

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 671

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 1/29
DATE FOR REVIEW 2/6
DATE DUE 2/12

Adopted w/a hearing _____
Adopted w/o a hearing X
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____

✓ Rule as Adopted

___ Rule as Proposed

✓ Order Adopting 1.12.81

✓ 3.10.80 Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
_____ ~~Date of Hearing~~

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking no cite to direct statutory authority.
✓ Sufficiency Correct cite is Minn. Stat. 134.32 subd. 8.

✓ Affidavit of Mailing Notice of rulemaking
✓ 10.15.80 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate +

✓ Publication in State Register
10.20.80 At least ~~30/20 days prior to hearing~~/adoption

N/A Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

? Certificate of Board's Resolution Adopting Rules see my comment.

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (~~includes transcript or tape, exhibits~~, comments received by agency, ~~requests for a hearing, and other relevant materials~~)

✓ Certificate of Compliance w/Rulemaking Procedures

___ Affidavit of Mailing Notice of Submission to Attorney General
not submitted

___ Notice of Submission to the Attorney General
not submitted.

SE-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : HOWARD B. CASEMY
Secretary & Executive Officer
Minnesota State Board of Education

DATE: February 10, 1981

ATTN: Charles T. Mottl
Special Assistant
Attorney General

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE:296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants

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. Please note that they have not been filed with the State Register; this must be done promptly by your agency.

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

1. Affixation of 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 to the rules in the approved set.

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

JSA:et

Enclosure

cc: Duane Harves
Susan Robertson

State of Minnesota
State Board of Education

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants

ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on October 20, 1980 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on October 15, 1980. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 5 MCAR § 1.0800 and 5 MCAR §§ 1.0805 - 1.0806 are adopted this 12th day of January, 1981 pursuant to authority vested in the Board by Minnesota Statutes sections 121.09 and 121.11 subd. 12 (1978).

STATE OF MINNESOTA

Henry J. Bromelkamp
President, State Board of Education

AG copy.

Rules As Adopted
Chapter Forty: Libraries

5 MCAR § 1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, § 5, subd. 3, may apply for establishment grants as specified in 5 MCAR § 1.0801 and for regional library basic system support grants as specified in 5 MCAR § 1.0802 and for special project grants as specified in 5 MCAR § 1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR § 1.0803. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR § 1.0804. Multi-county multi-type library systems designated by the State Board of Education as eligible under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979), may apply for development grants as specified in 5 MCAR § 1.0805 and for operating grants as specified in 5 MCAR § 1.0806.

B. Application forms. All applications for grants shall be made on application forms provided by the Office of Public Libraries and Interlibrary Cooperation (OPLIC), Division of Special Services, Minnesota Department of Education. Content of application form varies with each type of grant and is specified in 5 MCAR §§ 1.0801-1.0806.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants and for multi-county multi-type library cooperation development grants shall be filed on a date established annually by the State Board of Education and published in the newsletter of OPLIC not less than 90 days before such date. During Fiscal Year 1981 only, applications for multi-county multi-type library cooperation operating grants shall be filed on or before April 1, 1981.

5 MCAR § 1.0805 Multi-county multi-type library cooperation development grants.

A. Application. Multi-county multi-type library systems approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for development grants as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;

2. name, address and telephone number of contact person in multi-county multi-type library system;

3. purposes for which grant funds are requested;

4. narrative description of the project to be developed with grant funds;

5. objectives of the project and results to be accomplished;

6. the project budget.

B. Development Grants Committee review. Applications shall be reviewed by a committee of seven persons appointed by the chairperson of the Advisory Council to the Office of Public Libraries and Interlibrary Cooperation. One person shall be appointed to the committee from each of the seven multi-county multi-type library system areas. The committee shall consist of two representatives of public libraries, two representatives of school media services, one representative of special libraries, one representative of public supported academic libraries and one representative of private academic libraries. Development grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of the content of the application form with particular emphasis on:

1. the degree to which the project relates to applicant's plan developed under provisions of Minn. Stat. § 134.352 (Supp. 1979) and updated under provisions of 5 MCAR § 1.0805 E.1.;

2. evidence of careful planning of the project, including appropriateness of objectives in order to achieve results to be accomplished;

3. evidence of compatibility with state and national bibliographic standards and practices, when pertinent;

4. appropriateness of methodology for evaluating project results;

5. cost-effectiveness of the project budget, which shall take into consideration sparse population and large geographic region as required by Minn. Stat. § 134.353; and costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and the costs of providing any additional cooperative services agreed to by participating libraries which are consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

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

7. evidence that the project is of limited duration to accomplish an objective of long-term benefit;

8. evidence that the project will benefit at least two types of libraries.

The Development Grants Committee shall report its recommendations for projects to be funded to the director of OPLIC.

C. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the Development Grants Committee for development grants using the same standards applied by the Development Grants Committee and shall report recommendations for projects to be funded to the State Board of Education.

D. State Board of Education action. The State Board of Education shall review funding recommendations of the director of OPLIC and shall award development grants using the same standards applied by the Development Grants Committee and subject to the availability of funds. The State Board of Education shall annually determine the amount of funds to be provided as development grants after considering the availability of funds for multi-county multi-type library system grant programs.

E. Criteria for eligibility. In order to be eligible to apply for development grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subds. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provision of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation, and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

F. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

5 MCAR § 1.0806 Multi-county multi-type library cooperation operating grants.

A. Application. Multi-county multi-type library systems approved under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for an operating grant as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;

2. name, address and telephone number of contact person representing the applicant;

3. identification of participating libraries by type of library;

4. copies of organizational agreements required by Minn. Stat. § 134.351, subd. 3 (Supp. 1979);

5. narrative descriptions of the programs to be operated with grant funds including objectives and results to be accomplished;

6. statement of relationship of programs to the plan developed under the provisions of Minn. Stat. § 134.352 (Supp. 1979);

7. proposed expenditures for costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and for the costs of providing any additional cooperative services agreed to by participating libraries and consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

B. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications for compliance with Minn. Stat. § 134.351 (Supp. 1979) and this rule. The director of OPLIC shall report recommendations to the state board of education for action.

C. Criteria for eligibility. In order to be eligible to apply for operating grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subds. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provisions of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

D. Calculation of operating grant amounts. The State Board of Education shall annually determine the amount of funds to be provided as operating grants after considering the availability of funds for multi-county multi-type library system grant programs. Of the amount to be provided as operating grants, sixty percent shall be divided into equal amounts for each eligible applicant, twenty percent shall be divided on an equal amount per capita and twenty percent shall be divided on an equal amount per square mile.

E. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

APPROVED AS TO FORM AND LEGALITY

2 - 9 1981

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jerry Anderson

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 10 1981
Joan Anderson Growe
Secretary of State
11:00 AM

State Board of Education
Department of Education
Special Services Division

In the Matter of the Proposed Amendment and Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants

Notice of Proposed Amendment of 5 MCAR § 1.0800 and Adoption of 5 MCAR §§ 1.0805 - 1.0806 without Public Hearing

Notice is hereby given that the State Board of Education proposes to amend and adopt the above captioned rules, without public hearing, pursuant to Laws of 1980, ch. 615, § 7 (Minn. Stat. §§ 15.0412, subd. 4h).

All interested persons may submit written comment or data on these proposed rules, within 30 days of the publication of these proposed rules in the State Register, to:

William G. Asp, Director
Office of Public Libraries and Interlibrary Cooperation
301 Hanover Building
480 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-2821

No public hearing will be held unless seven or more persons make a written request for hearing within the 30 day comment period to the above named person.

The proposed rules may be modified if the modifications are supported by the data and views submitted. A statement of need and reasonableness is available without charge by making a written or telephone request to the above named person.

The proposed rules govern grant application, review and award procedures for Minnesota's seven multi-county multi-type library systems. These library systems, approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) plan, develop and operate cooperative programs involving public, academic, school and special libraries.

Multi-county Multi-type Library Cooperation Grants, governed by proposed 5 MCAR § 1.0805, assist systems in initiating major new services or expanding existing services. Applications are reviewed by a committee which makes recommendations to the Director of the Office of Public Libraries and Interlibrary Cooperation.

