

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : LEE SHEEHY
Special Assistant Attorney General
G-25 Administration Building

DATE: March 16, 1979

FROM : DOUGLAS C. BLOMGREN
Special Assistant Attorney General
303 Capitol Square Building

PHONE: 6-1265

SUBJECT: In the Matter of the Proposed Adoption Of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program

Enclosed for your consideration, review and approval are the proposed amendments to the Private Institutions Registration Rules of the Higher Education Coordinating Board.

The enclosed bound volume is divided into two sections. The first contains the Hearing Examiner's Report, the rules as proposed, and the rules as adopted. The second section is a roughly chronological presentation of documents and records beginning with a Notice of Seeking Outside Information and ending with my Statement of Compliance with the Manual of Rule Making Procedures.

Should you have any questions, please call me.

DCB:li

Enc.

#516 Higher Education Coordinating Board (Amendments to Rules)

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 3/22 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 4/11

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved 4-11 Date Sent Back to Agency _____

- -

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 ✓ (no copies)
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 ✓
17. Petition by Public, where applicable N/A

AMENDMENTS TO RULES

As Modified in Response to

the Report of the Hearing Examiner

and Adopted By the

Minnesota Higher Education Coordinating Board

February 22, 1979

Adopted 4/9/79

~~PROPOSED~~ AMENDMENTS TO
PRIVATE INSTITUTION REGISTRATION
RULES AND REGULATIONS
CHAPTER NINE

5MCAR §2.0902 Definitions. The following terms, words and phrases shall have the meanings hereinafter ascribed to them for the purpose of this chapter:

A. "Act" means: Minn. Stat. 136A.61-136A.71;

B. "Registration" means: the process by which a school pursuant to Minn. Stat. 136A.63 and 5MCAR §2.0903 files an application, submits required information pursuant to Minn. Stat. 136A.64 and 5MCAR §2.0904 and pays fees pursuant to Minn. Stat. 136A.69 and 5MCAR §2.0914;

C. "School" means: any individual, partnership, company, firm, society, trust, association, corporation or any combination thereof operating or doing business in Minnesota which (1) is, owns or operates a private, non-profit post-secondary education institution, (2) provides a post-secondary instructional program or course leading to a degree whether or not for profit, ~~or~~ (3) is, owns or operates a private post-secondary education institution which uses the term "academy", "college", "institute" or "university" in its name or advertising; or (4) operates for profit and provides programs or courses which are intended to allow an individual to fulfill in part or totally the requirements necessary to maintain a license to practice an occupation. "School" shall also mean any public post-secondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion;

D. "Schools located outside Minnesota which offer programs or courses within Minnesota" in Minn. Stat. 136A.63 means: schools located outside Minnesota which offer any course, program or educational activity which is

available to residents of Minnesota and which does not require them to leave the state for the completion of such;

E. "Degree" means: any award given by a school which signifies or is generally taken to signify completion of a program or course and which is designated by the term degree, associate, bachelor, baccalaureate, ~~master's or doctorate~~, doctor or education specialist;

F. "Records" means: those school documents and files containing student data relating to academic credits, grades, degrees awarded and periods of attendance. School transcripts or documents on which are recorded each student's data relating to academic credits earned, courses completed, grades awarded, degrees awarded and periods of attendance qualify as "records";

~~G. "Authentic" means: real, genuine, reliable, bona fide;~~

~~H. "Legitimate" means: lawful, reasonable, in accordance with accepted standards;~~

~~I~~ G. "Approval" means: authorization from the Board for a school to offer specified degrees or to use the terms "academy", "college", "institute" or "university" in its name or both of the foregoing pursuant to Minn. Stat. 136A.65, 5MCAR §2.0905 and 5MCAR §2.0906;

~~J~~ H. "Board" means: The Minnesota Higher Education Coordinating Board;

~~K~~ I. "Executive Director" means: The Executive Director of the Minnesota Higher Education Coordinating Board.

5MCAR §2.0904 Information Required for Registration. Pursuant to Minn. Stat. 136A.64 schools subject to registration shall provide the Board with such information as the Board needs to determine the nature and activities of the school. The Board shall have the authority to verify the accuracy of the information submitted to it by inspection, visitation or any other means it deems necessary. Any and all information submitted to the Board

for the purpose of registration shall be public information ~~in accordance with existing state and federal law~~ except those financial records required pursuant to 5MCAR §2.0904E or a request under this rule for further financial information, which records the Board shall not disclose except for the purposes of defending at hearings under Minn. Stat. Ch. 15 or other legal proceedings its decision to approve or not to approve the granting of degrees or the use of a name.

Each applicant for registration shall submit the following accompanied by an affidavit attesting to the accuracy and truthfulness of the same:

A. a copy of the school articles of incorporation, constitution, by-laws or other operating documents;

B. a duly adopted statement of the school's mission and goals;

C. evidence of any school or program licenses granted by agencies of the state of Minnesota or any other state;

D. a copy of the current school catalog and if not contained in the catalog:

1. a list of members of the board of trustees or directors, if any;

2. a list of current institutional officers;

3. a list of current faculty, full-time and part-time, with degrees held or applicable experience;

4. a list and description of all school facilities;

5. a list and description of all current course offerings;

6. a list of all requirements for satisfactory completion of courses, programs and degrees;

7. a statement of the school's policy pertaining to freedom or limitation of expression and inquiry;

8. a current schedule of fees, charges for tuition, required supplies, student activities, housing and all other standard charges;

9. a statement of the school policy regarding refunds and adjustments;

10. a statement of the school policy relating to granting of credit for prior education, training and experience;

11. a statement of the school policies relating to student admission, evaluation, suspension and dismissal;

E. a copy of the fiscal balance sheet on an accrual basis or of a certified audit of the immediate past fiscal year for the school or, if the school is a public institution outside Minnesota, an income statement for the immediate past fiscal year;

F. one copy of all promotional and recruitment materials and advertisements;

G. a plan for the preservation of student records pursuant to 5MCAR §2.0908.

If on the basis of the above information the Board is unable to determine the nature and activities of a school, the Board will require any additional information needed to make such determination.

5MCAR §2.0906 Approval of Names. The Board shall approve a school using the term "academy", "college", "institute" or "university" in its name provided the school meets the minimum requirements of this chapter. No school subject to registration under 5MCAR §2.0903 shall use the terms "academy", "college", "institute" or "university" in its name in maintaining, advertising, promoting or conducting any program or educational activity in Minnesota without the approval of the Board.

The Board shall approve any school using the above terms in its name if the school meets all the following requirements:

A. Any school using the term "academy" in its name must meet the policies and standards of 5MCAR §2.0907 and the minimum requirements of this chapter.

B. Any school using the term "institute" in its name must meet the policies and standards of 5MCAR §2.0907 and the minimum requirements of this chapter.

C. Any school using the term "college" in its name must meet the policies and standards of 5MCAR §2.0907, must meet the minimum requirements of this chapter and must offer at least one program leading to an associate degree. If it so chooses, it may use the term "academy" or "institute" in its name.

D. Any school using the term "university" in its name must meet the policies and standards of 5MCAR §2.0907, must meet the minimum requirements of this chapter and must offer at least one program leading to a baccalaureate, master's or doctorate degree. If it so chooses, it may use the term "academy", "college" or "institute" in its name.

E. ~~A school subject to registration will be granted approval to use the term "college" in its name if the school meets the standards of 5MCAR §2.0907, does not offer an associate degree but proposes to use the term "college" in conjunction with the terms "business" ("commercial"), "barber" or "beauty" to signify the offering of technical and specialized programs providing preparation for career opportunities in the fields of business and barber and beauty services.~~ A school subject to registration which submits the information required for registration pursuant to 5MCAR §2.0904, meets the policies and standards of 5MCAR §2.0907, and meets the standards for protecting students records pursuant to 5MCAR §2.0908 and which was organized, operating and using one of the terms academy, college, institute or university in its name on or before August 1, 1975, shall be granted approval to use such term in its name whether or not it offers a program leading to a degree.

5MCAR §2.0918 Exemptions. Those schools and educational programs exempted from the act are exempted from these rules. Any school or educational program exempted from the act pursuant to Minn. Stat. 136A.653 may voluntarily waive their exemption and submit to the act by informing the Board of its intent and filing the information and registration fee pursuant to 5MCAR §2.0903 and 5MCAR §2.0904. Upon such filing and registration any such school or educational program otherwise exempted from the act, shall be subject to all applicable requirements of that act and these rules pursuant to Minn. Stat. 136A.653 subd. 4.

APPROVED AS TO FORM AND LEGALITY

APR 11 1979 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne Hinderaker
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 11 1979
Joan Anderson Growe
Secretary of State
9:35 a.m.

AMENDMENTS TO RULES

As Proposed At the Hearing

November 21, 1978

9/20/78

PROPOSED AMENDMENTS TO
PRIVATE INSTITUTION REGISTRATION
RULES AND REGULATIONS
CHAPTER NINE

RECEIVED
OCT 20 1978
OFFICE OF HEARING
EXAMINERS

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C. "School" means: any individual, partnership, company, firm, society, trust, association, corporation or any combination thereof operating or doing business in Minnesota which (1) is, owns or operates a private, non-profit post-secondary education institution, (2) provides a post-secondary instructional program or course leading to a degree whether or not for profit, ~~or~~ (3) is, owns or operates a private post-secondary education institution which uses the term "academy", "college", "institute" or "university" in its name or advertising; or (4) operates for profit and provides programs or courses which are intended to allow an individual to fulfill in part or totally the requirements necessary to maintain a license to practice an occupation. "School" shall also mean any public post-secondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion;

D. "Schools located outside Minnesota which offer programs or courses within Minnesota" in Minn. Stat. 136A.63 means: schools located outside Minnesota which offer any course, program or educational activity which is

available to residents of Minnesota and which does not require them to leave the state for the completion of such;

E. "Degree" means: any award given by a school which signifies or is generally taken to signify completion of a program or course and which is designated by the term degree, associate, bachelor, baccalaureate, ~~master's or doctorate~~, doctor or education specialist;

F. "Records" means: those school documents and files containing student data relating to academic credits, grades, degrees awarded and periods of attendance. School transcripts or documents on which are recorded each student's data relating to academic credits earned, courses completed, grades awarded, degrees awarded and periods of attendance qualify as "records";

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for the purpose of registration shall be public information ~~in accordance with existing state and federal law~~ except those financial records which the Board shall not disclose except for the purposes of defending at Chapter 15 hearings or other legal proceedings its decision to approve or not to approve the granting of degrees or the use of a name.

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A. a copy of the school articles of incorporation, conssitution, by-laws or other operating documents;

B. a duly adopted statement of the school's missions and goals;

C. evidence of any school or program licenses granted by agencies of the state of Minnesota or any other state;

D. a copy of the current school catalog and if not contained in the catalog:

1. a list of members of the board of trustees or directors, if any;

2. a list of current institutional officers;

3. a list of current faculty, full-time and part-time, with degrees held or applicable experience;

4. a list and description of all school facilities;

5. a list and description of all current course offerings;

6. a list of all requirements for satisfactory completion of courses, programs and degrees;

7. a statement of the school's policy pertaining to freedom or limitation of expression and inquiry;

8. a current schedule of fees, charges for tuition, required supplies, student activities, housing and all other standard charges;

9. a statement of the school policy regarding refunds and adjustments;

10. a statement of the school policy relating to granting of credit for prior education, training and experience;

11. a statement of the school policies relating to student admission, evaluation, suspension and dismissal;

E. a copy of the fiscal balance sheet on an accrual basis or of a certified audit of the immediate past fiscal year for the school or, if the school is a public institution outside Minnesota, an income statement for the immediate past fiscal year;

F. one copy of all promotional and recruitment materials and advertisements;

G. a plan for the preservation of student records pursuant to 5MCAR §2.0908.

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5MCAR §2.0906 Approval of Names. The Board shall approve a school using the term "academy", "college", "institute" or "university" in its name provided the school meets the minimum requirements of this chapter. No school subject to registration under 5MCAR §2.0903 shall use the terms "academy", "college", "institute" or "university" in its name in maintaining, advertising, promoting or conducting any program or educational activity in Minnesota without the approval of the Board.

The Board shall approve any school using the above terms in its name if the school meets all the following requirements:

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B. Any school using the term "institute" in its name must meet the policies and standards of 5MCAR §2.0907 and the minimum requirements of this chapter.

C. Any school using the term "college" in its name must meet the policies and standards of 5MCAR §2.0907, must meet the minimum requirements of this chapter and must offer at least one program leading to an associate degree. If it so chooses, it may use the term "academy" or "institute" in its name.

