

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

#Education / EDU 740-744 -- EDU 79-006-PE #534

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 8-17 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 9-6

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved 9/5 Date Sent Back to Agency _____

- -

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

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: 8-17-79

FROM : Lois E. Steinhaus
Education Statistics Section

PHONE: 6-4428

SUBJECT: Approval for rules governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744 - - EDU 79-006-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 .....
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
12. One copy indicating changes from the proposed rule to the adopted rule

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

ATTORNEY GENERAL

LOIS STEINHAUS
Education Statistics Section

September 6, 1979

JOANNE E. HINDERAKER
Special Assistant
Attorney General

296-4692

Rules as Approved In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

While the above-captioned rules have been approved, this office wishes to point out to the Department that Minn. Stat. § 123.935, Subd. 1 states that, "The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided pupil support services pursuant to this section." "Pupil support services" includes both the health services described in Rules § 1.0860-1.0863 and the guidance and counseling services described in Rules § 1.0880-1.0883. However, although § 1.0881C specifically restates the transportation requirement of Minn. Stat. § 123.935, Subd. 1 in regard to guidance and counseling services, there is no parallel provision for transportation in the rules relating to health services. Based upon my September 4, 1979 telephone conversation with Assistant Attorney General Michael Bradley, it appears that the absence of a transportation provision in the rules relating to health services is an oversight. This office hereby informs the Department of the oversight. The Department should take notice of the fact that Minn. Stat. § 123.935 Subd. 1 requires such transportation for both health and guidance services and the statute governs.

Upon receipt and before transmittal to your agency, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JEH/bw
Enclosure
cc: Michael Bradley
Duane Harves
Marshall Whitlock
Melvin B. Goldberg

Rules as Adopted

Chapter Forty-One: Textbooks and Standardized Tests for Pupils Attending Nonpublic Schools

§1.0820 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks and standardized tests as provided by Minn. Stat. §§123.931-123.937, shall be made available to pupils in nonpublic schools.

§1.0821 Definitions.

A. "Textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program, which book or book substitute shall be limited to books, workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonidealogical such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.

B. "Standardized tests" means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

§1.0822 State administration.

A. The department of education shall administer funds allocated for the purchase of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine, from the most recent data available, the allocation available per pupil for textbooks and standardized tests to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for textbooks and standardized tests by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

§1.0823 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the textbooks and standardized tests aid program, for textbooks and tests to be used the following school year. The preliminary application shall be on forms provided by the department of education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for textbooks and standardized tests.

2. An estimate of the total allocation available to the nonpublic pupils attending the nonpublic school for textbooks and standardized tests. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for textbooks and standardized tests. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for textbooks and standardized tests for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to each nonpublic school in the public school district or intermediary service area for distribution to the pupil applicants.

C. Final application. On or before September 25 the nonpublic school shall make final application for participation in the textbooks and standardized tests aid program to the district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the department of education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed a separate pupil request form for textbooks and standardized tests only.

2. The allocation for textbooks and standardized tests to the nonpublic pupils attending the nonpublic school. The actual allocation shall be determined by multiplying the allocation available per pupil for textbooks and standardized tests by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for textbooks and standardized tests loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the department of education, the public school district, or the intermediary service area.

E. Inventory. Textbooks and standardized tests loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district or intermediary service area may declare loaned school books unusable after five years, remove them from the inventory, and divest of them in any manner.

F. Reimbursement. Upon completion of the distribution of the textbooks and standardized tests, each public school district or intermediary service area may claim from the department of education (1) the cost of materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the vendor shall be included in the allocation for textbooks and standardized tests for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitations set forth in §1.0821. The public school district shall also include a list of the textbooks actually purchased, which list shall include the publisher of those textbooks.

Rules as Adopted

Chapter Forty-One-B: Health Services for Pupils Attending Nonpublic Schools

§1.0860 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, health services as provided by Minn. Stat. §§123.931-123.937, shall be made available to pupils in nonpublic schools.

§1.0861 Definitions and general requirements.

A. "Health services" means physical and mental health services provided by licensed health services personnel or their assistants. Licensed health services personnel includes physicians, dentists, professional nurses or optometrists.

B. Health services shall not include the direct educational instruction of nonpublic pupils by health services personnel.

C. Health services shall not include those services which are required under the Special Education Law, Minn. Stat. §120.17 (1976, as amended), or which are eligible to receive reimbursement under the Special Education Aid Law, Minn. Stat. §124.32 (1976, as amended).

D. The public school district or intermediary service areas shall provide those specific health services which it offers to its public school pupils, provided the costs for such services do not exceed the amount allocated for health services by the department of education.

E. Costs relating to the provision of health services shall include (1) the salaries of licensed health services personnel and their assistants and (2) expenses for supplies, equipment, travel, and necessary in-service training and other eligible expenses that are associated with the provision of health services by the licensed health services personnel or their assistants.

F. Health services may be provided at the nonpublic school, a neutral site, or at the public school.

§1.0862 State administration.

A. The department of education shall administer funds for the provision of health services to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of health services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine from the most recent data available the allocation available per pupil for health services to be used for the following school year. The allocation per pupil for health services shall be the average expenditure per public school pupil in average daily membership for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of health services the actual cost of the services provided during the school year. The actual allotment shall not exceed the pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved budget.

F. Final payment. On or before September 1 following the school year, the department shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

§1.0863 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for health services beginning with the following school year. The preliminary application shall be on forms provided by the department of education and shall include an estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for health services. The preliminary application shall also include an assessment of the type and level of health services desired for the following school year.

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which health services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before September 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of health services that are to be made available to the nonpublic school students during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for health services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed a separate pupil request form for health services only.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the department of education a program and budget of the health services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the department of education and shall include:

1. Projected health services expenditures for salaries, supplies, equipment and other expenses, which expenditures shall not exceed the amount allocated for health services to the public school district or intermediary service area by the department of education. The allocation for health services is determined by multiplying the total number of participating pupils by the allocation available per pupil for health services as set forth in §1.0862 C. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

2. Projected expenditures for health services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for health services for nonpublic school pupils and which shall be in addition to the health services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the department of education a year-end report of health services provided to nonpublic school pupils. The report shall be on forms made available by the department of education.

G. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for health services. The forms shall be available for inspection by the department of education, the public school district or the intermediary service area.

Rules as Adopted

Chapter Forty-One-C: Guidance and Counseling Services for Pupils Attending Nonpublic Schools

§1.0880 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, guidance and counseling services as provided by Minn. Stat. §§123.931-123.937 (1978), shall be made available to secondary pupils in nonpublic schools.

§1.0881 Definitions and general requirements.

A. "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance.

B. Guidance and counseling services provided to nonpublic school pupils shall not include the planning or selection of particular courses or classroom activities of the nonpublic school.

C. The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided guidance and counseling services.

D. The public school district or intermediary service areas shall provide those specific guidance and counseling services which it offers to its public school secondary pupils, provided the costs for such services do not exceed the amount allocated for guidance and counseling services by the department of education.

E. Costs relating to the provision of guidance and counseling services shall include (1) the salaries of licensed guidance and counseling services personnel and their assistants and (2) expenses for supplies, equipment, travel, and other eligible expenses that are directly attributable to the provision of guidance and counseling services by the licensed guidance and counseling services personnel or their assistants.

F. Guidance and counseling services may be provided to nonpublic school pupils only at a neutral site or at the public school.

§1.0882 State administration.

A. The department of education shall administer funds for the provision of guidance and counseling services to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of guidance and counseling services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine from the most recent data available the allocation available per secondary pupil in average daily membership for guidance and counseling services to be used for the following school year. The allocation available per secondary pupil for guidance and counseling services shall be the average expenditure per public secondary school pupil for these services by those Minnesota public school districts which provide guidance and counseling services to public secondary school pupils. Pupils shall be counted as one pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of guidance and counseling services the actual cost of the services provided in that school year. The actual allotment for guidance and counseling services for the nonpublic secondary pupils shall not exceed the total pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved allocation.

F. Final payment. On or before September 1, the department of education shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

§1.0883 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for guidance and counseling services beginning with the following school year. The preliminary application shall be on forms provided by the department of education and shall include an estimate of the nonpublic secondary school pupils who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for guidance and counseling services. The preliminary application shall also include an assessment of the type and level of guidance and counseling services desired for the following school year.

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which guidance and counseling services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before September 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of guidance and counseling services that are to be made available during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for guidance and counseling services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed a separate pupil request form for guidance and counseling services only.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the department of education a program and budget of the guidance and counseling services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the department of education and shall include:

1. Projected guidance and counseling services expenditures for salaries, supplies, equipment and other eligible expenses, which expenditures shall not exceed the amount allocated for guidance and counseling services to the public school district or intermediary service area by the department of education. The allocation for guidance and counseling services is determined by multiplying the total number of participating secondary pupils by the allocation available per pupil for guidance and counseling services as set forth in §1.0882 C. Pupils shall be counted as one pupil each.

2. Projected expenditures for guidance and counseling services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for guidance and counseling services for nonpublic school pupils and which shall be in addition to the guidance and counseling services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the department of education a year-end report of guidance and counseling services provided to nonpublic school pupils. The report shall be on forms made available by the department of education.

G. Nonpublic school files. The nonpublic school shall maintain on file for a period of 3 years all pupil request forms for guidance and counseling services. The forms shall be available for inspection by the department of education, the public school district or the intermediary service area.

~~Chapter Thirty-Seven--Instructional Materials for Pupils attending Nonpublic Schools~~

~~EDU 740 Policy.~~

~~In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, the benefits provided by Minn. Laws 1975, Chapter 396 shall be made available to pupils in nonpublic schools as provided in this chapter.~~

~~(EDU 1975)~~

~~EDU 741 Instructional materials.~~

~~A. Eligible instructional materials.~~

~~1. The term shall be limited to "textbooks," "school library and audio-visual materials," and "instructional supplies" as those terms or their equivalent are described or designated in the manual of instructions for uniform accounting for Minnesota school districts.~~

~~a. Textbooks include elementary and secondary textbooks furnished free to public school pupils including supplementary textbooks, and dictionaries. Textbooks are primarily for use in certain classes or grades rather than for general school use.~~

~~b. School library and audiovisual materials, materials such as include school library books and pamphlets available for use by individual students; maps and globes for individual use; periodicals and newspapers for individual use; audiovisual materials used in the instructional program such as films, filmstrips, recordings, exhibits, models, and television and radio teaching materials exclusive of equipment.~~

~~c. Instructional supplies are consumable items such as tests, chalk, paper, test tubes, ink, pencils, paint, paint brushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, instructional farming supplies, supplies for the operation of equipment used in the teaching learning process, workbooks, physical education supplies, printing of individual materials, and magazines or periodicals for classroom use.~~

~~2. Instructional materials must be secular, neutral, and nonideological such as the materials normally provided for pupils in public schools.~~

~~B. Ineligible instructional materials.~~

~~Items such as unabridged dictionaries, encyclopedias, and other major reference works are classified as equipment and are therefore ineligible instructional materials.~~

~~(EDU 1975)~~

EDU-742 General-administration.