Multi-county Multi-type Library Cooperation Operating Grants, governed by the proposed 5 MCAR § 1.0806, assist systems in operating cooperative services. The proposed rule establishes a distribution formula awarding sixty percent of available funds equally among the eligible systems, twenty percent in an equal amount per capita and twenty percent in an equal amount per square mile.

Any person who desires to be informed when these proposed rules are submitted to the Attorney General for approval may do so by writing or calling the above named person.

Howard B. Casmey
Commissioner of Education

Amendments as Proposed
Chapter Forty: Libraries

5 MCAR § 1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, § 5, subd. 3, may apply for establishment grants as specified in 5 MCAR § 1.0801 and for regional library basic system support grants as specified in 5 MCAR § 1.0802 and for special project grants as specified in 5 MCAR § 1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR § 1.0803. The Minnesota ~~d~~Department of ~~e~~Corrections and the Minnesota ~~d~~Department of ~~w~~Welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR § 1.0804. Multi-county multi-type library systems designated by the State Board of Education as eligible under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979), may apply for development grants as specified in 5 MCAR § 1.0805 and for operating grants as specified in 5 MCAR § 1.0806.

B. Application forms. All applications for grants shall be made on application forms provided by the ~~o~~Office of ~~p~~Public ~~l~~Libraries and ~~i~~Interlibrary ~~c~~Cooperation (OPLIC), ~~d~~Division of ~~s~~Special ~~s~~Services, Minnesota ~~d~~Department of ~~e~~Education. Content of application form varies with each type of grant and is specified in 5 MCAR §§ 1.0801-~~1.0804~~ 1.0806.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants and for multi-county multi-type library cooperation development grants shall be filed on a date established annually by the ~~s~~State ~~b~~Board of ~~e~~Education and published in the newsletter of OPLIC not less than 90 days before such date. During Fiscal Year 1981 only, applications for multi-county multi-type library cooperation operating grants shall be filed on or before April 1, 1981.

Rule as Proposed (all new material)

5 MCAR § 1.0805 Multi-county multi-type library cooperation development grants.

A. Application. Multi-county multi-type library systems approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for development grants as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;

2. name, address and telephone number of contact person in multi-county multi-type library system;

3. purposes for which grant funds are requested;

4. narrative description of the project to be developed with grant funds;

5. objectives of the project and results to be accomplished;

6. the project budget.

B. Development Grants Committee review. Applications shall be reviewed by a committee of seven persons appointed by the chairperson of the Advisory Council to the Office of Public Libraries and Interlibrary Cooperation. One person shall be appointed to the committee from each of the seven multi-county multi-type library system areas. The committee shall consist of two representatives of public libraries, two representatives of school media services, one representative of special libraries, one representative of public supported academic libraries and one representative of private academic libraries. Development grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of the content of the application form with particular emphasis on:

1. the degree to which the project relates to applicant's plan developed under provisions of Minn. Stat. § 134.352 (Supp. 1979) and updated under provisions of 5 MCAR § 1.0805 E.1.;

2. evidence of careful planning of the project, including appropriateness of objectives in order to achieve results to be accomplished;

3. evidence of compatibility with state and national bibliographic standards and practices, when pertinent;

4. appropriateness of methodology for evaluating project results;

5. cost-effectiveness of the project budget, which shall take into consideration sparse population and large geographic region as required by Minn. Stat. § 134.353; and costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and the costs of providing any additional cooperative services agreed to by participating libraries which are consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

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

7. evidence that the project is of limited duration to accomplish an objective of long-term benefit;

8. evidence that the project will benefit at least two types of libraries.

The Development Grants Committee shall report its recommendations for projects to be funded to the director of OPLIC.

C. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the Development Grants Committee for development grants using the same standards applied by the Development Grants Committee and shall report recommendations for projects to be funded to the State Board of Education.

D. State Board of Education action. The State Board of Education shall review funding recommendations of the director of OPLIC and shall award development grants using the same standards applied by the Development Grants Committee and subject to the availability of funds. The State Board of Education shall annually determine the amount of funds to be provided as development grants after considering the availability of funds for multi-county multi-type library system grant programs.

E. Criteria for eligibility. In order to be eligible to apply for development grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subds. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provision of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation, and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

F. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

5 MCAR § 1.0806 Multi-county multi-type library cooperation operating grants.

A. Application. Multi-county multi-type library systems approved under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for an operating grant as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;

2. name, address and telephone number of contact person representing the applicant;

3. identification of participating libraries by type of library;

4. copies of organizational agreements required by Minn. Stat. § 134.351, subd. 3 (Supp. 1979);

5. narrative descriptions of the programs to be operated with grant funds including objectives and results to be accomplished;

6. statement of relationship of programs to the plan developed under the provisions of Minn. Stat. § 134.352 (Supp. 1979);

7. proposed expenditures for costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and for the costs of providing any additional cooperative services agreed to by participating libraries and consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

B. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications for compliance with Minn. Stat. § 134.351 (Supp. 1979) and this rule. The director of OPLIC shall report recommendations to the state board of education for action.

C. Criteria for eligibility. In order to be eligible to apply for operating grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subds. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provisions of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

D. Calculation of operating grant amounts. The State Board of Education shall annually determine the amount of funds to be provided as operating grants after considering the availability of funds for multi-county multi-type library system grant programs. Of the amount to be provided as operating grants, sixty percent shall be divided into equal amounts for each eligible applicant, twenty percent shall be divided on an equal amount per capita and twenty percent shall be divided on an equal amount per square mile.

E. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

I, Howard B. Casmey, do hereby certify that I am secretary and executive officer of the Board of Education, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Education duly and properly called and held on the 12th day of January, 1981; that a quorum was present at said meeting; (that a majority of those present voted for the resolution); that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules govening the library grant program and multi-county multi-type library cooperation development and operating grants be and hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes sections 121.09 and 121.11 subd. 12 (1978) 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 12th day of January, 1981.

Howard B. Casmey
Secretary and Executive Officer

Margaret W. Marvin
Member, State Board of Education

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT Education

Office Memorandum

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

DATE: January 20, 1981

FROM : Lois E. Steinhaus L.E.S.
Education Statistics Section

PHONE: 6-4428

SUBJECT: Approval for noncontroversial rules governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants

Enclosed is a copy or more than one if indicated, of the following material:

1. Rules as Adopted (original plus three)
2. Order Adopting Rules (original plus three)
3. Certificate of Board's Resolution Adopting Rules
4. Notice of Proposed Amendment...and Adoption...Without Public Hearing
5. Certificate of Board's Authorizing Resolution
6. Rules as Proposed - State Register and as mailed
7. Affidavit of Mailing
   Affidavit of the Notice of the State Board of Education Rulemaking Mailing List
   Affidavit of the Additional Notice of the State Board of Education Rulemaking Mailing List
   Copy of Mailing List
8. Findings of Fact and Conclusions - correspondence attached
9. Statement of Need and Reasonableness
10. Notices of Intent to Solicit Outside Opinion

RECEIVED
JAN 29 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

2) comparative unit costs of program components; and average costs of clients served.

The estimated amount of the contract(s) for **each** part will be $75,000. The total contract will not exceed $150,000. Responses must be received by 4:30 p.m., March 31, 1980.

The formal RFP may be requested and inquiries should be directed to:

Ms. Terri Seppala, Supervisor
Planning, Research and Evaluation Section
Welfare-Chemical Dependency Programs Division
658 Cedar, 4th Fl., Centennial Office Building
St. Paul, MN 55155
(612) 296-4605

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

State Arts Board

Notice of Intent to Solicit Outside Opinions or Information Relating to Amendments to Rules on Standards and Procedures for Obtaining Grants and Other Forms of Assistance

Notice is hereby given that the Minnesota State Arts Board is soliciting information and opinions from sources outside of the agency for the purpose of preparing amendments to the existing rules related to standards and procedures for obtaining grants and other forms of assistance. The Minnesota State Arts Board is interested in clarifying existing rules related to eligibility and review standards and the right of appeal for grant applicants.

