


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File 520

# RULES REVIEW CHECKLIST

DATE RULES RECEIVED 5/18/79 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 6/7/79

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved 6-5-79 Date Sent Back to Agency 6-5-79

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

Our File: #52D

Lois E. Steinhaus
Education Statistics Section

Charles T. Mottl
Special Assistant Attorney General

June 5, 1979

Joanne E. Hinderaker

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing Library Grant Programs.

PLEASE NOTE that the file submitted to our office included only one copy of the Hearing Examiner's Report and the Chief Hearing Examiner's Report. In the future, please submit three (3) copies of these documents.

# STATEMENT OF NEED AND REASONABLENESS FOR PROPOSED RULES 5 MCAR §1.0800 - 1.0804

Office of Public Libraries and Interlibrary Cooperation
Division of Special Services
Minnesota Department of Education

Minn. Laws 1978 ch. 546 provides a statutory base for grants made by the State Board of Education for public library development and interlibrary cooperation. Within the Minnesota Department of Education, the library grant program is administered by the Office of Public Libraries and Interlibrary Cooperation (OPLIC) in the Division of Special Services.

## BACKGROUND

The library grant program dates back to 1957, when the first state appropriation was made for grants to strengthen and improve public library services and when the first federal funds under the Library Services Act (renamed the Library Services and Construction Act in 1964 and most recently extended in 1977, 20 USC §351 et seq. (1970)) became available to the department. With these state and federal funds, under policies of the State Board of Education and successive revisions of the Minnesota Long Range Plan for Library Service filed with the U.S. Office of Education as required by the federal law, grants have been made for the establishment and operation of 13 regional library systems serving a population of 3,587,255 Minnesotans in 71 counties and 21 cities in 10 additional counties. In addition, special project grants have been made from federal Library Services and Construction Act funds to assist public libraries in developing many innovative services and to serve Native Americans on reservations. The federal funds also have been granted to improve library services for residents of institutions operated by the Minnesota Department of Corrections and the Minnesota Department of Welfare, and for library services for blind and physically handicapped persons. During the 1978 legislative session, a bill was passed providing a stronger statutory base for these grants and calling for the development of rules for the library grant program. Minn. Laws 1978 ch. 546 along with rules will henceforth govern library grant programs.

Temporary rules, authorized in Minn. Laws 1978 ch. 546 §7, were adopted by the State Board of Education on October 15, 1978. Published in Volume 3, State Register at pp. 240-244, these temporary rules expire on August 21, 1979. The proposed rules are identical to the temporary rules.

## AUTHORITY

The State Board of Education's authority to promulgate the proposed rules is contained in Minn. Laws 1978 ch. 546, §7. In addition, §3, subd. 8 of the law requires the State Board of Education to promulgate rules consistent with §§3-6 governing: (1) applications for grants; (2) computation formulas for determining amounts of Establishment Grants and Regional Library Basic System Support Grants, and (3) eligibility criteria for grants.

## GRANT APPLICATION AND REVIEW PROCEDURES

Proposed 5 MCAR §1.0800 covers general grant application and award procedures which pertain to all of the types of grants enumerated in proposed 5 MCAR §§1.0801-1.0804. Subd. A notes that eligible applicants for each type of library grant are specified in the rule for that type of grant. Subd. B requires that grant applications be submitted on forms supplied by the Office of Public Libraries and Interlibrary Cooperation. Content of application forms varies with each type of grant and is specified in proposed 5 MCAR §1.0801-1.0804. It is necessary that applicants for each type of grant submit information on the form appropriate for that type of grant so that comparable information will be secured from all applicants.

Subd. C establishes due dates for grant applications. The library grant program operates on the state fiscal year of July 1 through June 30. Therefore, for those types of grants funded totally or partially with state funds or that are ongoing grants awarded year after year, it is necessary that applications be filed on or before the first day of the state fiscal year. July 1 is established as the deadline for such applications so that compliance with law and rule can be determined, formula amounts calculated without delay, and the earliest possible notification given to applicants.

Different circumstances prevail for Establishment Grants and Special Project Grants. Both of these are grants for a limited duration, and both are supported with federal funds. Establishment Grants are paid to regional library systems when a county board of commissioners votes to provide tax support for public library services. Two application dates, July 1 and January 1 are established to give the regional library system flexibility in determining when it will begin providing library services in a newly participating county. If the county made its decision to participate during the first six months of the calendar year, the regional library system may wish to initiate services to coincide with the state fiscal year and the library grant program year and apply for the Establishment Grant on or before July 1. If the county made its decision to participate in the last six months of the calendar year, the regional library system will generally initiate services with the beginning of the calendar year corresponding to initiation of the county tax levy. In that instance, the regional library system would apply for the Establishment Grant on or before January 1.

It is proposed that the application date for Special Project Grants be established annually by the State Board of Education, and publicized in the newsletter of the Office of Public Libraries and Interlibrary Cooperation. Since Special Project Grants are generally funded with federal funds, the total amount available cannot be determined until Congress has appropriated the funds and a notification of grant award is received from the U.S. Office of Education. The federal fiscal year begins three months later than the state fiscal year, and recent experience has been that the notification of grant award is not received by the Department of Education until two or three months after the beginning of the federal fiscal year. The newsletter of the Office of Public Libraries and Interlibrary Cooperation, published monthly, is distributed to 772 individuals, organizations and agencies, including all Minnesota public libraries.

Proposed 5 MCAR §1.0800, subd. D enumerates the assurances which grant recipients sign. Grant funds are to be used only for the purposes for which granted or for which approval has been granted under an amendment procedure detailed later in the rule. Such assurances are necessary to facilitate the Department of Education's accountability for the funds to the state and federal governments.

Applicants agree to use funds for the purposes specified in the grant application or approved by the director of OPLIC under provisions of proposed 5 MCAR §1.0800, subd. I. Applicants agree to file within 90 days after the completion of a project or program or the end of the state fiscal year a narrative report and a report of grant expenditures. These reports are necessary if the Department of Education is to be accountable for funds appropriated or allotted to it for grants and to prepare reports of activities undertaken with grant funds as required by Minn. Laws 1978 ch. 546, §2, subd. 4. The applicant also agrees that ownership of assets or their fair market value acquired with Establishment Grant or Regional Library Basic System Support funds revert to the State Board of Education if participation by the applicant or a member county of a regional library system is discontinued within three years. This provision is necessary to ensure that equipment or materials purchased with state or federal grant funds are used for library services for at least three years. Three years is proposed as the appropriate time period because Minn. Laws 1978 ch. 546, §4, subd. 1 establishes a three year commitment of county tax funds for participation in a regional library system. The State Board of Education would reassign the assets or the funds for library services elsewhere in a regional library system. Finally, the applicant agrees that it will comply with Title VI of the Civil Rights Act 42 USC 2000d (1964) and 42 USC §1971 et seq. (1964), and all other applicable federal and state laws and regulations.

Subd. E states that federally funded projects and programs must comply with the Library Services and Construction Act (20 USC 351 et seq. (1970)), and its regulations (Federal Register 39:232, December 2, 1974, as amended in Federal Register 40:114, June 12, 1975). This assurance is necessary because each year the Department of Education must sign such an assurance as a condition for receiving the federal funds which are used for these grants.

Subd. F requires that activities and operations of applicants wholly or partially funded by grants be in accordance with relevant sections of Minnesota Law. Relevant sections would include statutes governing city libraries, county libraries and regional library systems, as well as Minn. Laws 1978 ch. 546.

Subd. G establishes procedures for notification to the applicant of the receipt of grant applications, review of the content of applications, and requests for additional information. Based on past experiences, grant applications sometimes are filed with mathematical inaccuracies in the budget, missing pages, objectives or projects that are confusing or otherwise unclear, etc. The intent of this subdivision is to ensure the grant applicant the best possible opportunity to present a proposed project or program accurately, completely and clearly. All applicants shall be notified of the receipt of a grant application. Within fifteen working days of receipt, the applications shall be reviewed for accuracy and completeness. If additional information would strengthen the application, it may be requested in writing during

the fifteen day review period. The rule lists types of information that can be requested, all intended to strengthen and clarify the application. If an applicant chooses to supply additional information, the applicant has ten working days from the date of the request during which the additional information may be filed. If the applicant chooses not to file the additional information, the application will be evaluated using the information originally filed.

Subd. H specifies that the State Board of Education shall make grants subject to the availability of funds for library grant programs, and that all grant applicants will be notified in writing within five days of the State Board's action.

Subd. I permits amendments to grant applications for funded projects or programs. A grant recipient, based on experience in implementing the project or program, may acquire knowledge which suggests that the project or program could be more successful if it were modified. The amendment cannot alter the purposes for which the grant was awarded, because the approved grant application constitutes an agreement between the applicant and the state and alteration of the basic purposes for which grant funds are used would discriminate against all applicants whose projects or programs were not funded. Within this limitation, transfer of up to twenty percent of the total amount of the grant from one budget category to one or more other budget categories is allowed without filing an amendment. The figure of twenty percent was established as a reasonable level based on successful experience using this percentage for the past three years for Special Project Grants. During that time, no budget transfers have been necessary in most projects, and where transfers have been made the average transfer has been less than ten percent. The rule states that project amendments may alter the scope, duration, objectives, steps in implementating evaluation and budget. Amendments are to be filed in writing with whatever information the grant recipient judges is necessary to explain the need and rationale for the amendment.

All amendments are to be reviewed within ten working days, and approval or disapproval is to be communicated to the grant recipient in writing. Standards by which amendments will be judged are listed in the rule. The first standard is that the purposes for which grant funds were awarded are not altered. As stated previously, this is central to the agreement between the grant recipient and the state. The second standard is that the efficiency or effectiveness will be improved by the amendment, resulting in cost savings for equipment, material, time or personnel. Based on the experience of the Office of Public Libraries and Interlibrary Cooperation in administering the grant program, grant recipients sometimes discover soon after beginning a project or program that there are methods and techniques of which they were unaware when the grant application was filed, that would strengthen or improve their project or program. Frequently these affect the number of personnel needed, equipment needed, or the quantity and cost of library materials needed. This standard is intended to encourage use of the most efficient and effective methods and techniques whenever possible in implementing a project or program. The third standard is that the project or program will more likely achieve its objectives. This standard is intended to encourage grant recipients to adjust

project or program activities based on their knowledge and experience gained in implementing the project or program. Project objectives are extracted from the purposes for which grant funds were awarded, and improving the likelihood that a project or program will meet its objectives strengthens the basis on which grant funds were awarded.

ESTABLISHMENT GRANTS

Proposed 5 MCAR §§1.0801-1.0804 cover specific types of library services grants. Establishment Grants are presented in 5 MCAR §1.0801. The purpose of Establishment Grants is given in Minn. Laws ch. 546 §3, subd. 2, and statutory requirements which applicants must meet are given in §4.

Subd. A lists information to be presented by each applicant in the application form. In addition to information identifying the applicant and the county to which library service is to be extended, a copy of the resolution passed by the county board of commissioners is necessary to verify compliance with Minn. Laws 1978 ch. 546, §4. Securing this information in other ways, such as verbally or in a letter from regional library personnel, boards of trustees or county auditors, would not provide the Office of Public Libraries and Interlibrary Cooperation with a record of the official action of the county board of commissioners and would make determination of compliance with the law a matter of opinion rather than fact. Applicants must also submit a statement of the purposes for which grant funds are requested and a proposed budget for expenditure of the funds. For the Department of Education to comply with Minn. Laws 1978 ch. 546 §2, subd. 4 and with requirements for monitoring and reporting the use of federal funds under the Library Services and Construction Act, it is necessary to know what the grant funds will accomplish, how the accomplishments will be measured, and the budget categories in which the grant funds will be spent. Because the purpose of an Establishment Grant is stated in law as extending regional library services into a county which has not been participating in the regional library system, OPLIC must be able to determine that this is what the applicant proposes to accomplish with the grant funds and that Establishment Grant funds are budgeted to accomplish this purpose. Experience in administering Establishment Grants over the past several years suggests that the regional library systems understand the purpose of Establishment Grants and use the grant funds for the purposes for which they are intended.

