The changes in these rules reflect the changes in the advisory committees in a number of ways:

C. Reflects a broadening of the types of members sought for the advisory committees, and the special expertise sought for members of the regional arts development panel. The original item was deleted, as this committee is now called the general operating support (subsidy) committee, and its ongoing existence incorporated into item A.

F. This item reflects the need for specific geographic representation on this advisory committee, due to the nature of the applications reviewed by this group. This is not as great a consideration in the other Board advisory committees.

H. The Board also has a mechanism to ensure that there are always a full complement of advisory committee members. This is necessary because of the work required of the advisory committees. It is the intent of the Board that the nominations received for the advisory committee positions through the open nominations process which are not used to fill open positions will remain in an active status for one fiscal year, thus providing a pool of applicants from which the Board can select an interim replacement for any open advisory committee positions which are the result of member resignations.

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Sandy Hale, do hereby certify that I am secretary of the Board of the Arts, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of the Arts duly and properly called and held on the 17th day of May 1978, (that a quorum was present at said meeting;)(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 Stephen Sell, Executive Director of the Board of the Arts, be and he hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Board of the Arts governing the receiving and reviewing of requests for and distribution of grants, loans and other forms of assistance, as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as presiding officer at all hearings.

RESOLVED, that the actions taken by Stephen Sell prior to the date of this resolution to commence the rule making process are hereby ratified and approved."

IN WITNESS WHEREOF, I have hereunto subscribed my name this

_____ day of _____, 1978.

Sandy Hale

SECRETARY

Thomas W. O'Brien - Vice-Chairman

ATTEST BY ONE OTHER OFFICER

STATE OF MINNESOTA

MINNESOTA STATE ARTS BOARD (MSAB)

IN THE MATTER OF THE PROPOSED AMENDMENT )
OF RULES OF THE MINNESOTA STATE ARTS BOARD)
GOVERNING THE RECEIVING AND REVIEWING OF ) STATEMENT OF
REQUESTS FOR AND DISTRIBUTION OF GRANTS, ) EVIDENCE
LOANS AND OTHER FORMS OF ASSISTANCE. )

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104 and in support thereof the Minnesota State Arts Board will introduce the following evidence:

1) Oral statements by employees of the Minnesota State Arts Board and the chairperson of the Minnesota State Arts Board and constituents justifying the need and reasonableness of the Rules and;

2) Any written materials relating to the Rules which the Minnesota State Arts Board receives prior to the hearing.

We presently intend to introduce at least the following documentary evidence:

1) Current program information (FY 79);

2) Official application forms;

3) Copy of Notice of Intent to Solicit Outside Opinion, published in the State Register, January 9, 1978;

4) Special Edition of the Minnesota State Arts Board newsletter, The Arts Board, with the first draft of proposed rules for public input and comment;

5) Summary of public response to draft rules and changes made by the Minnesota State Arts Board in response to the public opinion received;

6) All documents required by the Rules of the Office of Hearing Examiners.

5/24/78
(Date)

Bd's Exhibit No. M

File No.

Date

Stephen Sell

Stephen Sell

(Signature and name of official preparing statement)

STATE OF MINNESOTA

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULES OF THE MINNESOTA STATE ARTS BOARD GOVERNING THE RECEIVING AND REVIEWING OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS AND OTHER FORMS OF ASSISTANCE.

CERTIFICATE OF DELIVERY SECRETARY OF STATE LIST

I hereby certify that the attached 483 labels, 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 3:45 o'clock P M., this 11th day of May, 19 78, have requested pursuant to M.S. 19 76, 15.0421, 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 matter captioned above.

SECRETARY OF STATE

Joan Anderson Growe

BY Cheri L. Mattson

Bd's Exhibit No. IK

File No.

Date

STATE OF MINNESOTA

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULES OF THE MINNESOTA STATE ARTS BOARD GOVERNING THE RECEIVING AND REVIEWING OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS AND OTHER FORMS OF ASSISTANCE.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Mary M Sullivan, being duly sworn on oath deposes and says:

1) That she is an employee of the Minnesota State Arts Board Agency of the State of Minnesota.

2) That on the 11th day of May, 1978, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups of persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulagtion of rules pursuant to M.S. 15.0412.

3) That on the 11th day of May, 1978, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by references.

Further affiant sayeth not.

JEANNE McGREE
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires Oct. 24, 1984.

Mary Catherine Sullivan

Subscribed and sworn to before me this 11th day of May, 1978.

Notary Public, Jeanne McGree

Dakota County, Minnesota

My Commission expires 10-24-84.

Bd's Exhibit No. J
File No.
Date

(NOTE: To save duplicating, this form should be attached to the Secretary of State's list which in turn is attached to the affidavit of mailing).

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

Ms. Mary Sulerud
State Arts Board
314 Clifton Avenue
Minneapolis, MN 55403

Re: Rules of the State Arts Board
SAB-78-001-PE

Dear Ms. Sulerud

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 Chief Hearing Examiner, pursuant to Minn. Stat. § 15.052, Subd. 3.

Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

SAB-78-001-PE

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE STATE ARTS BOARD

IN THE MATTER OF THE PROPOSED )
AMENDMENT OF RULES OF THE )
MINNESOTA STATE ARTS BOARD )
GOVERNING THE RECEIVING AND )
REVIEWING OF REQUESTS FOR AND )
DISTRIBUTION OF GRANTS, LOANS )
AND OTHER FORMS OF ASSISTANCE.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, hearings were held on June 23 and 26, 1978, 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 State Arts Board on August 2, 1978; and

WHEREAS, the State Arts Board has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the State Arts Board has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearings and that the State Arts Board has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

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

Dated this 11th day
of September, 1978.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of the Minnesota ~~Division~~ State Arts ~~Governing~~ Board Governing the Receiving and Reviewing of Requests For and Distribution of Grants, Loans and Other Forms of Assistance

---

I hereby certify that the attached 483 labels, 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:00 o'clock A .M, this 22nd day of Dec, 19 78, have requested pursuant to M.S. 19 76, 15.0421, 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.