A. The-department-of-education-shall-administer-funds-allocated-for-the purchase-of-instructional-materials-to-be-loaned-or-provided-to-nonpublic school-pupils.

B. The-department-of-education,-in-cooperation-with-the-state-auditor's office,-shall-establish-proper-accounting-methods-for-fiscal-control,-fund accounting,-and-the-maintenance-of-records-for-the-acquisition-of-instructional materials-to-be-loaned-or-provided-to-nonpublic-school-pupils.

C. The-department-of-education's-administrative-costs-shall-not-exceed-two percent-of-the-state-allocation-for-instructional-materials-to-be-loaned-or provided-to-nonpublic-school-pupils.
(EDU-1975)

EDU-743 Local-administration.

A. An-application-for-instructional-materials-to-be-loaned-or-provided shall-be-made-by-or-on-behalf-of-each-participating-nonpublic-school-pupil through-the-nonpublic-school-to-the-public-school-district-in-which-the-non-public-school-is-located.--For-the-1975-76-year-the-application-shall-be-made within-30-days-of-the-elective-date-of-these-regulations.--For-the-following school-year-it-shall-be-made-on-or-before-September-15.--The-applications-shall be-on-a-form-prescribed-by-the-commissioner.--Application-forms-shall-be available-in-the-office-of-the-public-school-superintendent-on-the-effective date-of-these-regulations.

B. The-department-of-education-shall-determine-the-allocation-of-aid-for instructional-materials.

C. The-local-school-district-shall-purchase-and-transmit-the-instructional materials-to-the-nonpublic-schools-in-the-district-for-distribution-to-the pupil-applicants.

D. Instructional-materials-loaned-to-pupils-in-nonpublic-schools-shall-be maintained-on-inventory-by-the-local-school-district-except-in-cases-of-con-sumable-or-nonreusable-instructional-materials.

E. The-local-school-district-may-declare-loaned-school-books-unusable-after five-years-and-remove-them-from-the-inventory.

F. The-nonpublic-school-shall-maintain-on-file-all-applications-for-instruc-tional-materials-loaned-or-provided-to-nonpublic-school-pupils.--The-applica-tions-shall-be-available-for-inspection-by-the-department-of-education.

G. Upon-completion-of-the-distribution-of-the-instructional-materials-each local-school-district-may-claim-from-the-department-of-education-(1)-the-cost of-the-instructional-materials-and-(2)-a-sum-for-the-actual-cost-of-adminis-tration-which-shall-not-exceed-five-percent-of-the-cost-of-the-instructional materials-distributed.--The-administrative-costs-shall-be-in-addition-to-the allocation-for-the-nonpublic-school.--Handling-and-shipping-charges-by-the supplier-shall-be-included-in-the-allocation-for-each-nonpublic-school.
(EDU-1975)

~~EDU-744 Availability-of-funds.~~

~~A. The-allocation-for-instructional-materials-shall-be-the-total-expenditure-for-instructional-materials-by-all-public-school-districts-in-the-state divided-by-the-total-number-of-pupil-units-based-on-an-unduplicated-count-of pupils-enrolled-in-the-districts-during-the-same-fiscal-year.~~

~~B. Kindergarten-pupils-shall-be-counted-as-one-half-unit.--elementary pupils-(grades-1-6)-shall-be-counted-as-one-pupil-unit-and-secondary-pupils (grades-7-12)-shall-be-counted-as-1.4-pupil-units-notwithstanding-the-local nonpublic-school-organization.~~

~~C. For-the-1975-76-school-year,-the-allocation-shall-not-exceed-$45.43-per nonpublic-pupil-unit.--Future-allocations-will-be-based-upon-the-most-recent data-available.~~

~~(EDU-1975)~~

APPROVED AS TO FORM AND LEGALITY

SEP 05 1979 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne Hinderaker

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP - 5 1979
Joan Anderson Growe
Secretary of State
3:55 PM

Working copy

copy that indicates changes from rule as proposed

Proposed Rules As Amended

Chapter Forty-One: Textbooks and Standardized Tests for Pupils Attending Nonpublic Schools

§1.0820 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks and standardized tests as provided by Minn. Stat. §§123.931-123.937, shall be made available to pupils in nonpublic schools.

§1.0821 Definitions.

~~A. "Textbooks" means books, workbooks, or manuals, whether bound or in looseleaf form, which a pupil uses as a text or principal source of study in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonideological such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.~~

A. "Textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program, which book or book substitute shall be limited to books, workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonidealogical such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.

The last sentence is not new from rule as proposed

B. "Standardized tests" means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

§1.0822 State administration.

A. The department of education shall administer funds allocated for the purchase of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine, from the most recent data available, the allocation available per pupil for textbooks and standardized tests to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for textbooks and standardized tests by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

§1.0823 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the textbooks and standardized tests aid program, for textbooks and tests to be used the following school year. The preliminary application shall be on forms provided by the department of education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for textbooks and standardized tests.

2. An estimate of the total allocation available to the nonpublic pupils attending the nonpublic school for textbooks and standardized tests. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for textbooks and standardized tests. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for textbooks and standardized tests for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to each nonpublic school in the public school district or intermediary service area for distribution to the pupil applicants.

C. Final application. On or before September 25 the nonpublic school shall make final application for participation in the textbooks and standardized tests aid program to the district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the department of education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed <u>a separate</u> pupil request forms for textbooks and standardized tests <u>only.</u>

2. The allocation for textbooks and standardized tests to the nonpublic pupils attending the nonpublic school. The actual allocation shall be determined by multiplying the allocation available per pupil for textbooks and standardized tests by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for textbooks and standardized tests loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the department of education, the public school district, or the intermediary service area.

E. Inventory. Textbooks and standardized tests loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district or intermediary service area may declare loaned school books unusable after five years, remove them from the inventory, and divest of them in any manner.

F. Reimbursement. Upon completion of the distribution of the textbooks and standardized tests, each public school district or intermediary service area may claim from the department of education (1) the cost of materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the vendor shall be included in the allocation for textbooks and standardized tests for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitations set forth in §1.0821. The public school district shall also include a list of the textbooks actually purchased, which list shall include the publisher of those textbooks.

Proposed Rules as Amended

Chapter Forty-One-A: Instructional Materials for Pupils Attending Nonsectarian Nonpublic Schools

§1:0840 Policy. Instructional materials, as provided by Minn. Stat. §123.938 shall be made available to pupils attending nonsectarian nonpublic schools, provided such schools have an enrollment less than 200 pupils and whose programs do not have as a primary purpose education to preschool children or to children under the age of seven. The instructional materials aid shall be supplement to the educational aids and services available to nonpublic school pupils as provided by Minn. Stat. §§123.931-123.937.

§1:0841 Definitions and general requirements.

A. "Nonsectarian nonpublic school" means any nonpublic school which is not church related, not controlled by a church, and does not promote a religious belief.

B. The enrollment limitation of 200 pupils is based on the total number of pupils in kindergarten through grade twelve who are enrolled as of September 15 of the school year in which the aid is to be provided. For purposes of this count, all pupils, kindergarten through grade twelve are counted as one pupil each.

C. "Instructional materials" means "school library and audio visual materials" and "instructional supplies".

1. School library and audio visual materials include materials such as school library books and pamphlets, maps and globes, periodicals and newspapers, and audio visual materials used in the instructional program such as films, filmstrips, recordings, exhibits, models, and television and radio teaching materials, exclusive of equipment.

2. Instructional supplies are consumable items such as tests, chalk, paper, test tubes, ink, pencils, paint, paint brushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, instructional farming supplies, supplies for the operation of equipment used in the teaching learning process, physical education supplies, printing of individual materials, and magazines or periodicals, exclusive of equipment.

D. Instructional materials must be secular, neutral, and nonideological such as the materials normally provided for pupils in public schools.

§1:0842 State administration.

A. The department of education shall administer funds for the provision of instructional materials to pupils attending nonsectarian nonpublic schools.

B.--The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of instructional materials to be loaned or provided to nonpublic school pupils.

C.--Computation of pupil allocation available.--On or before March 1, the department of education shall determine the allocation available per pupil for instructional materials to be used for the following school year.--The allocation per pupil shall be determined by dividing the total expenditure for instructional materials by all public school districts in the state for pupils enrolled in public schools by the total number of pupils based on an unduplicated count of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one half pupil each.

§1.0843 Local administration.

A.--Preliminary application.--On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the instructional materials aid program.--The preliminary application shall be on forms provided by the department of education and shall include:

1.--An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for instructional materials.

2.--An estimate of the nonpublic school's total allocation available for instructional materials.--The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for instructional materials.--Pupils in grades kindergarten through twelve are counted as one pupil each.

3.--A statement by representatives of the nonpublic school indicating that the school shall meet all the requirements for the instructional materials aid for the following school year as set forth in §1.0840 and §1.0841.

B.--Purchase of materials.--On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for instructional materials for the following school year based on the estimated allocation.--The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests.--After the materials have arrived, they shall be promptly transmitted to the nonpublic school for distribution to the pupil applicants.

C.--Final application.--On or before September 25 the nonpublic school shall make final application for participation in the instructional materials aid program to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil.--The final application shall be on forms provided by the department of education and shall include:

1.--A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed pupil request forms for instructional materials.

2.--The nonpublic school's allocation for instructional materials.--The actual allocation shall be determined by multiplying the allocation available per pupil for instructional materials by the total number of participating pupils.--Pupils in grades one through twelve are counted as one pupil each.

3.--A statement by representatives of the nonpublic school indicating that the school meets all the requirements for the instructional materials aid as set forth in §1.0840 and §1.0841.

D.--Nonpublic school files.--The nonpublic school shall maintain on file for a period of three years all pupil request forms for instructional materials loaned or provided to nonpublic school pupils.--The forms shall be available for inspection by the department of education.

E.--Inventory.--Instructional materials loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials.--The public school district may declare loaned school books unusable after five years and remove them from the inventory.