D. Any school using the term "university" in its name must meet the policies and standards of 5MCAR §2.0907, must meet the minimum requirements of this chapter and must offer at least one program leading to a baccalaureate, master's or doctorate degree. If it so chooses, it may use the term "academy", "college" or "institute" in its name.

E. ~~A school subject to registration will be granted approval to use the term "college" in its name if the school meets the standards of 5MCAR §2.0907, does not offer an associate degree but proposes to use the term "college" in conjunction with the terms "business" ("commercial"), "barber" or "beauty" to signify the offering of technical and specialized programs providing preparation for career opportunities in the fields of business and barber and beauty services.~~ A school subject to registration which submits the information required for registration pursuant to 5MCAR §2.0904, meets the policies and standards of 5MCAR §2.0907, and meets the standards for protecting students records pursuant to 5MCAR §2.0908 and which was organized, operating and using one of the terms academy, college, institute or university in its name on or before August 1, 1975, shall be granted approval to use such term in its name whether or not it offers a program leading to a degree.

5MCAR §2.0918 Exemptions. Those schools and educational programs exempted from the act are exempted from these rules. Any school or educational program exempted from the act pursuant to Minn. Stat. 136A.653 may voluntarily waive their exemption and submit to the act by informing the Board of its intent and filing the information and registration fee pursuant to Board rules.

MINNESOTA
HIGHER EDUCATION
COORDINATING BOARD

SUITE 400
CAPITOL SQUARE
550 CEDAR STREET
SAINT PAUL 55101

(612) 296-3974

March 16, 1979

Mr. Lee Sheehy
Special Assistant Attorney General
G-25 Administration Building
St. Paul, Minnesota 55155

Dear Mr. Sheehy:

This is to inform you of modifications in the proposed amendments to the Private Institutions Registration rules which were adopted in response to the Hearing Examiner's Report. Changes in the proposed amendments were made on:

a. page 3, in the last sentence of the first paragraph of 5MCAR §2.0904, and

b. page 6, in the last two sentences of 5MCAR §2.0918.

Thank you for your cooperation in this matter. Please do not hesitate to contact our office if you should have any questions.

Very truly yours,

Ann Kelley

E. ANN KELLEY
Manager of Institutional Approval
and Consumer Affairs

EAK:kb

1
rules

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Adoption of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on November 21, 1978, before Harry Seymour Crump, 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 Higher Education Coordinating Board on January 4, 1979; and

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

WHEREAS, the Higher Education Coordinating Board has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn Stat. § 15.052, Subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Higher Education Coordinating Board has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Higher Education Coordinating Board has the responsibility of submitting the complete hearing record and the rules as adopted by the Board to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 12th day of March, 1979.

DUANE R. HARVES
Chief Hearing Examiner

AMENDMENTS TO RULES

As Proposed At the Hearing

November 21, 1978

9/20/78

PROPOSED AMENDMENTS TO
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NOTICE OF SEEKING OUTSIDE INFORMATION

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Amendment of Rules of the Higher Education Coordinating Board Governing Private Institution Registration

Notice of Seeking Outside Information

NOTICE IS HEREBY GIVEN that the Minnesota Higher Education Coordinating Board is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing Private Institution Registration (presently 5MCAR § 2.0901-2.1000). Any interested persons may submit data or views on this subject in writing or orally to:

Ann Kelley
Minnesota Higher Education
Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
612/296-9672

Any written material received by the agency shall become a part of the hearing record in the event amended rules governing this subject are promulgated.

C. R. I.

CLYDE R. INGLE
Executive Director
Minnesota Higher Education
Coordinating Board

Dated: 6/8/78

this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Health Central, Inc., Ambulance Division, Application for Licensure

On May 16, 1978, Health Central, Inc., Ambulance Division, filed application with Warren R. Lawson, M.D., Commissioner of Health, for a license to operate a (an) emergency/nonemergency land ambulance service with a base of operation in Vadnais Heights, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Higher Education Coordinating Board

Notice of Intent to Solicit Outside Information Regarding Proposed Amendment of Rules Governing Private Institution Registration

Notice is hereby given that the Minnesota Higher Education Coordinating Board is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing private institution registration (presently 5 MCAR §§ 2.0901-2.1000). Any interested persons may submit data or views on this subject in writing or orally to:

Ann Kelley
Minnesota Higher Education
Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-9672

Any written material received by the agency shall become a part of the hearing record in the event amended rules governing this subject are promulgated.

Department of Labor and Industry Occupational Safety and Health Division

Notice of Proposal for Reaffirmation of Rule

Please take notice, that pursuant to the decision of the Minnesota Supreme Court in *Minnesota Public Interest Research Group v. Minnesota Department of Labor and Industry*, _____ Minn. _____, 249 N.W.2d 437 (1976), E. I. Malone, Commissioner, Minnesota Department of Labor and Industry, has determined that the existing health standards regarding exposure of employees to carcinogens and vinyl chloride should be reaffirmed. These standards were adopted by the commissioner on February 13, 1975, and are consonant with the current Federal Occupational Safety and Health Standards published at 29 C.F.R. §§ 1910.1003 through 1910.1017.

Complete copies of the specific standards reaffirmed as described above are available by writing: Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota.

Interested persons are hereby afforded a period of thirty (30) days to submit written data, comments, or objections to the rule proposed. Any interested person may request a public hearing on such objections.

May 31, 1978

Department of Personnel

Notice of Intent to Solicit Outside Opinion Regarding Personnel Rule Changes

Notice is hereby given that the Department of Personnel is seeking information or opinion from sources outside the

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CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Emil Erickson, do hereby certify that I am president of the Minnesota Higher Education Coordinating Board, 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 duly and properly called and held on the 28th day of September, 1978, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that Clyde R. Ingle, Executive Director of the Minnesota Higher Education Coordinating Board, be and hereby is granted the authority and directed to call a hearing for the purpose of amending rules of the Minnesota Higher Education Coordinating Board governing the Private Institution Registration program as authorized by Minnesota Statutes 136A.61-136A.71 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 securing an examiner at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of September, 1978.

Emil A. Erickson
President

Emma Johnson (vice president)
Attest By One Other Officer

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE HARRY CRUMP
Hearing Examiner
OFFICE OF HEARING EXAMINER

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In the Matter of the Proposed Adoption of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program

ORDER FOR HEARING

To effectively implement Minnesota Statutes §136A.61-136A.71 (1976) as amended by Minnesota Laws 1978, Chapter 603, which law establishes a Private Institutions Registration Program, the Minnesota Higher Education Coordinating Board deems it necessary to consider adoption of the proposed amendments to rules captioned above pursuant to the authority vested in the Board by Minnesota Statutes §136A.70 (1976).

NOW, THEREFORE, IT IS ORDERED on this 29th day of September 1978, that a public hearing on the proposed rules amendments captioned above be held in Conference Room A, First Floor of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on November 21, 1978, commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

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

It is further ordered that the Notice of Hearing be published in the State Register.

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

By _____
Clyde R. Ingle
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE HARRY CRUMP
HEARING EXAMINER
OFFICE OF HEARING EXAMINERS

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OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program

NOTICE OF HEARING

NOTICE is hereby given that a public hearing will be held in the above-entitled matter in Conference Room A, First Floor of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on November 21, 1978, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed amendments to the rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without personally appearing at the hearing.

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

NOTICE: Any person may request notification of the date on which the hearing examiner's report will be available after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The Board proposes to adopt amendments to rules relating to the implementation of Minnesota Statutes, Sections 136A.61 to 136A.71 (1976) as amended by Minnesota Laws 1978, Chapter 603, by revising the definition of the term "school" and by establishing policies and procedures for the exemption of schools' financial records from public disclosure; for the submission of non-Minnesota public institutions' financial statements; for the use of the terms "academy", "college", "institute" or "university" in the names of institutions established and operating prior to August 1, 1978; and for the exemption and voluntary registration of certain schools. These amendments are proposed to bring the rules into conformance with recent legislative amendments to the Private Institutions Registration statute.

Copies of the proposed rules amendments are now available and one free copy may be obtained by writing to the Minnesota Higher Education Coordinating Board, 400 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

The Board's statutory authority to promulgate the proposed rules amendments is contained in Minnesota Statutes, Section 136A.70 (1976).

Under Minnesota Statutes, Section 10A.01, Subdivision 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than $250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than $250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public funds; (d) news media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over $250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-1720.

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

By _____
CLYDE R. IGGLE
Executive Director

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STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE OF SECRETARY OF STATE

In the matter of the Proposed
Adoption of Rules of the Minnesota
Higher Education Coordinating Board
Governing the Private Institutions
Registration Program

I hereby certify that the attached 2 sheets 579 labels constitute the complete list of persons, associations, and other interested groups who as of 2:30 o'clock PM this 16th day of October 1978, have requested pursuant to Minn. Stat. §15.0412 (1977 Supp.) 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 Donna Scott

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EXAMINERS

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

E. Ann Kelley, being duly sworn on oath deposes and says:

1) That she is an employee of the Higher Education Coordinating Board of the State of Minnesota.

2) That on the 18th day of October 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 or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. §15.0412 (1977 Supp.)

3) That on the 18th day of October 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 reference.

Further affiant sayeth not.

E. Ann Kelley

Subscribed and sworn to before
me this 18th day of October 1978.

Cynthia A. Wegmann

CYNTHIA A. WEGMANN
NOTARY PUBLIC—MINNESOTA
WASHINGTON COUNTY
My Commission Expires June 8, 1985

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EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed
Adoption of Rules of the Minnesota
Higher Education Coordinating Board
Governing the Private Institutions
Registration Program

AFFIDAVIT OF
MAILING OF
NOTICE OF HEARING

Lori Witte, being first duly sworn, deposes and says:

That on the 20th day of October 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, She served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Lori A. Witte

Subscribed and sworn to before me
this 20th day of October 1978.

Judith A. Morgan

JUDITH A. MORGAN
RAMSEY COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES SEPT. 14, 1982

STATE OF MINNESOTA

COUNTY OF RAMSEY

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EXAMINERS

In the matter of the Proposed Adoption of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

Minnesota Statutes §§ 136A.61 - 136A.71, the Private Institutions Registration Act, was adopted by the 1975 Minnesota Legislature upon recommendation by the Higher Education Coordinating Board. The recommendation to establish the Private Institution Registration program was based on an increasing number of inquiries and complaints by students in Minnesota which pointed to probable institutional abuses in the advertisement and delivery of post-secondary education in Minnesota. No procedures existed in the state to license, certify or approve the delivery of private degree-oriented post-secondary education services to residents; Minnesota was one of less than a dozen states which did not have protection for its residents, and evidence suggested that without some action the state could become the haven for a variety of illegitimate activities providing substandard services and unhealthy competition for legitimate services.

The Private Institution Registration program is part of the effort to provide improved consumer assistance for students and prospective students in Minnesota. It supports consumer assistance by ensuring protection of student records, disclosure of certain information to students and prospective students, financial stability of educational institutions, appropriate faculty and physical facilities for educational programs and adequate governance of educational institutions.

Under Minnesota Statutes §§ 136A.61 - 136A.71 all private post-secondary institutions operating in Minnesota which are nonprofit or which grant a degree or which use the terms "academy," "college," "institute," or "university," in their names must register with the Board. The Board is required to annually adopt a list of private schools which are approved to grant degrees or use one of the above terms in their names.

Implementation of the statute began in 1977 following the approval of rules and regulations. In the spring of 1978, upon the recommendation of the Board and other interested parties, the Legislature adopted several amendments to the Private Institution Registration statute which it felt would enhance the clarity and effectiveness of the program. These amendments:

1. Brought non-Minnesota public institutions and for-profit organizations offering education programs intended to help fulfill requirements for maintaining vocational licenses under the purview of the statute (Minn. Statute §136A.61 subdivision 3 and last sentence);
2. Assured the confidentiality of financial records except in cases of legal proceedings (Minn. Statute §136A.64 subdivision 2);
3. Allowed schools using one of the terms in their name prior to August 1, 1975 to continue to do so whether or not they grant a degree if they meet the other policies and standards of the program (Minn. Statute §136A.65 subdivision 3);
4. Exempted certain educational services from the program, but allowed them to voluntarily participate (Minn. Statute §136A.653); and
5. Exempted religious schools and programs from the program (Minn. Statute §136A.657).