Any persons desiring to submit data or views on the subjects may do so either orally or in writing. All written submissions will become part of the record in any subsequent hearing.

All written or oral information and comment should be addressed to:

Ms. Mary Sulerud
Information Officer, Minnesota State Arts Board
2500 Park Avenue
Minneapolis, Minnesota 55404

All statements of information and comment must be received by April 15, 1980.

February 28, 1980

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

Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules Governing Multi-county Multi-type Library Cooperation Development and Operating Grants Programs

Notice is hereby given that the Department of Education, Special Services Division, Office of Public Libraries and Interlibrary Cooperation, is drafting rules to implement Laws of 1979, ch. 334, art. IX, §§ 9-10, which provides development and operating grants for multi-county multi-type library systems. Proposed rules would specify application and review procedures, computation formulas for operating grants, eligibility criteria for grants, and audit requirements.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. William G. Asp, Director
Office of Public Libraries and Interlibrary Cooperation
301 Hanover Building
480 Cedar Street
St. Paul, Minnesota 55101

STATE OF MINNESOTA
DEPARTMENT OF EDUCATION

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 9th day of September, 1980 that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Board of Education for that purpose and be published in the State Register.

STATE OF MINNESOTA

COMMISSIONER OF EDUCATION

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Howard B. Casmey, do hereby certify that I am the Secretary 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 9th day of September, 1980, that a quorum was present at said meeting, that a majority of those present voted for the resolution, that said resolution is set forth in the Minutes of said meeting, and has not been rescinded or modified.

> RESOLVED, that the State Board of Education proposes to amend 5 MCAR § 1.0800 and to adopt 5 MCAR §§ 1.0805 - 1.0806 through rule making procedures for noncontroversial rules without public hearing pursuant to Laws of 1980, ch. 615, § 7 (Minn. Stat. § 15.0412, subd. 4h), and that Howard B. Casmey, Commissioner of Education, or a Deputy Commissioner of Education in the absence of the Commissioner, be and hereby is granted the authority and directed to provide for the publication of proposed rules governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants in the State Register. Such rules shall be published in the form attached hereto, provided that the Commissioner or, in his absence, a Deputy Commissioner may make such changes, not substantial in nature, which he or, in his absence, a Deputy Commissioner deems appropriate prior to publication in the State Register. It is further ordered that copies of the Notice of Intent to Adopt Rules be mailed to persons on the State Board of Education's Rule making mailing list.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of September, 1980.

Howard B. Casmey
HOWARD B. CASMEY
Secretary, State Board of Education

Margaret W. Marvin
Member, State Board of Education

State of Minnesota
Department of Education

State Board of Education
Special Services Division

IN THE MATTER OF: The Proposed Adoption of
Rules of the State Board of Education Governing
the Library Grant Program and Multi-county
Multi-type Library Cooperation Development and
Operating Grants Without Public Hearing

Affidavit of Mailing

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

That on the 15th day of October, 1980 at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Proposed amendment of 5 MCAR § 1.0800 and Adoption of 5 MCAR §§ 1.0805 - 1.0806 without Public 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 Affidavits of the Minnesota Department of Education.

Harold E Klecker

Subscribed and sworn to before me
this 15 day of October,
1980.

Betty King
Notary Public
Dakota County, Minnesota
My Commission expires 6-13-83.

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

State of Minnesota
Department of Education

State Board of Education
Special Services Division

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants Without Public Hearing

Affidavit of the Notice of the State Board of Education Rulemaking Mailing List

I hereby certify that the attached 1 sheets constitute the complete list of persons, associations, and other interested groups who as of 3 o'clock p.m. this 15th day of October, 1980, have requested pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with Minnesota Department of Education for the purpose of receiving notice of Proposed Amendment of 5 MCAR § 1.0800 and Adoption of 5 MCAR §§ 1.0805 - 1.0806 without Public Hearing on the subject captioned above.

State Board of Education

By Howard B. Casmey, Secretary

Subscribed and sworn to before me
this 15 day of October,
1980.

Luana Vadnais
Notary Public
Ramsey County, Minnesota
My Commission expires

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

State of Minnesota
Department of Education

State Board of Education
Special Services Division

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants Without Public Hearing

Affidavit of Additional Notice of the State Board of Education Rulemaking Mailing List

I hereby certify that included in the attached 17 sheets are persons on the Education Statistics memo series mailing list which includes school superintendents, directors of AVTIs, ECSUs, vocational centers, joint power districts and other interested persons, who pursuant to Minn. Stat. § 15.0412, subd. 4, receive notice of Proposed Amendment of 5 MCAR § 1.0800 and Adoption of 5 MCAR §§ 1.0805 - 1.0806 without Public Hearing on the subject captioned above. This notice was in addition to that required for persons on the State Board of Education rule-making mailing list of persons who have specifically requested notice of rule-making proceedings.

State Board of Education

By Howard B. Casmey, Secretary

Subscribed and sworn to before me
this 15 day of October,
1980.

Luana Vadnais
Notary Public

My Commission expires _____

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

State of Minnesota
State Board of Education

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants.

FINDINGS OF FACT AND CONCLUSIONS

At its meeting of September 9, 1980, the State Board of Education (hereinafter the "Board") proposed that the above-entitled rules be amended and adopted after compliance with the procedure which authorizes an agency to amend and adopt rules without a public hearing. Pursuant thereto, the Notice of Intent to Adopt Rules Without a Public Hearing was published in the State Register together with a copy of the proposed rules. After adoption by the Board, these rules and the record herein shall be submitted to the Attorney General for review.

Based upon all the records and proceedings herein, the State Board of Education makes the following:

FINDINGS OF FACT

1. On March 10, 1980, the Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules Governing Multi-county Multi-type Library Cooperation Development and Operating Grants Programs was published at 4 State Register 1477.

2. On September 9, 1980, the State Board of Education resolved to amend 5 MCAR § 1.0800 and to adopt 5 MCAR §§ 1.0805 - 1.0806 after compliance with the procedure which authorizes an agency to amend and adopt rules without public hearing. Minn. Laws 1980, ch. 615, § 7 (Minn. Stat. § 15.0412, subd. 4h).

3. On October 15, 1980, 633 copies of the Notice of Proposed Amendment of 5 MCAR § 1.0800 and Adoption of 5 MCAR §§ 1.0805 - 1.0806 without Public Hearing and of the proposed rules were mailed to names appearing on the Department of Education rule-making mailing list, to the seven multi-county multi-type library systems and to the thirteen regional public library systems.

4. On October 20, 1980, the Notice of Intent to Adopt Rules Without A Public Hearing, together with the rules proposed to be amended and adopted were published in 5 State Register 624-627.

5. No person requested a public hearing within the 30 day comment period.

6. The Board's authority to promulgate the proposed rules is contained in Minn. Stat. § 121.09 and § 121.11, subd. 2 (1978). repealed 1978 ch. 616 § 8

7. The proposed rules are adopted to implement Minn. Stat. § 134.351 - § 134.353 (Supp. 1979).

8. Three letters which provided written comments were received during the 30 day comment period.

9. In the first letter dated, October 21, 1980, William H. Duncan, Director of the Metropolitan Library Service Agency raised three questions. The response of William G. Asp, Director of OPLIC, is attached to Mr. Duncan's letter. Mr. Duncan asked why academic libraries and school media centers are not required to participate in single-type library cooperatives before they can participate in a multi-county multi-type library system. Mr. Asp responded that there are no single-type multi-county cooperative programs for academic libraries or school media centers which are comparable to the regional public library systems. Mr. Duncan asked if the Development Grants Review Committee established in proposed 5 MCAR § 1.0805 B. is a new committee, or if

it is the same committee which reviews Special Project Grants under 5 MCAR § 1.0803 D. Mr. Asp responded that it is a new committee. Mr. Duncan asked whether it was necessary for OPLIC to receive copies of organizational agreements as specified in proposed 5 MCAR § 1.0806 A.4. He stated that this "may be very cumbersome and paper-wasting." Mr. Asp responded that copies of organizational agreements are necessary so that the agency can judge compliance with Minn. Stat. § 134.351, subd. 3 (Supp. 1979), and that if agreements are not changed from year to year, that it may be possible for the agency to maintain a master file and add only the agreements of new participants.