Secretary of State
Joan Anderson Growe

By Cheri L. Matteson

---

BL's [illegible] No. N
File No.

orland, Jim, Chimera Theatre, 30 E 10th Street, St Paul 55101

ADDITIONAL NAMES FOR THE GENERAL LIST

Warren A., Skelgas, P.O. Box 1650, Tulsa, OK 74102
Myron D., Route 2 Box 99, Sacred Heart, MN 56285
Ruth, P.O. Box 248, Bemidji 56601
Howard I., Lindstrom, MN 55045

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
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CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

ALLIN M KARLS
2333 UNIV AVE SE
MPLS MN
55414

ALLENDORF MARSHALL
220 GRAIN EX 400 S 4TH
MPLS MN
55415

AM INST PROF GEOLOGISTS
2201 PRINCETON AVE
ST PAUL MN
55105

ANCHOR BLOCK COMPANY
PO BOX 3360
ST PAUL MN
55165

ANDERSON JAMES
7703 NORMANDALE RD
MPLS MN
55435

ANDERSON MARY
4425 RUTLEDGE AVE
EDINA MN
55436

ANTI-TRUST DIV.ATTY GEN.
160 STATE OFF BLDG
ST PAUL MN
55155

ARNOLD ROBERT MESPA
41 SHERBURNE
ST PAUL MN
55103

ARROWHEAD REGIONAL DEV COMM
200 ARROWHEAD PLACE
DULUTH MN
55802

ASMUSSEN,DENNIS,MPIRG
3036 UNIV AVE SE
MPLS MN
55414

ASSN RESIDENCES FOR RETARDED
459 RICE SUITE 301
ST PAUL MN
55103

BARATTO DIVINE M
1192 BUSH ST
ST PAUL MN
55106

BARRETT FRED
ST LOUIS CO COURT HOUSE
DULUTH MN

BEGALKA D REV
212 N ELK ST
BELLE PLAINE MN
56011

BEMIDJI STATE COLLEGE
PLACEMENT BUR.J.C.BRADY
BEMIDJI MN
56601

BERGSETH THOMAS
1011 NICOLLET MALL
MPLS MN
55403

BEST FLANAGAN ET AL
4040 IDS CENTER
MPLS MN
55402

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

AHULA DEBRA
616 LINCOLN AVE APT 307
ST PAUL MN
55102

ALBERT,AA CALDER CORP
366 JACKSON ST
ST PAUL MN
55101

ALLERS JOHN
1501 W 80TH ST SUITE210
BLOOMINGTON MN
55431

AMER CAMPING ASSN
3639-21/2 ST N.E.
MPLS MN
55418

ANDERSON HERBERT
418 8TH ST. SO.
VIRGINIA MN
55792

ANDERSON HAROLD
BOX 3047
MANKATO MN
56001

ANDERSON STANFORD P
14600 MINNETONKA BLVD
MINNETONKA MN
55343

ANTHONY DICK WDSM RADIO
230 E SUPR ST
DULUTH MN
55102

ARROWHEAD ECONOMIC OP AGENCY
CO S BRUSTON BOX 1066
VIRGINIA MN
55792

ARROWHEAD REG. DEV COMM.
211 W 2ND ST
DULUTH MN
55802

ASSOCIATED GEN CONTROF MN
48 E 8TH STREET
ST PAUL MN
55101

ASSN OF MINN COUNTIES
55 SHERBURNE AVE #203
ST PAUL MN
55103

BABCOCK LOCHER NELSON ET AL
118 E MAIN ST
ANOKA MN
55303

BADALICH JOHN P
2025 THOMPSON AVE
SO ST PAUL MN
55075

BARTHOLOW HAROLD E FIRE CHF
2600 109 AVE N W
COON RAPIDS MN
55433

BECK PAT
953 HYACINTH AVE
ST PAUL MN
55106

BENDA GEORGE
RURAL ROUTE 1
ALPHS MN
56111

BERGERUD ALF
300 ROANOKE BLDG
MPLS MN
55402

BEUTEL ROBERT
2200 SILVER LAKE RD
NEW BRIGHTON MN
55112

BINGHAM KE CRIM JUSTICE C
351CITY HALL ANNEX
ST PAUL MN
55102

BLADIN PAPER CO W J LICKE
115 1ST ST S
GRAND RAPIDS MN
55744

BLOMQUIST BARRY L
NORTH BRANCH MN
55056

BREHL JAMES W
332 HAMM BLDG
ST PAUL MN
55102

BRICK PHILIP D
807 SELLWOOD BLDG
DULUTH MN
55802

BROOKS WILLIAM F JR
854 MIDLAND BK BLDG
MPLS MN
55401

BROWN D M GOODRIDGE PUB SCH
IND DIST #561
GOODRIDGE MN
56725

BRUNING C.R.DEPT.CLINIC.EXP.
BURTON HALL
MPLS. MN
55455

BUSCH NOEL
SUITE 705 510 MARQUETTE
MPLS MN
55402

BUR.ENGR.IND.DIV. MR.KIBIGER
219 N. 2ND ST.
MPLS. MN

BUR NATL AFFAIRS INC
1231 25TH ST NW
WASHINGTON DC
20037

CAIN RUTH
730 E 38TH ST
MPLS MN
55407

CAIRNS JOHN A
47TH FLR IDS CENTER
MPLS MN
55402

CARRISON DALE K
MANKATO STATE COLLEGE
MANKATO MN
56001

CHAMBER OF COMMERCE
30 SO 1ST AVE EAST
ELY MN
55731

CHILDS J L
4012 LYNN AVE S
MPLS MN
55416

CHRISTIAN SCI COMM ON PUB
1821 UNIV AVE SUITE 271
ST PAUL MN
55104

CITY CLERK
386 CITY HALL
ST PAUL MN
55102

CITIZENS LEAGUE
530 SYNDICATE BLDG
MPLS MN
55402

CLAUSEN PHILLIP
2307 STANDISH ST
ST PAUL MN
55108

CLAWSON CONNIE
HELP CT 317-17TH AV SE
MPLS MN

COLLIN LAURENCE
RT 2
ISANTI MN
55040