F.--Reimbursement.--Upon completion of the distribution of the instructional materials, each public school district or intermediary service area may claim from the department of education (1) the cost of the materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests.--Handling and shipping charges by the supplier shall be included in the allocation for each nonpublic school.--A public school district shall not be considered a vendor.

G.--Certificate of compliance.--Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitation as set forth in §1.0840.--The public school district shall also include a list of textbooks actually purchased, which list shall include the publisher of those textbooks.

Proposed Rules As Amended

Chapter Forty-One-B: Health Services for Pupils Attending Nonpublic Schools

§1.0860 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, health services as provided by Minn. Stat. §§123.931-123.937, shall be made available to pupils in nonpublic schools.

§1.0861 Definitions and general requirements.

A. "Health services" means physical and mental health services provided by licensed health services personnel or their assistants. Licensed health services personnel includes physicians, dentists, professional nurses or optometrists.

B. Health services shall not include the direct educational instruction of nonpublic pupils by health services personnel.

C. Health services shall not include those services which are required under the Special Education Law, Minn. Stat. §120.17 (1976, as amended), or which are eligible to receive reimbursement under the Special Education Aid Law, Minn. Stat. §124.32 (1976, as amended).

D. The public school district or intermediary service areas shall provide those specific health services which it offers to its public school pupils, provided the costs for such services do not exceed the amount allocated for health services by the department of education.

E. Costs relating to the provision of health services shall include (1) the salaries of licensed health services personnel and their assistants and (2) expenses for supplies, equipment, ~~and~~ travel, and necessary in-service training and other eligible expenses that are associated with the provision of health services by the licensed health services personnel or their assistants.

F. Health services may be provided at the nonpublic school, a neutral site, or at the public school. What about transportation? - 1.0881(C) MS 123.935(1)

§1.0862 State administration.

A. The department of education shall administer funds for the provision of health services to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of health services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine from the most recent data available the allocation available per pupil for health services to be used for the following school year. The allocation per pupil for health services shall be the average expenditure per public school pupil in average daily membership for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of health services the actual cost of the services provided during the school year. The actual allotment shall not exceed the pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved budget.

F. Final payment. On or before September 1 following the school year, the department shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

§1.0863 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for health services beginning with the following school year. The preliminary application shall be on forms provided by the department of education and shall include an estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for health services. The preliminary application ~~may~~ shall also include an assessment of the type and level of health services desired for the following school year.

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which health services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before ~~August 1~~ September 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of health services that are to be made available to the nonpublic school students during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for health services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed a separate pupil request forms for health services only.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the department of education a program and budget of the health services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the department of education and shall include:

1. Projected health services expenditures for salaries, supplies, equipment and other expenses, which expenditures shall not exceed the amount allocated for health services to the public school district or intermediary service area by the department of education. The allocation for health services is determined by multiplying the total number of participating pupils by the allocation available per pupil for health services as set forth in §1.0862 C. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

2. Projected expenditures for health services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for health services for nonpublic school pupils and which shall be in addition to the health services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the department of education a year-end report of health services provided to nonpublic school pupils. The report shall be on forms made available by the department of education.

G. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for health services. The forms shall be available for inspection by the department of education, the public school district or the intermediary service area.

Proposed Rules As Amended

Chapter Forty-One-C: Guidance and Counseling Services for Pupils Attending Nonpublic Schools

§1.0880 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, guidance and counseling services as provided by Minn. Stat. §§123.931-123.937 (1978), shall be made available to secondary pupils in nonpublic schools.

§1.0881 Definitions and general requirements.

A. "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance.

B. Guidance and counseling services provided to nonpublic school pupils shall not include the planning or selection of particular courses or classroom activities of the nonpublic school.

C. The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided guidance and counseling services. Where is this in 1.0861? § 123.935(1)

D. The public school district or intermediary service areas shall provide those specific guidance and counseling services which it offers to its public school secondary pupils, provided the costs for such services do not exceed the amount allocated for guidance and counseling services by the department of education.

E. Costs relating to the provision of guidance and counseling services shall ~~only~~ include (1) the salaries of licensed guidance and counseling services personnel and their assistants and (2) expenses for supplies, equipment, ~~and~~ travel, and other eligible expenses that are directly attributable to ~~The costs in (2) must be directly associated with~~ the provision of guidance and counseling services by the licensed guidance and counseling services personnel or their assistants.

F. Guidance and counseling services may ~~only~~ be provided to nonpublic school pupils only at a neutral site or at the public school. not at nonpublic schools see 123.935(2)

§1.0882 State administration.

A. The department of education shall administer funds for the provision of guidance and counseling services to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of guidance and counseling services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine from the most recent data available the allocation available per secondary pupil in average daily membership for guidance and counseling services to be used for the following school year. The allocation available per secondary pupil for guidance and counseling services shall be the average expenditure per public secondary school pupil for these services by those Minnesota public school districts which provide guidance and counseling services to public secondary school pupils. Pupils shall be counted as one pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of guidance and counseling services the actual cost of the services provided in that school year. The actual allotment for guidance and counseling services for the nonpublic secondary pupils shall not exceed the total pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved allocation.

F. Final payment. On or before September 1, the department of education shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

§1.0883 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for guidance and counseling services beginning with the following school year. The preliminary application shall be on forms provided by the department of education and shall include an estimate of the nonpublic secondary school pupils who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for guidance and counseling services. The preliminary application ~~may~~ shall also include an assessment of the type and level of guidance and counseling services desired for the following school year.

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which guidance and counseling services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before ~~August 1~~ September 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of guidance and counseling services that are to be made available during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for guidance and counseling services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed a separate pupil request forms for guidance and counseling services only.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the department of education a program and budget of the guidance and counseling services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the department of education and shall include:

1. Projected guidance and counseling services expenditures for salaries, supplies, equipment and other eligible expenses, which expenditures shall not exceed the amount allocated for guidance and counseling services to the public school district or intermediary service area by the department of education. The allocation for guidance and counseling services is determined by multiplying the total number of participating secondary pupils by the allocation available per pupil for guidance and counseling services as set forth in §1.0882 C. Pupils shall be counted as one pupil each.

2. Projected expenditures for guidance and counseling services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for guidance and counseling services for nonpublic school pupils and which shall be in addition to the guidance and counseling services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the department of education a year-end report of guidance and counseling services provided to nonpublic school pupils. The report shall be on forms made available by the department of education.

G. Nonpublic school files. The nonpublic school shall maintain on file for a period of 3 years all pupil request forms for guidance and counseling services. The forms shall be available for inspection by the department of education, the public school district or the intermediary service area.

6-22-79

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 20th day of June, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of the Hearing Examiner, EDU-79-006-PE

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on the individual named below.

Eileen A. Gaiovnik

Subscribed and sworn to before me this

20th day of June, 1979.

Susan C. Stojnik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

Mr. Michael J. Bradley
Assistant Attorney General
Department of Education
Room 303, Capital Square Bldg.
St. Paul, Minnesota - 55155

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 Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744.

REPORT OF THE 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 Monday, May 7, 1979 in conference room D of the Veterans Service Building, St. Paul, Minnesota.

Michael J. Bradley, Assistant Attorney General, appeared as counsel on behalf of the Department of Education. Gary Farland, Director of State Aids, testified in support of the proposed rules on behalf of the Department. 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 Minnesota 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 of Education on the issues of substantial changes in the rule and compliance with Minn. Stat. sec. 15.0412 within ten calendar days. The Department 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 February 15, 1979, the Department of Education 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 March 26, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1781.

3. On March 29, 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 April 11, 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.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 3 State Register 1472, (January 22, 1979)
(h) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

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

5. The record remained open through May 25, 1979, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 18 calendar days following the hearing.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. secs. 123.931-123.938.

7. Because Minn. Stat. sec. 123.938, which deals with the provision of instructional materials to nonpublic schools, expires on June 30, 1979, the Department has withdrawn Chapter 41-A of the proposed rules.

8. Proposed sec. 1.0820 sets forth the policies embodied in proposed Chapter 41 regarding the allocation of textbooks and standardized tests for pupils attending nonpublic schools. Definitions of "textbooks" and "standardized tests" are set out in proposed sec. 1.0821. Sec. 1.0822 deals with the administrative responsibilities of the Department of Education while sec. 1.0823 dictates the procedures whereby the nonpublic schools can secure allocations for textbooks and tests on the local level.

a. Mr. Leroy Brown, Director of Education for the Minnesota Catholic Conference, suggested that sec. 1.0823 C.1. be amended to add the following language (underlined): ". . . who have signed a <u>separate</u> pupil request form for textbooks and standardized tests <u>only</u>." The Department concurred in that suggestion because an individual child or his parents should be permitted to exercise an option for only some services.

b. Mr. Lyle Baker, Federal Programs Coordinator for Minneapolis Public Schools Special School District No. 1, commented that sec. 1.0823 F. should be amended to reflect an administrative cost reimbursement of "five percent of the <u>district's or area's allocation for that year</u>." The Department contends that the definition of "allotment" is "total cost" which cannot exceed the amount cited in the proposed rules.

c. As a result of the 1979 Legislative Session (see 1979 Minn. Sess. Law Serv. (West) Ch. 34), the definition of textbooks was changed. Consequently, the Department now proposes to amend sec. 1.0821 A. as follows:

> "Textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use

> of each pupil in this class or program, which book or book substitute shall be limited to books, workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonidealogical such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.

This definition duplicates the new statutory definition of "textbook". Also, the definition of "standardized tests", with the exception of a few words, duplicates the statutory definition.

d. The Examiner finds that proposed Chapter 41, as amended in paragraphs a. and c. above, is both needed and reasonable. Also, the Examiner finds that the duplication of statutory language pointed out above is crucial to the ability of a person affected by the rule to comprehend its meaning and effect. The two definitions embody the substance of the rule.