Subd. B is the formula for calculating the amount of an Establishment Grant. The formula recognizes that the most significant factors in the cost of providing library service are the number of people to be served because this directly affects quantities of staff and library materials needed, and the size of the land area over which the population is distributed because this directly affects the methods to be used to make library services accessible through library buildings, bookmobiles and services by mail. That these factors also are recognized by the Minnesota Legislature as appropriate in calculating grant amounts is suggested by the fact that those two factors account for distribution of 75% of available funds in the statutory formula for Regional Library Basic System Support Grants. During the two years Establishment Grants are paid, the minimum level of local support is required by statute to increase from .2 adjusted mill to .3 adjusted mill. During this same time period, as local support increases fifty percent, the amount

of the Establishment Grant decreases fifty percent. After the two year establishment period, the minimum level of local support required by statute is .4 adjusted mill, which is the amount necessary for continued participation in a regional library system and continued eligibility for Regional Library Basic System Support Grants. The Establishment Grant formula has been used by the State Board of Education since Fiscal Year 1974. There is evidence of its success in bringing counties into regional library systems; between Fiscal Year 1975 and Fiscal Year 1978, 27 counties began participating in regional library systems where it took the previous 17 state fiscal years to bring 43 counties into regional library systems. This accelerated growth of regional library systems is due to a number of factors in addition to the Establishment Grant formula, but the formula has worked effectively.

Subd. C provides that Establishment Grants are paid only for initial participation of a county in a regional library system. This provision is necessary to ensure that counties do not withdraw from regional library systems periodically in order to repeatedly qualify for Establishment Grants.

REGIONAL LIBRARY BASIC SYSTEM SUPPORT GRANTS

Proposed 5 MCAR §1.0802 covers Regional Library Basic System Support Grants. The statutory base for this type of grant is cited in the rule. Content of the application form is listed. In addition to information identifying the applicant, the names of participating governmental units and of nonparticipating governmental units within participating counties are needed in order to determine the population, land area and adjusted valuation of the area served by the regional library system for calculation of the formula for Regional Library Basic System Support Grants. The name, educational background and library work experience of the chief administrative officer is requested to determine compliance with proposed 5 MCAR §1.0802, subd. B. As in the case of Establishment Grants, applicants submit a statement of the purposes for which grant funds are requested, including a statement of program objectives and results to be accomplished along with the proposed budget for the program so that monitoring and reporting requirements of state and federal law and regulations can be accomplished. Fiscal data requested is for purposes of judging compliance with Minn. Laws 1978 ch. 546, §5.

Subd. B lists the criteria for eligibility to be met by applicant regional library systems. First of all, the applicant must be designated by the State Board of Education under provisions of Minn. Laws 1978 ch. 546, §5, subd. 3. This provision was included in the statute to ensure that regional library systems are large enough to provide at least minimum levels of public library service at a reasonable cost per capita. The statute establishes the criteria that the regional library system must consist of at least three counties (with the exception of the Western Plains Library System for which the State Board of Education may waive this requirement until June 30, 1979, under Minn. Laws 1978 ch. 546, §9) and that no more than one regional library system may be designated located entirely within a single development region.

Requirements for the educational background and experience of regional library system administrators have been included in State Board of Education policy since 1958, and in substantially the form given in the proposed rule since

FY 1976. For twenty-five years, the Master's Degree in Library Science has been recognized by the profession and by most employers of librarians as the beginning professional degree for employment in a public or an academic library. The American Library Association has accredited library education programs since 1925. Since 1953, it has accredited only graduate level library education programs and since that date it has been recognized as the accrediting agency in librarianship by the National Commission on Accrediting. Standards by which library education programs are evaluated are published in Standards for Accreditation 1972 (Chicago: American Library Association, 1972). Among the statements of purpose on pages 2 and 3 in the standards is a section particularly pertinent to these rules, stating that with these standards:

> The Committee on Accreditation seeks both to protect the public interest and to provide guidance for library educators. Prospective students wishing to make a wise choice of schools, librarians recruiting professional staff, the general public concerned about the kind of library service it receives and supports--all of these have the right to know whether a given program of library education is of good standing. By identifying those programs meeting recognized standards, the Committee offers such groups, which collectively represent the public interest, a means of quality control in the professional staffing of libraries.

The current chief administrative officers of Minnesota's 13 regional library systems all meet the requirements proposed. They provide leadership, supervision, advice and assistance to other professionally trained librarians ranging in number from one in the smallest system to 257 in the largest system. It is reasonable to expect that the individual providing such leadership, supervision, advice and assistance should have at a minimum the same level of professional training as is expected of the persons benefiting from that leadership, supervision, advice and assistance. Administering a regional library system requires knowledge of and experience in all aspects of public librarianship. Two years of public library administrative experience is reasonable to expect when regional library boards expect an administrator to be knowledgeable and experienced in public librarianship, and skilled in working with personnel who may have many more years of public library experience. Administrative experience in an academic library or in a school library differs substantially from administrative experience in a public library. Aside from the different purposes of each of the types of libraries and the resultant differences in service programs offered to users, the public library is a unit of local government and is governed by a citizen board with whom the public library administrator works directly, while academic libraries and school libraries are units within larger organizations and the administrator of the library works with only one individual, generally an academic vice-president or a principal, in establishing library policy and in determining the library budget. The public library administrator must develop policies and develop a budget working with a citizen board of trustees, and must present and defend that budget to a city council or a county board of commissioners.

A third criteria for eligibility is that the regional library system provide biennially to the Office of Public Libraries and Interlibrary Cooperation an updated five-year system long range plan. The date of June 30 of each even

numbered year was selected as the due date for these plans so that the Office of Public Libraries and Interlibrary Cooperation will have them available for use in preparation of its biennial appropriations request for the library grant program. Content of the plan is the responsibility of the regional library system board of trustees. The rule commits staff from the Office of Public Libraries and Interlibrary Cooperation to consult with and assist the regional library systems in preparation of their plans. These long range plans are important in the revision process for the Minnesota Long Range Plan for Library Service, in assessing needs and in projecting future levels of library service and the financial resources needed to accomplish them. A State Board of Education policy required such plans beginning July 1, 1977, and many regional library system administrators have reported that the planning process itself was valuable and that the plans have aided them in decision making.

Subd. C covers calculation of amounts of Regional Library Basic System Support Grants. Because Minn. Laws 1978 ch. 546 §6, subd. 1-6 establish the formula calculation, the only provision necessary in rule is identification of the most recent United States census as the source used for population data in computing per capita amounts. This is the only available data that reports populations of counties, cities and townships as of the same time period. Since the populations of each of these governmental units is used in calculation of grant amounts, it seems fairest to all grant recipients to use data from the same base year in all calculations.

Subd. D requires an annual audit from each regional library system. This provision is intended to assist the Department of Education in maintaining accountability for funds appropriated or allocated to it for library grants. Regional Library Systems are given 180 days from the close of the system's fiscal year to have an audit prepared. This time period should allow those library systems whose fiscal year is the calendar year sufficient time to secure the services of auditors who might be busy preparing tax returns up until April 15. Several options are provided to the system in determining who will perform the audit, and statutory standards cited for the audit are those pertaining to audits of local governments.

## SPECIAL PROJECT GRANTS

Proposed 5 MCAR §1.0803 covers Special Project Grants, defined in statute as being innovative and experimental. Since Special Project Grants are intended to address special needs which can change from year to year, application forms must change from year to year to elicit from applicants information appropriate to evaluating projects for a particular year. Therefore, 5 MCAR §1.0803, subd. A does not list the content of application forms. Instead, other subdivisions describe the grant process and the standards by which all applications will be evaluated.

Subd. 2 allows the Advisory Council to the Office of Public Libraries and Interlibrary Cooperation to annually establish a list called "Categories of Emphasis" of types of projects which will be encouraged. The list is intended to encourage those types of projects which the Advisory Council judges are most needed to further development of library services in Minnesota during any particular year, but the list does not exclusively determine what

types of projects will be funded. Applications for other types of projects will also be accepted and considered. The Advisory Council to the Office of Public Libraries and Interlibrary Cooperation is organized pursuant to regulations of the Library Services and Construction Act (Federal Register 39:232, December 2, 1974, as amended in Federal Register 40:114, June 12, 1975).

Developing the annual "Categories of Emphasis" list provides the Advisory Council an additional opportunity to perform its responsibilities stated in federal regulations as:

(1) Advise the State agency on the development of the State plan, including the preparation of long-range and annual programs...;

(2) Advise the State agency on policy matters in the administration of the State Plan submitted under the Act and the regulations in this part, and;

(3) Assist the State agency in evaluating library programs, services and activities under the State plan. (Federal Register 39:232, December 2, 1974).

Subd. C establishes a system for review and comment by regional library systems on grant applications submitted by their member county and city libraries. This procedure has been in effect under State Board of Education policy since FY 1976 and in many instances has yielded comments which have strengthened grant applications. In addition, some regional library system administrators have reported that the review process within the region has promoted joint planning and cooperative development of those special projects of potential benefit to libraries other than the original applicant library, and has reduced unnecessary duplication of effort.

Subd. D establishes the review process of the Grants Committee. Special Project Grants are the only library grants which are competitive. During each of the past three years, for example, the total amount requested for Special Project Grants has been three to four times greater than the amount of funds available. During this same time period, the review and recommendations of grants committees have been beneficial in ensuring that each application is thoroughly and fairly considered for funding and that recommendations for funding are only made after the five committee members have discussed each application. Standards which the Grants Committee will apply are listed. Since the Advisory Council encourages the types of projects for which it believes the needs are greatest, the relationship of a particular project to the Categories of Emphasis must be judged. Purposes, objectives, identification of results to be accomplished and methodology for evaluation and the project budget all are important in judging the relative value of one project over another, including comparisons of thoroughness in planning the project, likelihood of successful completion of the project, results to be achieved relative to the amount of funds expended, and value of the project or knowledge gained from the project to other libraries. This information also is important in complying with monitoring and reporting requirements in Minn. Laws 1978 ch. 546 §2, subd. 4.

Since Special Project Grants are for innovative and experimental programs, it is reasonable to require that applications be for projects that are not already in operation in the applicant library and that they would not or could not be developed there with other funds available. If Special Project Grant funds are allowed to become a continuing long term source of support for a library activity, then they no longer would be supporting projects that are innovative and experimental. The words innovative and experimental suggest that a project is of limited duration or is a pilot for activity being tested for integration into the regular service program. With the procedure for review at the regional level of applications from county and city libraries, comments from the regional library system review would be available and could provide important information on the relationship of a particular project to library development within the region and potential benefits to libraries other than the applicant library. Finally, qualifications of project staff are judged as a factor in predicting the success or failure of a project. Grants Committee recommendations are made to the Director of the Office of Public Libraries and Interlibrary Cooperation.

Subd. E provides for review of all grant applications by the Director of the Office of Public Libraries and Interlibrary Cooperation. As the administrator of the Special Project Grants program and the recipient of the recommendations of the Grants Committee, the Director possesses a responsibility to grant applicants to review all applications. Using the same standards as were used by the Grants Committee is the fairest and most reasonable way to ensure that all grant applications are given equatable consideration.