Modifications in the Private Institution Registration rules and regulations will facilitate the implementation of the amended statute. We have solicited comments and suggestions from members of the Private Institution Registration advisory committee and the six sectors of Minnesota post-secondary education, as well as from the public at large, in the process of developing proposed amendments to the rules and regulations. Notice of intent to solicit outside information was published in the State Register Vol. 2, No. 50, June 19, 1978. The proposed amendments are the result of our consultation with interested parties and our experience in administering the program under the current rules and regulations. In our judgment, these proposed changes will enable our Board and staff to more effectively administer the program and to assist Minnesota residents choosing private post-secondary education.

Dr. Clyde R. Ingle, Executive Director of the Higher Education Coordinating Board, and Greg Huwe, Special Assistant Attorney General will attend the hearing and may testify on the proposed amendments.

II. 5MCAR§2.0902 DEFINITIONS

The additions to 5MCAR§2.0902C are needed to bring the definition of school into conformity with the law. Without this change two categories of institutions (public institutions outside Minnesota which offer programs and courses in Minnesota and for-profit organizations offering educational programs intended to help fulfill requirements for maintaining vocational licenses) which have been included in the definition of school in Minn. Stat. §136A.62 subdivision 3 as recently amended by the Legislature would not fall under the purview of the rules. Dr. Susan Powell or Dr. E. Ann Kelley of the HECB staff will testify in support of this change and will introduce copies of the amended Minn. Statute §§136A.61 - 136A.71 and the current rule, 5MCAR§2.0902, in support of their testimony.

The change from "master's" and "doctorate" to "master" and "doctor" in 5MCAR§2.0902E is needed because master and doctor are the terms used in the title of the degrees granted at Minnesota colleges and universities. The degree title "education specialist" has been added because several state-supported and independent institutions offer this post-baccalaureate academic degree. The addition of this title is consistent with the objectives and purposes of the statute to establish the review and approval of all common degrees and is needed to allow a more reasonable and consistent administration of the approval function. Dr. Susan Powell or Dr. E. Ann Kelley of the HECB staff will testify on behalf of this change. In addition to copies of the amended Minn. statute §§ 136A.61 - 136A.71 and the current rule 5MCAR§2.0902; a letter from Dr. Harvey Stegemoeller, Executive Director of the Minnesota Private College Council and a memo from Judith A. Wain of the Department of Education and Board of Teaching indicating the nature of the education specialist degree and where it is available in Minnesota will be presented in evidence.

The deletion of 5MCAR§2.0902G is reasonable because it is unnecessary and adds no clarification to the interpretation of the rules and regulations. The administration of the current rules has shown that the word "authentic" is as clear and precise as the words used to define it; there is no confusion as to its meaning. Dr. Susan Powell and Dr. E. Ann Kelley of the HECB staff will testify to support this proposed change.

The deletion of 5MCAR§2.0902H is reasonable because it is unnecessary and adds no clarification to the interpretation of the rules and regulations. The administration of the current rules has shown that the word "legitimate" is as clear and precise as the words used to define it; there is no confusion to its meaning. Dr. Susan Powell and Dr. E. Ann Kelley of the HECB staff will testify on behalf of this change.

The change in lettering from 5MCAR§§2.0902I - 2.0902K to 5MCAR§§2.0902G - 2.0902I is necessary with the deletion of 5MCAR§§2.0902G - 2.0902H.

III. 5MCAR§2.0904 INFORMATION REQUIRED FOR REGISTRATION

The revision of the last sentence of the first paragraph of 5MCAR§2.0904 is needed to clarify that submitted financial records are confidential except in the case of legal proceedings. Without this change the rules indicate that all submissions are public records, in conflict with Minn. Statute §136A.64 subdivision 2 which provides for the limited disclosure of financial records. Dr. Susan Powell and Dr. E. Ann Kelley of the HECB staff will testify in support of this change. Copies of the amended Minn. Statute §§136A.61 - 136A.71 and the current rule 5MCAR§2.0904 will be placed in evidence by HECB.

In 5MCAR§2.0904E, the requirement of either a certified public audit or a balance sheet on an accrual basis allows an accurate review of the ability of private post-secondary education institutions to meet their

financial obligations. However, the importance of such a statement from public institutions outside Minnesota which have been brought under the purview of the program pursuant to Minn. Statute §136A.62 subdivision 3 is less sure. Public institutions often are part of larger integrated statewide systems, have few or no independent assets or liabilities, and may be part of a larger fiscal unit such as a system or the state as a whole. Because of these possibilities, it is reasonable to allow public institutions to simply file an income statement with revenues and expenditures for the past fiscal year. With public support, the financial stability of these institutions is assured, and an income statement would be sufficient to protect the consumers interest in evaluating the financial situation of a public institution. This alternative should not be made available to private institutions because a statement of assets and liabilities is an important determinant of their ability to meet their financial obligations. This revision is necessary to allow more meaningful information of public institutions required to register. Dr. Susan Powell and Dr. E. Ann Kelley, members of the HECB staff, will testify on behalf of this change. Copies of Minn. Statute §§136A.61 - 136A.71, rule 5MCAR§2.0904, and a letter from Richard J. Wood, Executive Director of the University of Northern Colorado's Center for Special and Advanced Programs questioning the necessity of his public institution submitting a full audit or balance sheet will be placed in evidence.

IV. 5MCAR§2.0906 APPROVAL OF NAMES

The deletion of the original language of 5MCAR§2.0906E is reasonable with the recent statutory amendment, Minn. Statute §136A.65 subdivision 3. The original language in this rule was needed to assure that established non-degree schools could continue to use the term "college" when clearly labled with certain qualifying terms. With the addition of Minn. Stat. §136A.65 Subdivision 3 to the statute allowing the continued use of names of schools established prior to August 1, 1975, this provision is no longer needed. The section proposed to substitute for the original section language is needed to define the "policies and standards" mentioned in the statutory section must be met by the affected institutions in order to allow them continued usage of the terms "college", "university", "institute", or "academy". Dr. Susan Powell and Dr. E. Ann Kelley will testify in support of this change. Copies of the amended Minn. Statute §§136A.61 - 136A.71, the current rule 5MCAR§2.0906 and the Statement of Need presented at hearings for the original rules (2/27/76) will be presented as evidence in support of this change.

V. 5MCAR§2.0918 EXEMPTIONS

The first sentence of proposed rule 5MCAR§2.0918 is needed to clarify that the exemptions allowed by Minn. Statute §136A.653 and §136A.657 apply to the rules and regulations. The second sentence of the proposed rule is needed to clarify how a school may initiate voluntary registration

pursuant to Minn. Statute §136A.653 Subdivision 4. A representative of the Minnesota Association of Private Vocational Schools has indicated that further detail concerning the process of voluntary submission would be helpful. Without this sentence it may be unclear whether exempted schools may enter the registration process in the same way as schools required to register. Dr. Susan Powell and Dr. E. Ann Kelley will testify on behalf of this amendment. Copies of the statute, Minn. Statute §§136A.61 - 136A.71 and a letter from T. Jerome Enright, Jr. concerning the inclusion of voluntary submission procedures in the rules will be entered into the hearing record.

CHAPTER 136A

An act relating to education; higher education coordinating board; providing procedure for registration and approval of private post-secondary institutions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

136A.61 EDUCATION; HIGHER EDUCATION; PRIVATE POST-SECONDARY INSTITUTIONS; POLICY. The legislature has found and hereby declares that the availability of legitimate courses and programs leading to academic degrees offered by responsible private institutions of post-secondary education and the existence of legitimate private colleges and universities are in the best interests of the people of this state. The legislature has found and declares that the state can provide assistance and protection for persons choosing private institutions and programs, by establishing policies and procedures to assure the authenticity and legitimacy of private post-secondary education institutions and programs. The legislature has also found and declares that this same policy applies to any public post-secondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion.

136A.62 DEFINITIONS. Subdivision 1. WORDS, TERMS, AND PHRASES. The following words, terms and phrases shall have the meanings ascribed to them in this section for the purposes of sections 1 to 11.

Subd. 2. BOARD. "Board" means the Minnesota higher education coordinating board.

Subd. 3. SCHOOL. "School" means any individual, partnership, company, firm, society, trust, association, corporation or any combination thereof which (a) is, owns or operates a private, nonprofit post-secondary education institution; (b) provides a post-secondary instructional program or course leading to a degree whether or not for profit; (c) is, owns or operates a private, post-secondary education institution which uses the term "academy", "college", "institute" or "university" in its name; or (d) operates for profit and provides programs or courses which are intended to allow an individual to fulfill in part or totally the requirements necessary to maintain a license to practice an occupation. "School" shall also mean any public post-secondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion.

Subd. 4. DEGREE. "Degree" means any award given by a school for completion of a program or course which is designated by the term degree, associate, bachelor, baccalaureate, masters or doctorate, or any other award which the board shall include by regulation.

Subd. 5. RECORDS. "Records" means those school documents and files containing student data relating to academic credits, grades, degrees awarded, periods of attendance and such other matters as the board shall determine by regulation.

136A.63 REGISTRATION. All schools located within Minnesota and all schools located outside Minnesota which offer programs or courses within Minnesota shall register annually with the board.

136A.64 INFORMATION. Subdivision 1. As a basis for registration, schools shall provide the board with such information as the board needs to determine the nature and activities of the school, including but not limited to, requirements for admission, enrollments, tuition charge, refund policies, curriculum, degrees granted and faculty employed. The board shall have the authority to verify the accuracy of the information submitted to it by inspection or any other means it deems necessary.

Subd. 2. The board shall not disclose financial records provided to it by a school pursuant to this section except for the purpose of defending, at hearings pursuant to chapter 15, or other appeal proceedings, its decision to approve or not to approve the granting of degrees or the use of a name by the school. Section 15.17, subdivision 4, shall not apply to such records.

136A.65 APPROVAL OF DEGREES AND NAME. Subdivision 1. No school subject to registration shall grant a degree unless such degree is approved by the board, nor shall any school subject to registration use the name "academy", "college", "institute" or "university" in its name without approval by the board.

Subd. 2. The board shall establish procedures for approval, including notice and an opportunity for a hearing pursuant to chapter 15 if such approval is not granted. If a hearing is requested, no disapproval shall take effect until after such hearing.

Subd. 3. A school subject to registration shall be granted approval to use the term "academy", "college", "institute" or "university" in its name whether or not it offers a program leading to a degree, if it was organized, operating and using such term in its name on or before August 1, 1975, and if it meets the other policies and standards for approval established by the board.

136A.653 EXEMPTIONS. Subdivision 1. A school which does not grant a degree and which is subject to licensing by the state board of education pursuant to chapter 141, is exempt from the provisions of sections 136A.61 to 136A.71. The determination of the commissioner of education as to whether a particular school is subject to regulation under chapter 141 is final for the purposes of this exemption.

Subd. 2. Education programs which are sponsored by a bona fide and nonprofit trade, labor, business, professional or fraternal organization, which programs are conducted solely for that organization's membership or for the members of the particular industries or professions served by that organization, and which are not available to the public on a fee basis, are exempted from the provisions of sections 136A.61 to 136A.71.

Subd. 3. Educational programs which are sponsored by a business firm for the training of its employees or the employees of other business firms with which it has contracted to provide educational services at no cost to the employees are exempted from the provisions of sections 136A.61 to 136A.71.

Subd. 4. Any school or program exempted from the provisions of sections 136A.61 to 136A.71 by the provisions of this section may voluntarily submit to the provisions of those sections.

136A.657 EXEMPTION; RELIGIOUS SCHOOLS. Subdivision 1. Any school or any department or branch of a school (a) which is substantially owned, operated or supported by a bona fide church or religious organization; (b) whose programs are primarily designed for, aimed at and attended by persons who sincerely hold or seek to learn the particular religious faith or beliefs of that church or religious organization; and (c) whose programs are primarily intended to prepare its students to become ministers of, to enter into some other vocation closely related to, or to conduct their lives in consonance with, the particular faith of that church or religious organization, is exempt from the provisions of sections 136A.61 to 136A.71.

Subd. 2. This exemption shall not extend to any school or to any department or branch of a school which through advertisements or solicitations represents to any students or prospective students that the school, its aims, goals, missions or purposes or its programs are different from those described in subdivision 1. This exemption shall not extend to any school which represents to any student or prospective student that the major purpose of its programs is to prepare the student for a vocation not closely related to that particular religious faith, or to provide the student with a general educational program recognized by other schools or the broader educational, business or social community as being substantially equivalent to the educational programs offered by schools or departments or branches of schools which are not exempt from sections 136A.61 to 136A.71, and rules adopted pursuant thereto.

Subd. 3. Nothing in sections 136A.61 to 136A.71, or the rules adopted pursuant thereto, shall be interpreted as permitting the board to determine the truth or falsity of any particular set of religious beliefs.