9. Proposed Chapter 41-B, Health Services for Pupils Attending Nonpublic Schools, sets forth the kinds of health services which are to be provided and the procedures available to obtain those services. Sec. 1.0860 recites the policy considerations enumerated in statutes; sec. 1.0861 specifies the types of health services to be provided; sec. 1.082 mandates certain responsibilities for the Department of Education; and sec. 1.0863 describes the method of implementation on the local level.

a. Wanda Miller, School Health Services Consultant for the Department of Education, proposed to amend sec. 1.0861 E. by adding the following language: ". . . (2) expenses for supplies, equipment, travel, and necessary inservice training . . ." Ms. Miller contends that the professional nurse needs to provide training for assistants to insure competent health service practices. The Department agreed with this concern and proposed to further amend the rule by adding "and other eligible expenses" to be consistent with Chapter 41-C.

b. Ms. Miller also suggested that the word "may" be replaced with shall in the last sentence of sec. 1.0863 A. The Department does concur in this proposal. The Examiner points out that use of the word "may", without criteria to govern exercise of the discretion, has consistently been found to be illegal by the Attorney General during final review for form and legality. Consequently, either criteria should be added or "may" should be replaced with shall.

c. Mr. Leroy Brown proposed to add the language, "to the nonpublic school students" to sec. 1.0863 C. to clarify the intent of the paragraph. The Department also supports that amendment.

d. Mr. Brown also proposed to amend sec. 1.0863 D. by adding: ". . . have signed a separate pupil request form for health services only." This amendment is identical to the one proposed for sec. 1.0823 C.1. (see Finding 8.a.) and is supported by the Department.

e. Mr. Lyle Baker suggested that sec. 1.0863 C. be amended by changing the August 1 date to September 1 to avoid conflicts with summer break. The Department concurred in this proposal.

f. The Department proposed to amend sec. 1.0862 C. to clarify the intent of the allocation rate as follows: ". . . per public school pupil in average daily membership for these services . . . "

g. The Examiner finds that proposed Chapter 41-B, as amended above in paragraphs a. - f., is both needed and reasonable.

10. Proposed Chapter 41-C, Guidance and Counseling Services for Pupils Attending Nonpublic Schools, describes the services available for nonpublic schools and the necessary procedures to obtain those services. Sec. 1.0880 recites the policy considerations enumerated in statute; sec. 1.0881 defines the types of guidance and counseling services to be provided; sec. 1.0882 mandates certain responsibilities for the Department of Education; and sec. 1.0862 describes the method of implementation on the local level.

a. The definition of "guidance and counseling services" contained in sec. 1.0881 duplicates the statutory definition set out in Minn. Stat. sec. 123.932, subd. 10.

b. The Department proposed to amend sec. 1.0882 C., to clarify the intent of the allocation rate as follows: ". . . per public secondary school pupil in average daily membership for these services. . ."

c. Several persons commented in opposition to the requirement that guidance and counseling services may only be provided at a neutral site or at the public school. However, Minn. Stat. sec. 123.935, subd. 1, mandates that the public school district provide transportation to a public school or neutral site when guidance and counseling services are offered. Subd. 2. mandates that those services only be provided in a public school or neutral site. Mr. Leroy Brown suggested that there may be some indirect guidance activities aimed at parents which should be allowed at the nonpublic school premises. The Department supported those concerns and proposed to amend sec. 1.0880 F. as follows: "Guidance and counseling services may be provided to nonpublic school pupils only at a public school or a neutral site."

d. Mr. Brown proposed to amend sec. 1.0881 E. to broaden the types of expenses which may be reimbursed. The Department supported this suggestion and proposed that subsection E. be amended by striking the word "only" and by rewriting E.(2) as follows: ". . . equipment, travel, and other eligible expenses that are directly attributable to the provision. . . "

e. The Department supports changing the word "may" to shall in sec. 1.0883 A. to eliminate discretionary elements.

f. Mr. Brown proposed that sec. 1.0883 D. be amended as follows: ". . . and have signed a separate pupil request form for guidance and counseling services only." This is the same amendment as has been discussed earlier (see Findings 8.a. and 9.d.) and is supported by the Department.

g. Mr. Lyle Baker proposed to amend sec. 1.0883 C. by changing the date from August 1 to September 1 so as to not conflict with summer break. The Department concurred in that suggestion.

h. The Examiner finds that proposed Chapter 41-C, as amended above in paragraphs b.- g., is both needed and reasonable. Also, the Examiner finds that the duplication of statutory language in the definitional section is crucial to the ability of a person affected by the rule to comprehend its meaning and effect.

11. In conjunction with the adoption of the proposed rules, the Department is repealing current rules EDU 740-744 as those rules will be superseded by the proposed rules herein.

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 its 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. The need for and reasonableness of the repeal of EDU 740-744 has also been demonstrated.

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

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

That the Department of Education adopt the proposed rules as recommended to be amended herein.

Dated this 20 day of June, 1979.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

State of Minnesota
Board of Education

IN THE MATTER OF: The proposed adoption of rules governing the Educational Aids for Nonpublic School Children of Minnesota Statutes Sections 123.931 to 123.938.

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The 1978 Legislature made major revisions and additions to the Minnesota Statutes concerning educational aids for nonpublic school children. This occurred at least in part due to the United States Supreme Court decision of Wolman vs. Walters (975.Ct.2593 (1977)) and the subsequent Federal District Court ruling in M.C.L.U. vs. Casmey. The statutes were amended to be in accord with these rulings.

Sections 123.933, Subdivision 1, 123.935, Subdivision 1, and 123.938, Subdivision 3, require the Department of Education to promulgate rules under the provisions of Chapter 15. The provision of the goods and services under these statutes are subject to the rules prescribed by the State Board of Education.

In order to secure a broad base of input in the formation of these rules, the department of education consulted with the Commissioner's Task for Nonpublic Education, an ongoing body formed by the Commissioner and representing all types of nonpublic elementary and secondary schools in the State. Also, the department sought recommendations from all interested parties. A notice of intent to solicit outside opinion regarding rules for governing education aids for pupils attending nonpublic schools was published in the January 22, 1979, edition of the State Register (pg. 1472).

All groups and individuals involved have endeavored to formulate rules which comply with federal and state law and which can be implemented in an efficient and reasonable manner.

STATEMENT OF NEED AND REASONABLENESS FOR
PROPOSED CHAPTER FORTY-ONE: TEXTBOOKS AND
STANDARDIZED TESTS FOR PUPILS ATTENDING
NONPUBLIC SCHOOLS (all new material)

§1.0820 Policy. This statement clarifies the policy contained in Minn. Stat. Sec. 123.931 specifically with regard to the provision of textbooks and standardized tests. It is needed to describe the legislative intent to promote equal educational opportunity for every school child in Minnesota and clarifies that the provision of such textbooks and standardized tests is mandatory under the law.

§1.0821 Definitions.

§1.0821 A is partially prescribed in Minn. Stat. Sec. 123.932, Subd. 1b (1978) and is suggested as a clarification of this statute. The proposed rule further clarifies the meaning of "secular, neutral and nonideological" contained in the statute by further stipulating that the material contained by this definition is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner. This further definition is required by court order under M.C.L.U. vs. Casmey. The definition is based upon what appears to be the general understanding of the terms "secular, neutral, and nonideological".

§1.0821 B is prescribed by Minn. Stat. Sec. 123.932, Subd. 1c (1978), and is reiterated by this proposed rule for the purpose of providing a necessary definition needed in a reading of these proposed rules. Because there is a need to set forth other definitions in other rules, it is reasonable to reiterate this definition to provide greater clarity with regard to the rules as a whole.

§1.0822 State administration.

§1.0822 A ascertains that the department of education is the agency which shall administer funds allocated by the State for the purposes of this aid. This proposed rule is necessary, since the relevant statutes do not so directly stipulate the agency, and is reasonable, in that the department is the operating organ of the State Board of Education, which is charged by Minn. Stat. Sec. 123.933, Subd. 1 (1978) with the promulgation of these rules. Also, the appropriation is allocated to the department of education.

§1.0822 B establishes that the department shall establish proper accounting methods for fiscal control, fund accounting, and records maintenance. These methods are necessary to insure that (1) districts stay within the provisions of law regarding the handling of the materials to be loaned, (2) will have adequate records such that audits may be accurately performed, and (3) such that the accounting procedures are consistent with those prescribed by the Uniform Financial Accounting and Reporting System of Minnesota Statutes Chapter 121.

§1.0822 C establishes the manner in which the department is to compute the annual pupil allocation available. The basic method is prescribed by Minn. Stat. Sec. 123.933, Subd. 3, and Sec. 123.932, Subd. 2a and 2b (1978).

The proposed rule further clarifies that the statistic for measuring the number of public school pupils is that of average daily membership. This definition of the statistic is necessary, in that the term "pupils" is too ambiguous and may have several meanings. The choice of statistic is reasonable, in that it is the most accurate measure of the number of pupils for which resources were expended over the year by the public schools.

§1.0823 Local Administration.

§1.0823 A establishes that the nonpublic school is to submit to the public school district or intermediary service area a preliminary application on or before April 1 of each year. This application, by this date, is necessary so that the district or service area may establish budgets for each nonpublic school prior to May 1, and will have sufficient time to ascertain that the nonpublic school fulfills the definition of nonpublic schools contained in Minn. Stat. Sec. 123.932, Subd. 3. The need for the May 1 date for budget approval is explained below in §1.0823 B. The proposed rule states that the application shall be on forms provided by the department so as to insure that the proper information is transmitted to the districts. The proposed rule stipulates that the preliminary application shall include (1) an estimate of the number of participating students, and (2) a computed estimate of the total allocation available to the nonpublic school. These estimates are necessary so as to insure that the district (or service area) and the nonpublic schools are both aware of the estimated aids available.

§1.0823 B states that the district or service area shall notify the nonpublic schools by May 1 of each year that the review of the preliminary application is complete and that orders may begin to be placed. The proposed rule is necessary to insure that nonpublic schools have adequate time in which to place orders for the coming school year. The proposed rule also is necessary in that it directs the district or service area to promptly place purchase orders as requested and too shall promptly deliver the materials to the nonpublic schools after arrival. This stipulation is necessary to insure that the nonpublic schools will have the orders, if possible, available for the coming school year. It is reasonable, in that expedient handling of orders and materials should pose no hardship on the district or service area.

§1.0823 C sets the final application procedure for the nonpublic school to the public school district. The need and reasonableness of the September 25 deadline is the same as the justification provided for §1.0843C, infra. The application is to be on forms provided by the department so as to insure that the necessary and correct information is to be transmitted. The information necessarily will include the count of participating students as of September 15th of the school year, which is the date prescribed by Minn. Stat. Sec. 123,933, Subd. 3. The proposed rule adds the stipulation that the count is of pupils who have signed pupil request forms. This is a reasonable interpretation of the phrase "who make requests pursuant to this section" in the same subdivision. Also, it is necessary to have a formal record of the student's request. (It is considered to be understood that some students will have to have an authorized person sign for them). The

proposed rule also insures that the application contains a computation of the actual allocation, and reiterates the method of computation contained in statute. It is necessary that the nonpublic school compute their allocation so as to know how many textbook and test articles they may order.