COMMUNITY DESIGN CENTER
118 E 26TH ST
MPLS MN
55404

COUNTY ATTYS COUNCIL
40 NO MILTON ST STE 106
ST PAUL MN
55104

CRAVEN NORMAN
10637 THOMAS AVE S
BLOOMINGTON MN
55431

...MINGTON CITY CLERK
...15 W OLD SHAKOPEE R...
BLOOMINGTON MN
55431

BOWMAN & BRUNS ATTN P MAS
1616 PIONEER BLDG
ST PAUL MN
55101

BRIGGS & MORGAN - B F FRIEL
2200 W 1ST NATL BK BLDG
ST PAUL MN
55101

BROEKER JOHN
2850METRO DR. SUITE 504
BLOOMINGTON MN
55420

BROWN H D
4961 KINGSBERRY LANE
MINNETONKA MN
55343

BRUBACHER RICHARD COMM AD
208 ADM BLDG
ST PAUL MN
55101

BUCHHOLTZ CHARLES
5044 BRENT AVE E
INV GRV HTS MN
55075

BURGER ALBERT
600 DEGREE OF HONOR BLD
ST PAUL MN
55101

CABLE COMM SYST-H SARRAZI
BOX 777
HECTOR MN
55342

CARLSON CARL L
7516 80TH ST S
COTTAGE GROVE MN
55016

CARLSON VERNE E
BOX 755 CITY HALL
WILLMAR MN
56201

CHAVARRIA ADAM
1325 W 25 1/2 ST APT 206
MPLS MN
55405

CHERCHES CHRIS CITY MGR
5005 MTKA BLVD
ST LOUIS PARK MN
55416

CHRISTIANSEN FREDRIK
RM 505 CAPITOL SQ BLDG
ST PAUL MN
55155

CHRYSALIS CENTER FOR WOME
2104 STEVENS AVE S
MPLS MN
55404

CITY OF ROBBINSDALE
C LARSON 4221 LAKE RD
ROBBINSDALE MN
55422

CLARKSON J.B.
2350 I.D.S. CENTER
MINNEAPOLIS MN
55402

COLEMAN NICHOLAS
208 STATE CAPITOL
ST PAUL MN
55155

COLHAPP TED
1294 VALLEY VIEW ROAD
CHASKA MN
55318

CONCORDIA COLLEGE
DEAN
MOORHEAD MN
56560

CONSUMER SERVICES DEPT CO
5TH FLR METRO SQ BLDG
ST PAUL MN
55101

CROW WING CO PLANNING & ADV
COURT HOUSE
BRAINERD MN
56401

CUSHMAN J S DAYTON HUDSON
700 NICOLLET MALL
MPLS MN
55402

DAHLKE LOIS M
118[illegible] EAGLE ST
BE[illegible] PLAINE MN
56011

DANIELSON RODNEY L
418 AUDITORIUM
ST PAUL MN
55102

DAYTON CHAS SIERRA CLUB
800 MIDLAND BANK BLDG
MPLS MN
55401

DIEHL JOHN
26 KENWOOD PKWY
ST PAUL MN
55105

DISPATCH PIONEER PRESS
PRESS RM STATE CAPITOL
ST PAUL MN
55101

DOW CHEMICAL
47 BLDG
MIDLAND MI
48640

DUNN OLIVER PLUMBERS LOC 15
708 SO 10TH ST
MPLS MN
55404

E CENTRAL REG. DEV. COMM
COURTHOUSE 18 N VINE ST
MORA MN
55051

EICHTEN DANIEL
3794 HAZEL
WHITE BEAR LK MN
55110

ELDER DR JAMES B
11140 WASHBURN AVE SO
BLOOMINGTON MN
55431

EMERICK RICHARD A
1908 IDS CENTER
MPLS MN
55402

ENNIS A F BOISE CASCADE
PO BOX 713
INTL FALLS MN
56649

ERNEST K LEHMANN & ASSOC.
1409 WILLOW ST.
MPLS MN
55403

ESSE KENNETH
4801 W 50TH ST
EDINA MN
55424

EWING MRS WM
42 ASTAR RD
BABBITT MN
55706

FARRELL FRANK BUR NOR
RM 1180 176 E 5TH ST
ST PAUL MN
55101

FARSETH PAUL FOOD STAMPS PRO
WELFARE DEPT 690 N ROBT
ST PAUL MN

FINLEY JAMES F
920 MINN BLDG
ST PAUL MN
55101

FINNEGAN J.R.
55 E. 4TH
ST. PAUL MN
55101

FLEMING FREDERICK A
1860 HIGHLAND PARKWAY
ST PAUL MN
55116

FLADLAND CLINT MN L&P BUR
795 RAYMOND AVE
ST PAUL MN
55114

THOMAS ECONOMICS LAB
WABASHA ST
PAUL MN
5102

DANKERS, KENNETH
1200 WEST FOURTH STREET
RED WING MN
55066

DEVELOP DISABILITIES PROGRAM
STATE PLAN 101 CAP SQ
ST PAUL MN
55155

DICKINSON MRS JOANNE
BOX 1065
MARSHALL MN
56258

DORSEY MARQUART
2400 1ST NATL BANK BLDG
MPLS MN
55402

DOUGLAS BELL ET AL
2212 AM. NATL BK BLDG
ST PAUL MN
55102

DUPONT MIKE
5720 EXCELSIOR BLVD
MPLS MN
55416

DZUGAN KEN ST PAUL PLANNI
421 WABASHA ST
ST PAUL MN
55102

EBELING EDWARD H.
161 W. MAIN
PERHAM MN
56573

ECKLUND WM EELLHABER-LARS
W 1080 1ST NATL BANK
ST PAUL MN
55101

ELDRED R W ARMOUR & CO
UNION STOCK YARDS
SO ST PAUL MN
55075

ELMER EDWIN W
2901 PLEASANT AVE
MPLS MN
55408

ENV SERV-GEN RESOURCE CORP
6340 INDUSTRIAL DR
HOPKINS MN
55343

ERDMAN ROGER TENNANT CO
701 N LILAC DR
MPLS MN
55441

ETHICS COMM
RM 410 STATE OFF BLDG
ST PAUL MN
55155

EVANS CHAS.L. PRENTICE-H
ENGELWOOD CLIFFS
NEW JERSEY

FAEGRE & BENSON ATTN LIBR
1300 NW BANK BLDG
MPLS MN
55402

FARMERS ELEVATOR ASSN
852 GRAIN EXCH BLDG
MPLS MN
55415

FELHABER R S
W 1ST NATL BANK BLDG