136A.66 LIST. The board shall maintain a list of schools authorized to grant degrees and schools authorized to use the name "academy", "college", "institute" or "university", and shall make such list available to the public.

136A.67 UNAUTHORIZED REPRESENTATIONS. No school and none of its officials or employees shall advertise or represent in any manner that such school is approved or accredited by the board or state of Minnesota except that any school which is duly registered with the board or any of its officials or employees may represent that the school is registered with the board.

136A.68 RECORDS. After the effective date of sections 1 to 11, all schools located in this state must maintain permanent records of all students enrolled therein at any time. The board may require schools to provide a plan acceptable to the board for preserving all such records for at least ten years. The board may require that such plan include the filing of a continuous surety bond or a deposit of funds in trust in an amount not to exceed $20,000 for the purpose of preserving records after such school ceases to exist.

136A.69 FEES. The board may collect reasonable registration fees not to exceed $200 for an initial registration of each school and $150 for each annual renewal of such existing registration.

136A.70 RULES AND REGULATIONS. The Board shall adopt policies and prescribe appropriate rules and regulations to carry out the purposes of sections 1 to 11. Such rules and regulations may include delegation of authority for implementation of sections 1 to 11 to the board's executive director.

136A.71 INJUNCTION. Upon application of the attorney general, the district courts shall have jurisdiction to enjoin any violations of sections 1 to 11.

Approved May 17, 1975.
Amendments Approved March 1978.

Agency Ex. 2.0906

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE MYRON GREENBERG
Hearing Examiner

In the matter of the Proposed
Adoption of Rules of the Minnesota
Higher Education Coordinating Board
Governing the Private Institutions
Registration Program

STATEMENT OF NEED

I. INTRODUCTION

Minnesota Laws 1975, Chapter 201 (hereinafter "Act") was passed by the Minnesota Legislature to "provide assistance and protection for persons choosing private institutions and programs, by establishing policies and procedures to assure the authenticity and legitimacy of private post-secondary education institutions and programs." Section 10 of the Act and the general lack of specificity in the Act indicates the intention of the Legislature to give the Board broad authority to promulgate rules and regulations to serve the purpose of implementing the Act. The Legislature recognized the expertise of the Board which could be used to develop more detailed and specific rules.

In preparing for the implementation of this Act the staff has met with several interested parties from the private vocational school sector and from the private college sector, studied the laws and rules of over 30 states, examined the current practices of federal and private approval and accrediting agencies, and has sought advice from Minnesota officials in the Department of Education and the Consumer Division of the Attorney General's Office and from authorities in the District of Columbia, Florida, Illinois, Massachusetts, New Jersey, and the national Postsecondary Education Convening Authority. In addition, the staff has studied a number of in-depth analyses of state approval and consumer protection in higher education, and has very carefully analyzed the testimony received in conjunction with the January 22 hearing on a prior set of proposed rules for the same purpose.

A number of states have responded to the need for better protection for both citizens and legitimate institutions. Minnesota is only one of 34 states which registers post-secondary educational institutions. In five of these states (Arkansas, Kentucky, Nevada, South Dakota, and Tennessee) this authority has only become effective since July 1975. Five other states which are currently without such authority (Colorado, North Dakota, South Carolina, Utah, and Washington) are in the process of developing legislative initiatives in this area. The District of Columbia, Massachusetts, Pennsylvania, and Washington are among the states which are proposing new legislation to supplement and strengthen already existing post-secondary education registration statutes. The passage of the Act and the development of rules and regulations in Minnesota reflects a concern which is widespread in state governments around the country.

Although reported abuses and irregularities in some states may be greater in number or impact than those currently identifiable in Minnesota, this should not be recognized as a valid argument for inaction in this state until a large number of citizens and institutions have been unnecessarily injured. Such an approach would not only constitute poor policy and planning, but might also provide an invitation for new marginal activities only minimally concerned with offering educational service. This approach would also offer no means of dealing effectively with the growing number of questions and complaints received by this agency regarding private post-secondary offerings and activities.

As reported in several sources, over 30 states currently have licensing, chartering, or registration laws with additional enactments anticipated this year. The trend is clearly in the direction of the assertion of state authority to offer protection for citizens of those states and the legitimate institutions serving those states. The effect on those states without reasonable protection is to identify them as fertile territory for all forms of illegitimate educational activity and a sanctuary from which such activity may be launched for other parts of the nation. Such a situation is unhealthy within a state but is also an irritation for otherwise healthy inter-state relations.

In addition to these factors, there are two other trends which seem to be sound bases for protective legislation and detailed rules. The first is the growing support of private post-secondary education through student financial aid and other more direct forms of institutional assistance. Minnesota is recognized as a leader in this area of private support with contributions through state scholarships and grants in aid, the private college contracts, MINITEX, student loans, facilities authority loans, state work study and foreign student subsidy. A conservative estimate of the value of the combination of these programs in the private sector in Minnesota exceeds $25 million for this fiscal year and will be increased in subsequent fiscal years as students in the private vocational sector become eligible for scholarships and grants in aid beginning in the fall of 1976. There is also a substantial indirect public subsidy made available to most private institutions as a result of existing tax exemptions. In view of these demonstrated commitments, it is reasonable for the state to take adequate steps such as the proposed rules to protect students interested in private post-secondary education and to promote the existence of a healthy and legitimate private sector.

The second trend is that of demographic changes which strongly suggest increased competition for post-secondary students within the predictable future. As these changes occur, the need for established standards for institutional conduct will be exaggerated and without an existing process with experienced personnel, the chances of sound, reliable decisions relating to purported abuses will be minimized.

The proposition has been advanced that certain types of institutions should be exempt from the proposed rules by virtue of length of existence, accreditation, prior charters, or nature of service rendered. While we have been advised that our statute includes no provision for exemption, the arguments advanced for exemption are not convincing if the provision of protection and assistance to citizens is to occur within a fair and equitable system. Each of the proposed exemptions would probably establish arbitrary sanctuaries which could easily undermine effective administration of the Act and judiciary support for negative judgments adopted by the Board.

There have been persistent questions and concerns raised in discussion relating to Chapter 201 about the relationship between a state regulated registration-approval process and private accreditation. The case against a state agency relying on private accreditation as a basis for eligibility or approval is founded on two judgments which have been derived from nationally recognized research, testimony from accrediting bodies, and staff observations and experience in Minnesota.

The first of these is that accreditation is not a process which independently assesses how well an institution meets objective standards, but is a private process between the school and the accrediting body designed to measure at a point in time the extent to which an institution is meeting its stated purposes. Since there are many accrediting bodies (at least 58 by one count) and several forms for accreditation, there is little if any continuity from one body to another, and by their own testimony often not much continuity from one review to another within the same accrediting body. An additional feature of many accrediting bodies is that the institution under scrutiny has a preemptive veto over one or more members of the reviewing team. Given the plethora of private accrediting bodies and the nature of the process, it is not difficult to at least tentatively accept the assertion that a persistent institution can gain accreditation from somebody.

A second factor calling into question the exemption of accredited schools is that as a result of reserved powers in education and responsibility for the protection of residents, state governments have public responsibilities and purposes which are distinct from the institutional needs served by accreditation. Those judgments rendered for public purposes must generally be made openly within a stated set of standards or guidelines. The findings and recommendations of accrediting bodies are generally confidential and consistent with their purpose reported only to the institution under review. Whereas a public body should be able to exercise some authority to enforce its decisions, accrediting bodies do not have any powers of enforcement but rely on the sanctions of membership to implement recommendations. For reasons which are consistent with their purposes, accrediting bodies generally do not make annual reviews of institutional status but rely on periodic reviews which may vary from two to ten years.

Several developments within the past five years have focused attention on the appropriate roles of the triad (federal government, state government, and private accreditation) in the broad areas of eligibility, quality control, and consumer protection. Pressures created by governmental reliance on private accreditation for licensure or eligibility have distorted the traditional role of accreditation and diluted decisions in its processes. The rapid emergence of multi-state institutional branches and cells have placed unreasonable burdens on periodic institutional reviews particularly when the delivery systems may vary widely and the curriculum is both changeable and non-traditional. Under these circumstances it is understandable to find both accrediting bodies and governmental agencies articulating the need for an independent state approval process.

In sum, the use of accrediting judgments by a state agency for a registration-approval process is neither simple not adequate. Such use would further add to the unwarranted burdens already placed on private accrediting bodies and leave the state in a position of sanctioning the judgments of a disjointed set of processes over which it has no control, with which it has

no formal means of communication or influence, and to which it is unreasonable to look for action designed to protect the public. The logical conclusion, therefore, is for the state to establish a public set of standards which represent the state's purpose in assisting its residents and in maintaining a set of healthy institutional practices.

In developing these rules and regulations, the staff has borrowed certain language from other statutes and rules in Minnesota as well as other states where the intent of such language was judged as parallel to the functions and activities contemplated by Chapter 201.

II. HECB 901 PURPOSE

HECB 901 derives its authority from section 10 of the Act and restates the purposes of the Act as described in section 1 of the Act.

III. HECB 902 DEFINITIONS

HECB 902(a) is for clarification purposes.

HECB 902(b) is needed to clarify the process of registration. This definition sums the process required of schools pursuant to section 3, section 4, and section 9 of the Act.

HECB 902(c) states verbatim the definition in section 2, subdivision 3 of the Act except for the addition of the words "or advertising" at the end of the definition which were added to prohibit schools from using one of the delineated terms to describe the institution in advertising while at the same time being prohibited from using the term in their name. Without this provision, schools would be able to call themselves by one term, e.g., "university" in advertisements, when their letterhead and official documents referred to the official name, e.g., "institute".

HECB 902(d) is necessary to include schools offering educational services in the state while excluding from registration schools which only recruit students in Minnesota for enrollment in other states. Without this specification, registration could be required of almost every post-secondary school in the country.

HECB 902(e) states verbatim the definition in section 2, subdivision 4 of the Act. The Board does not feel it necessary to expand on this definition.

HECB 902(f) states verbatim the definition in section 2, subdivision 5 of the Act. The Board does not feel it necessary to expand on this definition. The second sentence is needed to make clear that each student's transcript will suffice in meeting this requirement.

HECB 902(g) is needed for clarification purposes. This language is taken from the American Heritage and Webster's Third New International Dictionaries.

HECB 902(h) is needed for clarification purposes. This language is taken from the American Heritage and Webster's Third New International Dictionaries.

HECB 902(i) is authorized by section 1 and section 5 of the Act. It is needed to clarify the separation of the process of registration from that of approval of degrees and names and to make clear that the use of the term "approval" is concerned only with the granting of degrees and the use of terms in school names.

HECB 902(j) states verbatim the definition in section 2, subdivision 2 of the Act except for the substitution of "Board" for "Commission". This substitution is required by the statutory change in the name of the Minnesota Higher Education Coordinating Commission to Minnesota Higher Education Coordinating Board in accordance with Laws of Minnesota 1975, Chapter 271.

HECB 902(k) is for clarification purposes.

IV. HECB 903 REGISTRATION

HECB 903 is authorized by section 3 of the Act. Requiring "those schools located outside of Minnesota which offer programs and courses within Minnesota" to register annually is important for the protection of students from unauthentic and illegitimate activities of schools serving Minnesota through out-of-state facilities or with satellite facilities in Minnesota. This rule also helps assure that legitimate Minnesota schools will not have to compete with illegitimate, out-of-state schools. The importance of the inclusion of out-of-state schools in the registration process was repeatedly emphasized by officials of other states which have been registering post-secondary schools.

V. HECB 904 INFORMATION FOR APPLICATION

The language of the first two sentences of HECB 904 is taken from section 4 of the Act. The word "visitation" has been added to the second sentence so that the Board will have the authority to verify the accuracy of the information it receives; this is a necessity for the equitable administration of the registration and approval process.

In passing Minnesota Laws 1975, Chapter 201 the Legislature established a regulatory scheme in which the Board, a body which by its very nature must conduct its business in meetings open to the general public, approves the registration of schools. That Act provides for no exemption from the Minnesota Open Meeting Law, Minnesota Statutes § 471.705 (1974), or from the Public Records Statute, Minnesota Statutes § 15.17 (1974), thereby indicating that the Board should provide no such exemption. Materials submitted to the Board for the purpose of registration and approval would be public information even without the explicit statement to that effect in HECB 904. Naturally, HECB 904 must be read in conjunction with other statutes mandating privacy safeguards for various types of documents.

HECB 904(a) is needed for the Board to determine if a school meets the criteria of HECB 908.01 and HECB 908.02.

HECB 904(b) is needed for the Board to determine if a school meets the criteria of HECB 908.01 and HECB 908.07.