§1.0823 D requires that the nonpublic school maintain on file all pupil request forms for a period of three years. It is necessary to establish a minimum period, for audits could reasonably occur up through that period. It is reasonable to not require them for a longer period, given the usual limit to which financial claim records are audited. The proposed rule also stipulates that the pupil request forms shall be available for inspection by the department, district, or intermediary service area. This stipulation is necessary, in that these agencies are responsible for insuring that claims by schools do not exceed the amount authorized by statute. It is reasonable, in that such authority regarding records is already placed in the State Board and this may logically be seen to be an extension of that authority.

§1.0823 E directs that the loaned textbooks and standardized tests be kept on inventory by the public school district or intermediary service area. This is necessary to fulfill the concept that the public district or service area is loaning those materials to the nonpublic school students. The rules also allows that the district or service area may declare loaned school books unusable after five years, remove them from inventory, and divest of them in any manner. This is necessary so as to allow the district to cease, at some point, concern with a set of materials. Five years is reasonable, in that this is the usual limit to the useful life of a textbook. It is also necessary to stipulate that the district or service area may then divest of the materials in any manner, so as to make clear that no other requirements exist which must be fulfilled.

§1.0823 F clarifies the method by which the district or service area is to claim reimbursement. The payments available from the state are set forth in Minn. Stat. Sec. 123.933 (1978), Subd. 3 and 123.9361. It is necessary to clarify in the rules the reimbursement amounts available from the State to insure correct administration. The stipulation that administrative costs shall be in addition to the allocation available is a necessary clarification of what is prescribed in Minn. Stat. Sec. 123.9361 (1978). The clarification that handling and shipping charges by the vendor are to be included in the allocation is necessary so as to provide clarification that such charges are not to be absorbed by the administrative allowance provided the district or service area. This is a reasonable interpretation, in that the administrative charges allowed the district or service area are intended to reimburse the district for staff time and accompanying costs of the district, and not for charges to the district by the vendors. The stipulation that a public school district or intermediary service area shall not be considered a vendor is necessary to clarify that costs of handling and shipping incurred which are not charged by the textbook or test distributors are to be considered a part of the administrative cost allocation. This is reasonable, in that such costs should be considered a normal administrative function.

§1.0823 G requires inclusion with each claim for reimbursement a certificate of compliance verifying that all materials have been reviewed prior to the

expenditure of public funds and are in accordance with the limitations set forth in §1.0821. The proposed rule also requires that a list of textbooks, and their publishers, actually purchased be submitted to the state. The requirements are necessary to fulfill the conditions mandated by the findings in M.C.L.U. vs. Casmey. They are reasonable in that they insure that public funds are not expended in support of religious doctrine.

STATEMENT OF NEED AND REASONABLENESS FOR
PROPOSED CHAPTER FORTY-ONE-A: INSTRUCTIONAL
MATERIALS FOR PUPILS ATTENDING NONSECTARIAN
NONPUBLIC SCHOOLS (All new materials)

§1.0840 Policy. This proposed rule summarizes the main features of the statutes prescribing this aid. It is necessary for providing an understanding of the intent of this aid since it is not so summarized in statute.

§1.0841 Definitions and general requirements.

§1.0841 A defines a nonsectarian nonpublic school and is prescribed by Minn. Stat. Sec. 123.938, Subd. 1, clause (1)(1978). It is reiterated by this proposed rule for the purpose of providing a necessary definition needed in a reading of these proposed rules. Because there is a need to set forth other definitions in other rules, it is reasonable to reiterate this definition to provide greater clarity with regard to the rules as a whole.

§1.0841 B is prescribed by Minn. Stat. Sec. 123.938, Subd. 2 (1978). It is reiterated by this proposed rule for the purpose of providing a necessary definition needed regarding the applicability of this aid to nonpublic schools and for a comprehensive reading of the features of this aid. It is reasonable to reiterate this definition because there is a need to set forth other definitions in other proposed rules, and this definition is necessary to provide clarity in reading them as a whole.

§1.0841 C is partially prescribed by Minn. Stat. Sec. 123.938, Subd. 1, clause (21)(1978). The statute explains the two terms by stating that they have the meaning prescribed in the Manual of Instructions for Uniform Financial Accounting for Minnesota School Districts. The rule specifies the types of materials which this may include. This is necessary such that readers without easy access to the manual will be able to understand the definition. The interpretation is reasonable since it follows the definition contained in the manual.

§1.0841 D is partially prescribed by Minn. Stat. Sec. 123.938, Subd. 1, clause (2)(1978). The requirement is reiterated here to provide a comprehensiveness to the rules for clarity of understanding. Also, the proposed rule clarifies that the statutory language of "as are available and of benefit to" means "such as the materials normally provided for". This is a necessary clarification which establishes that the materials need not be identical to those used in public schools, but need only be of similar character. This is necessary since the statute could be vague to some on this point. It is reasonable, since the proposed rule clarifies that it is the type of materials which is germaine, and not that they be the exact ones used in the public schools.

§1.0842 State administration.

§1.0842 A has the same justification as §1.0822 A.

§1.0842 B has the same justification as §1.0822 B.

§1.0842 C has the same justification as §1.0822 C.

§1.0843 Local Administration.

§1.0843 A concerns the preliminary application, and has the same features and justification as for the preliminary application for textbooks and tests in proposed rule §1.0823A. However, the additional point number 3 requires that representatives of the nonpublic school provide a statement indicating that the school meets all the requirements as set forth in §1.0840 and §1.0841. This is necessary to insure that the school is eligible and that materials ordered are within statute. It is reasonable to require this statement, for an authorized signature is generally required prior to aid payments.

§1.0843 B pertains to the purchase of materials by the districts. It has the same features and justification as §1.0823 B.

§1.0843 C is the final application from the nonpublic school to the public school district or intermediary service area. It has the same features and justifications as with the preliminary application of 1.0843 A except that the date of filing is set to within 10 days after the pupil count date of September 15th, which is the count date mandated by Minn. Stat. Sec. 123.938, Subd. 3 (1978). It is necessary that the application be due by a particular date, such that the public district may process applications more economically and accurately within a certain period. The 10 day period after the count is a reasonable length of time for the nonpublic school to tally the count, fill out the forms, and submit to the district or service area.

Point one states that the final application must contain the count of participating students as of September 15th. This is necessary to establish the allocation.

Point two states that the nonpublic school allocation is to be computed by taking the rate per pupil times the properly weighted count of students. This is necessary so the district or service area will be informed as to the nonpublic school's budget limitation.

Point 3 has the same features and justification as point 3 of §1.0823 A.

§1.0843 D has the same features and justification as §1.0823 D.

§1.0843 E has the same features and justification as §1.0823 E.

§1.0843 F has the same features and justification as §1.0823 F.

§1.0843 G has the same features and justification as §1.0823 G.

STATEMENT OF NEED AND REASONABLENESS FOR
PROPOSED CHAPTER FORTY-ONE-B: HEALTH SERVICES
FOR PUPILS ATTENDING NONPUBLIC SCHOOL (all
new material)

§1.0860 Policy. This proposed rule makes the declaration of policy of Minn. Stat. Sec. 123.931 (1978) particular to the provision of health services. This is necessary such that the legislative intent of the proposed rules in this chapter are better understood by the reader of these proposed rules.

§1.0861 Definitions and general requirements.

§1.0861 A is partially prescribed by Minn. Stat. Sec. 123.932, Subd. 11 (1978), and defines which health services are reimbursable under these statutes. The proposed rule further stipulates that the providers of physical and mental health services must be properly licensed personnel. This is necessary to insure that such services are permissable under law. The requirement is reasonable since it is not legal for individuals not properly licensed under law to perform the roles as listed in the proposed rule.

§1.0861 B and C are prescribed by Minn. Stat. Sec. 123.932, Subd. 11 (1978). Reiteration is necessary to provide a complete definition of health services to be used in other proposed rules. It is reasonable to do so as to provide a better understanding of the rules as they are read as a whole.

§1.0861 D is prescribed by parts of Minn. Stat. Sec. 123.935, Subd. 1 (1978). It is reiterated in this proposed rule so as to clarify the service requirement and expenditure limitation on the public school district or intermediary service area. It is necessary to reiterate these general requirements so as to provide within these proposed rules a complete understanding of the aid system, and to bring together into a concise statement the two requirements so as to provide clarity in understanding to the relevant personnel. It is reasonable to do so, for it enables a better understanding of the rules as a whole.

§1.0861 E stipulates the exact cost items which this aid may be applied to. It includes the salaries of the licensed personnel and their assistants, and supplies, equipment and travel directly associated with the provision of services. This proposed rule is necessary, in that it restricts the costs to be charged against the allocation to operating expenditures and not to overhead costs. The proposed rule is reasonable, since the overhead costs are normally considered to be part of the administrative costs and are reimbursed by Minn. Stat. Sec. 123.9361 (1978).

§1.0861 F is prescribed by Minn. Stat. Sec. 123.935, Subd. 2 (1978). It is reiterated in this proposed rule to provide a necessary completeness to the proposed rules. It is reasonable to do so, for a complete understanding of the other proposed rules is possible only with the understanding that these services may be offered at any suitable location.

§1.0862 State administration.

§1.0862 A states that the department of education shall administer funds for the provision of health services to nonpublic schools. This is necessary for the statutes do not say this directly. It is reasonable to do so, for the aid appropriation in statute is made to the department of education. Also, the State Board of Education, whose operating organ is the department, is charged with promulgating the rules for this aid.

§1.0862 B has the same features and justification as §1.0822 B.

§1.0862 C relates the exact manner which is to be used to compute the per pupil allocation available. The method is prescribed in Minn. Stat. Sections 123.935, Subdivisions 4 and 6. The proposed rule is necessary in that it brings together the various elements of the computation contained in the statutes. It is reasonable to do so, in that the reader is provided a concise description of the computation of the pupil allocation available.

§1.0862 D specifies the computation of the actual allocation, as opposed to the maximum per pupil allocation available, computed under §1.0862 C. The proposed rule is derived from a requirement in Minn. Stat. Sec. 123.935, Subd. 4, that the aid paid to a district or service area be the lessor of the actual cost or the pupil allocation available. It is necessary to state this feature in this proposed rule in order to give a complete description of the aid computation method. This rule also designates the state reporting document from which the necessary data will be derived. The year-end report is required by §1.0863 F.