Subd. F requires that recommendations of the Grants Committee and of the Director of the Office of Public Libraries and Interlibary Cooperation be reported to the State Board of Education for action. This ensures that the State Board is fully aware of the process used in review of all applications and to provide an opportunity for the State Board to discuss funding of any and all projects for which applications were received.

## GRANTS FOR INSTITUTION LIBRARY SERVICE AND FOR LIBRARY SERVICE FOR THE BLIND AND PHYSICALLY HANDICAPPED

Proposed 5 MCAR §1.0804 covers grants for institution library service and for library service for the blind and physically handicapped. For approximately ten years, the State Board of Education has provided these grants from federal Library Services and Construction Act funds.

Subd. A describes the application process. Provision for these grants in state statute is cited. Although the state statute does not specify that these grants be made only to state institutions, this has been the practice over the past ten years and it is suggested that it continue to be the practice during the time period in which these rules are in effect because the Minnesota Long Range Plan for Library Service, governing the use of federal Library Services and Construction Act funds, presently contains insufficient detail on a statewide program for strengthening and improving library services in county and city corrections and welfare institutions. Content of the grant application is listed in the rule. In addition to identifying information,

the location where program activities will be conducted, the purposes for which grant funds are requested, a statement of program objectives, identification of results to be accomplished and proposed expenditures all are requested to enable the Department of Education to monitor grant activities and determine that programs are being conducted within provisions of Minn. Laws 1978 ch. 546, §6 and regulations of the Library Services and Construction Act.

The amounts provided for library service during the preceding year is requested to judge compliance with the maintenance of effort requirements in the Library Services and Construction Act (20 USC 354 (1977)).

Subd. B defines as eligible costs expenditures for library services for residents of corrections and welfare institutions and not for institution staff, as defined in the Library Services and Construction Act regulations in Federal Register 39:232, §130.3 (December 2, 1974).

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

# Office Memorandum

DEPARTMENT Education
736 Capitol Square Bldg.

TO : Joanne E. Hinderaker
Special Ass't. Attorney General
G25 Administration Bldg.

DATE: 5-17-79

FROM : Lois E. Steinhaus
Education Statistics Section

PHONE: 6-4428

SUBJECT: Approval for rules governing library grant programs. EDU 79-005-PE

Enclosed is the complete record of the hearing.

Also enclosed are four copies of the rules as adopted and four copies of the order for hearing. In addition, are three copies each of the following:

1. Proposed rule
2. Notice of hearing
3. Affidavit of receipt of secretary of state's list
4. Certificate of delivery secretary of state's list
5. Affidavit of mailing
6. Statement of need and reasonableness
7. Finding of fact and Order adopting rules
8. Certificate of board's authorizing resolution
9. Certificate of board's adoption of rules resolution
10. Chief hearing examiner's and hearing examiner's reports
11. One copy of the mailing list

need copies

For your convenience, a copy is enclosed indicating the changes made from the proposed rules to the adopted rules.

Please call me when this is ready to be returned, so that I can send some one to pick it up. Thank you.

5 MCAR §1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, §5, subd. 3 may apply for establishment grants as specified in 5 MCAR §1.0801 and for regional library basic system support grants as specified in 5 MCAR §1.0802 and for special project grants as specified in 5 MCAR §1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR §1.0803. The Minnesota department of corrections and the Minnesota department of welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR §1.0804.

B. Application forms. All applications for grants shall be made on application forms provided by the office of public libraries and interlibrary cooperation (OPLIC), division of special services, Minnesota department of education. Content of application form varies with each type of grant and is specified in 5 MCAR §§1.0801 - 1.0804.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems either on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants shall be filed on a date established annually by the state board of education and published in the newsletter of OPLIC not less than 90 days before such date.

D. Assurances. Grant applicants shall sign a statement of assurance that:

1. Grant funds shall be used only for the purposes for which granted as specified in the approved grant application or approved by the director of OPLIC in an amendment to the original application filed under provisions of 5 MCAR §1.0800, subd. I;

2. A narrative report indicating program or project results accomplished and a report of grant expenditures shall be filed with OPLIC on forms supplied by OPLIC no later than 90 days after the completion of the project or program, or the end of the state fiscal year, whichever is earlier provided that such period allowed shall not be less than 90 days;

3. If participation by a regional library system or a member local governmental unit is discontinued, ownership of the discontinuing system or unit's assets, including cash or the fair market value thereof if such assets cannot be transferred by the grantee, acquired during the last three years of participation from establishment grant and regional library basic system support grant funds, shall revert to the Minnesota state board of education for reassignment for library services elsewhere;

4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d et seq.), its regulations and all other applicable federal and state laws, rules and regulations.

E. Federal funds. The provisions of the library services and construction act, 20 USC 351 et seq. (1970), and its regulations shall apply to all projects and programs which are wholly or partially funded from grants received under the act.

F. Pertinent sections of Minnesota law. The activities and operations of applicants which are wholly or partially carried out with funds received through library grant programs shall be in accordance with relevant sections of Minnesota law.

G. Notification, review, and request for additional information. Applicants shall be notified of the receipt of their applications. The director of the office of public libraries and interlibrary cooperation shall review all applications for accuracy and completeness. Within 15 working days of receiving the application the director may request in writing the following additional information so that an applicant may more accurately or clearly describe the program or project for which grant funds are sought:

1. clarification of project or program objectives to better communicate functions or services to be performed;

2. clarification of proposed project or program implementation to better communicate how functions or services will be performed;

3. clarification of proposed project or program evaluation to better communicate evaluation methods to be used;

4. any other information which would strengthen or clarify the application.

If the additional information requested is not provided by the applicant within ten working days after the date of the request for additional information, the grant application shall be evaluated solely on the basis of the information it contains.

H. Grant awards. Grants shall be awarded by the state board of education for projects and programs in compliance with the law and these rules, subject to the availability of funds and such standards as are set forth for a grant program. All grant applicants shall be notified in writing within five working days of the action of the state board of education.

I. Amendments. If after a project or program has been funded, the grant recipient determines that modifications are necessary, the grant recipient shall file an amendment to the grant application. Budget modifications resulting in transfer from one budget category to one or more other budget categories of less than 20 percent of the total grant amount need not be filed as amendments. The grant amendment shall not change the purpose for which the grant was awarded. It shall, however, address at least one of the following:

1. modification of the scope or duration of the project or program, judged by the grant recipient to be necessary based on the amount of funds granted or knowledge acquired in operating the project or program;

2. modification of project or program objectives, steps in implementation or evaluation judged by the grant recipient to be necessary based on knowledge acquired in operating the project or program;

3. modification of the budget of the project or program, within limits of the amount of the grant and amounting to more than 20 percent of the total grant amount, judged by the recipient to be necessary to most economically and practically achieve project objectives.

All amendments shall be filed in writing with the information the recipient determines is necessary to accurately and completely explain the need for the amendment.

The director of the office of public libraries and interlibrary cooperation shall review all amendments and shall use the following standards in determining whether an amendment is approved:

1. the basic purposes for which funds were granted are not altered by the modifications; and/or

2. the proposed modifications result in improved project or program efficiency in terms of cost savings for equipment, materials, time or personnel; and/or

3. the proposed modifications result in improved project or program effectiveness in terms of greater quantities or qualities of service provided; and/or

4. the proposed modifications improve the applicant's ability to achieve the objectives of the project or program.

Approval or disapproval of all amendments shall be communicated to a grant recipient within ten working days following OPLIC's receipt of the proposed amendment.

5 MCAR §1.0801 Establishment grants.

A. Application. Regional library systems may apply for establishment grants to extend library service to additional counties as authorized in Laws of 1978, ch. 546 §3, subd. 2. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. name of county joining regional library system;

4. a copy of the resolution adopted by the county board of commissioners in which they agree to provide minimum levels of local support as required by Laws of 1978, ch. 546, §4;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. proposed expenditures to be made from grant funds.

B. Establishment grant formula. The amount of the establishment grant to a regional library system for each additional county to extend services shall be $1.00 per capita plus $10.00 per square mile for the first year, and $.50 per capita plus $5.00 per square mile for the second year, reduced by the population and land area of any nonparticipating governmental units. The most recent United States census is used to determine the population and land area.

C. Counties joining regional library systems. When a county has ceased to participate in a regional library system and at a later date rejoins a regional library system, no establishment grant shall be made.

5 MCAR §1.0802 Regional library basic system support grants.

A. Application. Regional library systems may apply for regional library basic system support grants authorized in Laws of 1978, ch. 546, §3, subd. 3. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. names of participating governmental units and identification of nonparticipating governmental units within participating counties;

4. name, educational background and library work experience of the chief administrative officer;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. for purposes of determining compliance with Laws of 1978, ch. 546, §5, provision for each participating governmental unit of the following financial information:

a. the amount provided by the governmental unit for public library service during the preceding fiscal year;

b. the amount provided by the governmental unit for public library service during the current fiscal year.

7. proposed expenditures to be made from grant funds.

B. Criteria for eligibility. Regional library systems shall be designated as eligible by the state board of education provided they meet the criteria in Laws of 1978, ch. 546, §5, and the following:

1. Employment of a chief administrative officer who has had at least two years of public library administrative experience and has received the master's degree in library science from a library education program accredited by the American Library Association.

2. Long range plan. Regional library systems shall provide to OPLIC by June 30 of each even-numbered year a long range plan which addresses the succeeding five years. Upon request by the regional library system, OPLIC staff shall provide consultation and advice on the content of the long range plan. The plan shall include narrative descriptions, goals and objectives which address the following:

a. service area; including steps to encourage participation of appropriate adjacent nonparticipating counties and cities.

b. funding; including cost projections to implement the first year of the plan.

c. personnel; including projections of numbers and qualifications needed to implement the plan.

d. collection development; including types and quantities, written materials selection policies of the applicant or of its members, a coordinated program of acquisition, identification and rectification of deficiencies, and sharing of resources.

e. programs of service; including minimum hours of operation of public service outlets and provision of bookmobile service.

f. physical facilities; including accessibility by the physically handicapped.

g. multitype library cooperation.

h. any other topics deemed appropriate by the regional library system.

C. Calculation of grant amounts. Regional library basic system support grants shall be calculated as specified in Laws of 1978, ch. 546, §6 or in subsequent law. The most recent United States census shall be used in calculation of all per capita and land area amounts, reduced by the population and land area of any nonparticipating governmental units.

D. Audit. Regional library systems which receive regional library basic system support grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the regional library system's fiscal year. The audit shall be performed by the staff of the state auditor's office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§6.64 - 6.71 (1976).

5 MCAR §1.0803 Special project grants.

A. Application. Regional library systems and county and city public libraries which are participating in regional library systems may apply for special project grants as authorized by Laws of 1978, ch. 546, §3, subd. 4.

B. Categories of emphasis. The advisory council to OPLIC, required in federal regulations, may select one or more categories of programs which are designated as eligible in the federal law and regulations as the highest priority for funding during a fiscal year. The categories so designated shall be published in the newsletter of OPLIC no less than 90 days prior to the application date and supplied to any potential applicant on request. Applications for projects or programs in the highest priority category shall be given extra consideration in the review process.

C. Regional library system review. County and city libraries which submit applications to OPLIC shall also submit a duplicate copy of the application to their regional library system for review and comment not less than 30 days prior to the application date. The regional library system may submit to OPLIC by the application date comments stating how the proposed project or program relates to the system long range plan and how the proposed project or program could benefit the system or its members.