10. In the second letter dated October 27, 1980, Mr. William C. Granlund, Assistant Superintendent for Instruction, Independent School District No. 152, Moorhead, suggest two amendments to proposed MCAR § 1.0805. The first amendment would make Development Grants automatic to each system, awarded on a formula. The second amendment would set aside 75% of available funds for Operating Grants and 25% of available funds for Development Grants.

Both issues are addressed in the agency's Statement of Need and Reasonableness. Development Grants are intended to assist multi-county multi-type library systems in initiating expensive new services or greatly expanding existing services, requiring capital expenditures or other one-time expenditures larger than the systems are able to make from their operating budgets. Awarding Development Grants on a formula basis would limit the size of the grant a system could receive, limiting the type, size and scope of projects they can undertake. Formula grants also would tend to eliminate distinctions between Development Grants and Operating Grants.

Assigning percentages of total available funds to each type of grant also could disadvantage the systems. The size of the state appropriation for the program will vary from year to year, and the amount of federal Library Services and Construction Act Title III funds for interlibrary cooperation, if any, will also vary from year to year. The State Board of Education will be able to deal annually with these flunctuations in available funds, which, it is reasonably anticipated, should result in more stable Operating funding for the systems than would be accomplished by other methods such as application of fixed percentages.

11. In the third letter dated November 12, 1980, John Montag, Chair of the Advisory Committee of the Northern Lights Library Network, lists objections to Development Grants being competitive and suggests that either of two courses of action be followed. Mr. Montag suggests that: "Competitive grants threaten to undermine the spirit of cooperation among the multi-county multi-type networks in the state." While a spirit of cooperation is highly desirable, there are no standards by which such a spirit can be judged so it would be impossible to determine whether or not Development Grants have enhanced or inhibited the cooperative spirit. Mr. Montag also states that: "Competitive grants would exacerbate any tendency toward staggered development among the multitype networks, making any later integration of the networks that much more difficult." The statute establishing the multi-county multi-type library cooperation program allows each system to develop services to meet the unique needs of its participants. There are no state requirements for the methods to be used by systems in developing and operating services, so it is inevitable that systems will choose different services to develop at different times. State mandated activities and methods of operation, the only

alternative, would jeopardize the concept that each system develops its services in response to the needs of its participants. Integration of systems into a single statewide system is not an issue as Mr. Montag states. The purpose of the program is cooperation within regional multi-county areas, based on needs of participating libraries within the multi-county area.

Mr. Montag states that: "Having two different systems for determining grants allows manipulation of funding to make the grant either competitive or noncompetitive." As stated previously, the purpose of allowing the State Board of Education to determine annually the amount of funding for Development Grants and for Operating Grants is to adjust to fluctuating appropriations levels in the state and federal sources of funds, and to encourage more stable Operating Grants.

Mr. Montag states that budgeting and planning will be more difficult because the amount of money available will be difficult to forecast. However, the purpose of Operating Grants is to initiate less expensive services and to meet on-going expenses while the purpose of Development Grants is to initiate more expensive services having one-time costs. Having reasonably stable Operating Grants will allow systems to plan for and budget within the dollar amounts of their grants, rather than having to deal with fluctuating dollar amounts. Careful planning will be encouraged as systems prepare Development Grant applications because systems will isolate the costs of new services or of greatly expanding existing services.

Mr. Montag suggests that rules for Development Grants need not be written now, since Development Grants may not be available for several years. It is impossible now to predict whether or not appropriations

of state and federal funds will be sufficient to fund Development Grants. Should they increase over present levels to the amount where the State Board of Education determines that Development Grants should be awarded, then rules will be in place and projects can be funded more quickly.

Mr. Montag suggests that either Development Grants be awarded on a formula basis or that rules for Development Grants not be adopted. Awarding Development Grants on a formula basis would establish a dollar amount that each system would receive for a project. A system would be unable to undertake a project that would cost more money than its formula allotment. Such financial constraints would limit the type, size and scope of projects that systems could undertake. With competitive Development Grants, systems can apply for projects costing any amount up to the total available for Development Grants. The systems then have the opportunity to undertake larger, more expensive projects. Not enacting rules for Development Grants now would delay initiation of projects when funds become available, possibly as early as F.Y. 1982.

12. The Statement of Need and Reasonableness for Proposed Rules, 5 M.C.A.R. § 1.0800, §§ 1.0805 - 1.0806 sets forth the need for and the reasonableness of the rules to be amended and adopted herein.

13. The Statement of Need and Reasonableness is incorporated into these Findings and becomes a part hereof as though fully set forth herein.

CONCLUSIONS

1. The Board gave due, timely and adequate legal notice of its intent to adopt rules without public hearing and no public hearing was requested.

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

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

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

Dated this 15th day of January, 1980.

Henry J. Bromelkamp
President, State Board of Education

STATE REGISTER

STATE OF MINNESOTA



VOLUME 5, NUMBER 16

October 20, 1980

Pages 619-654

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 5		
17	Monday Oct 13	Monday Oct 20	Monday Oct 27
18	Monday Oct 20	Monday Oct 27	Monday Nov 3
19	Monday Oct 27	Monday Nov 3	Monday Nov 10
20	Monday Nov 3	Friday Nov 7	Monday Nov 17

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Albert H. Quie
Governor

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Commissioner
Department of Administration

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION.** Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
Issues 40-51, inclusive
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Public Hearings on Agency Rules
October 27-31, 1980

Date	Agency and Rule Matter	Time & Place
Oct. 27	Economic Security Department Minnesota Economic Opportunity Grant Program Hearing Examiner: Jon Lunde	10:00 a.m., Rm. 715, American Center Bldg., 150 E. Kellogg Blvd., St. Paul, MN

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;
and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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.

Department of Corrections

Proposed Rules Governing Secure Juvenile Detention Facilities

Notice of Second Hearing

Notice is hereby given that a second public hearing in the above entitled matter will be held in the Office of Administrative Hearings, 1745 University Avenue, Room 300, St. Paul, Minnesota, 55104, on November 26, 1980 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

The second hearing is scheduled due to improper notice of the first hearing. The entire record of the first hearing, held on October 8, 1980, will be incorporated into the second hearing and will serve as a basis for the second hearing. The record will be available for inspection through Peter Erickson, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8118. Persons who testified at the October 8, 1980 hearing or submitted written comments need not do so a second time.

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. The rules may be modified as a result of the hearing process. Statements or briefs may be submitted, by mail, without personally appearing at the hearing, to Peter Erickson. 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 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 with and become a part of the record. The conduct of the hearing will be governed by the rules of the Office of Administrative Hearings.

Written material may be submitted and recorded in the hearing record for five (5) working days after the public hearing ends, or for a longer period not to exceed twenty (20) calendar days if 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 (5) 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 notifications 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).

Notice is hereby given that twenty-five (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 Administrative Hearings. 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 Administrative Hearings at a minimal charge.

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."

Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, effective September 1, 1979 provides that the Commissioner of Corrections shall promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all secure juvenile detention facilities. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of secure juvenile detention facilities. A copy of the proposed rules was included with the mailed notice of the October 8, 1980 hearing. However, a free copy may be obtained by contacting the Standards Development Unit, Department of Corrections, 430 Metro Square Building, St. Paul, Minnesota, 55101, 612/296-0138.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone 612/296-5615.

The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions about procedure may be directed to the Hearing Examiner, Peter Erickson.

October 3, 1980

Jack G. Young
Commissioner of Corrections

State Board of Education
Department of Education
Special Services Division

Proposed Amendment and Adoption of Rules Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants

Notice of Intent to Adopt Rules Without A Public Hearing

Notice is hereby given that the State Board of Education proposes to amend and adopt the above captioned rules, without public hearing, pursuant to Laws of 1980, ch. 615, § 7 (Minn. Stat. § 15.0412, subd. 4h).