§1.0862 E and F specify that the department shall distribute to the fiscal agents an amount equal to 90 percent of the approved budget on or before December 1, and shall distribute the remaining payment on or before September 1 of the following school year. The current payment of 90% of the estimated budget, with a 10% adjustment payment to be paid after the final reports are submitted, is the payment methodology in statute for most state aids to school districts. This methodology was adopted in this proposed rule with the conception that such a methodology would probably have been prescribed if the statutes were not silent on this. Also, such a schedule provides a maximum amount of current payment with sufficient guard against overpayment -- based on experience with other aids. The dates of payment are necessary for the districts to know, but are not specified in statute. The dates selected are reasonable, since the December 1 date gives the department reasonable time to process the claims submitted which are due October 15th; yet, it does not constitute an undue delay in making payment.

§1.0863 Local Administration.

§1.0863 A prescribes that a preliminary application, containing data necessary to estimate the next year's health service budget for a nonpublic school, be submitted on or before April 1. The requirement in the proposed rule that it be filed by April 1 is necessary, since the public school district or intermediary service area must begin by then to budget for the next school year and to initiate the hiring of personnel, if necessary. The requirement that the application be on forms provided by the department of education is necessary so as to insure transmittal of necessary data.

The data stipulated to be included is necessary to establish the probable expenditure. The statement that the preliminary application may include an assessment of the type and level of health services needed is necessary so as to facilitate planning by the districts and service areas for the provision of services.

§1.0863 B is prescribed by Minn. Stat. Sec. 123.935, Subd. 2 (1978). It is reiterated in this proposed rule so as to provide completeness to the rules in describing the requirements on local administration. It is reasonable to do so, since it is necessary for the reader to be aware of this requirement in conjunction with other requirements.

§1.0863 C is necessary to insure that the nonpublic school receives ample notice of services to be offered during the next school year. The August 1 date is reasonable in that it is approximately a month before the beginning of the school year, and so allows enough time to facilitate planning.

§1.0863 D requires a final application by the nonpublic school 10 days after the September 15th count of participating students. It is necessary to have an application due date so that the district or service area can plan the health services it is to offer during the current year. It is reasonable to expect it be within 10 days, since alterations to the planned yearly budget, based on the final applications, must be made at an early date in the school year.

§1.0863 E requires by October 15th a submission of a program and budget by the district or service area to the department. It must contain the data listed in items one and two, which are necessary for the budget to be created. It is necessary for the district to submit a program and budget to the department, for the department must oversee that the expenditures are within law. The October 15th time requirement is necessary, in that the department needs time to edit the reports and compute the aids by December 1. The methods of computation in points one and two are prescribed by statute.

§1.0863 F requires from the district or service area a year-end report by July 15th on forms provided by the department. It is necessary for these fiscal agents to submit these reports so the department can properly compute the year-end adjustment payment to be paid by September 1. Because of the volume of the reports and the number of calculations that must be made it is reasonable to allow the department 6 weeks to compute this aid adjustment.

§1.0863 G requires that the nonpublic school maintain on file for 3 years the pupil request forms for health services. It is necessary to set a limit to how long a school need maintain these records, so as to avoid excess cost of record keeping. Also, it is necessary to insure that the request forms would be available for auditing up through 3 years. It is reasonable to set these requirements, in that the previous 3 years is the usual maximum time period for which audits are conducted. The requirement that the pupil request forms be available for inspection by the department, public school district or service area is to insure that the programs are conducted within law. This requirement is reasonable, in that the department is charged by statute to inspect all records in the districts substantiating claims for aid. That the district should be able to do so in the nonpublic school for this form is a logical extension of this requirement.

STATEMENT OF NEED AND REASONABLENESS FOR
PROPOSED CHAPTER FORTY-ONE-C: GUIDANCE
AND COUNSELING SERVICES FOR PUPILS ATTENDING
NONPUBLIC SCHOOLS (all new material)

§1.0880 Policy. The proposed rule makes the declaration of policy of Minn. Stat. Sec. 123.931 (1978) directly applicable to the provision of guidance and counseling services. This is necessary, for it is important to make clear the legislative intent of the statutes underpinning the rules.

§1.0881 Definitions and general requirements.

§1.0881 A through D and F are prescribed in Minn. Stat. Sections 123.932 through 123.935. The definitions contained in these proposed rules are necessarily provided so as to enable a complete understanding of all the proposed rules. It is reasonable to make these translations into rule, in that they condense and bring together elements for greater clarity than is contained in the statutes.

§1.0881 E stipulates the cost items which may be reimbursed by this aid. They are necessary so as to ascertain the exact items eligible and to exclude those items to be considered administrative costs. The proposed rule is reasonable, in that it restricts costs to be borne by the allocation to current expenditures, and places overhead costs in the administrative cost definition. This division is reasonably within an interpretation of what was meant in statute by administrative costs in that it represents generally recognized accounting standards.

§1.0882 State administration.

§1.0882 A has the same features and justification as §1.0862 A.

§1.0882 B has the same features and justification as §1.0862 B.

§1.0882 C has the same features and justification as §1.0862 C.

§1.0882 D has the same features and justification as §1.0862 D.

§1.0882 E has the same features and justification as §1.0862 E.

§1.0882 F has the same features and justification as §1.0862 F.

§1.0883 Local administration.

§1.0883 A has the same features and justification as §1.0863 A.

§1.0883 B has the same features and justification as §1.0863 B.

§1.0883 C has the same features and justification as §1.0863 C.

§1.0883 D has the same features and justification as §1.0863 D.

§1.0883 E has the same features and justification as §1.0863 E.

§1.0883 F has the same features and justification as §1.0863 F.

§1.0883 G has the same features and justification as §1.0863 G.

IN THE MATTER OF THE PROPOSED
ADOPTION OF RULES OF THE STATE
BOARD OF EDUCATION GOVERNING
EDUCATIONAL AIDS FOR PUPILS
ATTENDING NON-PUBLIC SCHOOLS AND
THE REPEAL OF RULES EDU 740-744

STATEMENT OF COMPLIANCE
WITH RULE MAKING
PROCEDURES

I, MICHAEL J. BRADLEY, Assistant Attorney General, 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, statutory procedures, and procedures of the Office of Hearing Examiners have been followed.

Michael J. Bradley

MICHAEL J. BRADLEY
Assistant Attorney General

Dated: August 17, 1979

RECEIVED

STATE BOARD OF EDUCATION
DEPARTMENT OF EDUCATION

In the Matter of the Proposed
Adoption of Rules of the State
Board of Education Governing
Educational Aids for Pupils
Attending Nonpublic Schools and
the Repeal of Rules EDU 740-744

NOTICE OF HEARING

NOTICE is hereby given that a public hearing will be held in the above-entitled matter in the Veterans Service Building, Conference Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, on Monday, May 7, 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 of the State Board of Education Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744. 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, State Department of Education, State Aids Section, Nonpublic Aid, 807 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

The Board's statutory authority to promulgate the proposed rules is contained in Minnesota Stat. §§123.933, 123.935, 123.938 (1978).

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 2/13/79, 1979

HOWARD B. CASMEY, Secretary

State of Minnesota
Department of Education

State Board of Education
Division of School Management Services

Order for Hearing

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744

IT IS HEREBY ORDERED that a public hearing on the above - captioned rules be held in the Veterans Service Building, Conference Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155 on Monday, May 7, 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: February 13, 1979

State of Minnesota
Department of Education

State Board of Education
Division of School Management Services

IN THE MATTER OF: The proposed adoption of rules of the state board of education governing educational aids for pupils attending nonpublic schools and the repeal of rules EDU 740-744

Affidavit of Mailing

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

That on the 29th day of March, 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 29th day of March,
1979.

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

Betty L. King
Notary Public

Dakota, County, Minnesota

My Commission expires 6-13-83.

State of Minnesota
Department of Education

State Board of Education
Division of School Management Services

IN THE MATTER OF: The proposed adoption of rules of the state board of education governing educational aids for pupils attending nonpublic schools and the repeal of rules EDU 740-744

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 20th day of March, 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 22nd day of March, 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 22 day of March,

1979.

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

Betty L. King
Notary Public

Dakota, County, Minnesota

My Commissioner expires 6-13-83.

State of Minnesota
Department of Education

State Board of Education
Division of School Management Services

IN THE MATTER OF: The proposed adoption of rules of the state board of education governing educational aids for pupils attending nonpublic schools and the repeal of rules EDU 740-744

Certificate of Delivery
Secretary of State List

I hereby certify that the attached 588 labels 9 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:30 o'clock a.m., this 22nd day of March, 1979, have requested pursuant to Minn. Stat. § 15.0412, subd. 5, (1978), 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 Heidt

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.

Board of Education
Department of Education
Proposed Rules Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above-entitled matter in the Veterans Service Building, Conference Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, on Monday, May 7, 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 of the State Board of Education Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744. 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, State Department of Education, State Aids Section, Nonpublic Aid, 807 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

The Board's statutory authority to promulgate the pro-

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posed rules is contained in Minn. Stat. §§ 123.933, 123.935, 123.938 (1978).

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.

February 21, 1979

Howard B. Casmey
Secretary

Rules as Proposed (all new material)

Chapter Forty-One: Textbooks and Standardized Tests for Pupils Attending Nonpublic Schools

5 MCAR § 1.0820 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks and standardized tests as provided by Minn. Stat. §§ 123.931-123.937, shall be made available to pupils in nonpublic schools.

5 MCAR § 1.0821 Definitions.

A. "Textbooks" means books, workbooks, or manuals, whether bound or in looseleaf form, which a pupil uses as a text or principal source of study in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonideological such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.

B. "Standardized tests" means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

5 MCAR § 1.0822 State administration.

A. The Department of Education shall administer funds allocated for the purchase of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the Department of Education shall determine, from the most recent data available, the allocation available

per pupil for textbooks and standardized tests to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for textbooks and standardized tests by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

5 MCAR § 1.0823 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the textbooks and standardized tests aid program, for textbooks and tests to be used the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for textbooks and standardized tests.

2. An estimate of the total allocation available to the nonpublic pupils attending the nonpublic school for textbooks and standardized tests. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for textbooks and standardized tests. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for textbooks and standardized tests for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to each nonpublic school in the public school district or intermediary service area for distribution to the pupil applicants.

C. Final application. On or before September 25 the nonpublic school shall make final application for participation in the textbooks and standardized tests aid program to the district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the department of education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed pupil request forms for textbooks and standardized tests.

2. The allocation for textbooks and standardized tests to the nonpublic pupils attending the nonpublic school. The actual allocation shall be determined by multiplying the allocation available per pupil for textbooks and standardized tests by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for textbooks and standardized tests loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the Department of Education, the public school district, or the intermediary service area.

E. Inventory. Textbooks and standardized tests loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district or intermediary service area may declare loaned school books unusable after five years, remove them from the inventory, and divest of them in any manner.