ST PAUL MN
55101

FILTER LOREN
BOX 36
BRITT MN
55701

FITZGERALD DR BOB
3007 LYNDALE AVE SO
MPLS MN
55408

FITZPATRICK LEO
8138 HENSLOWE AVE S
COTTAGE GROVE MN
55016

FORBES GORDON MINN RRS ASSN
203 HANOVER 480 CEDAR
ST PAUL MN
55101

FORSBERG AGR SERV
518 SUMMIT AVE
NEW ULM MN
56073

FOX W.E. LINDQUIST & VENNUM
4200 IDSCTR 80 S.8TH ST
MINNEAPOLIS MN
55402

FRANKLIN ROBERT & ASSOC
426 PORTLAND
MPLS MN
55415

FREDRIKSON BYRON ET AL
47TH FLR IDS CENTER M
PLS MN
55402

FRIESEN MILLER A
RAIR BD 624 13TH ST S
VIRIGINIA MN
55792

GALVIN M J JR
W2162 1ST NATL BK BLDG
ST PAUL MN
55101

GARDNER HDW - R A JOHNSON
515 WASHINGTON AVE N
MPLS MN
55401

GIEL DAVID
RM B-28 STATE CAPITOL
ST PAUL MN
55155

GLEESON MICHAEL
909 SOC SC BLDG U OF M
MPLS MN
55455

GOLDBERG PROF MELVIN
WM MITCHELL COL OF LAW
ST PAUL MN
55105

GOODMAN DF TEL CABLE TV
302 E SUPERIOR
DULUTH MN
55802

GREATER MET AREA HOSPITALITY
5152 CEDAR AVE S
MPLS MN
55417

GREEN DEL CITY MGR
BLOOMINGTON CITY HALL
BLOOMINGTON MN
55431

GRUMMERT REV DONALD
1435 ADAMS ST
MPLS MN
55413

GUSTAFSON DAN-LABOR TEMPLE
312 CENTRAL
MPLS MN
55414

H B FULLER CO
2400 KASOTA AVE
ST PAUL MN
55108

HALLBERG LEE & MCCABE
4927 34TH AVE S
MPLS MN
55417

HARRY RICK
RT 1 BOX 138
KETTLE RIVER MN
55757

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

HARTFELDT WILL
434 HAMM BLDG
ST PAUL MN
55102

HAVEN ROBT TWIN TN TREATMENT
1706 UNIV AVE
ST PAUL MN
55104

HEALTH MANPOWER C LARSON
717 DELAWARE ST SE
MPLS MN
55440

HEANEY BILL
30 W SUPERIOR ST
DULUTH MN
55802

HEISENFELT WM
BOX 516
BEMIDJI MN
56601

HELTZER JAMES DAYTON HUDSON
777 NICOLLET MALL
MPLS MN
55402

...NRAD M
...ST NATL BK BLDG
MN

FREDLUND MRS PHYLLIS
RR 4 BOX 37
CANBY MN
56220

FRISON FRANK NECA
RM 305 200 SO ROBERT
ST PAUL MN
55107

GEBERT K L
220 GRAIN EXCH
MPLS MN
55415

GEO A HORMEL & CO LAW DE
PO BOX 800
AUSTIN MN
55912

GLEN. HILLS HOSP.R.VAN HAUER
3901 GOLDEN VALLEY RD.
MPLS. MN
55422

GODIN RALPH J
3824 47TH AVE SO
MPLS MN
55406

GRAHAM THOS H
854 MIDLAND BK BLDG
MPLS MN
55401

GRANATH MARVIN -HONEYWELL
2701 4TH AVE SO
MPLS MN
55408

GREEN GARY J
41 SHERBURNE AVE
ST PAUL MN
55102

GREEN JANET
9773 N SHORE DR
DULUTH MN
55804

GUSTAFSON WALLACE
BOX 567
WILLMAR MN
56201

HANFT PHILIP M
1200 ALWORTH BLDG
DULUTH MN
55802

HAROLD J WESTIN CONSTRUCT
45 E 8TH ST
ST PAUL MN
55101

HAYES, THOMAS W
700 SELLWOOD BLG
DULUTH MN
55812

HART PATRICK V
112 E LIBERTY BOX 3271
MANKATO MN
56001

HEAD & TRUHN
1007 SOO LINE BLDG
MPLS MN
55402

HEADWATERS REG DEV. COMM
BOX 584 MENTAL HEALTH
BEMIDJI MN
56601

HEARING EX.OFF. M GREENBERG
1745 UNIV AVE
ST PAUL MN
55104

HEIM PAUL M
3944 IDS CENTER 80 S 8
MPLS MN
55402

HENDRICKSON A WM
100 FREEMAN DRIVE
ST PETER MN
56082

HENDRICKSON MRS VIRGINIA
3324 COUNTRY WOOD DR
BURNSVILLE MN
55337

STIS ET AL
CENTER
MN

HOPKINS WM.B. DIR.MISCCA
3915 GOLDEN VALLEY ROAD
GOLDEN VALLEY
55422

ULE MELVIN
1 W HWY 96
OREVIEW MN
112

HOUSE APPROPRIATIONS COMM
RM 109 STATE CAPITOL
ST PAUL MN
55101

MAN SERVICES
4 LAFFAYETTE RD 5THFL
PAUL MN
101

HUSEBYE, CRAIG J.
5036 FRANCE S.
EDINA MN
55410

IMAGE
BOX 3215
ST PAUL MN
55165

GVALSON VERN MN.FARM BU
976 WOODDALE BOX 43370
PAUL MN
164

INS FED OF MINN
902 SOO LINE BLDG
MPLS MN
55402

ZAAK WALTON MN DIV
11 E FRANKLIN RM-210
PLS MN
404

ENSEN ARTHUR,CITY CLK
215 W OLD SHAKOPEE RD
LOOMINGTON MN
431

JENSEN CARL A
127 E MAIN ST
SLEEPY EYE MN
56085

OHNSON & SANDERSON
T MARYS HOSPITAL
OCHESTER MN
901

JOHNSON CLARENCE IBEW LU
3615 37TH AVE S
MPLS MN
55406

OHNSON M.D. FRUNDT & FRUNDT
LUE EARTH MN
6013

JOHNSON LANCE J
265 S LAFAYETTE RD
ST PAUL MN
55107

ABLE RICHARD W
ETHEL MN
5006

KAVANEY RICHARD
1220 NORTHERN FED BLDG
ST PAUL MN
55102

JERVIK DIANE
302 POWEL HALL U OF M
PLS MN