All interested persons may submit written comment or data on these proposed rules, within 30 days of the publication of these proposed rules in the *State Register*, to:

William G. Asp, Director
Office of Public Libraries and Interlibrary Cooperation
301 Hanover Building
480 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-2821

No public hearing will be held unless seven or more persons make a written request for hearing within the 30 day comment period to the above named person.

The proposed rules may be modified if the modifications are supported by the data and views submitted. A statement of need and reasonableness is available without charge by making a written or telephone request to the above named person.

The proposed rules govern grant application, review and award procedures for Minnesota's seven multi-county multi-type library systems. These library systems, approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) plan, develop and operate cooperative programs involving public, academic, school and special libraries.

Multi-county Multi-type Library Cooperation Grants, governed by proposed 5 MCAR § 1.0805, assist systems in initiating major new services or expanding existing services. Applications are reviewed by a committee which makes recommendations to the Director of the Office of Public Libraries and Interlibrary Cooperation.

Multi-county Multi-type Library Cooperation Operating Grants, governed by the proposed 5 MCAR § 1.0806, assist systems in operating cooperative services. The proposed rule establishes a distribution formula awarding sixty percent of available funds equally among the eligible systems, twenty percent in an equal amount per capita and twenty percent in an equal amount per square mile.

Any person who desires to be informed when these proposed rules are submitted to the Attorney General for approval may do so by writing or calling the above named person.

Howard B. Casmey
Commissioner of Education

Amendments as Proposed

Chapter Forty: Libraries

5 MCAR § 1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, § 5, subd. 3, may apply for establishment grants as specified in 5 MCAR § 1.0801 and for regional library basic system support grants as specified in 5 MCAR § 1.0802 and for special project grants as specified in 5 MCAR § 1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR § 1.0803. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR § 1.0804. Multi-county multi-type library systems designated by the State Board of Education as eligible under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979), may apply for development grants as specified in 5 MCAR § 1.0805 and for operating grants as specified in 5 MCAR § 1.0806.

B. Application forms. All applications for grants shall be made on application forms provided by the Office of Public Libraries and Interlibrary Cooperation (OPLIC), Division of Special Services, Minnesota Department of Education. Content of application form varies with each type of grant and is specified in 5 MCAR §§ 1.0801~~-1.0804~~ 1.0806.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants and for multi-county multi-type library cooperation development grants shall be filed on a date established annually by the State Board of Education and published in the newsletter of OPLIC not less than 90 days before such date. During Fiscal Year 1981 only, applications for multi-county multi-type library cooperation operating grants shall be filed on or before April 1, 1981.

Rule as Proposed (all new material)

5 MCAR § 1.0805 Multi-county multi-type library cooperation development grants.

A. Application. Multi-county multi-type library systems approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for development grants as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;
2. name, address and telephone number of contact person in multi-county multi-type library system;
3. purposes for which grant funds are requested;
4. narrative description of the project to be developed with grant funds;
5. objectives of the project and results to be accomplished;
6. the project budget.

B. Development Grants Committee review. Applications shall be reviewed by a committee of seven persons appointed by the chairperson of the Advisory Council to the Office of Public Libraries and Interlibrary Cooperation. One person shall be appointed to the committee from each of the seven multi-county multi-type library system areas. The committee shall consist of two representatives of

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public libraries, two representatives of school media services, one representative of special libraries, one representative of public supported academic libraries and one representative of private academic libraries. Development grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of the content of the application form with particular emphasis on:

1. the degree to which the project relates to applicant's plan developed under provisions of Minn. Stat. § 134.352 (Supp. 1979) and updated under provisions of 5 MCAR § 1.0805 E.1.;

2. evidence of careful planning of the project, including appropriateness of objectives in order to achieve results to be accomplished;

3. evidence of compatibility with state and national bibliographic standards and practices, when pertinent;

4. appropriateness of methodology for evaluating project results;

5. cost-effectiveness of the project budget, which shall take into consideration sparse population and large geographic region as required by Minn. Stat. § 134.353; and costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and the costs of providing any additional cooperative services agreed to by participating libraries which are consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

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

7. evidence that the project is of limited duration to accomplish an objective of long-term benefit;

8. evidence that the project will benefit at least two types of libraries.

The Development Grants Committee shall report its recommendations for projects to be funded to the director of OPLIC.

C. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the Development Grants Committee for development grants using the same standards applied by the Development Grants Committee and shall report recommendations for projects to be funded to the State Board of Education.

D. State Board of Education action. The State Board of Education shall review funding recommendations of the director of OPLIC and shall award development grants using the same standards applied by the Development Grants Committee and subject to the availability of funds. The State Board of Education shall annually determine the amount of funds to be provided as development grants after considering the availability of funds for multi-county multi-type library system grant programs.

E. Criteria for eligibility. In order to be eligible to apply for development grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subds. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provision of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation, and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

F. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

5 MCAR § 1.0806 Multi-county multi-type library cooperation operating grants.

A. Application. Multi-county multi-type library systems approved under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for an operating grant as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;

2. name, address and telephone number of contact person representing the applicant;

3. identification of participating libraries by type of library;

4. copies of organizational agreements required by Minn. Stat. § 134.351, subd. 3 (Supp. 1979);

5. narrative descriptions of the programs to be operated with grant funds including objectives and results to be accomplished;

6. statement of relationship of programs to the plan developed under the provisions of Minn. Stat. § 134.352 (Supp. 1979);

7. proposed expenditures for costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and for the costs of providing any additional cooperative services agreed to by participating libraries and consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

B. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications for compliance with Minn. Stat. § 134.351 (Supp. 1979) and this rule. The director of OPLIC shall report recommendations to the State Board of Education for action.

C. Criteria for eligibility. In order to be eligible to apply for operating grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subds. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provisions of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

D. Calculation of operating grant amounts. The State Board of Education shall annually determine the amount of funds to be provided as operating grants after considering the availability of funds for multi-county multi-type library system grant programs. Of the amount to be provided as operating grants, sixty percent shall be divided into equal amounts for each eligible applicant, twenty percent shall be divided on an equal amount per capita and twenty percent shall be divided on an equal amount per square mile.

E. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

Department of Employee Relations

Proposed Rules Governing the Statewide Affirmative Action Program

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) as amended by Laws of 1980, ch. 615, § 6, in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155 commencing at 9:00 a.m. on Tuesday, November 25, 1980 and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate concerning the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Peter Erickson, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within five (5) working days after the close of the hearing. The hearing examiner may order at the hearing that the record will remain open for a longer period, not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, in order to save time and avoid duplication, it is suggested that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 (1978) as amended by Laws of 1980, ch. 615 and by the rules of the Office of Administrative Hearings, 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions relating to procedures may be directed to Hearing Examiner Peter Erickson.

Notice: The proposed rules may be modified as the result of the hearing process. The Department therefore strongly urges those who are potentially affected in any manner by the proposed rules to participate in the hearing process.

If adopted, the rules proposed by the Commissioner of Employee Relations would implement Minn. Stat. § 43.15 (1979 Supplement) as amended by Laws of 1980, ch. 614, clarifying and interpreting the obligations of all state agencies to develop and administer a statewide affirmative action program. The proposed rules establish minimum standards and guidelines for individual state agencies' affirmative action efforts, delineating certain responsibilities, establishing a framework for setting goals and timetables, requiring an internal procedure for resolution of employee complaints of discrimination, providing for methods of auditing, evaluating and reporting program results, in an effort to achieve progress in eliminating under-utilization of protected groups in the state service. The authority of the Commissioner to promulgate the proposed rules on the Statewide Affirmative Action Program is contained in Minn. Stat. § 43.15 (1979 Supplement) as amended by Laws of 1980, ch. 614.

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."

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Employee Relations, 3rd Floor, Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence and argument which the agency anticipates presenting 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 Administrative Hearings at a minimal charge.

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 (5) working days. Any person may also 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).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supplement) as an 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.

Questions concerning lobbyists or their required registration should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155, at telephone number (612) 296-5616.

Promulgation of the proposed rules will not result in the expenditures of public monies by local public bodies.

October 6, 1980

Barbara L. Sundquist
Commissioner of Employee Relations

Rules as Proposed

Chapter Eighteen: 2 MCAR §§ 2.201-2.269 Definitions.