D. Grants committee review. Applications for special project grants shall be reviewed by a grants committee of five persons appointed by the chairperson of the advisory council to the office of public libraries and interlibrary cooperation. Special project grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of:

1. relationship to categories of emphasis;

2. purposes for which grant funds are requested;

3. statement of project objectives and identification of results to be accomplished;

4. methodology for evaluating project results;

5. the project budget;

6. clear identification that the project activity would not or could not take place without a grant;

7. evidence that the project is either:

a. a one-time project of limited duration to accomplish an objective of long-term benefit; or

b. a pilot for contemplated future operation with a specific plan for absorbing it into on-going operations;

8. the comments from the regional library system review, when received;

9. qualifications of project staff.

The grants committee shall reports its recommendations for projects to be funded to the director of OPLIC.

E. Office of public libraries and interlibrary cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the grants committee for special project grants using the same standards applied by the grants committee and shall report recommendations for projects to be funded to the state board of education.

F. State board of education action. The state board of education shall review the funding recommendations of the director of OPLIC and shall award grants using the same standards applied by the grants committee and subject to the availability of funds.

5 MCAR §1.0804 Grants for institution library service and for library service for the blind and physically handicapped.

A. Application. The Minnesota department of corrections and the Minnesota department of welfare may apply annually for grants to improve library services for institutionalized persons and for the blind and physically handicapped as authorized by Laws of 1978, ch. 546, §3, subd.6, and by the library services and construction act, 20 USC 351 et seq. (1970). Applicants shall submit the following information:

1. name, address and telephone number;

2. name of contact person;

3. locations where program activities will be carried out;

4. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

5. proposed expenditures to be made from grant funds;

6. dollar amounts provided for library services by the departments during the preceding fiscal year;

7. numbers of services provided and numbers of persons served during the preceding year.

B. Eligible costs for institution library service. Funds are granted for library services for residents of corrections and welfare institutions and shall not be expended for library services for institution staff.

C. Office of public libraries and interlibrary cooperation review. The director of OPLIC shall review applications received and shall make recommendations to the state board of education regarding grant amounts based on the applicants' ability to provide services according to the information in the application.

D. State board of education action. The state board of education shall review the funding recommendations of the director of OPLIC and shall award grants using the same information used by the director of OPLIC and subject to the availability of funds.

APPROVED AS TO FORM AND LEGALITY

JUN 05 1979

_____ 19____

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne Hinderaker

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN - 5 1979
Joan Anderson Growe
Secretary of State

10:25 A.M.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF EDUCATION

IN THE MATTER OF THE PROPOSED )
ADOPTION OF RULES OF THE STATE)
BOARD OF EDUCATION GOVERNING )
LIBRARY GRANT PROGRAMS. )

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on March 2, 1979, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Education on April 2, 1979; and

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

WHEREAS, the Department of Education has submitted said rules to the 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 Department of Education has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Education has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, 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 16th day
of May, 1979.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINER

FOR THE DEPARTMENT OF EDUCATION

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing Library Grant Programs.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:00 a.m. on Friday, March 2, 1979, in Room 716 of the Capitol Square Building, St. Paul, Minnesota.

Charles T. Mottl, Special Assistant Attorney General, appeared as counsel for the Department of Education. Assistant Commissioner Gregory Waddick and William Asp, Director of the Office of Public Libraries and Interlibrary Cooperation (OPLIC), presented the proposed rules on behalf of the Department. Robert Rohlf, Director of the Hennepin County Library System; Joel C. Rosenfeld of the Metropolitan Library Service Agency, and Joseph Kimbrough, Director of the Minneapolis Public Library, testified in support of the proposed rules. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

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

Thereafter, the Department of Education shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. sec. 15.0412 within ten calendar days. The Department of Education will 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 December 4, 1978, the Department 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 January 29, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1516.

3. On January 26, 1979, the Department 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 February 1, 1979, the Department 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.

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

5. Pursuant to a request by Mr. Philip DelVecchio, Executive Director of the East Central Regional Development Commission, and pursuant to Minn. Stat. sec. 15.0412, subd. 4, the Hearing Examiner ordered an extension of the time period in which the record would remain open for the receipt of written comments and statements. Therefore, the record remained open through March 22, 1979, for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. secs. 134.36 and 134.32, subd. 8 (1978).

7. The proposed rules, 5 MCAR sec. 1.0800 - 1.0804, are taken directly from 5 MCAR sec. 1.0800 - 1.0804, temporary rules which were adopted by the State Board of Education on October 15, 1978, and published in 3 State Register 240-44 on August 21, 1978.

8. Proposed 5 MCAR sec. 1.0800 sets forth the general grant application and award procedure which relates to the types of grants enumerated in proposed 5 MCAR secs. 1.0800 - 1.0804.

Sec. 1.0800 A. provides that the eligibility of applicants for each type of library grant is specified in the rule for that type of grant.

Sec. 1.0800 B. requires that all grant applications must be submitted on forms which are supplied by the Office of Public Libraries and Interlibrary Cooperation. Under this section, it is necessary that applicants for each type of grant submit information on the form applicable for that type of grant so that comparable information will be obtained from all applicants.

Sec. 1.0800 C. This section provides a necessary deadline for grant applications. Grants which are state funded or are ongoing grants awarded year after year must be applied for within a time period which is compatible with the state fiscal year. In this way, formula accounts may be calculated without delay and the earliest possible notification may be given to applicants.

Establishment grants are federally funded and are paid to regional library systems when a county board of commissioners votes to provide tax support for public library services. Therefore, under this section, two application dates, July 1 and January 1, are established to provide flexibility for the regional library system in determining when it will initiate library services in a newly participating county.

Special project grants are also federally funded and the total amount of money available cannot be determined until Congress has appropriated the funds. Since the federal fiscal year begins three months later than the state fiscal year, and because the time for notification to the Department of Education of the grant award is often uncertain, this section provides that the application date for special project grants be established annually by the State Board of Education.

Sec. 1.0800 D. The assurances enumerated in this section which grant applicants must make are necessary to facilitate the Department of Education's accountability for the funds to the state and federal governments.

a. The assurance contained in sec. 1.0800 D.4. requires that the applicant certify compliance with the provisions of Title VI of the Civil Rights Act of 1964 and the federal regulations promulgated thereunder. On its face, this does not appear to constitute an "incorporation by reference", but rather a device to inform the applicant that compliance is mandated by terms of the federal grant. It goes without saying that federal law, and state law for that matter, if applicable, must be complied with. Reference to the Civil Rights Act herein is merely a "notice" device and is not incorporation by reference. No new or different standards or burdens result from this citation to federal law.

Also, the last word in the paragraph, "regulations", is no longer in use in Minnesota and should be replaced with the word "rules".

Sec. 1.0800 E. The assurance that federally funded programs must comply with the Library Services and Construction Act and its regulations is necessary because the Department of Education must sign this same type of assurance before it can receive the federal funds which are utilized for these grants.

a. Paragraph E. states that the provisions of the Library Services and Construction Act (federal legislation) applies to programs which are funded under the Act. The Examiner concludes that this provision is also just a "notice" device and does not consittute incorporation by reference. Again, it goes without saying that grants received under the Act must comply with the terms of the Act. The real question becomes, is this paragraph which merely tells applicants that they must comply with the law even needed? The Examiner concludes, however, that it is necessary so that applicants will know the federal law which governs grant funding.

Sec. 1.0800 F. This section establishes that the operations and activities of applicants which are partially or totally funded through library grant programs must be carried out in accordance with the applicable sections of Minnesota law.

a. Mr. Philip D. DelVecchio, Executive Director of the East Central Regional Development Commission, commented on sec. 1.0800 F. as follows:

> Although section F of (5 MCAR 1.0800 Grant Application and review procedures) the proposed rules indicates that pertinent sections of Minnesota law will be followed, grant applicants would have a clearer idea of their legal responsibilities if this section identified the review and comment authority contained in Minn. Stat. sec. 462.391, subd. 3.

Mr. DelVecchio also stated that the East Central Regional Development Commission is most interested in reviewing establishment grants, special project grants, and regional library system long-range plans because of their relationship to the Regional Comprehensive Plan of the East Central Regional Development Commission. Mr. DelVecchio said that this Regional Plan contains certain policies which recognize different levels of development activity within Region 7 E; and that the level of library service is one criterion which is utilized to define the different activity areas. Therefore, Mr. DelVecchio believes that the proposed rules should refer to the necessity of coordinating state funding decisions with Regional Library Systems Planning and Regional Comprehensive Planning. Mr. DelVecchio further stated,

> "Referring to this kind of coordination in the rules is appropriate because it heightens the awareness and importance of relating planning and decision-making at the local-regional level with funding resources at the state level."

b. In response, the Department of Education stated that it did not find it necessary to include in sec. 1.0800 F. citations to laws and rules which the Department has no direct authority or responsibility to enforce.

In regard to the Regional Library System Long Range Plans, the Department of Education stated that these plans are not included as a part of the application for any library grant but they are required separately from the applications under general criteria for eligibility for regional library basic system support grants (5 MCAR sec. 1.0802, sec. B.2.).

In regard to Mr. DelVecchio's concern over the required Regional Development Commission review and comment procedure, the Department of Education believes that subsection F. of proposed sec. 1.0800 adequately addresses the problem. The Department stated that it is most likely that any applications for special project grants which the East Central Regional Library may develop will be submitted to the East Central Regional Development Commission for review, as required by Minnesota law.

c. The Examiner notes that, pursuant to Minn. Stat. sec. 462.391, subd. 3 (1978), the Commission shall review the grant applications only if the application is "clearly related to the region." The Examiner assumes that all grant applicants are aware that Minn. Stat. sec. 462.391, subds. 3 and 4, mandate that the regional commission shall review grant applications when those applications are clearly related to the region. Although recitation of that statutory provision in the rule may further clarify applicants' responsibilities, the Examiner concludes that proposed sec. 1.0800 F. is both needed and reasonable as proposed.

Sec. 1.0800 G. Past experience indicates that grant applications are occasionally inaccurate. It is more likely that a grant applicant will have an opportunity to present its proposed program or project accurately, completely and clearly because of the review and request for additional information provisions in this section.

Sec. 1.0800 H. requires that the State Board of Education must award grants in accordance with state law and agency rules. This section further

specifies that the awarding of these grants will be dependent upon the availability of funds for library grant programs.

Sec. 1.0800 I. Since a grant recipient may acquire knowledge which indicates that the program would be more successful if it were modified, this section allows recipients to amend grant applications for funded projects or programs.

9. Proposed 5 MCAR sec. 1.0801 relates to Establishment Grants, a specific type of library service grants.

Sec. 1.0801 A. specifies the type of information which each applicant must provide in the application form for an Establishment Grant. This section will make certain that necessary information is submitted to the Department of Education so that it may achieve the most effective expenditure of public funds.

Sec. 1.0801 B. provides the formula which must be utilized in determining the amount of the establishment grant to a regional library system.

Sec. 1.0801 C. mandates that no establishment grant will be made when a county has ceased to participate in a regional library system but at a later date rejoins a regional library system. This section prevents counties from periodically withdrawing from regional library systems so that they may repeatedly qualify for Establishment Grants.

10. Proposed 5 MCAR sec. 1.0802 relates to Regional Library Basic System Support Grants.

Sec. 1.0802 A. The information required in the application for a regional library basic system support grant is necessary so that the Department of Education may be sure that compliance with Minnesota law is accomplished.

Sec. 1.0802 B. sets forth the criteria for eligiblity which applicant regional library systems must meet. Under this section, the applicant must be designated by the Board of Education pursuant to Minn. Stat. sec. 134.36, subd. 3 (1978). This statute ensures that regional library systems are large enough to provide minimum levels of public library service at a reasonable cost per capita.