KLOSTER MARION PEAVEY CO
730 2ND AVE S
MPLS MN
55402

NUTSON DR KEITH,BIOLOGY DPT
ST CLOUD STATE
T CLOUD MN
6301

KNUTSON R N GRANNIS ETAL
F J SCHULT BLDG
ST ST PAUL MN
55075

HINRICHSEN PATRICK
MANKATO FREE PRESS
MANKATO MN
56001

HOLEY GEORGE
1509 SW SIXTH STREET
FARIBAU MN
55021

HORNER WALDORF - KAZIUKEWICZ
PO BOX 3260
ST PAUL MN
55165

HOLT JOHN
517 4TH ST NW
FARIBOALT MN
55021

HULSTRAND ANDERSON & LARSON
PO BOX 130
WILLMAR MN
56201

HUMAN RIGHTS
200 CAPITOL SQ BLDG
ST PAUL MN
55101

HUTCHISON R.M. ANOKA CO.COMP
COURT HOUSE
ANOKA MN
55303

HYLAND DEAN
1501 W 50TH ST
MPLS MN
55419

IMS PAUL

ECHO MN

INGEBRIGTSEN DR K H
23 SE 4TH ST
MPLS MN
55414

INTERSTATE POWER RW STEELE
1000 MAIN ST
DUBUQUE IA
52001

IVERSON DR JOS DEPT ED
ST OLAF COLLEGE
NORTHFIELD MN
55057

JAIN NIRMAL ENIV PROCESS
1220 GLENWOOD AVE
MPLS MN
55405

JENOS INC
525 LAKE AVE SO
DULUTH MN
55801

JENSEN MRS GAYNOLD
111 WEST 107TH ST
MPLS MN
55420

JOHANSEN BUS SERV INC
19 DAYTON RD
CHAMPLIN MN
55316

JOHNSON G ROBERT
4344 IDS CENTER
MPLS MN
55402

JOHNSON LEROY
9939 BLUEBIRD ST NW
COON RAPIDS MN
55433

JONES C NORTHSIDE RES REDEV
1800 OLSON MEMORIAL HWY
MPLS MN
55411

KEABLE MIKE
909 6TH AVE N
ST CLOUD MN
56301

KEENAN RICHARD J
4444 IDS BLDG
MPLS MN
55402

KLUZ STEVEN J
1910 1ST NATL BK BLDG
MPLS MN
55402

KNOPP TIMOTHY
COLLEGE FORESTRY U OF M
ST PAUL MN
55108

...ARE ST SE
MN

...UHL CARL
4421 4TH ST NE
COL HEIGHTS MN
55421

LAKE SUPERIOR INDUSTRIAL BUR
828 FIRST AM. BK. BLDG.
DULUTH MN
55802

LARSON C L
3800 MINNEHAHA AVE SO
MPLS MN
55406

LEG.REF.LIB-Z. DEWITT
RM 111 STATE CAPITOL
ST PAUL MN
55155

LIBBEY LEONARD
BOX 17011 NOKOMIS STA
MPLS MN
55417

LUTH SOC SERVICE OF MN
2414 PARK AVE
MPLS MN
55404

MADSON HUGH
AETNA 212 S 6TH ST
MPLS MN
55402

MANKATO STAT STUDENT SENATE
CENTENNIAL STUDENT UN
MANKATO MN
56001

MASTOR & MATTSON LTD
315 PEAVEY BLDG
MPLS MN
55402

MCDONALD PHILIP M
2077 SELBY AVE
ST PAUL MN
55104

MET. WASTE CONTOL COMM.
350 METRO SQ BLG
ST PAUL MN
55101

KROEGER CHARLES
122 NW 7TH STREET
FARIBAULT MN
55021

KVB ENGINEERING INC
600 S CO RD 18
MPLS MN
55426

LANAHAN E F - SIBLEY CO
184 E 6TH ST
ST PAUL MN
55101

LARSON HANS P DIV HOSP SE
717 DELAWARE ST SE
MPLS MN
55440

LEVEY JESS MET STATE UNIV
METRO SQ RM 121
ST PAUL MN
55101

LINDALL & JONATHAN DEVELO
VILLAGE ONE CENTER
CHASKA MN
55318

LYNCH DONALD SIBLEY CO
184 E 6TH ST
ST PAUL MN
55102

MAHCF RICK CARTER
2850 METRO DR SUITE 431
BLOOMINGTON MN
55420

MANKATO STATE STUDENT AS
BOX 58 MANKATO COLLEGE
MANKATO MN
56001

MAUL WARREN E
320 S 4TH ST
MPLS MN
55415

MCFADDEN G H DISPATCH-PR
55 E 4TH ST
ST PAUL MN
55101

METEROTTO, JOAN
1794 SO LEXINGTON
ST PAUL MN
55118

ER MR & MRS ERWIN A
568 DULUTH ST
ST PAUL
55108

KOPP MRS VERNON
2050 65TH ST E
INVER GROVE HGHT MN
55075

KRONLOKKEN J E
10048 NORD RD
BLOOMINGTON MN
55437

KROON H CLIFTON
210 E WALNUT
MANKATO MN
56001

LABELLE JUANITA MRS
5816 AQUILA AVE NO
NEW HOPE MN
55428

LANGVIN DAVID
7500 80TH ST S
COTTAGE GROVE MN
55016

LAPP LAZAR LAURIE ET AL
1200 BUILDERS EXCHANGE
MINNEAPOLIS MN
55402

LEAGUE MN MUNIC
300 HANOVER 480 CEDAR
ST PAUL MN
55101

LEAGUE WOMEN VOTERS OF MINN
555 WABASHA
ST PAUL MN
55102

LEAVEY THOS
829 22ND AVE SE
MPLS MN
55414

LEWIS DR.G.M JR.
ABBOTT 110 E 18TH ST
MPLS MN
55403

LOCKNER GARY
R-R 1 BOX 23
BAUDETTE MN
56623

LOWE DOUG
2701 N LEXINGTON AVE
ROSEVILLE MN
55113

MALECKI JAMES
1 SO STATE ST
NEW ULM MN
56073

MALONE E I COMM LABOR & INDU
444 LAFAYETTE RD 5TH FL
ST PAUL MN
55101

MANTHEY T J PICKANDS MATHER
1100 SUPERIOR AVE
CLEVELAND OH
44114

MAYO FOUNDATION G ORWOLL
200 FIRST AVE NW
ROCHESTER MN
55901

MCCLURG EUNICE
1061 109TH AVE NE
BLAINE MN
55434

MCKIBBON MRS SHIRLEY
11 EVERGREEN LN
BABBITT MN