HECB 904(c) is needed for the Board to determine if a school meets the criterion of HECB 908.01.

HECB 904(d) is needed for the Board to determine if a school meets the requirements of HECB 916.

HECB 904(e)(1) is needed for the Board to determine if a school meets the criterion of HECB 908.01.

HECB 904(e)(2) is needed for the Board to determine if a school meets the criterion of HECB 908.01.

HECB 904(e)(3) is needed for the Board to determine if a school meets the criterion of HECB 908.08.

HECB 904(e)(4) is needed for the Board to determine if a school meets the criterion of HECB 908.08.

HECB 904(e)(5) is needed for the Board to determine if a school meets the criteria of HECB 908.06 and HECB 908.07.

HECB 904(e)(6) is needed for the Board to determine if a school meets the criteria of HECB 908.06 and HECB 908.07.

HECB 904(e)(7) is needed for the Board to determine if a school meets the criterion of HECB 908.09.

HECB 904(e)(8) is needed for the Board to determine if a school meets the criterion of HECB 908.10(d).

HECB 904(e)(9) is needed for the Board to determine if a school meets the criterion of HECB 908.10(e).

HECB 904(e)(10) is needed for the Board to determine if a school meets the criterion of HECB 908.10(c).

HECB 904(e)(11) is needed for the Board to determine if a school meets the criterion of HECB 908.10(b).

HECB 904(f) is needed for the Board to determine if a school meets the criteria of HECB 908.03, HECB 908.04, and HECB 908.05.

HECB 904(g), in conjunction with the other material requested in HECB 904, is needed for the Board to determine if a school meets the criterion of HECB 908.11.

HECB 904(h) is needed for the Board to determine if a school meets the requirements of HECB 907.

The last paragraph is necessary to assure that the Board will be able to obtain further information in the event it is unable to determine if a school has adequately met the criteria of HECB 908.

VI. HECB 905 APPROVAL OF DEGREES

HECB 905 is authorized by section 5 of the Act. The first sentence is needed to define standards for mandatory approval of degrees. The requirements of HECB 908.06 and HECB 908.07 assure there is adequate curriculum and that of HECB 908.08 assures there is adequate faculty and facilities to provide a

suitable program for each degree. This rule also assures students protection by requiring that a degree granting institution be deemed legitimate and authentic pursuant to section 1 of the Act and HECB 908. The next sentences are needed to define minimal standards for regular approval and to allow conditional approvals pursuant to HECB 911. The language of the fourth sentence is taken from section 5 of the Act in conjunction with the requirements of HECB 903. The last phrase is needed to exclude from the approval process out-of-state schools which grant degrees to students in Minnesota after they have completed the major portion of their work in another state.

VII. HECB 906 APPROVAL OF NAMES

HECB 906, in conjunction with HECB 905 and HECB 908, is required by the mandate given the Board in section 5 of the Act. By differentiating terms used in school names, students and the community at large should be able to easily understand the minimum offerings available at a school by its name. With this rule the school with the most limited offering faces the greatest constraint and that with the broadest offering is allowed the greatest flexibility in the choice of terms in its name. These definitions are consistent with implied public policy currently applied to public post-secondary educational institutions in Minnesota and several other states.

HECB 906.10, in conjunction with HECB 906.20, HECB 906.30, HECB 906.40, and HECB 906.50, assures that any school using any of these four terms has been registered as a legitimate and authentic educational institution having educational programs with adequate curriculum, faculty, and facilities. According to The Encyclopedia of Education, a respected reference work in education, the term "academy" has referred historically to private secondary schools which combined classical and modern studies. In time the meaning of "academies" was broadened to include post-secondary as well as secondary schools, but it has not been widely associated with the granting of post-secondary certificates or degrees. Because the term "academy" has been used by respected schools, it has the connotation of legitimacy and authenticity with regard to post-secondary education. Without this rule schools not deemed legitimate and authentic by the Board would be able to use the term "academy" in their name as a cloak of respectability. HECB 906.10 assures a usage of the term "academy" consistent with the educational tradition in this country. Consequently, it will aid prospective students, employers, and other interested persons in differentiating legitimate and authentic schools which offer at least an associate degree from those which do not. If this rule were not in force, a situation of unfair competition could develop and those who need to make distinctions between schools would have a less reasonable basis to do so.

HECB 906.20 is needed for the same reasons as HECB 906.10. In current and historical practice, schools using the term "institute" have frequently not offered academic degrees (associate or higher). In addition, in Minnesota public post-secondary institutes (area vocational-technical institutes), do not offer degrees. Because the term "institute" has been used by respected schools, it has the connotation of legitimacy and authenticity with regard to post-secondary education. Without this rule schools not deemed legitimate and authentic by the Board would be able to use the term "institute" in their name as a cloak of respectability. HECB 906.20 assures a usage of the term "institute" which is consistent with common practice in Minnesota and other

states. Consequently, it will aid prospective students, employers, and other interested persons in differentiating legitimate and authentic schools which offer at least an associate degree from those which do not. If this rule were not in force, a situation of unfair competition could develop and those who need to make distinctions between schools would have a less reasonable basis to do so.

HECB 906.30 is needed for the same reason as HECB 906.10. Traditionally the term "college" has been associated with schools granting baccalaureate degrees. It has been increasingly common practice to name schools granting associate's degrees "colleges". It is the policy in Minnesota to call public post-secondary schools granting associate's degrees "colleges". HECB 906.30 assures a usage of the term "college" which is consistent with present policy in Minnesota and other states. Consequently, this provision will aid prospective students, employers, and other interested persons in distinguishing schools which offer at least one associate's degree from those which do not. If this rule were not in force, a situation of unfair competition could develop and those who need to make distinctions between schools would have a less reasonable basis to do so. With this provision, no school offering only an associate's degree in Minnesota, whether public or private, would call itself "university". This rule follows a common practice found around the country. The provision allowing schools offering associate's degrees to use the term "academy" or "institute" in their name is to enable those schools already using either of those terms to continue to do so if they wish.

HECB 906.40 is needed for the same reason as HECB 906.10. While the term "university" has traditionally been linked to institutions granting post-baccalaureate degrees, the Minnesota Legislature has recently approved the use of the term "university" for all public post-secondary schools in the state which grant baccalaureate degrees. HECB 906.40 is consistent with the policy implied by that decision. Because with this provision both public and private schools in Minnesota will be consistent in the use of the term "university", HECB 906.40 will aid prospective students, employers, and other interested persons in distinguishing schools, both private and public, which offer at least one baccalaureate or advanced degree from those which do not. If this rule were not in force, a situation of unfair competition could develop and those who need to make distinctions between schools would have a less reasonable basis to do so. The provision allowing these schools to use any of the terms in their name is to enable those already using "academy", "institute", or "college" to continue to do so if they wish.

HECB 906.50 assures that non-degree schools, many long established, using the term "college" may continue to do so when clearly labeled by a qualifying term. Since "business college", "barber college", and "beauty college" are commonly used names denoting vocational, non-degree schools, terms so used should not confuse the prospective students, employers, or others as to the nature and activities of the school. Other vocational terms are occasionally used in conjunction with the term "college"; however, the infrequent nature of this usage in Minnesota would make the use of the term "college" with such qualifiers unclear, possibly misleading students and prospective students about the nature and activities of the school. This rule helps to limit the changes in names required of schools without sacrificing protection and assistance for students.

VIII. HECB 907 RECORDS

A need to adopt HECB 907 arises because of the mandate given the Board in section 8 of the Act. The preservation of permanent records is to provide students and their survivors with certifiable educational data for further education, employment, survivors benefits, etc. The requirement that they be kept in a secure depository is needed because of the potential threat of fire or other disasters such as those which have occurred at schools in Minnesota and other states which disrupted record keeping for both students and institutions. California, the District of Columbia and Indiana are other states which have adopted regulations concerning the protection and retention of student records.

IX. HECB 908 POLICIES AND STANDARDS

Section 6 of the Act mandates that the Board "maintain a list of schools authorized to grant degrees and schools authorized to use the name 'college', 'academy', 'institute', and 'university' . . . " The adoption and publication of a list of schools deemed legitimate and authentic by the Board is needed in order to make available to the public the list of post-secondary schools viewed as authentic and legitimate by the Board. This list is one of the means by which the Board may provide assistance and protection for persons choosing private institutions and programs as mandated by the Legislature in section 1 of the Act.

The Legislature has stated in section 1 of the Act that the state shall provide protection and assistance to citizens "by establishing policies and procedures to assure the authenticity and legitimacy of private post-secondary education institutions and programs". The first sentence of the second paragraph states in general terms the standards used by the Board to determine the legitimacy and authenticity of the broad range of degrees and schools required to register by the Legislature. These standards are developed in detail in the subsections of HECB 908. The last two sentences of the second paragraph are necessary to prevent the disapproval of school applications when it has been deemed slightly insufficient in one or two less vital areas while meeting the standards essential for sound education.

HECB 908.01 is needed to assure that each school has developed a statement of mission and goals which is necessary as a foundation for its programs and activities. Continuity between this statement of mission and goals and the school's activities are assured by a charter, by-laws, or operating procedures which reflect that mission and identity. Florida and Virginia are states which have similar requirements.

HECB 908.02 is needed because: (a) the Board must be able to identify the authority responsible for the school and its programs in order to register it pursuant to section 3 of the Act, (b) students should be able to identify the responsible authority in cases of questions concerning their academic or financial position vis-a-vis the school, and (c) a school must be adequately administered in order to have sound educational practices and programs. Similar standards are required by Delaware, Florida, and Virginia.

HECB 908.03 assures that students understand how some of their fees are expended in relation to their program. The compensation of board members is one point of potential abuse by both profit and non-profit institutions. This provision provides protection against occasions where institutions might compensate board members for more than normal expenses and honoraria as a means of an indirect distribution of profit or unallocated income.

The need to adopt HECB 908.04 arises because: (a) legitimate and authentic educational institutions must be able to meet their financial obligations to support adequate programs, and (b) students and creditors must be protected against a loss of fees or assets in the case of closure or termination of programs. This requirement is widespread among states registering or licensing post-secondary schools. Florida, the District of Columbia, Massachusetts, New Mexico, and Virginia are among many with this requirement. The language of HECB 908.04 is taken almost verbatim from the language of Minnesota Statutes, section 141.25, subdivision 7(a) (1974) mandating the financial soundness amongst schools subject to that statute.

HECB 908.05 is needed to implement HECB 908.04 and to provide a clear picture of the school's financial status for sound internal planning, development, and fiscal management and for others to understand the school's financial status. That a number of schools throughout the country have failed to meet these standards has been amply demonstrated in the recent respected study, Private Accreditation and Public Eligibility by Harold Orlans, et al. Connecticut, Delaware, and Virginia have adopted similar standards. The source of the standards recommended in HECB 908.05 is a professional association of responsible educational business officers. It should be noted that these standards are only recommendations; schools are free to use other acceptable procedures.

The need to adopt HECB 908.06 arises because educational programs and degrees should meet minimum requirements for public recognition of the authenticity and legitimacy of the programs and degrees granted. Not all schools offering programs or granting degrees support those programs with adequate curricular offerings or requirements for the field or the level of the degree; consequently, schools with adequate programs operate at a competitive disadvantage to schools without adequate curricular offerings. Connecticut, Florida, Maryland, and Virginia have responded to this problem with a similar requirement.

The need to adopt HECB 908.07 arises because a school's missions and goals and educational program and curriculum can be developed independent of one another; thus, the statement of mission and goals by the administration and the programs and curriculum by the faculty may not support one another. For example, without this provision a school with the goal of training computer technicians may decide to launch a program in community counseling without reviewing the change in the school's purpose or mission that this would necessitate. The student should be assured that the school's statement of missions and goals reflect the educational opportunities and programs offered by the school. Connecticut, Delaware, Florida, Maryland, and Virginia require a similar standard.

HECB 908.08 assures that each educational institution has a qualified faculty and must provide or make available to faculty and students adequate facilities and resources to assure the authenticity and legitimacy of its curriculum and programs. Some schools now offer programs with unqualified

staff or inadequate facilities which result in degrees which are not recognized as authentic by other academic institutions and by the broader business and social communities. When not all schools support their programs with adequate faculty and resources, schools which are well staffed and have adequate facilities are at a significant cost disadvantage which then may make them less attractive to students than inadequate schools. Connecticut, the District of Columbia, and Florida are among at least nine regulating states which have similar requirements. Minnesota Statutes, Chapter 141 (1974) has similar standards concerning the adequacy of the faculty and facilities of licensed vocational schools in Minnesota.