In order to provide the public with quality control in the professional staffing of libraries, this section specifies the educational background and experience requirements for regional system administrators.

Under this section, it is necessary that the regional library system biennally provide to the OPLIC an updated five-year system long-range plan. Past experience indicates that this sort of planning process is valuable and is beneficial to regional library system administrators in their decision-making.

Sec. 1.0802 C. Since Minn. Stat. sec. 134.35 (1978) establishes the formula calculation for regional library basic system support grants, it is not necessary to include the formula calculation in this section. Because the U.S. census is the only available data that reports for the same time period, the population of counties, townships and cities, this section specifies that the most recent U.S. census will be used in calculation of all per capita and land area amounts.

Sec. 1.0802 D. In order to expedite the accounting of funds allocated to the Department of Education for library grants, this section requires an annual audit from each regional library system.

11. Proposed 5 MCAR sec. 1.0803 relates to Special Project Grants.

Sec. 1.0803 A. Minn. Stat. sec. 134.32, subd. 4, states that the Department of Education may provide Special Project Grants to assign innovative and experimental library programs. Paragraph A provides that in accordance with this statute, regional library systems may apply for Special Project Grants.

Sec. 1.0803 B. The list of "Categories of Emphasis" as outlined in this section is necessary to encourage those types of programs which the Advisory Council determines are essential to the continued development of library services in Minnesota. This annual list requirement may also aid the Advisory Council in executing its responsibilities under the federal regulations.

Sec. 1.0803 C. provides for a system of review and comment by regional library systems. This review process will promote joint planning and cooperative development of innovative and experimental library programs.

Sec. 1.0803 D. provides that a grants committee shall review applications for special project grants. Since special project grants are competitive, the review and recommendations of the grants committee will be beneficial in ensuring that the applicant is fairly considered for funding.

Sec. 1.0803 F. In order to ensure that all applicants receive equitable consideration, this section provides that all grant applications will also be reviewed by the Director of the Office of Public Libraries and Interlibrary Cooperation.

Sec. 1.0803 F. The reporting requirement, as established in this section, enables the Board of Education to become fully aware of the review process utilized in grant applications.

12. Proposed 5 MCAR sec. 1.0804 concerns grants for institution library service for the blind and physically handicapped.

Sec. 1.0804 A. The application requirements as set forth in this section, enable the Department of Education to determine that the programs are being conducted in accordance with federal law and Minn. Stat. sec. 134.32, subd. 6 (1978).

Sec. 1.0804 B. provides that funds are granted for library services for residents of correction and welfare institutions but not for the staffs.

Sec. 1.0804 C. and D. As in Special Project Grant applications, these sections provide for a system of review by the Director of OPLIC and by the State Board of Education.

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

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

1. The Department of Education gave due, timely and adequate legal notice of the hearing.

2. Pursuant to Minn. Stat. sec. 15.052, subd. 3 (1978), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed

agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action; (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of tis proposed action with an affirmative presentation of facts".

3. The Department of Education has statutory authority to promulgate the proposed rules.

4. The Department of Education has fulfilled all relevant, substantive and procedural requirements of law or rule.

5. The Department of Education has demonstrated the need for and the reasonableness of the proposed rules by an affirmative presentation of facts.

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

RECOMMENDATION

That the Department of Education adopt the proposed rules.

Dated this 2 day of April, 1979.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION
DIVISION OF SPECIAL SERVICES

In tahe Matter of the Proposed
Adoption of Rules of the
State Board of Education
Governing Library Grant Programs

STATEMENT OF COMPLIANCE
WITH MANUAL OF RULE
MAKING PROCEDURES

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

Charles T. Mottl

CHARLES T. MOTTL
Special Assistant Attorney General

Dated: May 17, 1979

STATE OF MINNESOTA
DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION
DIVISION OF SPECIAL SERVICES

ORDER FOR HEARING

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Library Grant Programs

IT IS HEREBY ORDERED that a public hearing on the above - captioned rules be held in the Capitol Square Building, Room 716, St. Paul, Minnesota on Friday, March 2, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

STATE OF MINNESOTA
BOARD OF EDUCATION

Secretary

Date: Dec. 18, 1978

STATE BOARD OF EDUCATION
DEPARTMENT OF EDUCATION

In the Matter of the Proposed
Adoption of Rules of the State
Board of Education Governing
Library Grant Programs

NOTICE OF HEARING

NOTICE is hereby given that a public hearing will be held in the above-entitled matter in Room 716, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on March 2, 1979, 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 rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to, Peter C. Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8118. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

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 rule/rules. 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 to the Hearing Examiner 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 rules relating to the implementation of Laws of Minnesota 1978, Chapter 546, and to replace the temporary rules on the same subject which were published in Volume 3, State Register at pp. 240-244 and which expire on August 21, 1979. NOTICE: The proposed rules are subject to change as a result of the rule hearing process. The agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the Director, Office of Public Libraries and Interlibrary Cooperation, 301 Hanover Building, 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 is contained in Laws of Minnesota 1978, Chapter 546, §7.

Under Minnesota Statutes, §10A.01, Subdivision 11, as amended by Laws of Minnesota 1978, Chapter 463, §11, 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:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own 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

(b) Who spends more than $250, not including his own traveling 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 whole engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, 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 his own travel expenses, in any year in communicating with public officials.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-5615.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

Date Dec 18, 1978

HOWARD B. CASMEY, Secretary

COPY Showing correction/addition to Proposed Rule - See p. 5

STATE BOARD OF EDUCATION
DEPARTMENT OF EDUCATION

In the Matter of the Proposed
Adoption of Rules of the State
Board of Education Governing
Library Grant Programs

NOTICE OF HEARING

NOTICE is hereby given that a public hearing will be held in the above-entitled matter in Room 716, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on March 2, 1979, 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 rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to, Peter C. Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8118. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

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 rule/rules. 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 to the Hearing Examiner 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 rules relating to the implementation of Laws of Minnesota 1978, Chapter 546, and to replace the temporary rules on the same subject which were published in Volume 3, State Register at pp. 240-244 and which expire on August 21, 1979. NOTICE: The proposed rules are subject to change as a result of the rule hearing process. The agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

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Under Minnesota Statutes, §10A.01, Subdivision 11, as amended by Laws of Minnesota 1978, Chapter 463, §11, 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:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own 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

(b) Who spends more than $250, not including his own traveling 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 whole engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, 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 his own travel expenses, in any year in communicating with public officials.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-5615.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

Date Dec 18, 1978

HOWARD B. CASMEY, Secretary

Rules as Proposed

Chapter Forty: Libraries
(all new material)

5 MCAR §1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, §5, subd. 3 may apply for establishment grants as specified in 5 MCAR §1.0801 and for regional library basic system support grants as specified in 5 MCAR §1.0802 and for special project grants as specified in 5 MCAR §1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR §1.0803. The Minnesota department of corrections and the Minnesota department of welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR §1.0804.

B. Application forms. All applications for grants shall be made on application forms provided by the office of public libraries and interlibrary cooperation (OPLIC), division of special services, Minnesota department of education. Content of application form varies with each type of grant and is specified in 5 MCAR §§1.0801 - 1.0804.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems either on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants shall be filed on a date established annually by the state board of education and published in the newsletter of OPLIC not less than 90 days before such date.

D. Assurances. Grant applicants shall sign a statement of assurance that:

1. Grant funds shall be used only for the purposes for which granted as specified in the approved grant application or approved by the director of OPLIC in an amendment to the original application filed under provisions of 5 MCAR §1.0800, subd. I;

2. A narrative report indicating program or project results accomplished and a report of grant expenditures shall be filed with OPLIC on forms supplied by OPLIC no later than 90 days after the completion of the project or program, or the end of the state fiscal year, whichever is earlier provided that such period allowed shall not be less than 90 days;

3. If participation by a regional library system or a member local governmental unit is discontinued, ownership of the discontinuing system or unit's assets, including cash or the fair market value thereof if such assets cannot be transferred by the grantee, acquired during the last three years of participation from establishment grant and regional library basic system support grant funds, shall revert to the Minnesota state board of education for reassignment for library services elsewhere;

4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d et seq.), its regulations and all other applicable federal and state laws, rules and regulations.

E. Federal funds. The provisions of the library services and construction act, 20 USC 351 et seq. (1970), and its regulations shall apply to all projects and programs which are wholly or partially funded from grants received under the act.

F. Pertinent sections of Minnesota law. The activities and operations of applicants which are wholly or partially carried out with funds received through library grant programs shall be in accordance with relevant sections of Minnesota law.

G. Notification, review, and request for additional information. Applicants shall be notified of the receipt of their applications. The director of the office of public libraries and interlibrary cooperation shall review all applications for accuracy and completeness. Within 15 working days of receiving the application the director may request in writing the following additional information so that an applicant may more accurately or clearly describe the program or project for which grant funds are sought:

1. clarification of project or program objectives to better communicate functions or services to be performed;

2. clarification of proposed project or program implementation to better communicate how functions or services will be performed;

3. clarification of proposed project or program evaluation to better communicate evaluation methods to be used;

4. any other information which would strengthen or clarify the application.

If the additional information requested is not provided by the applicant within ten working days after the date of the request for additional information, the grant application shall be evaluated solely on the basis of the information it contains.

H. Grant awards. Grants shall be awarded by the state board of education for projects and programs in compliance with the law and these rules, subject to the availability of funds and such standards as are set forth for a grant program. All grant applicants shall be notified in writing within five working days of the action of the state board of education.

I. Amendments. If after a project or program has been funded, the grant recipient determines that modifications are necessary, the grant recipient shall file an amendment to the grant application. Budget modifications resulting in transfer from one budget category to one or more other budget categories of less than 20 percent of the total grant amount need not be filed as amendments. The grant amendment shall not change the purpose for which the grant was awarded. It shall, however, address at least one of the following:

1. modification of the scope or duration of the project or program, judged by the grant recipient to be necessary based on the amount of funds granted or knowledge acquired in operating the project or program;

2. modification of project or program objectives, steps in implementation or evaluation judged by the grant recipient to be necessary based on knowledge acquired in operating the project or program;

3. modification of the budget of the project or program, within limits of the amount of the grant and amounting to more than 20 percent of the total grant amount, judged by the recipient to be necessary to most economically and practically achieve project objectives.

All amendments shall be filed in writing with the information the recipient determines is necessary to accurately and completely explain the need for the amendment.

The director of the office of public libraries and interlibrary cooperation shall review all amendments and shall use the following standards in determining whether an amendment is approved:

1. the basic purposes for which funds were granted are not altered by the modifications; and/or

2. the proposed modifications result in improved project or program efficiency in terms of cost savings for equipment, materials, time or personnel; and/or

3. the proposed modifications result in improved project or program effectiveness in terms of greater quantities or qualities of service provided; and/or

4. the proposed modifications improve the applicant's ability to achieve the objectives of the project or program.

Approval or disapproval of all amendments shall be communicated to a grant recipient within ten working days following OPLIC's receipt of the proposed amendment.

5 MCAR §1.0801 Establishment grants.

A. Application. Regional library systems may apply for establishment grants to extend library service to additional counties as authorized in Laws of 1978, ch. 546, §3, subd. 2. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. name of county joining regional library system;

4. a copy of the resolution adopted by the county board of commissioners in which they agree to provide minimum levels of local support as required by Laws of 1978, ch. 546, §4;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. proposed expenditures to be made from grant funds.