55706

MCNEILLY GREG MNDSVIEW ED AS
41 SHERBURNE AVE
ST PAUL MN
55103

TFR MEN ASSN A ROSENTHAL
1821 UNIV AVE
ST PAUL MN
55104

MILLER M ADMIN AGENCIES DIV
G19K STATE ADM BLDG
ST PAUL MN
55155

MINN APT ASSN
GRIGGS-MIDWAY BLDG
ST PAUL MN
55104

MINN. ASSN. PET RETAILERS
1115 2ND AVE. SO.
MINNEAPOLIS MN
55403

MINN COMM FOR HANDICAPPED
METRO SQ 492 7TH & ROBT
ST PAUL MN
55101

MINN FOOD RETAILERS ASSN
555 WABASHA
ST PAUL MN
55101

MINN HWYS MANAGEMENT SERVICE
407 HWY BLDG
ST PAUL MN
55101

MINN PETROLEUM COUNCIL
1020 NORTHERN FED BLDG
ST PAUL MN
55102

MINN RESTAURANT ASSN
2001 UNIVERSITY AVE.
ST PAUL MN
55104

MINN STATE BD PHARMACY
717 DELAWARE ST SE #351
MPLS MN
55414

MINN TEAMSTERS CREDIT UNION
2021 HENN AVE E
MPLS MN
55413

MINN WATER RESOURCES BD
RM 206 555 WABASHA ST
ST PAUL MN
55102

METROPOLITAN COUNCIL LIBRARY
300 METRO SQUARE
ST PAUL MN
55155

MILLER PAUL J PHARMACY SERV
ST MARYS HOSP
ROCHESTER MN
55901

MINN ASPHALT PAVEMENT ASSN
555 WABASHA RM 209
ST PAUL MN
55102

MINN ASSN VOL SOC SERVICE
1821 UNIV SUITE 389
ST PAUL MN
55114

MINN COMMUNITY DEVELOP SERV
512 ROSSMOR BLDG
ST PAUL MN
55101

MINN GOV ENG COUNCIL
2400 SHERWOOD HILL RD
MINNETONKA MN
55343

MINN LAND USE COMMITTEE
4344 IDS CENTER
MPLS MN
55402

MINN POLLUTION CONTROL AGCY
1935 W CO RD B2
ROSEVILLE MN
55113

MINN RETAIL FED INS
131 METRO SP
ST PAUL MN
55101

MINN STATE EMP UNION COUNC 6
236 E PLATO BLVD
ST PAUL MN
55107

MINN TBR PRODUCERS ASSN
200 CHRISTIE BLDG
DULUTH MN
55802

MINN-WISC BOUNDARY AREA COMM
600 2ND ST
HUDSON WI
54016

...ITH AVE S
...NGTON MN

...ILLER RICHARD A
1020 PLYMOUTH BLDG
MPLS MN
55402

MINN ASSN COOPERATIVES
55 SHERBURNE AVE
ST PAUL MN
55103

MINN ASSN WATERSHED DIST'S

...DA MN
...6510

MINN DEPT HEALTH J C MCKASY
717 DELAWARE S E
MPLS MN
55440

MINN HEREFORD-LJ SCHAFER

BUFFALO LAKE MN
55314

MINN LP GAS ASSN
7515 WAYZATA BLVD 106
MPLS MN
55426

MINN POULTRY & HATCHERY ASSN
BOX 158
MADELIA MN
56062

MINN RETAIL HARDWARE ASSN
5033 EXCELSIOR BLVD 313
MPLS MN
55416

[illegible]

MINN.TURKEY GROWERS ASSN
383 UNIV AVE
ST PAUL MN
55114

MN AUTOMOBILE DEALERS ASSN
277 UNIV AVE
ST PAUL MN
55103

MIDLAND GLASS-HD SPURLING
PO BOX 69
SHAKOPEE MN
55379

MILLER TOM
2311 PILLSBURY AVE S
MPLS MN
55404

MINN ASSN ELEC COOPERATIV
4901 W 77TH ST
MPLS MN
55435

MINN CHAP ASSOC BLDRS-CON
7204 W 27TH ST
MPLS MN
55426

MINNESOTA FARMERS UNION
1717 UNIVERSITY AVE
ST PAUL MN
55104

MINN. HOTEL & MTR. ASSN
2001 UNIVERSITY AVE
ST PAUL MN

MINN.MTR.TRANSP. .J.N.D
1821 UNIV.
ST.PAUL MN
55104

MN REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MINN STATE BAR ASSN
100 MINN FED BLDG
MPLS MN
55402

[illegible]
MINN STATE RETIREMENT SYS
525 JACKSON ST
ST PAUL MN
55101

MINN VETERANS MED ASSN
2175 W HWY 36
ROSEVILLE MN
55113

MN. ASN.C&IND H.D.PETERSO
480 CEDAR ST.
ST.PAUL MN
55101

...L-CIO L.O. LASHOMB
...5 AURORA
ST PAUL
55103

MN BD OF NURSING
717 DELAWARE ST SE
MPLS MN
55414

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

MN SOC SERV ASS J HOOD
614 PORTLAND
ST PAUL MN
55102

MIXA FRANK LK MNTKA CONS DIS
402 E LAKE ST
WAYZATA MN
55391

MOFFITT R C
RM 301 M MPLS CITYHALL
MPLS MN
55415

MOSS DR JEROME
125 PEIK 159 PILLSBURY
MPLS MN
55455

MOTOR VEHICLE MFRS ASSN
411 MAIN ST (215)
ST PAUL MN
55102

MPLS CITY ATTORNEY
325M CITY HALL
MPLS MN
55415

MPLS STAR PRESS ROOM
STATE CAPITOL
ST PAUL MN
55101

MURPHY DIANA E
4200 IDS-LINDQUIST VENN
MPLS MN
55402

MURPHY PATRICK SSR INC
BOX 986 COURTHOUSE STA
ARLINGTON VA
22216

NASS GEO V HENN CO GEN HOSP
5TH AND PORTLAND AVE
MPLS MN
55415

NATL CAR RENTAL ATT D MITZEL
5501 GREEN VALLEY DR
MPLS MN
55437

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NELSON JOHN
4809 180TH ST N
HUGO MN
55038