HECB 908.09 is needed because in order to make sound, rational choices concerning post-secondary education, students should understand the effective parameters for freedom or restraint which may affect the content and conduct of educational programs. For example, a student interested in studying biology should know if a school prohibits the teaching of the theory of evolution. Florida and Virginia have similar requirements.

The need to adopt HECB 908.10, in conjunction with its subsections, arises because of the need to protect and assist students choosing private post-secondary education. In order to make sound, rational choices about schools and programs, a student should have accurate and adequate information about the likelihood of admission, readmission if they temporarily wish to withdraw, and success, standards for granting credit for prior education, the total costs for a program, the refund policy, and the standards of the financial aid program, if any. Only with full information about what is expected of them financially and academically can students make meaningful decisions about education and career planning. Without this information a student may unknowingly enroll in a program which has a very low success rate or may be committed to a substantially greater expenditure than seemed necessary from the catalog or promotional materials. In addition, most reliable schools already disclose such information and, therefore, they may operate at a disadvantage in a competitive student market. Minnesota Statutes, Chapter 141 (1974) includes requirements for disclosure of similar information to students. Massachusetts, Florida, Delaware, and Virginia are other states which require disclosure of specific information to students and prospective students.

HECB 908.10(a) is needed for the same reasons as HECB 908.10. Students and prospective students should know what proportion of admitted students graduate from a school's program. It is also useful for students to know the likelihood of readmission in cases where they withdraw temporarily, for instance to work temporarily to pay for education, to help choose the direction of their career plans, to reconsider their choice of educational program, or even to prepare more if they have not succeeded so far in a program.

HECB 908.10(b) is needed for the same reasons as HECB 908.10. This rule assures that students and prospective students have access to policies which determine their success or failure in an educational process. This information should assist a student in making realistic estimates about the process of admission and evaluation, thus minimizing misunderstandings between the student and the school. Florida and Virginia have similar requirements, and Minnesota Statutes, section 141.25, subdivision 9(a), (f), and (g) (1974) require vocational schools to publish in the school catalog or brochure policies concerning standards of progress required of the student, the grading system, probation, reentrance, and dismissal.

HECB 908.10(c) is needed for the same reasons as HECB 908.10. Without this information students cannot know clearly what is required for the completion of a program. This requirement is very similar to that of Minnesota Statutes, section 141.25 (1974) which requires in subdivision 9(a) and (1) that vocational schools publish in the catalog or brochure "policy and regulations of the school relative to granting credit for previous education and training."

HECB 908.10(d) is needed for the same reasons as HECB 908.10. In order to make rational decisions about education, students should be able to balance the total cost of a program against the vocational and personal benefits received from completing it. HECB 908.10(d), in conjunction with HECB 908.10(a) and HECB 908.11, assures the availability of this information. Without this requirement students may be misled by a cost figure for "tuition" which fails to include required fees, book costs, laboratory fees, etc. Minnesota Statutes, Chapter 141 (1974) has a very similar requirement for vocational schools in Minnesota. This standard is required by at least six other states including Massachusetts, Connecticut and Virginia.

HECB 908.10(e) is needed for the same reasons as HECB 908.10. This rule is of primary importance to both the student and to any lending agencies. The Orlans study notes that the "tuition refund policy appears to be a key link between high dropout and high default rates." HECB 908.10(e), in conjunction with HECB 908.10(a), provides students with information which at a minimum should be a major consideration in the decision either to pay for or to borrow money for a program where the rate of completion is low and few refunds are allowed. In addition to Minnesota, where vocational schools are required to provide this information by Minnesota Statutes, section 141.271 (1974), at least seven other states including Massachusetts, the District of Columbia, and Florida have a similar policy.

HECB 908.10(f) is needed for the same reasons as HECB 908.10. Since many students need financial aid in order to take advantage of post-secondary educational programs, the procedures and standards used for the selection of aid recipients may be an important criteria in choosing an educational program. Without this rule students may be misled by vague references to financial aid when they meet none or few of the standards used for recipient selection or may feel unable to meet the repayment terms. Connecticut, Delaware, and Virginia have similar requirements.

HECB 908.11 assures that students have an accurate, typical view of the school as it is presented in its recruitment and promotional information. Students thus are assisted greatly in making sound rational choices concerning private post-secondary education which require a major investment of time and of the students' resources. Students have been misled about school's programs, personnel, facilities, or occupational opportunities in Minnesota and other states. With this rule there is protection against misrepresentation and the development of false hopes through promotional materials and presentations. Connecticut, Indiana, and New Mexico are other states having similar requirements. Minnesota Statutes, section 141.28, subdivision 3 (1974) prohibits schools, agents, or solicitors from making false, fraudulent, deceptive, substantially incorrect, or misleading representations.

A need to adopt HECB 908.12 arises because students should not be advised by compensated recruiting agents without knowing that a paid agent is the source of the advice.

X. HECB 909 DISAPPROVAL AND APPEAL

The first sentence of HECB 909 provides for a hearing if a school is denied approval for granting a degree or for using a term in its name or if a school is not deemed legitimate and authentic by the Board. The second sentence of HECB 909 is authorized by section 5 of the Act; the 30 day limit assures schools an adequate period for them to consider the best course of action open to them.

XI. HECB 910 WITHDRAWAL OF APPROVAL

HECB 910 is needed for the adequate and equitable administration of the law. For example, if a school changes owners after being approved and policies are altered so that the school is similar to others that were initially denied approval, it may be necessary to act in the middle of the year for the protection of the student. This rule also is needed to protect citizens in cases where there is significant change in a school or its programs, or in the information the Board receives about a school or its programs, and a compelling need to take action after its initial approval. If a school was approved on the basis of false, misleading, or incomplete information, the approval process did not follow the process set down by the rules and regulations and should be repeated. If a school or its program changed to the significant detriment of a student in terms of financial or academic arrangements, the state should not maintain its approval. The language of the grounds for withdrawal of approval is verbatim or very similar to that of the grounds in Minnesota Statutes, section 141.29, subdivision 9(a), (b), (c), and (d) (1974).

XII. HECB 911 CONDITIONAL APPROVAL

A need to adopt HECB 911 arises because it would be detrimental to enrolled students and schools to refuse to approve or take action interpreted as unfavorable to legitimate and authentic schools with minor infractions of these rules which can be remedied easily. Similarly, the Department of Education grants conditional licenses pursuant to Minnesota Statutes, Chapter 141 (1974), for example, by licensing schools which have a weak financial condition and monitoring these schools by means of a required monthly financial statement. HECB 911 would allow conditional approval of a school while it improves the language in its promotional documents.

XIII. HECB 912 UNAUTHORIZED REPRESENTATIONS

With the attached editorial amendments, HECB 912 follows verbatim the language of section 7 of the Act, merely adding the quoted sentence which will standardize all authorized representations by schools and thereby prevent misrepresentation.

XIV. HECB 913 NON-REFUNDABLE FEES

HECB 913 is proposed pursuant to section 9 of the Act. It is necessary because of the cost to the Board in reviewing applications for registration.

XV. HECB 914 DELEGATION OF AUTHORITY

HECB 914 is authorized by section 10 of the Act. The staff needs this authority to aid the Board in the implementation of the Act. Without this provision, implementation of the Act would become inefficient and unnecessarily cumbersome to the Board and the schools.

XVI. HECB 915 ADVISORY COMMITTEE

HECB 915 assures that the Board will make decisions on the basis of recommendations of a group large enough to include the varied qualifications necessary to consider the broad range of degrees and schools required to register by the Legislature. The inclusion of the purposes of the Advisory Committee (a-d) assures that the committee will have a continuing role in the evaluation process and that schools subject to registration will understand the role of the committee. This rule is similar to the provisions of Minnesota Statutes, Chapter 141.24.

XVII. HECB 916 SCHOOLS LICENSED UNDER MINNESOTA STATUTES

HECB 916 is needed because several agencies of the state of Minnesota have been operating under their respective statutes prior to the implementation of HECB 916 and have established staffs and sets of procedures for implementing those statutes. In addition, no school subject to licensure in Minnesota can operate without such license, consequently review by the Board would be an unnecessary and futile waste of time in cases where licenses are denied.

Currently, the Minnesota Department of Education administers a strong Private Business, Trade, and Correspondence School Act, Minnesota Statutes, Chapter 141 (1974) which provides for licensing profit-making schools and institutions. While there is some overlap between the schools regulated by Chapter 141 and the Act, the proposed rules and regulations will be applied to a broader range of vocational schools, including non-profit institutions and those licensed by other state agencies, as well as to traditional institutions of higher education. In addition, the Act has specific concerns about the use of terms in the name of the school and about record retention which are distinct from the concerns of Chapter 141.

XVIII. HECB 917 RIGHTS, DUTIES, AND OBLIGATIONS NOT IMPAIRED BY MINNESOTA STATUTES, CHAPTER 141

HECB 917 is needed to preserve the respective rights and responsibilities of the Board and the Commissioner of Education.

XIX. HECB 990 SEPARABILITY

HECB 990 serves to signify the intention of the Board that all rules in this chapter should be severable. Similar regulations are standard in most regulatory or statutory schemes.

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

BY _____
RICHARD C. HAWK
Executive Director

RECEIVED
OCT 26 1978
OFFICE OF HEARING
EXAMINERS

MATERIAL RECEIVED FOLLOWING A NOTICE OF INTENT TO SOLICIT OUTSIDE INFORMATION REGARDING PROPOSED AMENDMENTS TO THE RULES GOVERNING THE PRIVATE INSTITUTIONS REGISTRATION PROGRAM PUBLISHED IN THE STATE REGISTER, MONDAY, JUNE 19, 1978, VOLUME 2, NUMBER 50, PAGE 2292

MINNESOTA ASSOCIATION OF PRIVATE VOCATIONAL SCHOOLS

AUG - 7 1978

August 4, 1978

Susan A. Powell
Director of Program Planning
and Coordination
Minnesota Higher Education Coordinating Board
Suite 400, Capitol Square
550 Cedar Street
St. Paul, Minnesota 55101

Dear Susan:

This is in response to your kind invitation of June 23 asking that the Minnesota Association of Private Vocational Schools review the Private Institution Registration rules and respond.

As I indicated to you in an earlier telephone conversation since receiving your invitation, we have had some in-association meetings to discuss the rules. The following represents the reactions and responses of the assocation:

Relating to the draft amendments to the rules as submitted, and dated May 18, 1978, we have no comment.

There are, however, two areas reflected in statutory amendments made during 1978 which are not included in your rules draft which we would respectfully submit deserve coverage in the rules:

1) MS 136A.653 Subd. 4 provides that any school or program exempted from registration law may voluntarily submit to the provisions of the law. Since many of our member schools are covered by licensing of the Commissioner of Education and are therefore exempted from 201, it is our feeling that the rules should

   a. Acknowledge the legal authority of the law providing for voluntary submission

   b. Indicate at least what a school must do initially to submit to the provision and

   c. Give any additional detail that would assist a school voluntarily registering to expedite its application.

2) Secondly, it is our view that the amendments enacted by the legislature in 1978, specifically relating to exemptions to the law, give magnification to problems of dual regulation for its schools and in those areas

where your agency and another state agency have overlapping authority. Two such examples that might be cited from the experience of recent months is the issue of the degree offered by the Medical Institute of Minnesota and the appropriate nomenclature for the degree. Susan, you have indicated privately that wherever possible you will exceed or accept prior judgments of the other agencies, such as in the case of accepting licensure by the State Cosmetology Board as evidence of the authenticity and legitimacy of a beauty school. However, in cases such as that of a name of a degree, there can be disagreement between your board and, say the office of the Commissioner of Education. The occasion might arise when there will be a disagreement between your board and, say the Cosmetology Board. Since rules are promulgated to anticipate operational detail, we would respectfully request that there be given consideration to including in the rules a section indicating how HECB will address such complications between it and another state agency. Needless to say, we do not feel that it would be just to have a school caught in the middle of such a disagreement.

I hope that the above two suggestions are helpful. If it would be beneficial to you if either I, any of the individuals shown as receiving carbons of this letter or any other member of the association you might wish, we would be happy to meet with you.

Thank you for the opportunity to comment on your rules.

Sincerely yours,

T. Jerome Enright, Jr.

TJE:si

cc: Sue Seiler
Wilbur Nemitz
Sister Mary Jude

ADMIN 1000

DEPARTMENT COMMUNITY COLLEGE SYSTEM
Office of the Chancellor

STATE OF MINNESOTA
Office Memorandum

TO : Susan Powell
Director of Program Planning and Coordination
MHECB

DATE: 11/20/78

FROM : Howard Bergstrom
Associate Vice Chancellor for Instructional Services
Minnesota Community College System

PHONE:

SUBJECT: Recommendations for consideration by the MHECB in regard to revision of the Private Institution Registration Rules and Regulations.