B. Establishment grant formula. The amount of the establishment grant to a regional library system for each additional county to extend services shall be $1.00 per capita plus $10.00 per square mile for the first year, and $.50 per capita plus $5.00 per square mile for the second year, reduced by the population and land area of any nonparticipating governmental units. The most recent United States census is used to determine the population and land area.

C. Counties joining regional library systems. When a county has ceased to participate in a regional library system and at a later date rejoins a regional library system, no establishment grant shall be made.

5 MCAR §1.0802 Regional library basic system support grants.

A. Application. Regional library systems may apply for regional library basic system support grants authorized in Laws of 1978, ch. 546, §3, subd. 3. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. names of participating governmental units and identification of nonparticipating governmental units within participating counties;

4. name, educational background and library work experience of the chief administrative officer;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. for purposes of determining compliance with Laws of 1978, ch. 546, §5, provision for each participating governmental unit of the following financial information:

a. the amount provided by the governmental unit for public library service during the preceding fiscal year;

b. the amount provided by the governmental unit for public library service during the current fiscal year.

7. proposed expenditures to be made from grant funds.

B. Criteria for eligibility. Regional library systems shall be designated as eligible by the state board of education provided they meet the criteria in Laws of 1978, ch. 546, §5, and the following:

1. Employment of a chief administrative officer who has had at least two years of public library administrative experience and has received the master's degree in library science from a library education program accredited by the American Library Association.

2. Long range plan. Regional library systems shall provide to OPLIC by June 30 of each even-numbered year a long range plan which addresses the succeeding five years. Upon request by the regional library system, OPLIC staff shall provide consultation and advice on the content of the long range plan. The plan shall include narrative descriptions, goals and objectives which address the following:

a. service area; including steps to encourage participation of appropriate adjacent nonparticipating counties and cities.

b. funding; including cost projections to implement the first year of the plan.

c. personnel; including projections of numbers and qualifications needed to implement the plan.

d. collection development; including types and quantities, written materials selection policies of the applicant or of its members, a coordinated program of acquisition, identification and rectification of deficiencies, and sharing of resources.

e. programs of service; including minimum hours of operation of public service outlets and provision of bookmobile service.

f. physical facilities; including accessibility by the physically handicapped.

g. multitype library cooperation.

h. any other topics deemed appropriate by the regional library system.

C. Calculation of grant amounts. Regional library basic system support grants shall be calculated as specified in Laws of 1978, ch. 546, §6 or in subsequent law. The most recent United States census shall be used in calculation of all per capita and land area amounts, reduced by the population and land area of any nonparticipating governmental units.

D. Audit. Regional library systems which receive regional library basic system support grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the regional library system's fiscal year. The audit shall be performed by the staff of the state auditor's office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§6.64 - 6.71 (1976).

5 MCAR §1.0803 Special project grants.

A. Application. Regional library systems and county and city public libraries which are participating in regional library systems may apply for special project grants as authorized by Laws of 1978, ch. 546, §3, subd. 4.

B. Categories of emphasis. The advisory council to OPLIC, required in federal regulations, may select one or more categories of programs which are designated as eligible in the federal law and regulations as the highest priority for funding during a fiscal year. The categories so designated shall be published in the newsletter of OPLIC no less than 90 days prior to the application date and supplied to any potential applicant on request. Applications for projects or programs in the highest priority category shall be given extra consideration in the review process.

C. Regional library system review. County and city libraries which submit applications to OPLIC shall also submit a duplicate copy of the application to their regional library system for review and comment not less than 30 days prior to the application date. The regional library system may submit to OPLIC by the application date comments stating how the proposed project or program relates to the system long range plan and how the proposed project or program could benefit the system or its members.

D. Grants committee review. Applications for special project grants shall be reviewed by a grants committee of five persons appointed by the chairperson of the advisory council to the office of public libraries and interlibrary cooperation. Special project grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of:

1. relationship to categories of emphasis;

2. purposes for which grant funds are requested;

3. statement of project objectives and identification of results to be accomplished;

4. methodology for evaluating project results;

5. the project budget;

6. clear identification that the project activity would not or could not take place without a grant;

7. evidence that the project is either:

a. a one-time project of limited duration to accomplish an objective of long-term benefit; or

b. a pilot for contemplated future operation with a specific plan for absorbing it into on-going operations;

8. the comments from the regional library system review, when received;

9. qualifications of project staff.

The grants committee shall reports its recommendations for projects to be funded to the director of OPLIC.

E. Office of public libraries and interlibrary cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the grants committee for special project grants using the same standards applied by the grants committee and shall report recommendations for projects to be funded to the state board of education.

F. State board of education action. The state board of education shall review the funding recommendations of the director of OPLIC and shall award grants using the same standards applied by the grants committee and subject to the availability of funds.

5 MCAR §1.0804 Grants for institution library service and for library service for the blind and physically handicapped.

A. Application. The Minnesota department of corrections and the Minnesota department of welfare may apply annually for grants to improve library services for institutionalized persons and for the blind and physically handicapped as authorized by Laws of 1978, ch. 546, §3, subd.6, and by the library services and construction act, 20 USC 351 et seq. (1970). Applicants shall submit the following information:

1. name, address and telephone number;

2. name of contact person;

3. locations where program activities will be carried out;

4. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

5. proposed expenditures to be made from grant funds;

6. dollar amounts provided for library services by the departments during the preceding fiscal year;

7. numbers of services provided and numbers of persons served during the preceding year.

B. Eligible costs for institution library service. Funds are granted for library services for residents of corrections and welfare institutions and shall not be expended for library services for institution staff.

C. Office of public libraries and interlibrary cooperation review. The director of OPLIC shall review applications received and shall make recommendations to the state board of education regarding grant amounts based on the applicants' ability to provide services according to the information in the application.

D. State board of education action. The state board of education shall review the funding recommendations of the director of OPLIC and shall award grants using the same information used by the director of OPLIC and subject to the availability of funds.

Rules as Proposed

Chapter Forty: Libraries
(all new material)

5 MCAR §1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, §5, subd. 3 may apply for establishment grants as specified in 5 MCAR §1.0801 and for regional library basic system support grants as specified in 5 MCAR §1.0802 and for special project grants as specified in 5 MCAR §1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR §1.0803. The Minnesota department of corrections and the Minnesota department of welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR §1.0804.

B. Application forms. All applications for grants shall be made on application forms provided by the office of public libraries and interlibrary cooperation (OPLIC), division of special services, Minnesota department of education. Content of application form varies with each type of grant and is specified in 5 MCAR §§1.0801 - 1.0804.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems either on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants shall be filed on a date established annually by the state board of education and published in the newsletter of OPLIC not less than 90 days before such date.

D. Assurances. Grant applicants shall sign a statement of assurance that:

1. Grant funds shall be used only for the purposes for which granted as specified in the approved grant application or approved by the director of OPLIC in an amendment to the original application filed under provisions of 5 MCAR §1.0800, subd. I;

2. A narrative report indicating program or project results accomplished and a report of grant expenditures shall be filed with OPLIC on forms supplied by OPLIC no later than 90 days after the completion of the project or program, or the end of the state fiscal year, whichever is earlier provided that such period allowed shall not be less than 90 days;

3. If participation by a regional library system or a member local governmental unit is discontinued, ownership of the discontinuing system or unit's assets, including cash or the fair market value thereof if such assets cannot be transferred by the grantee, acquired during the last three years of participation from establishment grant and regional library basic system support grant funds, shall revert to the Minnesota state board of education for reassignment for library services elsewhere;

4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d et seq.), its regulations and all other applicable federal and state laws and regulations.

E. Federal funds. The provisions of the library services and construction act, 20 USC 351 et seq. (1970), and its regulations shall apply to all projects and programs which are wholly or partially funded from grants received under the act.

F. Pertinent sections of Minnesota law. The activities and operations of applicants which are wholly or partially carried out with funds received through library grant programs shall be in accordance with relevant sections of Minnesota law.

G. Notification, review, and request for additional information. Applicants shall be notified of the receipt of their applications. The director of the office of public libraries and interlibrary cooperation shall review all applications for accuracy and completeness. Within 15 working days of receiving the application the director may request in writing the following additional information so that an applicant may more accurately or clearly describe the program or project for which grant funds are sought:

1. clarification of project or program objectives to better communicate functions or services to be performed;

2. clarification of proposed project or program implementation to better communicate how functions or services will be performed;

3. clarification of proposed project or program evaluation to better communicate evaluation methods to be used;

4. any other information which would strengthen or clarify the application.

If the additional information requested is not provided by the applicant within ten working days after the date of the request for additional information, the grant application shall be evaluated solely on the basis of the information it contains.

H. Grant awards. Grants shall be awarded by the state board of education for projects and programs in compliance with the law and these rules, subject to the availability of funds and such standards as are set forth for a grant program. All grant applicants shall be notified in writing within five working days of the action of the state board of education.

I. Amendments. If after a project or program has been funded, the grant recipient determines that modifications are necessary, the grant recipient shall file an amendment to the grant application. Budget modifications resulting in transfer from one budget category to one or more other budget categories of less than 20 percent of the total grant amount need not be filed as amendments. The grant amendment shall not change the purpose for which the grant was awarded. It shall, however, address at least one of the following:

1. modification of the scope or duration of the project or program, judged by the grant recipient to be necessary based on the amount of funds granted or knowledge acquired in operating the project or program;

2. modification of project or program objectives, steps in implementation or evaluation judged by the grant recipient to be necessary based on knowledge acquired in operating the project or program;

3. modification of the budget of the project or program, within limits of the amount of the grant and amounting to more than 20 percent of the total grant amount, judged by the recipient to be necessary to most economically and practically achieve project objectives.

All amendments shall be filed in writing with the information the recipient determines is necessary to accurately and completely explain the need for the amendment.

The director of the office of public libraries and interlibrary cooperation shall review all amendments and shall use the following standards in determining whether an amendment is approved:

1. the basic purposes for which funds were granted are not altered by the modifications; and/or

2. the proposed modifications result in improved project or program efficiency in terms of cost savings for equipment, materials, time or personnel; and/or

3. the proposed modifications result in improved project or program effectiveness in terms of greater quantities or qualities of service provided; and/or

4. the proposed modifications improve the applicant's ability to achieve the objectives of the project or program.

Approval or disapproval of all amendments shall be communicated to a grant recipient within ten working days following OPLIC's receipt of the proposed amendment.

5 MCAR §1.0801 Establishment grants.

A. Application. Regional library systems may apply for establishment grants to extend library service to additional counties as authorized in Laws of 1978, ch. 546, §3, subd. 2. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. name of county joining regional library system;

4. a copy of the resolution adopted by the county board of commissioners in which they agree to provide minimum levels of local support as required by Laws of 1978, ch. 546, §4;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. proposed expenditures to be made from grant funds.

B. Establishment grant formula. The amount of the establishment grant to a regional library system for each additional county to extend services shall be $1.00 per capita plus $10.00 per square mile for the first year, and $.50 per capita plus $5.00 per square mile for the second year, reduced by the population and land area of any nonparticipating governmental units. The most recent United States census is used to determine the population and land area.

C. Counties joining regional library systems. When a county has ceased to participate in a regional library system and at a later date rejoins a regional library system, no establishment grant shall be made.

5 MCAR §1.0802 Regional library basic system support grants.

A. Application. Regional library systems may apply for regional library basic system support grants authorized in Laws of 1978, ch. 546, §3, subd. 3. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. names of participating governmental units and identification of nonparticipating governmental units within participating counties;

4. name, educational background and library work experience of the chief administrative officer;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. for purposes of determining compliance with Laws of 1978, ch. 546, §5, provision for each participating governmental unit of the following financial information:

a. the amount provided by the governmental unit for public library service during the preceding fiscal year;

b. the amount provided by the governmental unit for public library service during the current fiscal year.