NO SUB MONTESSORI-S SADDLER
2487 HELEN COURT
NO ST PAUL MN
55109

NORTH CENTRAL ELEC ASSN
PO BOX 202
BATTLE LAKE MN
56515

NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

NW COUNTRY ELEVATOR ASSN
802 GRAIN EXCH BLDG
MPLS MN
55415

O'BRIEN J.DENNIS
1100 1ST NATL.BANK BLDG
MINNEAPOLIS MN
55402

OLOFSON ARTHUR MBO & MAINC
927 SOO LINE BLDG
MPLS MN
55402

OLSON KATHLEEN
192 SEYMOUR AVE SE
MPLS MN
55414

...ASSN
...OLT SO
MN

MN GRAPHIC DESIGNERS ASSO
PO BOX 24272
MPLS MN
55424

...N ST PHARMACEUTICAL ASSN
...2469 UNIVERSITY AVE
ST PAUL MN
55114

MN STATE SER BLIND-K NATA
1745 UNIVERSITY AVE
ST PAUL MN
55104

...OOD R BLOOMINGTON HLTH DEPT
...10200 PENN SO
...LOOMINGTON MN
...5431

MORTON BUILDINGS INC
R #1
FOLEY MN
56329

...PIRG
...OX 45 ST MARYS COLLEGE
...INONA MN
...5987

MPLS ASSN RETARDED CITIZE
3100 W LAKE ST
MPLS MN
55416

...PLS TRIBUNE CITY DESK
...25 PORTLAND AVE
...PLS MN
...5415

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

...URPHY PATRICK DUFFY
...440 SUMMITT AVE
...T PAUL MN
...5105

...ATL COUNCIL JEWISH WOMEN
...330 CEDAR LK RD
...PLS MN
...5416

NATL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

...EREN MADONNA
...76 NEAL AVE S
...ETON MN
...5001

NEUMAN RALPH W
RT 2 BOX 125
EMBARRASS MN
55732

...URSING HOME ADMRS BD EXAMRS
...M 340 717 DELAWARE SE
...PLS MN
...5414

NURSING HOME RES ADV CO.
111 E FRANKLIN S210
MPLS MN
55404

...K REG. DEV. COMM
...25 WOODLAND AVE
...OCKSTON MN
...5716

NYQUIST DEAN A
3707 53RD PL N
BROOKLYN CTR MN
55429

...CONNELL RAY
...N GAS CO 733 MARQ AVE
...LS MN
...5402

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

...TER TAIL POWER CO.
...5 S. CASCADE ST.
...RGUS FALLS MN
...5537

ARKER SANDY
7480 CHANHASSEN ROAD
EXCELSIOR MN
55331

PATTISON CRVIS
BOX 64
WILLMAR MN
56201

PETERSEN DOUG ESIDE NEIGHBOR
HOOD SERV 1929 2ND STNE
MPLS MN
55418

PFEIFER AND SHULTZ, INC
1433 UTICA AVE S
MPLS MN
55416

PINNETTI NICK M HALEY & ASS.
40 CENTRAL PARK S
NEW YORK NY
10019

POPOVICH PETER S
314 MINN BLDG
ST PAUL MN
55101

PORT AUTH CITY OF ST PAUL
330 MINNESOTA BLDG
ST PAUL MN
55101

POSS DONALD G
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
55430

PROCTOR&GAMBLE L THEOHAROUS
IVORYDALE TECH CENTER
CINCINNATI OH
45217

PULSCHER RBT SPRINGSTED INC
813 OSBORN BLDG
ST PAUL MN
55102

RADMAN RICHARD-LABOR TEMPLE
418 AUDITORIUM
ST PAUL MN
55102

RALPH BURKE ASSOCIATES
5200 W 73RD ST
MPLS MN
55435

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

REARDON MRS HELEN
1125 S E 6TH ST
WILLMAR MN
56201

REGION FIVE REG. DEV. COMM.
102 6TH ST N
STAPLES MN
56479

REGION NINE DEV. COMM.
709 N FRONT ST
MANKATO MN
56001

RENQUIST ARTHUR NSP CO
414 NICOLLET MALL
MPLS MN
55401

RICHARDSON THOS
7851 METRO PKWY S 103
MPLS MN
55420

ROE DAVID
175 AURORA
ST PAUL MN
55103

ROBBIE JOSEPH
904 CARGILL BLDG NO CTR
MPLS MN
55402

ROSS ALFRED
6356 WARE RD
LINO LAKES MN
55014

ROSS ROY J
CLK TREAS
LITCHFIELD MN
55355

SAN SIMEON DEVELOP CORP
OLD 1ST STATE BK BLDG
PAYNESVILLE MN

SANFORD S M
7000 PORTLAND AVE
RICHFIELD MN
55423

LVIN
MN

PAYNE WM B
2400 FIRST NATL BK BLDG
MPLS MN
55402

HAR MFGRS ASSN WM D PATTON
1155 15TH ST NW
ASHINGTON DC DC
20005

PHILLIPS LEGISLATIVE SERV
459 RICE ST
ST PAUL MN
55103

ORTER DAVID
3002 27 AVE S
PLS MN
5406

PORTER LYLE C
TRACY MN
56175

OYZER ROBT
OX 675
ERGUS FALLS MN
6357

PRAUSE JCS.C.
2220 105TH AVE.N.W.
COON RAPIDS MN
55433

AMSEY CO MEDICAL SOC
08 AM NATL BK BLDG
T PAUL MN
5101

RAUENHORSTCORP-RONALD G K
7900 XERXES S S-2200
MPLS MN
55431

EID DAVID H
469 N GRAHAM RD
NDIANAPOLIS IN
6220

RED OWL STORES INC
215 E EXCELSIOR AVE
HOPKINS MN
55343

EINO O LAINE 3M COMPANY
M CENTER
T PAUL MN
5101

RENNER R.H. ST PAUL AREA
300 OSBORN BLDG.
ST PAUL MN
55102

ICHARDS MONTGOMERY ET AL
430 RAND TOWER
PLS MN
5402

RIEKE DAVID
PO BOX 9311
MPLS MN
55440

OBERTS DR ALAN
OX 297 MAYO U OF M
PLS MN
5455

ROBERTS DAVID E
1260 NW NATL BK BLDG
ST PAUL MN
55101

AX DOVE & STENSON
10 ENDICOTT BLDG
T PAUL MN
5101

SE MN REG DEV COMM
301 MARQ BK BLDG
ROCHESTER MN
55901

...ITAL BOX 339
MN

555 CEDAR ST
ST PAUL MN
55101

SCARBOROUGH WILLIAM
DIV.ED. U.M.
MORRIS MN
56267

SCHAEN ETHEL
1745 UNIVERSITY AVE
ST PAUL MN
55104

SCHMIDT H-W TCHRS RETIREMENT
302 CAPITOL SQ BLDG
ST PAUL MN
55101

SCHMIDT LARRY WCCO-TV NEWS
50 S 9TH ST
MPLS MN
55402

SCHUTZ LINDA
RM 328 CAPITOL BLDG
ST PAUL MN
55155

SCHWARTAU NEAL METH HOSP
201 W CENTER ST
ROCHESTER MN
55901

SCHNEIDER & NEESER
706 1ST ST SO PO BX 876
WILLMAR MN
56201

SCHROEDER ALFRED H
2172 CARROLL AVE
ST PAUL MN
55104

SENATE FINANCE COMMITTEE
ROOM 121 STATE CAPITOL
ST PAUL MN
55155

SENATE GOV OP COMM