2 MCAR § 2.201 "Affirmative Action" means a management posture or point of view that all barriers to employment opportunity that are not based on specific job requirements should be identified and removed; further, that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's work force should be facilitated so that the imbalance is redressed.

2 MCAR § 2.202 "Affirmative Action Plan" means a coherent set of management policies and procedures designed to find the barriers contributing to imbalance in an agency's workforce and to foster the correction of any imbalances which are found to exist.

2 MCAR § 2.~~201~~ 203 "Agency."

2 MCAR § 2.~~202~~ 204 "Agency Promotional List."

2 MCAR § 2.205 "Agency Subdivision" for purposes of affirmative action means a state hospital/nursing home, state school, state university, community college, correctional facility or regional or district office under the jurisdiction of a state agency, which is geographically separate and which has an appointing authority.

2 MCAR § 2.~~203~~ 206 "Allocation."

2 MCAR § 2.~~204~~ 207 "Appointing Authority."

2 MCAR § 2.~~205~~ 208 "Board."

2 MCAR § 2.~~206~~ 209 "Class."

2 MCAR § 2.~~207~~ 210 "Commission."

2 MCAR § 2.~~2071~~ 211 "Continuous Service."

2 MCAR § 2.~~208~~ 212 "Craft."

2 MCAR § 2.2121 "Craft-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.212 and 2.259.

2 MCAR § 2.~~209~~ 213 "Day."

2 MCAR § 2.~~210~~ 214 "Demotion."

2 MCAR § 2.~~211~~ 215 "Department."

2 MCAR § 2.~~212~~ 216 "Disabled Veteran."

2 MCAR § 2.~~213~~ 217 "Disabled Veterans' Preference."

2 MCAR § 2.~~214~~ 218 "Eligible."

2 MCAR § 2.~~215~~ 219 "Eligible List."

2 MCAR § 2.~~2151~~ 220 "Emergency Employee."

2 MCAR § 2.~~2152~~ 221 "Exclusive Representative."

2 MCAR § 2.~~216~~ 222 "Exist or Existing."

2 MCAR § 2.~~2161~~ 223 "Full-time Employee."

2 MCAR § 2.224 "Goal" means a numerical objective designed to correct an identified deficiency in the utilization of protected group members.

2 MCAR § 2.225 "Handicapped" means any person who:

A. has a physical or mental impairment which substantially limits one or more major life activities,

B. has a record of such an impairment, or

C. is regarded as having such an impairment.

For purposes of these rules, the term "handicapped" does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

2 MCAR § 2.~~2162~~ 226 "Intermittent Employee."

2 MCAR § 2.~~217~~ 227 "Intern."

2 MCAR § 2.228 "Labor Force Statistics" means figures as determined by the most recent Federal census published by the U.S. Department of Commerce, Bureau of the Census on the estimated number of persons sixteen (16) years of age or over who are working or are seeking work or who are unemployed at the time.

2 MCAR § 2.229 "Labor Market Area" means a geographic area in which an employer is seeking a particular occupational category of worker and there is an available supply of workers seeking jobs in that occupational category.

2 MCAR § 2.~~218~~ 230 "Laborer."

2 MCAR § 2.2301 "Laborer-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.230 and 2.259.

2 MCAR § 2.~~219~~ 231 "Law."

2 MCAR § 2.~~220~~ 232 "Layoff List."

2 MCAR § 2.~~221~~ 233 "Leadworker."

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2 MCAR § 2.~~222~~ 234 "Managerial."

2 MCAR § 2.~~223~~ 235 "Military Leave."

2 MCAR § 2.~~224~~ 236 "Occupational Category" means one of the groups of classes ~~established under 2 MCAR § 2.172, and~~ defined in 2 MCAR §§ 2.212, 2.2121., 2.230, 2.301 A., 2.234, 2.237, 2.2371, 2.239, 2.2391, 2.249, 2.2491, 2.256, 2.2561, ~~2.246 and~~ 2.260 and 2.2601.

2 MCAR § 2.~~225~~ 237 "Office/Clerical."

2 MCAR § 2.2371 "Office/Clerical-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.237 and 2.259.

2 MCAR § 2.~~226~~ 238 "Open Competitive List."

2 MCAR § 2.~~227~~ 239 "Operative."

2 MCAR § 2.2391 "Operative-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.239 and 2.259.

2 MCAR § 2.~~228~~ 240 "Organization Unit."

2 MCAR § 2.~~229~~ 241 "Original Appointment."

2 MCAR § 2.~~230~~ 242 "Overtime."

2 MCAR § 2.~~231~~ 243 "Part-time Employee."

2 MCAR § 2.~~232~~ 244 "Permanent Employee."

2 MCAR § 2.~~233~~ 245 "Pre-Service Trainee."

2 MCAR § 2.~~234~~ 246 "Position."

2 MCAR § 2.~~235~~ 247 "Probationary Employee."

2 MCAR § 2.~~236~~ 248 "Probationary Period."

2 MCAR § 2.~~237~~ 249 "Professional."

2 MCAR § 2.2491 "Professional-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.249 and 2.259.

2 MCAR § 2.~~238~~ 250 "Promotion."

2 MCAR § 251 "Protected Group" means all groups defined as "protected group" by Minn. Stat. § 43.15, subd. 1. See also definition of "Handicapped," 2 MCAR § 2.225.

2 MCAR § 2.~~239~~ 252 "Provisional Employee."

2 MCAR § 2.~~240~~ 253 "Reclassification."

2 MCAR § 2.~~241~~ 254 "Reemployment List."

2 MCAR § 2.~~242~~ 255 "Seasonal."

2 MCAR § 2.~~243~~ 256 "Service."

2 MCAR § 2.2561 "Service-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.256 and 2.259.

2 MCAR § 2.~~444~~ 257 "Statewide Promotional List."

2 MCAR § 2.~~245~~ 258 "Student Worker."

2 MCAR § 2.~~246~~ 259 "Supervisory."

2 MCAR § 2.~~247~~ 260 "Technical/Professional."

2 MCAR § 2.2601 "Technical/Paraprofessional-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.260 and 2.259.

2 MCAR § 2.~~248~~ 261 "Temporary Employee."

2 MCAR § 2.262 "Timetable" means a prescribed reasonable time period in which affirmative action goals are expected to be achieved.

2 MCAR § 2.~~249~~ 263 "Transfer."

2 MCAR § 2.264 "Underutilization" means the employment, in an occupational category, of fewer qualified protected group members than would reasonably be expected by their availability in the labor market area.

2 MCAR § 2.~~250~~ 265 "Unlimited Employee."

2 MCAR § 2.~~251~~ 266 "Veteran."

2 MCAR § 2.~~252~~ 267 "Veterans Preference."

2 MCAR § 2.~~253~~ 268 "Work Assignment, Change In."

2 MCAR § 2.~~254~~ 269 "Working Day."

2 MCAR §§ 2.~~255~~ 270-2.274 Reserved for future use.

Chapter Twenty: 2 MCAR §§ 2.290-2.299 Statewide Affirmative Action Program.

2 MCAR § 2.290 Policy. It is the policy of the State of Minnesota to implement and maintain an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service through a series of specific results oriented procedures combined with good faith effort.

2 MCAR § 2.291 Scope. The provisions of this chapter shall apply to all agencies in the executive branch and to both classified and unclassified positions of those agencies, notwithstanding 2 MCAR § 2.004. In event of a conflict or duplication between requirements of these rules and federal regulations and at the request of the agency head, the commissioner shall permit an agency to substitute a federally required procedure for a similar procedure otherwise required by these rules.

2 MCAR § 2.292 Responsibilities and accountabilities of the agency head.

A. The agency head shall be responsible for administering the agency's Affirmative Action Program in compliance with existing laws, federal regulations and state rules.

B. The agency head shall be accountable to the Governor and to the Commissioner for affirmative action compliance.

2 MCAR § 2.293 Requirements for agency affirmative action plans.

A. The head of each agency with twenty-five (25) or more employees shall submit to the commissioner an agency affirmative action plan that shall contain at least the following but at the discretion of the agency head may contain other provisions not in conflict with these rules:

1. Identification of the protected group or groups covered by the affirmative action plan.

2. Designations of those persons or groups responsible for directing and implementing the agency affirmative action program and the specific responsibilities, accountabilities, and duties of each person or group.