Please distribute copies of this memorandum, as you think appropriate, at the public hearing to be held on November 21 at 9:00 A.M., Room A, Capitol Square Building. (Your notice of this hearing indicated that written statements were welcomed in the event that an interested party could not attend.)

I will not be able to attend on November 21. This is the date of a State Board for Community Colleges meeting, in Hibbing, which was scheduled more than a year ago.

My recommendations, which follow, are my own, as the designated system representative to HECB staff-level communications on such matters; what follows has not been formally submitted to Board and Chancellor consideration. Therefore, any impact of these recommendations should be because the reader might be persuaded by the arguments, which are the same as those used in an inter-system discussion with Dr. Ingle some weeks ago.

1. "Registration," not "approval"

Where possible, I recommend that the HECB concentrate on the word "registration" and try to eliminate the word "approval." The latter term implies a subjective appraisal of the type that takes place in regional accreditation, and it is understood that HECB registration is not to duplicate accreditation.

To accomplish the goal stated above, the criteria to be used should all be objective in nature, resulting in registration if met.

The Legislature should be asked to consider revision of the statute so that the emphasis on "registration" and the de-emphasis on "approval" will be confirmed.

2. A degree from an out-of-state institution

The HECB now has the problem of "approving" degrees given by an institution in another state, which does its teaching in Minnesota on an extension basis, in motel rooms sometimes or sometimes in rented classrooms. Library adequacy is presumably based on availability of books by mail, through catalogs of printed materials.

School districts, and the community college system, place teachers on salary schedules according to graduate degrees earned. The difference in pay between those having a master's degree and those who do not, if calculated for even one year, totals millions of dollars in tax monies. It is important that such degrees be of high quality. It is difficult for me to see how a high-quality education can be earned in an extension operation, without access to the full campus environment, including a full faculty and a full library, for at least one-half of the courses taken which make up the degree, particularly courses in the major field.

I recommend that the rules and regulations be changed so that the HECB would not register an extension center of an out-of-state institution as if it were an "institution." Rather, it should be registered as an "extension center" which by definition ought not to be capable of giving degrees.

If the logic of the two preceding paragraphs were carried into rules and regulations, a degree could not be given by an extension center, and to be given by the home institution, out-of-state, the student would have to take at least the majority of the major field courses back in residence, at the out-of-state campus, in order for the degree to be "recognized" ("registered degrees," not "approved degrees") here in Minnesota.

3. Objective standards for degrees

A degree, to be "registered," ought bo meet certain objective standards, in my opinion. One of these standards, to have most of the major field taken in residency, is noted above.

Another standard that I think a degree should meet in order to be registered is that it ought to reflect the competence of a group of regularly-employed faculty members on its home campus. For example, I do not think a college should be registered to give an "associate in applied science" degree unless it has a home campus

faculty in a technical (applied science) field that is implied by the degree. Likewise, I do not think a vocational school should be registered to give an "associate in arts" or an "associate in science" degree unless it has a regularly-employed faculty in the most-common academic liberal arts and sciences. (The same principles would of course apply to the bachelor's and graduate levels.)

A third standard for registration of degrees should be the availability, during the "residency" (enrolled on home campus) requirement, of a minimum library which one can walk into--not access by mail or computer. The minimum could be set objectively at a reasonable level.

Other objective standards might be desirable for registration.

MINNESOTA
HIGHER EDUCATION
COORDINATING BOARD

SUITE 400
CAPITOL SQUARE
550 CEDAR STREET
SAINT PAUL 55101
(612) 296-3974

RECEIVED
DEC 1 1978
OFFICE OF HEARING
EXAMINERS

MEMORANDUM

TO: Harry Crump
Hearing Examiner

FROM: E. Ann Kelley
Manager of Institutional Approval
and Consumer Affairs

DATE: December 1, 1978

SUBJECT: Proposed Amendments to the Private Institutions Registration Rules and Regulations

This is in response to oral and written testimony provided at the hearing concerning proposed changes in the Private Institutions Registration rules and regulations.

There were several comments about the proposed amendments to the definitions found in 5 MCAR 2.0902. The proposed changes in the definition of the term "school" (5 MCAR 2.0902C) will make the definition consistent with the statutory definition of school. Any other changes would be unnecessary and might result in a definition of "school" in the rules and regulations which is not consistent with that of the statute.

The proposed amendments to the definition of "degree" (5 MCAR 2.0902E) will make the administration of the statute more consistent and equitable for reasons presented in the Statement of Need and Reasonableness and in the oral testimony at the hearing. The inclusion of the definition is consistent with the responsibilities of the Board pursuant to Minn. Stat. 136A.62 Subd. 4 which states that "degree" means any award given for the completion of a course or program designated "b . . by the term degree, associate, bachelor, baccalaureate, masters, or doctorate, or any other award which the board shall include by regulation."

In our opinion, comments about the definition of the term "approval" (5 MCAR 2.0902G) are not pertinent to the hearing since there are no proposed amendments in the text of that section. However, since there have been references to the definition of the term "approval" we should note that the statutory language indicates that approval and registration are independent responsibilities. I.E., Minn. Stat. 136A.63 refers to the registration function of the Board while Minn. Stat. 136A.65 refers to the approval of degrees and names for schools "subject to registration". The definition of approval found

in the existing rules and regulations simply indicates the nature of the approval function of the Board. With the present statute, it seems neither reasonable nor necessary to eliminate or alter the definition of the term "approval".

We will not respond to the substance of other comments since they related to rules and regulations not proposed to amended at this time.

As staff testified at the hearing, although several of the rules paraphrase statutory language, we believe that inclusion of this language is crucial to an understanding of the rules. The three sections for which we are proposing amendments which may paraphrase statutory language are 5 MCAR 2.0902C (definition of school), 5 MCAR 2.0904 (confidentiality of financial records), and 5 MCAR 2.0906E (a qualified grandfather clause).

In the case of the definition of "school", the rule language paraphrasing statutory language is central to the rules. Rather than providing a definition which differs substantially from the statutory definitions of these terms, thereby introducing ambiguity or confusion, and rather than leaving this definition out altogether, thereby forcing the person using the rules to refer to the statute, we felt it far preferrable to use language closely paralleling the statutory language.

The proposed substitution of paraphrased statutory language in 5 MCAR 2.0904 concerning public access to submitted financial records will make clear to those referring to the rules under what circumstances this sensitive information can be publicly disclosed. Without some change in the current rule language, those referring to the rules alone could infer that all information, including financial records, would be available to the public.

In our opinion, the proposed amendment to 5 MCAR 2.0906E (the substitution of a qualified grandfather clause) is sufficiently different from the statutory language that it does not constitute a duplication or paraphrasing of the statutory language. However, this amendment is crucial to those referring to the rules without benefit of the statute to understanding the standards for the approval of names. We feel strongly that persons referring to the rules should be able to form an accurate picture of the coverage of the Private Institutions Registration program without a close reading of the statute. To that end, we believe inclusion of the proposed wording of 5 MCAR 2.0906E, as well as the two other rules referred to above whose wording is similar to statutory language, is necessary for completeness, accuracy and clarity of the rules as a whole.

EAK:lw

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Adoption of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Harry Seymour Crump, Hearing Examiner from the State Office of Hearing Examiners on November 21, 1978, at 9:30 a.m. in the Capitol Square Building in the City of Saint Paul, County of Ramsey, State of Minnesota.

This Report is part of a rule hearing procedure pursuant to Minn. Stat. Sec. 15.0411 to Sec. 15.047 and Sec. 15.052, to determine whether the proposed rules should be adopted and given the force of law. A copy of this Report may be obtained from the Office of Hearing Examiners for the cost of reproduction.

Members of the Minnesota Higher Education Coordinating Board (hereinafter "the Board") panel appearing at the hearing included the following: Dr. E. Ann Kelley, Manager of Institutional Approval and Consumer Affairs; Dr. Susan A. Powell, Director for Program Planning and Coordination; and Gregory P. Huwe, Special Assistant Attorney General assigned to the Board.

Seven public witnesses appeared and three spoke at the hearing. At the hearing, the Board submitted five written exhibits, including an exhibit of a Memorandum addressed to the Board from the Minnesota Community College System. One written post-hearing comment from the Board was received prior to the close of the record five working days following the hearing.

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

The 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. Sec. 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 September 18, 1978, the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On October 16, 1978, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 723.

3. On October 20, 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 October 26, 1978, the Board filed the following documents:

(a) The Order for Hearing and authorizing resolution.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 2 State Register 2292 (June 19, 1978).
(h) The names of Board personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

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 December 4, 1978, for the receipt of written comments and statements.

6. The Board cites Minn. Stat. Sec. 136A.70 (1976) as its statutory authority for the promulgation of the proposed rules. This statute authorizes the Board to adopt policies and prescribe appropriate rules and regulations to carry out the purpose of Sections 136A.61 to 136A.70.

7. The purpose of the proposed amendments is to make certain public post-secondary educational institutions located in another state or county subject to registration, to provide certain restrictions on the use of records provided in connection with registration, to grant approval for the use of certain names by certain schools, and to provide exemption from registration by certain schools, in accordance with Minn. Laws, 1978, Chapter 603.

5 MCAR Sec. 2.0902 - Definitions

8. Proposed amendment Section 2.0902 C. defines non-Minnesota public institutions and for-profit organizations regulated by the rules governing the private institutions registration program. In the Board's Statement of Need and Reasonableness and at the hearing, the Board commented that this amendment is needed to bring the definition of "school" into conformity with the law. Under Minn. Laws, 1978, Chapter 603, the Minnesota Legislature amended Minn. Stat. Sec. 136A.62, to expand the definition of schools affected

by the statute. The existing definition of "school" describes the literal language of the statute. In the proposed amendment to the rule, the Board has also expanded the definition of "school" to include the literal language of the amendment to the statute. The amendment to the rule is consistent with the language in the existing rules and authorizing statute. Accordingly, the Hearing Examiner concludes that the duplication of the language is crucial to the ability of a person affected by the rule to comprehend its meaning and effect. The proposed amendment is needed and reasonable.

9. Proposed amendment Section 2.0902 E. defines "degree" as an award signifying the completion of a program which is designated by the term "doctor" or "education specialist". This provision deleted the term "doctorate". The Board commented that the terms "master" and "doctor" are common terms used in the title of degrees granted by the Minnesota colleges and universities. The degree title "educational specialist" has been added because several state-supported and independent institutions offer this post-bacccalaureate academic degree. At the hearing, the Board submitted two exhibits. One was a letter from Dr. Harvey Stegemoeller, Executive Director of the Minnesota Private College Council, and the other, a memo from Judith A. Wain, the Department of Education and Board of Teaching, in support of the proposed amendment establishing the need for and the reasonableness of these amendments to this rule. The proposed amendment complies with the legislative intent of Minn. Stat. Sec. 136A.62, subd. 4 (1976) and is needed and reasonable.

10. Proposed amendment Section 2.0904 deals with information required for registration. The amendment prohibits the disclosure of certain financial records except for purposes of defending at Chapter 15 hearings or other legal proceedings. In the Board's Statement of Need and Reasonableness and at the hearing, the Board commented that this provision is needed to clarify that submitted financial records are confidential except in the case of legal proceedings. At the hearing and by post-hearing comments, the Board contended that the paraphrasing of the statutory language was crucial to an understanding of the rule. Without some change in the current rule language, those (persons) referring to the rule alone could infer that all information, including financial records, would be available to the public. It is found that the paraphrasing of the statutory language was crucial to an understanding of the rule. It is concluded that the amendment to the rule is not so vague as to be unreasonable. The amendment repeats the general language of the statute without adding any details to inform persons, submitting such information for registration, which financial records shall not be disclosed by the Board. Although it is a policy matter for the Board to decide how detailed an amendment to a rule ought to be, this amendment would be clearer if the types of "financial records" were set forth in the rule. The modification will not constitute a substantial change. So modified, the proposed rule is needed and reasonable.