F. Reimbursement. Upon completion of the distribution of the textbooks and standardized tests, each public school district or intermediary service area may claim from the Department of Education (1) the cost of materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the vendor shall be included in the allocation for textbooks and standardized tests for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the lim-

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itations set forth in § 1.0821. The public school district shall also include a list of the textbooks actually purchased, which list shall include the publisher of those textbooks.

Chapter Forty-One-A: Instructional Materials for Pupils Attending Nonsectarian Nonpublic Schools

5 MCAR § 1.0840 Policy. Instructional materials, as provided by Minn. Stat. § 123.938, shall be made available to pupils attending nonsectarian nonpublic schools, provided such schools have an enrollment less than 200 pupils and whose programs do not have as a primary purpose education to preschool children or to children under the age of seven. The instructional materials aid shall be supplement to the educational aids and services available to nonpublic school pupils as provided by Minn. Stat. §§ 123.931-123.937.

5 MCAR § 1.0841 Definitions and general requirements.

A. "Nonsectarian nonpublic school" means any nonpublic school which is not church-related, not controlled by a church, and does not promote a religious belief.

B. The enrollment limitation of 200 pupils is based on the total number of pupils in kindergarten through grade twelve who are enrolled as of September 15 of the school year in which the aid is to be provided. For purposes of this count, all pupils, kindergarten through grade twelve are counted as one pupil each.

C. "Instructional materials" means "school library and audio-visual materials" and "instructional supplies."

1. School library and audio-visual materials include materials such as school library books and pamphlets, maps and globes, periodicals and newspapers, and audio-visual materials used in the instructional program such as films, filmstrips, recordings, exhibits, models, and television and radio teaching materials, exclusive of equipment.

2. Instructional supplies are consumable items such as tests, chalk, paper, test tubes, ink, pencils, paint, paint brushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, instructional farming supplies, supplies for the operation of equipment used in the teaching-learning process, physical education supplies, printing of individual materials, and magazines or periodicals, exclusive of equipment.

D. Instructional materials must be secular, neutral, and nonideological such as the materials normally provided for pupils in public schools.

5 MCAR § 1.0842 State administration.

A. The Department of Education shall administer funds for the provision of instructional materials to pupils attending nonsectarian nonpublic schools.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of instructional materials to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1, the Department of Education shall determine the allocation available per pupil for instructional materials to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for instructional materials by all public school districts in the state for pupils enrolled in public schools by the total number of pupils based on an unduplicated count of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

5 MCAR § 1.0843 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the instructional materials aid program. The preliminary application shall be on forms provided by the Department of Education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for instructional materials.

2. An estimate of the nonpublic school's total allocation available for instructional materials. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for instructional materials. Pupils in grades kindergarten through twelve are counted as one pupil each.

3. A statement by representatives of the nonpublic school indicating that the school shall meet all the requirements for the instructional materials aid for the following school year as set forth in § 1.0840 and § 1.0841.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for instructional materials for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to the nonpublic school for distribution to the pupil applicants.

C. Final application. On or before September 25 the

nonpublic school shall make final application for participation in the instructional materials aid program to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the Department of Education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed pupil request forms for instructional materials.

2. The nonpublic school's allocation for instructional materials. The actual allocation shall be determined by multiplying the allocation available per pupil for instructional materials by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each.

3. A statement by representatives of the nonpublic school indicating that the school meets all the requirements for the instructional materials aid as set forth in § 1.0840 and § 1.0841.

D. Nonpublic school files. The nonpublic school shall maintain on file for a period of three years all pupil request forms for instructional materials loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the Department of Education.

E. Inventory. Instructional materials loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district may declare loaned school books unusable after five years and remove them from the inventory.

F. Reimbursement. Upon completion of the distribution of the instructional materials, each public school district or intermediary service area may claim from the Department of Education (1) the cost of the materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the supplier shall be included in the allocation for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitation as set forth in § 1.0840. The public school district shall also include a list of textbooks actually purchased, which list shall include the publisher of those textbooks.

Chapter Forty-One-B: Health Services for Pupils Attending Nonpublic Schools

5 MCAR § 1.0860 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, health services as provided by Minn. Stat. §§ 123.931-123.937 shall be made available to pupils in nonpublic schools.

5 MCAR § 1.0861 Definitions and general requirements.

A. "Health services" means physical and mental health services provided by licensed health services personnel or their assistants. Licensed health services personnel includes physicians, dentists, professional nurses or optometrists.

B. Health services shall not include the direct educational instruction of nonpublic pupils by health services personnel.

C. Health services shall not include those services which are required under the Special Education Law, Minn. Stat. § 120.17 (1976, as amended), or which are eligible to receive reimbursement under the Special Education Aid Law, Minn. Stat. § 124.32 (1976, as amended).

D. The public school district or intermediary service areas shall provide those specific health services which it offers to its public school pupils, provided the costs for such services do not exceed the amount allocated for health services by the Department of Education.

E. Costs relating to the provision of health services shall include (1) the salaries of licensed health services personnel and their assistants and (2) expenses for supplies, equipment and travel that are directly associated with the provision of health services by the licensed health services personnel or their assistants.

F. Health services may be provided at the nonpublic school, a neutral site, or at the public school.

5 MCAR § 1.0862 State administration.

A. The Department of Education shall administer funds

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for the provision of health services to nonpublic school pupils.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of health services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the Department of Education shall determine from the most recent data available the allocation available per pupil for health services to be used for the following school year. The allocation per pupil for health services shall be the average expenditure per public school pupil for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of health services the actual cost of the services provided during the school year. The actual allotment shall not exceed the pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved budget.

F. Final payment. On or before September 1 following the school year, the department shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

5 MCAR § 1.0863 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for health services beginning with the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include an estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for health services. The preliminary application may also include an assessment of the type and level of health services desired for the following school year.

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which health services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before August 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of health services that are to be made available during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for health services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed pupil request forms for health services.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the Department of Education a program and budget of the health services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the Department of Education and shall include:

1. Projected health services expenditures for salaries, supplies, equipment and other expenses, which expenditures shall not exceed the amount allocated for health services to the public school district or intermediary service area by the department of education. The allocation for health services is determined by multiplying the total number of participating pupils by the allocation available per pupil for health services as set forth in § 1.0862 C. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

2. Projected expenditures for health services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for health services for nonpublic school pupils and which shall be in addition to the health services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the department of education a year-end report of health services provided to nonpublic school pupils. The report shall be on forms made available by the Department of Education.

G. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for health services. The forms shall be available for inspection by the Department of Education, the public school district or the intermediary service area.

Chapter Forty-One-C: Guidance and Counseling Services for Pupils Attending Nonpublic Schools

5 MCAR § 1.0880 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, guidance and counseling services as provided by Minn. Stat. §§ 123.931-123.937 (1978) shall be made available to secondary pupils in nonpublic schools.

5 MCAR § 1.0881 Definitions and general requirements.

A. "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance.

B. Guidance and counseling services provided to nonpublic school pupils shall not include the planning or selection of particular courses or classroom activities of the nonpublic school.

C. The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided guidance and counseling services.

D. The public school district or intermediary service areas shall provide those specific guidance and counseling services which it offers to its public school secondary pupils, provided the costs for such services do not exceed the amount allocated for guidance and counseling services by the Department of Education.

E. Costs relating to the provision of guidance and counseling services shall only include (1) the salaries of licensed guidance and counseling services personnel and their assistants and (2) expenses for supplies, equipment and travel. The costs in (2) must be directly associated with the provision of guidance and counseling services by the licensed guidance and counseling services personnel or their assistants.

F. Guidance and counseling services may only be provided at a neutral site or at the public school.

5 MCAR § 1.0882 State administration.

A. The Department of Education shall administer funds for the provision of guidance and counseling services to nonpublic school pupils.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of guidance and counseling services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the Department of Education shall determine from the most recent data available the allocation available per secondary pupil for guidance and counseling services to be used for the following school year. The allocation available per secondary pupil for guidance and counseling services shall be the average expenditure per public secondary school pupil for these services by those Minnesota public school districts which provide guidance and counseling services to public secondary school pupils. Pupils shall be counted as one pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of guidance and counseling services the actual cost of the services provided in that school year. The actual allotment for guidance and counseling services for the nonpublic secondary pupils shall not exceed the total pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved allocation.

F. Final payment. On or before September 1, the Department of Education shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

5 MCAR § 1.0883 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for guidance and counseling services beginning with the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include an estimate of the nonpublic secondary school pupils who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for guidance and counseling services. The preliminary application may also include an assessment of the type and level of guidance and counseling services desired for the following school year.

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. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which guidance and counseling services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before August 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of guidance and counseling services that are to be made available during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for guidance and counseling services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed pupil request forms for guidance and counseling services.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the Department of Education a program and budget of the guidance and counseling services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the Department of Education and shall include:

1. Projected guidance and counseling services expenditures for salaries, supplies, equipment and other expenses, which expenditures shall not exceed the amount allocated for guidance and counseling services to the public school district or intermediary service area by the Department of Education. The allocation for guidance and counseling services is determined by multiplying the total number of participating secondary pupils by the allocation available per pupil for guidance and counseling services as set forth in § 1.0882 C. Pupils shall be counted as one pupil each.

2. Projected expenditures for guidance and counseling services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for guidance and counseling services for nonpublic school pupils and which shall be in addition to the guidance and counseling services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the Department of Education a year-end report of guidance and counseling services provided to nonpublic school pupils. The report shall be on forms made available by the Department of Education.

G. Nonpublic school files. The nonpublic school shall maintain on file for a period of 3 years all pupil request forms for guidance and counseling services. The forms shall be available for inspection by the Department of Education, the public school district or the intermediary service area.

Rules as Proposed

~~Chapter Thirty Seven: Instructional Materials for Pupils attending Nonpublic Schools~~

~~EDU 740 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, the benefits provided by Minn. Laws 1975, Chapter 396 shall be made available to pupils in nonpublic schools as provided in this chapter.~~

~~(EDU 1975)~~

~~EDU 741 Instructional materials.~~

~~A. Eligible instructional materials.~~

~~1. The term shall be limited to "textbooks," "school library and audio-visual materials," and "instructional supplies" as those terms or their equivalent are described or designated in the manual of instructions for uniform accounting for Minnesota school districts.~~

~~a. Textbooks include elementary and secondary textbooks furnished free to public school pupils including supplementary textbooks, and dictionaries. Textbooks are primarily for use in certain classes or grades rather than for general school use.~~

~~b. School library and audiovisual materials, materials such as include school library books and pamphlets available for use by individual students; maps and globes for individual use; periodicals and newspapers for individual use; audiovisual materials used in the instructional program such as films, filmstrips, recordings, exhibits, models, and television and radio teaching materials exclusive of equipment.~~

~~c. Instructional supplies are consumable items such as tests, chalk, paper, text tubes, ink, pencils, paint, paint brushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, instructional farming supplies, supplies for the operation of equipment used in the teaching-learning process, workbooks, physical education supplies, printing of individual materials, and magazines or periodicals for classroom use.~~

~~2. Instructional materials must be secular, neutral, and nonideological such as the materials normally provided for pupils in public schools.~~

B. Ineligible instructional materials. Items such as unabridged dictionaries, encyclopedias, and other major reference works are classified as equipment and are therefore ineligible instructional materials.