3. Statement of the agency head's commitment to affirmative action program and to the implementation of the agency affirmative action plan.

4. Location of posting of the agency's affirmative action plan.

5. Description of methods by which the agency affirmative action program is communicated internally and externally to employees and other interested persons.

6. Description of internal procedure for processing complaints of alleged discrimination from employees.

a. The initial step shall provide for a determination as to whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on such determinations shall be established to permit the employee to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limitations of those procedures.

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b. Complaint procedures shall provide for a final written answer within sixty (60) days of the filing of a formal complaint.

c. Disposition of complaints shall be filed with the Commissioner within thirty (30) days of final determination.

7. Goals and timetables that shall be established using the following standards.

a. Numerical goals shall be established for the agency and for each agency's subdivision with 25 or more employees that is in a geographic location with a labor market area separate from that of the central office.

b. Agency heads shall use labor force statistics from census data when available to examine work force participation, or when an agency requests the authority to substitute more specific data, the commissioner shall consider alternative data sources and determine their applicability based on the following criteria:

1. the objectivity of the supplying organization,

2. the reliability of statistical procedures used to generate the data, and

3. comparability of data categories (occupational, geographic, handicapping condition, for example) used.

c. Underutilization of protected groups shall be determined using statistical formulae which shall be based on the following criteria:

1. Types of jobs within each agency and agency subdivision;

2. Number of employees in those jobs, by state class title and by protected group;

3. Availability of protected group workers having the qualifications for those jobs and;

4. Geographic locations and applicable labor market areas for each type of job in each agency and agency subdivision.

d. Goals shall be established for each occupational category by protected group based upon a comparison of the composition of the agency or the agency's subdivision work force to the composition of workers in an identified labor market area.

e. Goals shall be established for each occupational category by protected group for which the comparison shows an underutilization of one or more protected groups.

f. Timetables shall be established to meet goals based upon turnover and hire rates within each occupational category in the agency or within each agency subdivision.

8. Identification and description of methods for developing programs and program objectives designed to meet affirmative action goals.

9. Methods of auditing, evaluating, and reporting program success to include a procedure that requires pre-employment review of all hiring decisions for occupational categories with unmet affirmative action goals.

10. The official affirmative action transmittal form which provides for section by section verification of the plan's components.

B. The head of each agency with fewer than twenty-five (25) employees shall submit to the commissioner an agency affirmative action plan that shall contain the following:

1. Statement of the agency head's commitment to the affirmative action program.

2. Statement of the agency head's objective to hire members of protected groups when vacancies occur if an apparent underutilization of protected group members exists in the agency work force.

3. Description of internal procedure for processing complaints of alleged discrimination from employees.

a. The initial step shall provide for a determination as to whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on such determinations shall be so established to permit the employer to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limitations of those procedures.

b. Complaints procedures shall provide for final written answer within sixty (60) days of filing of a formal complaint.

c. Disposition of complaints shall be filed with the commissioner within thirty (30) days of the final determination.

2 MCAR § 2.294 Affirmative Action Plan Review.

A. Agency heads shall submit an affirmative action plan annually to the State Director of Equal Employment Opportunity, within thirty (30) days following the end of the prior fiscal year.

B. Within thirty (30) days of receipt of the agency plan, the State Director of Equal Employment Opportunity shall review the agency affirmative action plan and shall notify the agency head of the approval or of the need to modify the plan.

C. The State Director of Equal Employment Opportunity shall approve an agency plan which meets the requirements of the foregoing rules and shall indicate the basis on which an agency affirmative action plan was not approved.

D. An agency affirmative action plan that is not approved by the State Director of Equal Employment Opportunity shall be modified as necessary by the agency head and resubmitted to the State Director of Equal Employment Opportunity within thirty (30) days from the date of notification.

E. The State Director of Equal Employment Opportunity shall respond within ten (10) days of receipt of the resubmitted affirmative action plan.

2 MCAR § 2.295 Reporting requirements.

A. Agency heads with twenty-five (25) or more employees shall submit quarterly to the Commissioner a report of the agency's efforts to meet affirmative action goals and the progress resulting from those efforts.

B. Agency heads with fewer than twenty-five (25) employees shall submit semi-annually to the commissioner a report of the agency's efforts to meet affirmative action objectives and the progress resulting from those efforts.

C. Reports shall be due thirty (30) days following the close of the reporting period.

D. Agency heads shall submit biennially to the Governor and to the Legislature with a copy to the commissioner a report on the implementation of the agency affirmative action plan as part of the agency budget request.

Department of Transportation

Proposed Rules Relating to Operating Standards for Special Transportation Service

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) in Room 81, State Office Building (between Aurora and Fuller), St. Paul, Minnesota on December 2, 1980, at 10:00 A.M.

The statutory authority of the Department of Transportation to adopt these rules is provided in Minn. Stat. § 15.0412, subd. 3, and Minn. Stat. § 174.30, subds. 2 and 5 (1979 Supp.).

The proposed rules, if adopted, would establish the scope of the rules and provide definitions for terms used therein and would:

1. Require an annual Certificate of Compliance for vehicles used to provide special transportation service—which service is generally defined as motor vehicle transportation provided:
   a. on a regular basis, and
   b. designed exclusively or primarily to serve individuals who are
      1. elderly (over the age of 55), or
      2. handicapped, or
      3. disabled, or
      4. economically disadvantaged, and
      5. unable to use regular means of transportation;
2. Establish standards and procedures for the issuance of Certificates of Compliance, including:
   a. provider qualification procedures,
   b. information to be provided by persons proposing to provide such service,
   c. evidence of certification,
   d. records to be kept by the State,
   e. time and manner of issuance of the Certificate.
3. Establish procedures for the renewal of Certificates of Compliance;

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4. Establish procedures for the inspection of provider records and vehicles upon complaint;

5. Establish enforcement procedures by which the Commissioner may revoke a Certificate of Compliance for persons found in violation of the rules;

6. Establish standards for the operation of vehicles used in the provision of special transportation services, including:

   a. driver training and qualifications

   b. physician's health certificate, and

   c. duties of driver or attendant, and;

7. Establish standards requiring certain safety equipment be carried on vehicles;

8. Establish standards for vehicle maintenance, operation, and safety inspection;

9. Establish standards requiring minimum insurance requirements and the filing of evidence of coverage with the State;

10. Establish standards for the form and maintenance of records by providers;

11. Establish standards for the certification of training courses, including:

   a. application for approval, and

   b. time and manner of approval, and

   c. qualifications of instructors, and

   d. curriculum.

12. Establish standards for granting variances and variance revocation procedures under these rules.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

Peter A. Fausch
Assistant Commissioner for Planning
Minnesota Department of Transportation
413 Transportation Building
St. Paul, Minnesota 55155

The rules will be available at the door on the date of the hearing.

Notice is hereby given that twenty-five (25) days prior to the hearing a Statement of Need and Reasonableness will be available for review at the Department of Transportation address given immediately above and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Department at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Transportation therefore strongly urges those who may be affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules relating to operating standards for special transportation service. Statements may be made orally and written material may be submitted at the hearing. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to George A. Beck, Hearing Examiner, Office of Administrative Hearings, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the Hearing Examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The Department of Transportation hereby requests those submitting written statements to provide a duplicate copy of said materials to the departmental address above, if possible. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 to 15.0412 and § 15.052; as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Department of Transportation may not take any final action on the rules for a period of five (5) 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 Department of Transportation. 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 Department (in the case of the Department's submission or resubmission to the Attorney General).

The department expects that one hundred persons may attend the hearing and it estimates that one to two hours will be necessary for the department to present its evidence at the hearing.