11. Proposed amendment Section 2.0906 E. is a "grandfather provision" granting the approval of certain terms in the names of non-degree schools established prior to August 1, 1975. At the hearing, the Board commented

that this amendment alleviates the problem of having long established schools change their names. The proposed amendment is a substitution for the original rule. The Board pointed out that the original rule helped to limit the change of names required of schools without sacrificing protection and assistance for students. At the hearing and by post-hearing comment, the Board stated that the proposed amendment is sufficiently different from the statutory language that it does not constitute a duplication or paraphrasing of the statutory language. In addition, this amendment is crucial to those persons referring to the rules without benefit of the statute to understand the standards for the approval of names. The Board contended that the similarity to the statutory language is necessary for completeness, accuracy and clarity of the rules as a whole. The Hearing Examiner concludes that the language contained in the rule is of sufficient difference not to constitute a duplication of the statute; however, any similarity to the language of the statute is crucial to the ability of a person affected by the rules to comprehend its meaning and effect. The rule, as proposed, is needed and reasonable.

12. Proposed rule Section 2.0918 deals with schools and programs exempted from these rules. This proposed rule provides for those schools and institutions exempted to initiate voluntary registration under these rules governing the registration process. In response to the notice of intent to solicit outside information, T. Jerome Enright, Jr., from the Minnesota Association of Private Vocational Schools, commented in regard to this proposed amendment that the rule should contain any additional detail that would assist a school voluntarily registering to expedite its application. It appears this comment was considered in the drafting of this rule. The Hearing Examiner suggests that the Board should reference the particular rule or rules mentioned at the end of the proposed rule, i.e., "pursuant to Board rules". This modification would clarify all applicable provisions necessary for schools to voluntarily register under the program. The rule, as proposed, and so modified if the agency considers the suggestion of the Hearing Examiner, is needed and reasonable and will not constitute a substantial change. The Board should consider any additional details which may facilitate the registration of schools exempt from the program, which would not constitute a substantial change.

13. The following proposed amendments were discussed at the hearing and drew no specific comments: Section 2.0902 G., H., I., Section 2.0904 E., and Section 2.0906 E. (the deletion of the existing provision). The Hearing Examiner hereby adopts as findings the Board's Statement of Need and Reasonableness relative to these provisions as justification for the proposed amendments. These amendments, as proposed, are needed and reasonable.

14. Other matters considered in the record were as follows: W. C. Nemitz, Minnesota Association of Private Vocational Schools, commented at the hearing that the proposed amendments were acceptable. Emily Hannah, Vice Chancellor for Academic Affairs of the State University Systems, commented at the hearing that there were no objections to the proposed amendments except for the following issues: The proposed amendments were insuf-

ficient to protect consumers from post-secondary institutions which are ill-equipped to offer post-secondary degrees by reason of inadequate facilities, faculties, library and other materials. Further, the Legislature delegated to the governmental boards of the public post-secondary educational system the authority to approve degrees and programs. These rules encourage ambiguity of authority by the description of a various superficial route of approval rather than registration of degrees and institutions. In addition, Dr. Hannah commented on existing Section 2.0902 C., E., G., relative to the distinction between "approval" and "registration", and existing Section 2.0908. At the hearing and by post-hearing comment, the Board stated that the comments of Dr. Hannah were not pertinent to the hearing since there are no proposed amendments in the text of those sections. However, since there have been references to the definition of the term "approval", the Board pointed out that the statutory language indicates that "approval" and "registration" are independent responsibilities. Minn. Stat. Sec. 136A.63 refers to the registration function of the Board while Minn. Stat. Sec. 136A.65 refers to the approval of degrees and names for schools "subject to registration". The definition of "approval" found in the existing rules and regulations simply indicates the nature of the approval function of the Board. The Board determined that it was neither reasonable nor necessary to eliminate or alter the definition of the term "approval". The Hearing Examiner concludes that these kinds of decisions are delegated to the Board by the Legislature and are made in the rule drafting process. The scope of the Examiner's authority is to determine if there is statutory authority to promulgate the proposed rules and whether or not the rules are both needed and reasonable; and finally, whether the Board fulfilled all relevant, substantive or procedural requirements of law or rule. The decision on policy alternatives are within the Board's discretion as long as the policy chosen is reasonable. Cynthia Allen, Board of Cosmetology, inquired as to whether registration is required for private schools without the term "college" in their names. The Board stated that such institutions are not required to register if they are for-profit and not providing continual legal education programs under any legal requirement or the institution is licensed by the Department of Education and grants a degree. At the hearing, the Board submitted a memorandum from Howard Bergstrom, Associate Vice Chancellor for Institutional Services, Minnesota Community College System, recommending certain revisions to the rules relative to "registration" and "approval", degrees from out-of-state institutions, and objective standards for degrees. At the hearing, the Board commented in opposition to consideration of the memorandum that those comments were general policy matters of the Board's program and not directed specifically to the proposed rules.

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

CONCLUSIONS

1. The Board gave proper notice of the promulgation of the proposed rules.

2. The Board has statutory authority to promulgate the rules.

3. The Board has fulfilled all relevant substantive and procedural requirements of law or rule.

4. The modification of the rules as discussed herein will not constitute a substantial change.

5. The Board has demonstrated the need for and the reasonableness of the proposed rules by an affirmative presentation of facts in the record.

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

RECOMMENDATION

It is recommended that the proposed rules, as modified, be adopted by the Higher Education Coordinating Board with consideration given to the Findings of Fact herein.

Dated: January 4, 1979.

Harry Seymour Crump

HARRY SEYMOUR CRUMP
Hearing Examiner

HECC-79-001-HC

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

SUSAN WOJCIK, being first duly sworn, deposes and says that on the 4th day of January, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of Hearing Examiner

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Susan Wojcik

Subscribed and sworn to before me this
4th day of January, 1979.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 29, 1983

Ms. E. Ann Kelley
Manager of Institutional Approval
and Consumer Affairs
Higher Educational Coordinating Board
Suite 400, Capitol Square Building
550 Cedar Street
Saint Paul. Minnesota 55101

CERTIFICATE OF BOARD'S
ADOPTION OF RULES RESOLUTION

I, Geraldine Carter, do hereby certify that I am secretary of the Higher Education Coordinating Board, 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 Higher Education Coordinating Board duly and properly called and held on the twenty-second day of February, 1979; 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 pursuant to Minnesota Statutes 136A.16 (1978) the amendments to rules governing the Private Institutions Registration Program be and hereby are approved and adopted as recommended in the Findings of Fact, dated February 27, 1979; and be it further resolved that Mr. Clyde R. Ingle, Executive Director of the Higher Education Coordinating Board, be and hereby is authorized to sign an order adopting those amendments to rules. Such amendments to be effective upon completion of those requirements established in Minnesota Statutes 15.0412, Subdivision 4 (1978).

In Witness Whereof, I have hereunto subscribed my name this twenty-second day of February, 1979.

Geraldine L. Carter
GERALDINE CARTER, Secretary
Higher Education Coordinating Board

Emil A. Erickson
Attested to by
EMIL A. ERICKSON, President
Higher Education Coordinating Board

STATE OF MINNESOTA

MINNESOTA HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Adoption of Amendments to Rules of the Minnesota Higher Education Coordinating Board Governing the Private Institutions Registration Program.

FINDINGS OF FACT OF THE MINNESOTA HIGHER EDUCATION COORDINATING BOARD

The above-entitled matter came on for hearing before Harry Crump, Hearing Examiner of the Office of Hearing Examiner of the State of Minnesota, on November 21, 1978, at 9:30 a.m. in the Capitol Square Building in the City of Saint Paul, County of Ramsey, State of Minnesota after proper notice required by Minn. Stat. Section 15.0412 (1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having reviewed all the testimony, having considered all of the evidence adduced, having considered the Report of the Hearing Examiner, and upon all of the testimony and proceedings herein, and applicable statutory standards or criteria, having withheld action on the proposed rules for the required period of time after receipt of the Hearing Examiner's Report, the Higher Education Coordinating Board (hereinafter "the Board") does hereby accept and adopt with the exception detailed below the findings, conclusions, and recommendations comprising the Report of the Hearing Examiner which is attached to and made part of these Findings.

The Board does not accept or adopt the finding of the Hearing Examiner appearing in the sentence which begins on line 30 of page five of the Report. The Board finds that in response to an inquiry by a representative of the Board of Cosmetology the Board stated that schools not using the word "academy", "college", "institute" or "university" in its name would not be required to register if such a school were for-profit and were not providing continuing education programs intended to allow persons to maintain a license to practice an occupation.

In all other respects the Board does hereby incorporate into its Findings the Hearing Examiner's Findings, Conclusions, and Recommendations in this matter. The Board expressly finds that the proposed amendments to Private Institutions Registration Rules and Regulations, 5MCAR 2.0901-2.1000, including those modifications made in accordance with the Conclusions of the Hearing Examiner, are needed and reasonable and may be properly adopted.

Dated: February 27, 1979

Clyde R. Ingle
Executive Director

STATE OF MINNESOTA

MINNESOTA HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed
Adoption of Amendments to Rules
of the Minnesota Higher Education
Coordinating Board Governing
Private Institutions Registration

ORDER ADOPTING
AMENDMENTS TO RULES

The above-entitled matter came on for hearing before Harry Crump, Hearing Examiner of the Office of Hearing Examiner of the State of Minnesota on the 21st day of November, 1978, which hearing was held in Conference Room A, Capitol Square Building, 550 Cedar Street, in St. Paul, Minnesota, after proper notice required by Minn. Stat., Section 15.0412 (1976) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

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

Now, therefore, it is ordered that these amendments to rules identified as 5MCAR §2.0902, §2.0904, §2.0906, and §2.0918, attached hereto as "Exhibit A," are adopted this 27th day of February, 1979, pursuant to authority vested in me by Resolution of the Higher Education Coordinating Board dated February 22, 1979 and by Minn. Stat. §136A.03.

Dated: February 27, 1979

Clyde R. Ingle
Executive Director
Higher Education Coordinating Board

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Higher Education Coordinating Board
Governing the Private Institutions
Registration Program

AFFIDAVIT OF MAILING

Karen Buehre, being first duly sworn, deposes and says:

That on the 16th day of March, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached memorandum notifying interested parties that the hearing record is being submitted to the Attorney General by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached list of persons requesting such notice.

Karen Buehre

Subscribed and sworn to before me

this 16th day of March, 1979.

Cynthia A. Wegmann

CYNTHIA A. WEGMANN
NOTARY PUBLIC--MINNESOTA
WASHINGTON COUNTY
My Commission Expires June 6, 1985

MINNESOTA
HIGHER EDUCATION
COORDINATING BOARD

SUITE 400
CAPITOL SQUARE
550 CEDAR STREET
SAINT PAUL 55101

(612) 296-3974

MEMORANDUM

TO: PERSONS INTERESTED IN THE PRIVATE INSTITUTIONS REGISTRATION RULES AMENDMENTS

FROM: SUSAN POWELL

RE: SUBMISSION OF THE HEARING RECORD TO THE ATTORNEY GENERAL

DATE: MARCH 16, 1979

This is to advise you that at its meeting on February 22, 1979 the Minnesota Higher Education Coordinating Board adopted the proposed amendments to the Private Institutions Registration program rules. The adopted amendments include minor modifications in sections 5 MCAR §2.0904 and §2.0918 made at the suggestion of the Hearing Examiner. Pursuant to your request and Minnesota Statutes §15.0412 (1978) you are hereby given notice that the hearing record has been submitted to the Attorney General for his review. This review is required prior to the implementation of the amendments.

SAP:EAK:kb

If you wish to be notified when the Hearing Examiner's Report is available, please put your name and address on one of the envelopes supplied.

RULE HEARING REGISTER

PLEASE PRINT CLEARLY

NAME	REPRESENTING	COMPLETE ADDRESS	TELEPHONE	CHECK HERE IF YOU WISH TO MAKE A STATEMENT AT THE HEARING	CHECK HERE IF YOU WISH TO BE NOTIFIED BY THE AGENCY WHEN THE HEARING RECORD HAS BEEN SUBMITTED TO THE ATTORNEY GENERAL
W. C. Nemitz	MN Assoc Private Vocational Schools	15 W 5th STP	222-4474	✓	
CLIFF LARSON	NEI	3800 MINNEHAHA MPLS	721-2419		
SIG BIRKELAND	Nat. Practice Inst	861 Butler Sq MPLS	338-1977		
[illegible] Allen	State Bd of Cosm.	7 Roberts Metro Sq. Bldg	296-9405		
Mary Lou Kinnian	State Bd of Cosmetology	7 Roberts Metro Sq. Bldg	296-9404		
Emily Hannah	State University Board	401 Capitol Square - 550 Cedar	296-6870	✓	
Charlotte Mitau	Nat'l Practice Inst.	861 Butler Sq. Mpls	338-1977		✓

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Douglas C. Blomgren, 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.

Douglas C. Blomgren

Special Assistant Attorney General

Dated: March 16, 1979