RM 303 STATE CAPITOL
ST PAUL MN
55155

SIAS JACK W
BOX 4366-1573 SELBY AVE
ST PAUL MN
55104

SILVERMAN JUDITH
8545 W 28TH ST
ST LOUIS PARK MN
55426

SMERIKA WM.
BOISE CASCADE PAPERS
INTL FALLS MN
56649

SMITH MICHAEL
128 PLEASANT STREET SE
MPLS MN
55455

SODERBERG HAROLD J
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

SODERMAN ANTHONY
1414 FOSHAY TOWER
MPLS MN
55402

STATE BD VETERINARY EXAMINER
C/O DR A C SPANNAUS DVM
WACONIA MN

STD AM LIFE & ANNUITY CO
3801 W 50TH ST
MPLS MN
55410

STUPKA & MOREM
MIDTOWN BLDG
AUSTIN MN
55912

SULLIVAN J KIRK
PO BOX 200
BOISE ID
83701

SUSSEL CO.ATTN:TED SCHWENKER
1850 COMO AVE.
ST PAUL MN
55108

SWANSON BURT E
W-2162 1ST NATL BK BLDG
ST PAUL MN
55101

RCADE
UL MN
06

2811 BDWY
SLAYTON MN
56172

SCHLICHT REV ROBT
311 W MAIN ST
BELLE PLAINE MN
56011

SCHMIDT WARREN WELLCOME MH5
GARDEN CITY
MN
56034

SCHNEIDER MAHLON
GREEN GIANT
LESUEUR MN
56058

SCHWERMAN EARL JR
1535 8TH AVE SE
ROCHESTER MN
55901

SCHWINN ROBT.P.
1400 SOO LINE BLDG.
MPLS. MN
55402

SELECTVISION INC FR VALENTIN
1 DAG HAMMARSKJOLD PL
NEW YORK NY
10017

SENATE COUNSEL OFFICE
ROOM 480 STATE OFF BLDG
ST PAUL MN
55055

SHABATURA EUGENE H
2833 LAKE AVE SO
DULUTH MN
55811

SHAW ROBERT M
616 MOBIL OIL BLDG
MPLS MN
55402

SITE ENGINEER INC
12 OLD DEERFIELD RD
WELCH MN
55089

SIX EAST REG. DEV. COMM.
311 W 6TH ST
WILLMAR MN
56201

SNELL LYN
BOX 314
EDEN VALLEY MN
55329

SNYDER, R.W. U OF M
RM 248C CLASS OFF BLDG.
ST PAUL MN
55108

STANSFIELD ARLENE LAND OLKS
PO BOX 116
MPLS MN
55440

STATE & FEDERAL AGENCIES
1101-15TH NW
WASHINGTON DC
20005

STEELWORKERS CREDIT UNION
BOX 250
BABBITT MN
55706

STOLPESTAD BROWN & SMITH
1550 NW BK BLDG
ST PAUL MN
55101

SULLIVAN JEANETTE
CDIC SW STATE UNIV
MARSHALL MN
56258

SUMMIT NATL BANK D L MORR
205 AURORA AVE
ST PAUL MN
55103

SWANSON DALE
P O BOX 339
FOREST LAKE MN
55025

SWANSON MORTIMER C
5824 FRANCE AVE S
EDINA MN
55410

TATE VERN 3M CO
3M CENTER 220/6W
ST PAUL MN
55101

THOMPSON HESSIAN ET AL
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

TIMESAVERS INC ATT R S VOLD
5270 HANSON COURT
MPLS MN
55422

UNION STOCK YARDS
ATTN PRES
SO ST PAUL MN
55075

UTLEY JOHN
4610 IDS CENTER
MPLS MN
55402

VAN EVERA MUNDT ET AL
700 TORREY BLDG
DULUTH MN
55802

VILLAGE OF WOODBURY
2100 RADIO DRIVE
WOODBURY MN
55042

VOSS REV GORDON C
11120 NE 7TH ST
BLAINE MN
55434

WALTERS THOS H
4510 W 77TH ST STE 235
MPLS MN
55435

WALZ SAM CO ADMINISTRATION
ANOKA CTY COURTHOUSE
ANOKA MN
55303

WATERS, DONNA M.
110506 WINDMILL COURT
CHASKA MN
55318

WELK G V NORTHERN STATES
414 NICOLLET MALL
MPLS MN
55401

WHITLOCK A G
ECON LAB OSBORN BLDG
ST PAUL MN
55102

WHITLOCK MARSHALL
RM 3 CAPITOL BLDG
ST PAUL MN
55155

WM.MITCHEL COLLEGE LAW LIB.
2100 SUMMIT AVE.
ST.PAUL MN
55105

WILEY ENTERPRISES
101 5TH AVE SE
OSSEO MN
55369

WIS FEEDER PIG MARKET CO-OP

FRANCIS CREEK WI

WOLKERSTORFER THEODORE
676 17TH AVE NW
NEW BRIGHTON MN
55112

TENNESSEN SEN ROBERT J
RM 309 STATE CAPITOL
ST PAUL MN
55165

THOMPSON CONRAD
1107 23RD ST NW
ROCHESTER MN
55901

TWIN CITIES PIPING IND ASSN
2829 UNIV SE SUITE 304
MPLS MN
55414

VANDERVOORT T J MET WASTE
350 METRO SQUARE BLDG
ST PAUL MN
55101

VERRILL JOHN E
DEPT SECONDARY ED UOF M
DULUTH MN
55812

VIITALA, W.C. HONEYWELL
HONEYWELL PLAZA
MPLS MN
55408

VOS LEROY
2137 BURNS AVE
ST PAUL MN
55119

WAMPLER LINUS DIR USW OF AM
609 PROVIDENCE BLDG
DULUTH MN

WANQUIST ALLEN
RM 252 FEDERAL BLDG
ST PAUL MN
55101

WEST CENTRAL REG. DEV.
ADM BLDG,COMMUNITY COLL
FERGUS FALLS MN
56537

WHITING RALPH
7316 BAILEY ROAD
NEWPORT MN
55055

WILCOX J PATRICK
1220 NORTHERN FED BLDG
ST PAUL MN
55102

WILLETTE MARY
2711 W 47TH STREET
MPLS MN
55410

WILSON R GARY PPG INDUST
1 GATEWAY CENTER
PITTSBURGH PA
15222

WOZNIAK D D
401 FIRST FED BLDG
ST PAUL MN
55101

WYANT CLINTON W ATTY

ATKIN MN
56431

ZIMMERMAN & OFFERMAN
CAMBRIDGE STATE HOSP
CAMBRIDGE MN
55008

STATE OF MINNESOTA

MINNESOTA STATE ARTS BOARD (MSAB)

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULES OF THE MINNESOTA STATE ARTS BOARD GOVERNING THE RECEIVING AND REVIEWING OF REQUESTS FOR AND DISTRIBUTION OF GRANTS, LOANS AND OTHER FORMS OF ASSISTANCE.)

AFFIDAVIT OF MAILING

Carolyn C Johnson, being first duly sworn, deposes and says:

That on the 17th day of May, 1978, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United State mail at said City of Minneapolis, 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.

Carolyn C Johnson

Subscribed and sworn to before me
this 17th day of May, 1978
Ferne L Pavek

FERNE L. PAVEK
Notary Public, Hennepin County, Minn.
My Commission Expires Oct. ~~15~~ 30, 1982

Bd's Exhibit No. L
File No.
Date