7. proposed expenditures to be made from grant funds.

B. Criteria for eligibility. Regional library systems shall be designated as eligible by the state board of education provided they meet the criteria in Laws of 1978, ch. 546, §5, and the following:

1. Employment of a chief administrative officer who has had at least two years of public library administrative experience and has received the master's degree in library science from a library education program accredited by the American Library Association.

2. Long range plan. Regional library systems shall provide to OPLIC by June 30 of each even-numbered year a long range plan which addresses the succeeding five years. Upon request by the regional library system, OPLIC staff shall provide consultation and advice on the content of the long range plan. The plan shall include narrative descriptions, goals and objectives which address the following:

a. service area; including steps to encourage participation of appropriate adjacent nonparticipating counties and cities.

b. funding; including cost projections to implement the first year of the plan.

c. personnel; including projections of numbers and qualifications needed to implement the plan.

d. collection development; including types and quantities, written materials selection policies of the applicant or of its members, a coordinated program of acquisition, identification and rectification of deficiencies, and sharing of resources.

e. programs of service; including minimum hours of operation of public service outlets and provision of bookmobile service.

f. physical facilities; including accessibility by the physically handicapped.

g. multitype library cooperation.

h. any other topics deemed appropriate by the regional library system.

C. Calculation of grant amounts. Regional library basic system support grants shall be calculated as specified in Laws of 1978, ch. 546, §6 or in subsequent law. The most recent United States census shall be used in calculation of all per capita and land area amounts, reduced by the population and land area of any nonparticipating governmental units.

D. Audit. Regional library systems which receive regional library basic system support grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the regional library system's fiscal year. The audit shall be performed by the staff of the state auditor's office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§6.64 - 6.71 (1976).

5 MCAR §1.0803 Special project grants.

A. Application. Regional library systems and county and city public libraries which are participating in regional library systems may apply for special project grants as authorized by Laws of 1978, ch. 546, §3, subd. 4.

B. Categories of emphasis. The advisory council to OPLIC, required in federal regulations, may select one or more categories of programs which are designated as eligible in the federal law and regulations as the highest priority for funding during a fiscal year. The categories so designated shall be published in the newsletter of OPLIC no less than 90 days prior to the application date and supplied to any potential applicant on request. Applications for projects or programs in the highest priority category shall be given extra consideration in the review process.

C. Regional library system review. County and city libraries which submit applications to OPLIC shall also submit a duplicate copy of the application to their regional library system for review and comment not less than 30 days prior to the application date. The regional library system may submit to OPLIC by the application date comments stating how the proposed project or program relates to the system long range plan and how the proposed project or program could benefit the system or its members.

D. Grants committee review. Applications for special project grants shall be reviewed by a grants committee of five persons appointed by the chairperson of the advisory council to the office of public libraries and interlibrary cooperation. Special project grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of:

1. relationship to categories of emphasis;

2. purposes for which grant funds are requested;

3. statement of project objectives and identification of results to be accomplished;

4. methodology for evaluating project results;

5. the project budget;

6. clear identification that the project activity would not or could not take place without a grant;

7. evidence that the project is either:

a. a one-time project of limited duration to accomplish an objective of long-term benefit; or

b. a pilot for contemplated future operation with a specific plan for absorbing it into on-going operations;

8. the comments from the regional library system review, when received;

9. qualifications of project staff.

The grants committee shall reports its recommendations for projects to be funded to the director of OPLIC.

E. Office of public libraries and interlibrary cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the grants committee for special project grants using the same standards applied by the grants committee and shall report recommendations for projects to be funded to the state board of education.

F. State board of education action. The state board of education shall review the funding recommendations of the director of OPLIC and shall award grants using the same standards applied by the grants committee and subject to the availability of funds.

5 MCAR §1.0804 Grants for institution library service and for library service for the blind and physically handicapped.

A. Application. The Minnesota department of corrections and the Minnesota department of welfare may apply annually for grants to improve library services for institutionalized persons and for the blind and physically handicapped as authorized by Laws of 1978, ch. 546, §3, subd.6, and by the library services and construction act, 20 USC 351 et seq. (1970). Applicants shall submit the following information:

1. name, address and telephone number;

2. name of contact person;

3. locations where program activities will be carried out;

4. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

5. proposed expenditures to be made from grant funds;

6. dollar amounts provided for library services by the departments during the preceding fiscal year;

7. numbers of services provided and numbers of persons served during the preceding year.

B. Eligible costs for institution library service. Funds are granted for library services for residents of corrections and welfare institutions and shall not be expended for library services for institution staff.

C. Office of public libraries and interlibrary cooperation review. The director of OPLIC shall review applications received and shall make recommendations to the state board of education regarding grant amounts based on the applicants' ability to provide services according to the information in the application.

D. State board of education action. The state board of education shall review the funding recommendations of the director of OPLIC and shall award grants using the same information used by the director of OPLIC and subject to the availability of funds.

State of Minnesota
Department of Education

State Board of Education
Division of Special Services

IN THE MATTER OF: The proposed adoption of rules of the state board of education governing library grant programs

Affidavit of Receipt of Secretary of State's List

Harold E. Klecker, being duly sworn on oath deposes and says:

1) That he is an employee of the Department of Education of the State of Minnesota.

2) That on the 19th day of January, he 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.

3) That on the 23rd day of January, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Harold E Klecker

Subscribed and sworn to before me this 23rd day of January, 1979.

Betty L King
Notary Public

Dakota, County, Minnesota

My Commission expires 6-13-83.

BETTY L. KING
Notary Public, Dakota Co. MN
My Commission Expires
June 13, 1983

State of Minnesota
Department of Education

State Board of Education
Division of Special Services

IN THE MATTER OF: The proposed adoption of rules of the state board of education governing library grant programs

Certificate of Delivery
Secretary of State List

I hereby certify that the attached 9 (585 labels) sheets constitute the complete list of persons, associations, and other interested groups who as of 10:30 o'clock AM, this 23rd day of January, 1979, have requested pursuant to Minn. Stat. § 15.0412, subd. 4, (Supp. 1977), 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 Howard Scott

State of Minnesota
Department of Education

State Board of Education
Division of Special Services

IN THE MATTER OF: The proposed adoption of rules of the state board of education governing library grant programs

Affidavit of Mailing

Harold Klecker, being first duly sworn, deposes and says:

That on the 26 day of January, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, ___ he served the attached Notice of Hearing by depositing in the United States mail at said City of 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.

Harold E Klecker

Subscribed and sworn to before me

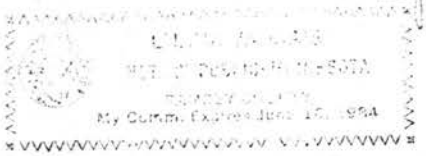
this 26 day of January,

1979.

Luana Vadnais
Notary Public

Ramsey, County, Minnesota

My Commission expires June 16, 1984.



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NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY
My Comm. Expires June 16, 1984

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE PETER C. ERICKSON
HEARING EXAMINER
OFFICE OF HEARING EXAMINER

In the matter of the proposed adoption
of Rules of the State Board of Education
Governing Library Grant Programs

FINDINGS OF FACT AND ORDER
ADOPTING RECOMMENDATION OF
HEARING EXAMINER AND RULES

The above-entitled matter came on for hearing on March 2, 1979, at St. Paul, Minnesota before Peter C. Erickson, Hearing Examiner appointed by the Chief Hearing Examiner after proper notice required by Minnesota Statutes, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having reviewed all of the testimony, having considered all 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 Findings and having confirmed the need for the above captioned rules, we find that the findings of fact of the Hearing Examiner accurately reflect the facts in the record, except as expressly provided below.

NOW THEREFORE, BE IT RESOLVED that the State Board of Education hereby adopts and incorporates herein the Report of the Hearing Examiner dated April 2, 1979, relative to the above-entitled matters with one additional change set forth below. The change in the rules as originally proposed as compared with the rules as adopted is as follows:

§§ 1.0800 D.4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d et seq.), its regulations and all other applicable federal and state laws, rules and regulations.

The Hearing Examiner suggested that the word "regulations" be replaced by the word "rules", since the word "regulations" is no longer in use in Minnesota. The word "regulations" continues to be used by the federal government. The State Board of Education adds the word "rules" to reflect terminology used in the state while retaining the word "regulations" to reflect terminology used by the federal government.

The State Board of Education finds all the amendment reasonable and necessary.

THEREFORE, IT IS ORDERED that the rules identified as 5 MCAR §§ 1.0800 - §§ 1.0804 as amended are adopted this 14th day of May, 1979, pursuant to authority vested in us by Laws of 1978, ch. 546, § 7.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

Erling O. Johnson
President
State Board of Education

CERTIFICATE OF BOARD'S
ADOPTION OF RULES RESOLUTION

I, Howard B. Casmey, do hereby certify that I am secretary and executive officer of the Board of Education, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Education duly and properly called and held on the 14th day of May, 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 the rules governing the library grant program be and hereby are approved and adopted as amended, pursuant to authority vested in us by Laws of 1978, ch. 546, § 7 and that one of the members of the Board of Education, be and hereby is authorized to sign an order adopting these rules."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of May, 1979.

Howard B. Casmey
Secretary and Executive Officer

Member, State Board of Education

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Howard B. Casmey, do hereby certify that I am secretary of the state board of education, a board duly authorized under the laws of the State of Minnesota, and that the following is true, complete, and correct copy of a resolution adopted at a meeting of the state board of education duly and properly called and held on the 18th day of December, 1978; that a quorum was present at said meeting; and that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

WHEREAS, the Library Grant Program is presently administered in part by temporary rules adopted by this Board and published at State Register, Volume 3, Number 7, pp. 240-244, August 21, 1978 (3 S.R. 240), and

WHEREAS, these temporary rules expire on or about August 21, 1979, and

WHEREAS, the State Board of Education is authorized by Minn. Laws 1978, ch. 546 § 7 to promulgate rules to administer the Library Grant Program,

NOW THEREFORE BE IT RESOLVED that the State Board of Education shall call a hearing for the purpose of informing the public concerning proposed rules of the Board governing the Library Grant Program and that the Commissioner or his Deputy is authorized to sign an order and notice of such hearing to be conducted pursuant to Minn. Stat. ch. 15.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18 day of Dec, 1978.

Howard B. Casmey
Secretary, State Board of Education

Member, State Board of Education

# PROPOSED RULES

**Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.**

**Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.**



**The beaver is North America's largest rodent, averaging 40 to 50 pounds. Beaver ponds support a great variety of wildlife and control spring runoff, thus lessening the possibility of downstream flooding. But when beaver become too numerous their dams flood farmlands, roads and timber, and the animals may damage valuable fruit and shade trees. Minnesota trappers take 20,000 to 30,000 beaver a year. (Drawing by Dan Metz, courtesy of the Department of Natural Resources)**

# Department of Education Board of Education

## Proposed Rules Governing Library Grant Programs

### Notice of Hearing

Notice is hereby given that a public hearing will be held in the above-entitled matter in Room 716, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on March 2, 1979, 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 rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to, Peter C. Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8118. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

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 rule/rules. 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 to the Hearing Examiner 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 rules relating to the implementation of Laws of Minnesota 1978, Chapter 546, and to replace the temporary rules on the same subject which were published in Volume 3, *State Register* at pp. 240-244 and which expire on August 21, 1979. Notice: The proposed rules are subject to change as a result of the rule hearing process. The agency therefore strongly urges those

who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the Director, Office of Public Libraries and Interlibrary Cooperation, 301 Hanover Building, 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 is contained in Laws of Minnesota 1978, ch. 546, § 7.