(EDU 1975)

EDU 742 General administration.

A. The department of education shall administer funds allocated for the purchase of instructional materials to be loaned or provided to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of instructional materials to be loaned or provided to nonpublic school pupils.

C. The department of education's administrative costs shall not exceed two percent of the state allocation for instructional materials to be loaned or provided to nonpublic school pupils.

(EDU 1975)

EDU 743 Local administration.

A. An application for instructional materials to be loaned or provided shall be made by or on behalf of each participating nonpublic school pupil through the nonpublic school to the public school district in which the nonpublic school is located. For the 1975-76 year the application shall be made within 30 days of the elective date of these regulations. For the following school year it shall be made on or before September 15. The applications shall be on a form prescribed by the commissioner. Application forms shall be available in the office of the public school superintendent on the effective date of these regulations.

B. The department of education shall determine the allocation of aid for instructional materials.

C. The local school district shall purchase and transmit the instructional materials to the nonpublic schools in the district for distribution to the pupil applicants.

D. Instructional materials loaned to pupils in nonpublic schools shall be maintained on inventory by the local school district except in cases of consumable or nonreusable instructional materials.

E. The local school district may declare loaned school books unusable after five years and remove them from the inventory.

F. The nonpublic school shall maintain on file all applications for instructional materials loaned or provided to nonpublic school pupils. The applications shall be available for inspection by the department of education.

G. Upon completion of the distribution of the instructional materials each local school district may claim from the department of education (1) the cost of the instructional materials and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the instructional materials distributed. The administrative costs shall be in addition to the allocation for the nonpublic school. Handling and shipping charges by the supplier shall be included in the allocation for each nonpublic school.

(EDU 1975)

EDU 744 Availability of funds.

A. The allocation for instructional materials shall be the total expenditure for instructional materials by all public school districts in the state divided by the total number of pupil units based on an unduplicated count of pupils enrolled in the districts during the same fiscal year.

B. Kindergarten pupils shall be counted as one-half unit; elementary pupils (grades 1-6) shall be counted as one pupil unit and secondary pupils (grades 7-12) shall be counted as 1.4 pupil units notwithstanding the local nonpublic school organization.

C. For the 1975-76 school year, the allocation shall not exceed $45.43 per nonpublic pupil unit. Future allocations will be based upon the most recent data available.

(EDU 1975)

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."

Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2388

Any written material received by the agency shall become part of the hearing record in the event rules governing these subjects are promulgated.

Department of Commerce Banking Division

Bulletin No. 2016: Maximum Lawful Rate of Interest for Mortgages for the Month of February, 1979

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Section 47.20, Subd. 4, Minnesota Statutes, the Conventional Home Loan Assistance and Protection Act, hereby determines that the maximum lawful rate of interest for home mortgages for the month of February, 1979, is ten and one-quarter (10.25) percent.

January 17, 1979

Robert A. Mampel
Acting Commissioner of Banks

Department of Commerce Commerce Commission

Notice of Commerce Commission Meetings

As a result of action taken by the Commerce Commission at its January 9, 1979 meeting, the Commerce Commission will meet on the second and fourth Tuesday of each month in the office of Harlee Goldsteen, Executive Secretary, Fifth Floor, Metro Square Building, 7th and Robert Streets, Saint Paul, Minnesota, at 9:00 a.m. to conduct official business before the Commission. If for some reason it is necessary to delay action on pending business, a special meeting would be scheduled at the time of the regular Commerce Commission meeting so that concerned citizens who are interested in the proceedings of the Commerce Commission will be so notified.

Department of Education State Aids Section Division of School Management Services

Notice of Intent to Solicit Outside Opinion Regarding Rules for Governing Education Aids for Pupils Attending Nonpublic Schools

The Department of Education, Division of School Management Services, State Aids Section, is drafting rules to implement Laws of 1978, ch. 733 (Minn. Stat. §§ 123.931 to 123.938), which requires the State Board of Education to promulgate rules regarding educational aids for nonpublic school children. Chapter 733 requires the local districts and intermediary service areas to provide to nonpublic school children textbooks and texts, health services, and guidance and counseling services. The rules will be presented to the February State Board of Education meeting for preliminary approval prior to the hearing process.

The Department invites interested persons or groups to provide information, comment, and advice on the subject in writing or orally to Gary P. Farland, Director of State Aids, Minnesota State Department of Education, 807 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101.

Written statements will be made part of the public hearing record.

Office of the Governor

Notice of Appointment of Department Heads

Notice is hereby given of the following department head appointments made pursuant to Minn. Stat. § 15.06, subd. 2. The effective date of each appointment is listed below.

Dept.	*Name*	*Date*
Agriculture	Mark Seetin	Jan. 1, 1979
Transportation	Richard Braun	Jan. 1, 1979
Veterans Affairs	Donald Miller	Jan. 8, 1979

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

Phone: (612) 296-4431

List of Witnesses - Nonpublic Aid Rules Hearing - 5/9/79
Minnesota Department of Education

1. Mr. LeRoy Brown
   Director of Education, Minn. Catholic Conference and Representative of the Commissioner's Council for Nonpublic Schools

2. Mrs. Imogene Treichel
   Executive Director of Citizens for Educational Freedom

3. Mr. Robert Tritz
   Governmental Programs Director
   Archdiocese of St. Paul/Minneapolis

4. Mr. John Markert
   Executive Director of Minn. Catholic Conference

5. Ms. Wanda Miller
   Consultant for Health Services
   Pupil Personnel Services Section
   Minn. Dept. of Education

6. Dr. Dean Miller
   Consultant for Guidance and Counseling Services
   Pupil Personnel Services Section
   Minn. Dept. of Education

GF:wo

AN EQUAL OPPORTUNITY EMPLOYER

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 12th day of February, 1979; that a quorum was present at said meeting; and that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the State Board of Education shall call a hearing for the purpose of informing the public concerning proposed rules of the Board governing the rules relating to Educational Aids for Pupils Attending Nonpublic Schools; and that the Commissioner or his Deputy is authorized to sign an order and notice of such hearing to be conducted under rules of the Board.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 13th day of February, 1979.

Howard B. Casmey
Secretary, State Board of Education

Dorothea M McGee
Member, 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 State 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 State Board of Education duly and properly called and held on the 6th day of August, 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 EDU 740-744 be repealed, Chapter Forty-One-A § 1.0840-§ 1.0843 be withdrawn, and the rules identified as § 1.0820 - § 1.0823 and § 1.0860 - § 1.0883 as amended are adopted, pursuant to authority vested in us by Minn. Stat. §§ 123.931 - 123.938, as amended by laws of 1979, Chapters 34 and 334, 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 6th day of August, 1979.

Howard B. Casmey
Secretary

Member, State Board of Education

Rules as Proposed

Chapter Forty-One: Textbooks and Standardized Tests for Pupils Attending Nonpublic Schools

(all new material)

§1.0820 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks and standardized tests as provided by Minn. Stat. §§123.931-123.937, shall be made available to pupils in nonpublic schools.

§1.0821 Definitions.

A. "Textbooks" means books, workbooks, or manuals, whether bound or in looseleaf form, which a pupil uses as a text or principal source of study in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonideological such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.

B. "Standardized tests" means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

§1.0822 State administration.

A. The department of education shall administer funds allocated for the purchase of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the department of education shall determine, from the most recent data available, the allocation available per pupil for textbooks and standardized tests to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for textbooks and standardized tests by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

§1.0823 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the textbooks and standardized tests aid program, for textbooks and tests to be used the following school year. The preliminary application shall be on forms provided by the department of education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for textbooks and standardized tests.

2. An estimate of the total allocation available to the nonpublic pupils attending the nonpublic school for textbooks and standardized tests. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for textbooks and standardized tests. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for textbooks and standardized tests for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to each nonpublic school in the public school district or intermediary service area for distribution to the pupil applicants.

C. Final application. On or before September 25 the nonpublic school shall make final application for participation in the textbooks and standardized tests aid program to the district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the department of education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed pupil request forms for textbooks and standardized tests.

2. The allocation for textbooks and standardized tests to the nonpublic pupils attending the nonpublic school. The actual allocation shall be determined by multiplying the allocation available per pupil for textbooks and standardized tests by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for textbooks and standardized tests loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the department of education, the public school district, or the intermediary service area.

E. Inventory. Textbooks and standardized tests loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district or intermediary service area may declare loaned school books unusable after five years, remove them from the inventory, and divest of them in any manner.

F. Reimbursement. Upon completion of the distribution of the textbooks and standardized tests, each public school district or intermediary service area may claim from the department of education (1) the cost of materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the vendor shall be included in the allocation for textbooks and standardized tests for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitations set forth in §1.0821. The public school district shall also include a list of the textbooks actually purchased, which list shall include the publisher of those textbooks.

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 Educational Aid for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744

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

The above-entitled matter came on for hearing on May 7, 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 ot 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.

NOW THEREFORE, BE IT RESOLVED that the State Board of Education hereby adopts and incorporates herein the Report of the Hearing Examiner dated June 20, 1979, relative to the above entitled matters.

THEREFORE, IT IS ORDERED that EDU 740-744 be repealed, Chapter Forty-One-A § 1.0840-§ 1.0843 be withdrawn, and the rules identified as § 1.0820 - § 1.0823 and § 1.0860 - § 1.0883 as amended are adopted this 6th day of August, 1979, pursuant to authority vested in us by Minn. Stat. §§ 123.931 - 123.938, as amended by laws of 1979, Chapters 34 and 334.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

Erling O. Johnson
President
State Board of Education

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)
EDUCATIONAL AIDS FOR PUPILS)
ATTENDING NONPUBLIC SCHOOLS)
AND THE REPEAL OF RULES EDU 740-)
744.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on May 7, 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 the Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Education on June 20, 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 17th day
of August, 1979.

DUANE R. HARVES
Chief Hearing Examiner