Under Minn. Stat. § 10A.01, subd. 11, as amended by Laws of Minnesota 1978, ch. 463, § 11, 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:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own 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

(b) Who spends more than $250, not including his own traveling 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 whole engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, 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 his own travel expenses, in any year in communicating with public officials.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155: telephone (612) 296-5615.

December 18, 1978

Howard B. Casmey
Secretary

## Rules as Proposed

**Chapter Forty: Libraries (All New Material)**

**5 MCAR § 1.0800 Grant application and review procedures.**

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, § 5, subd. 3 may apply for establishment grants as specified in 5 MCAR § 1.0801 and for regional library basic system support grants as specified in 5 MCAR § 1.0802 and for special project grants as specified in 5 MCAR § 1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR § 1.0803. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR § 1.0804.

B. Application forms. All applications for grants shall be made on application forms provided by the office of public libraries and interlibrary cooperation (OPLIC), division of special services, Minnesota Department of Education. Content of application form varies with each type of grant and is specified in 5 MCAR §§ 1.0801-1.0804.

C. Application dates. All grant applications shall be filed

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

on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems either on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants shall be filed on a date established annually by the state board of education and published in the newsletter of OPLIC not less than 90 days before such date.

D. Assurances. Grant applicants shall sign a statement of assurance that:

1. Grant funds shall be used only for the purposes for which granted as specified in the approved grant application or approved by the director of OPLIC in an amendment to the original application filed under provisions of 5 MCAR § 1.0800, subd. I.;

2. A narrative report indicating program or project results accomplished and a report of grant expenditures shall be filed with OPLIC on forms supplied by OPLIC no later than 90 days after the completion of the project or program, or the end of the state fiscal year, whichever is earlier provided that such period allowed shall not be less than 90 days;

3. If participation by a regional library system or a member local governmental unit is discontinued, ownership of the discontinuing system or unit's assets, including cash or the fair market value thereof if such assets cannot be transferred by the grantee, acquired during the last three years of participation from establishment grant and regional library basic system support grant funds, shall revert to the Minnesota state board of education for reassignment for library services elsewhere;

4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d et seq.), its regulations and all other applicable federal and state laws and regulations.

E. Federal funds. The provisions of the library services and construction act, 20 USC 351 et seq. (1970), and its regulations shall apply to all projects and programs which are wholly or partially funded from grants received under the act.

F. Pertinent sections of Minnesota law. The activities and operations of applicants which are wholly or partially carried out with funds received through library grant programs shall be in accordance with relevant sections of Minnesota law.

G. Notification, review, and request for additional information. Applicants shall be notified of the receipt of their applications. The director of the Office of Public Libraries and Interlibrary Cooperation shall review all applications for accuracy and completeness. Within 15 working days of receiving the application the director may request in writing the following additional information so that an applicant may more accurately or clearly describe the program or project for which grant funds are sought:

1. clarification of project or program objectives to better communicate functions or services to be performed;

2. clarification of proposed project or program implementation to better communicate how functions or services will be performed;

3. clarification of proposed project or program evaluation to better communicate evaluation methods to be used;

4. any other information which would strengthen or clarify the application.

If the additional information requested is not provided by the applicant within ten working days after the date of the request for additional information, the grant application shall be evaluated solely on the basis of the information it contains.

H. Grant awards. Grants shall be awarded by the State Board of Education for projects and programs in compliance with the law and these rules, subject to the availability of funds and such standards as are set forth for a grant program. All grant applicants shall be notified in writing within five working days of the action of the State Board of Education.

I. Amendments. If after a project or program has been funded, the grant recipient determines that modifications are necessary, the grant recipient shall file an amendment to the grant application. Budget modifications resulting in transfer from one budget category to one or more other budget categories of less than 20 percent of the total grant amount need not be filed as amendments. The grant amendment shall not change the purpose for which the grant was awarded. It shall, however, address at least one of the following:

1. modification of the scope or duration of the project or program, judged by the grant recipient to be necessary based on the amount of funds granted or knowledge acquired in operating the project or program;

2. modification of project or program objectives, steps in implementation or evaluation judged by the grant recipient to be necessary based on knowledge acquired in operating the project or program;

3. modification of the budget of the project or program, within limits of the amount of the grant and amount-

ing to more than 20 percent of the total grant amount, judged by the recipient to be necessary to most economically and practically achieve project objectives.

All amendments shall be filed in writing with the information the recipient determines is necessary to accurately and completely explain the need for the amendment.

The director of the Office of Public Libraries and Interlibrary Cooperation shall review all amendments and shall use the following standards in determining whether an amendment is approved:

1. the basic purposes for which funds were granted are not altered by the modifications; and/or

2. the proposed modifications result in improved project or program efficiency in terms of cost savings for equipment, materials, time or personnel; and/or

3. the proposed modifications result in improved project or program effectiveness in terms of greater quantities or qualities of service provided; and/or

4. the proposed modifications improve the applicant's ability to achieve the objectives of the project or program.

Approval or disapproval of all amendments shall be communicated to a grant recipient within ten working days following OPLIC's receipt of the proposed amendment.

**5 MCAR § 1.0801 Establishment grants.**

A. Application. Regional library systems may apply for establishment grants to extend library service to additional counties as authorized in Laws of 1978, ch. 546, § 3, subd. 2. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. name of county joining regional library system;

4. a copy of the resolution adopted by the county board of commissioners in which they agree to provide minimum levels of local support as required by Laws of 1978, ch. 546, § 4;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. proposed expenditures to be made from grant funds.

B. Establishment grant formula. The amount of the establishment grant to a regional library system for each additional county to extend services shall be $1.00 per capita plus $10.00 per square mile for the first year, and $.50 per capita plus $5.00 per square mile for the second year, reduced by the population and land area of any nonparticipating governmental units. The most recent United States census is used to determine the population and land area.

C. Counties joining regional library systems. When a county has ceased to participate in a regional library system and at a later date rejoins a regional library system, no establishment grant shall be made.

**5 MCAR § 1.0802 Regional library basic system support grants.**

A. Application. Regional library systems may apply for regional library basic system support grants authorized in Laws of 1978, ch. 546, § 3, subd. 3. Applicants shall submit the following information:

1. name, address and telephone number of applicant;

2. name of contact person;

3. names of participating governmental units and identification of nonparticipating governmental units within participating counties;

4. name, educational background and library work experience of the chief administrative officer;

5. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

6. for purposes of determining compliance with Laws of 1978, ch. 546, § 5, provision for each participating governmental unit of the following financial information:

a. the amount provided by the governmental unit for public library service during the preceding fiscal year;

b. the amount provided by the governmental unit for public library service during the current fiscal year.

7. proposed expenditures to be made from grant funds.

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

B. Criteria for eligibility. Regional library systems shall be designated as eligible by the state board of education provided they meet the criteria in Laws of 1978, ch. 546, § 5, and the following:

1. Employment of a chief administrative officer who has had at least two years of public library administrative experience and has received the master's degree in library science from a library education program accredited by the American Library Association.

2. Long range plan. Regional library systems shall provide to OPLIC by June 30 of each even-numbered year a long range plan which addresses the succeeding five years. Upon request by the regional library system, OPLIC staff shall provide consultation and advice on the content of the long range plan. The plan shall include narrative descriptions, goals and objectives which address the following:

a. service area; including steps to encourage participation of appropriate adjacent nonparticipating counties and cities.

b. funding; including cost projections to implement the first year of the plan.

c. personnel; including projections of numbers and qualifications needed to implement the plan.

d. collection development; including types and quantities, written materials selection policies of the applicant or of its members, a coordinated program of acquisition, identification and rectification of deficiencies, and sharing of resources.

e. programs of service; including minimum hours of operation of public service outlets and provision of bookmobile service.

f. physical facilities; including accessibility by the physically handicapped.

g. multitype library cooperation.

h. any other topics deemed appropriate by the regional library system.

C. Calculation of grant amounts. Regional library basic system support grants shall be calculated as specified in Laws of 1978, ch. 546, § 6 or in subsequent law. The most recent United States census shall be used in calculation of all per capita and land area amounts, reduced by the population and land area of any nonparticipating governmental units.

D. Audit. Regional library systems which receive regional library basic system support grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the regional library system's fiscal year. The audit shall be performed by the staff of the state auditor's office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1976).

**5 MCAR § 1.0803 Special project grants.**

A. Application. Regional library systems and county and city public libraries which are participating in regional library systems may apply for special project grants as authorized by Laws of 1978, ch. 546, § 3, subd. 4.

B. Categories of emphasis. The advisory council to OPLIC, required in federal regulations, may select one or more categories of programs which are designated as eligible in the federal law and regulations as the highest priority for funding during a fiscal year. The categories so designated shall be published in the newsletter of OPLIC no less than 90 days prior to the application date and supplied to any potential applicant on request. Applications for projects or programs in the highest priority category shall be given extra consideration in the review process.

C. Regional library system review. County and city libraries which submit applications to OPLIC shall also submit a duplicate copy of the application to their regional library system for review and comment not less than 30 days prior to the application date. The regional library system may submit to OPLIC by the application date comments stating how the proposed project or program relates to the system long range plan and how the proposed project or program could benefit the system or its members.

D. Grants committee review. Applications for special project grants shall be reviewed by a grants committee of five persons appointed by the chairperson of the advisory council to the Office of Public Libraries and Interlibrary Cooperation. Special project grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of:

1. relationship to categories of emphasis;

2. purposes for which grant funds are requested;

3. statement of project objectives and identification of results to be accomplished;

4. methodology for evaluating project results;

5. the project budget;

6. clear identification that the project activity would not or could not take place without a grant;

7. evidence that the project is either:

a. a one-time project of limited duration to accomplish an objective of long-term benefit; or

b. a pilot for contemplated future operation with a specific plan for absorbing it into on-going operations;

8. the comments from the regional library system review, when received;

9. qualifications of project staff.

The grants committee shall report its recommendations for projects to be funded to the director of OPLIC.

E. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the grants committee for special project grants using the same standards applied by the grants committee and shall report recommendations for projects to be funded to the State Board of Education.

F. State Board of Education action. The State Board of Education shall review the funding recommendations of the director of OPLIC and shall award grants using the same standards applied by the grants committee and subject to the availability of funds.

**5 MCAR § 1.0804 Grants for institution library service and for library service for the blind and physically handicapped.**

A. Application. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply annually for grants to improve library services for institutionalized persons and for the blind and physically handicapped as authorized by Laws of 1978, ch. 546, § 3, subd. 6, and by the library services and construction act, 20 USC 351 et seq. (1970). Applicants shall submit the following information:

1. name, address and telephone number;

2. name of contact person;

3. locations where program activities will be carried out;

4. purposes for which grant funds are requested, including a statement of program objectives and identification of results to be accomplished;

5. proposed expenditures to be made from grant funds;

6. dollar amounts provided for library services by the departments during the preceding fiscal year;

7. numbers of services provided and numbers of persons served during the preceding year.

B. Eligible costs for institution library service. Funds are granted for library services for residents of corrections and welfare institutions and shall not be expended for library services for institution staff.

C. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review applications received and shall make recommendations to the State Board of Education regarding grant amounts based on the applicants' ability to provide services according to the information in the application.

D. State Board of Education action. The State Board of Education shall review the funding recommendations of the director of OPLIC and shall award grants using the same information used by the director of OPLIC and subject to the availability of funds.

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