It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following their adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as 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* 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 1, 1980

Richard P. Braun
Commissioner of Transportation

Rules as Proposed (all new material)

14 MCAR § 1.7001 Scope.

A. These standards apply to special transportation service provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

B. These standards do not apply to transportation provided by:

1. A common carrier operating on fixed routes and schedules;

2. A taxi;

3. A volunteer driver using a private automobile which belongs to the volunteer;

4. A school bus as defined in Minn. Stat. § 169.01, subd. 6; or

5. An ambulance regulated under Minn. Stat. ch. 144. However, these standards shall apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7002 Authority. These standards are adopted pursuant to the requirements of Laws of 1979, Ex. Sess., ch. 1, § 28, subds. 2 and 5, now codified as Minn. Stat. § 174.30, subds. 2 and 5 (1979 Supp.).

14 MCAR § 1.7003 Definitions.

A. "Ambulance" has the meaning given to it in Minn. Stat. § 144.801, subd. 2.

B. "Commissioner" means the commissioner of transportation.

C. "Common carrier" means a regular route common carrier operating on fixed routes and schedules as defined in Minn. Stat. § 221.011, subd. 9.

D. "Disabled" means handicapped.

E. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.

F. "Elderly" means age 55 and older.

G. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

H. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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."

I. "Motor vehicle" has the meaning given to it in Minn. Stat. § 169.01, subd. 3.

J. "Municipality" has the meaning given to it in Minn. Stat. § 466.01, subd. 1.

K. "Person" means every natural person, firm, partnership, corporation, association and body politic.

L. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction and alcoholism.

M. "Provider" means a public or private entity or person who operates special transportation service vehicles.

N. "Regular basis" means providing more than 12 round trips per month in a single vehicle or transporting more than 30 passengers per month, whichever is less.

O. "School bus" has the meaning given to it in Minn. Stat. § 169.01, subd. 6.

P. "Semi-ambulatory" means having the ability to walk with difficulty and with the aid of a prosthetic or orthotic device.

Q. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

R. "State" has the meaning given to it in Minn. Stat. § 3.732, subd. 1(1).

S. "Variance" means permission to comply in a manner other than that specified.

T. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR § 1.7004 Compliance.

A. No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner.

1. A certificate of compliance shall be issued when the standards set forth in these rules have been met.

2. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the commissioner of public safety pursuant to Minn. Stat. § 299A.14.

B. No special transportation service provider shall provide, offer to provide or represent itself as capable of providing life support transportation service unless it is licensed as required by Minn. Stat. § 144.802.

14 MCAR § 1.7005 Certification.

A. Application for a certificate of compliance shall be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Minnesota Department of Transportation district office. All applications shall be delivered or mailed to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155.

B. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. whether the application is new or a renewal;

b. the name, address, telephone number and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule or other;

d. the category of passengers served (elderly, handicapped, disabled or economically disadvantaged);

e. for each vehicle:

(1) make and year;

(2) seating capacity;

(3) completed checklists showing whether each vehicle carries the safety equipment required by 14 MCAR § 1.7009 B.1.;

f. if the vehicle will carry an occupied wheelchair:

(1) whether the vehicle is equipped with an approved wheelchair securement device;

(2) the date that the wheelchair securement device was approved by the commissioner of public safety and the number on the certificate issued by the commissioner of public safety;

g. the name and title of the person who is responsible for the provider's special transportation service;

h. the name and address of each driver, stating whether each complies with the standards set forth in these rules.

2. A certificate of insurance which shall be mailed to the Department of Transportation by the applicant's insurer.

C. A certificate of compliance shall be granted when the commissioner determines that the applicant complies with the standards set forth in these rules.

D. All applications shall be processed and a certificate of compliance issued or denied in writing within thirty days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed or revoked.

14 MCAR § 1.7006 Renewal.

A. Thirty to sixty days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

B. The commissioner shall grant or deny requests for renewal in writing prior to the expiration date of the current certificate.

C. A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

14 MCAR § 1.7007 Inspection.

A. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in these rules, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection shall be conducted within four weeks of receipt of the complaint.

B. All complaints shall be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint and the result of the inspection.

C. The commissioner shall notify any provider not less than 1 week in advance of an inspection and shall conduct the inspection at the provider's office or garage.

D. Inspections conducted under these standards shall comprise:

1. Examination of the records listed in 14 MCAR § 1.7011 A.; and

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B.

E. Failure to permit an inspection as provided in this section shall be grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR § 1.7008 Enforcement.

A. Any provider found in violation of any provision of these rules shall be given a thirty day written notice to correct the violation.

B. At the expiration of thirty days, the commissioner shall conduct an inspection to determine whether the violation has been corrected.

C. If the violation is not corrected within thirty days, the commissioner shall revoke the certificate of compliance after holding a hearing upon reasonable notice to the provider.

D. Any enforcement hearing conducted pursuant to these standards shall be conducted in accordance with Minn. Stat. ch. 15.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1. No driver shall operate a special transportation service vehicle unless that driver:

a. has visual acuity of 20/40 in each eye corrected and a field of vision of at least seventy degrees in the horizontal meridian of each eye; and

b. does not have a hearing loss greater than thirty db in the better ear with or without a hearing aid; and

c. has no current medical condition which interferes with the ability to drive safely.

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2. Every two years each driver shall obtain, on a form prescribed by the commissioner, a physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely. This shall be obtained prior to employment as a driver of a special transportation service vehicle.

3. Each driver, or an attendant in the case of a vehicle which is staffed by a driver and an attendant, shall be able to perform a vehicle safety inspection, assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

4. Each driver shall also meet the following criteria:

a. possess a Minnesota driver's license which is valid for the type of vehicle which he or she drives;

b. be at least eighteen years of age and have not less than one year of experience as a licensed driver; and

c. have a driving record clear of revocations, suspensions and cancellations for the past three years except for suspensions which result from unpaid parking tickets.

5. By January 1, 1982, each driver and attendant shall successfully complete a first aid or emergency care course of not less than four hours which shall include instruction in the following elements:

a. treatment of shock;

b. control of bleeding;

c. airway management;

d. prevention and treatment of frostbite and exposure to cold;

e. prevention and treatment of heat exhaustion and heat stroke;

f. identification of sudden illness such as stroke, heart attack, convulsions, fainting and seizures; and

g. appropriate use of emergency medical assistance services.

6. By January 1, 1982, each driver and attendant who transport passengers seated in wheelchairs or who assist passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers which shall include instruction in the following elements:

a. discussion of characteristics of the aging process and major disabling conditions;

b. discussion of common assistive devices used by elderly and handicapped persons;

c. discussion of attitudes toward elderly and handicapped persons which includes the participation of handicapped and elderly persons;

d. instruction in methods of handling wheelchairs;

e. instruction in moving, lifting and transferring passengers;

f. guidelines for transporting handicapped persons; and

g. instruction in the operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them.

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which shall include instruction in the elements listed in 14 MCAR § 1.7009 A.6.a., b., c. and f.

8. Each driver and attendant shall receive instruction in the use of the fire extinguisher.

9. A driver or attendant hired after October 1, 1981, who has not completed the required training prior to providing special transportation service, shall do so within ninety days after beginning to provide such service. Copies of certificates indicating successful completion of courses shall be maintained in the provider's files.

10. Each driver and attendant must successfully complete a refresher first aid or emergency care course every three years. The refresher course shall include instruction in the elements listed in 14 MCAR § 1.7009 A.5.

B. Equipment.

1. Each vehicle when in use shall carry the following safety equipment:

a. one five pound, dry chemical fire extinguisher, A:B:C type, bearing a tag indicating that it has been serviced within the preceding year;

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit shall contain at least the following items:

(1) six—4″ x 4″ sterile gauze pads;

(2) two—soft roll bandages 6″ x 5 yards;

(3) adhesive tape; and

(4) scissors;

c. a spare tire and jack unless the vehicle is radio-equipped and the provider has a service contract which enables him to summon assistance to change the tire or to summon a substitute vehicle;

d. an operable flashlight;

e. if a vehicle carries children who weigh less than fifty pounds, there shall be available in the vehicle a child restraint system which meets the requirements of federal motor vehicle safety standard no. 213, 49 C.F.R. § 571.213;

f. three emergency warning triangles. Both faces of each triangle shall consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device shall be seventeen to twenty-two inches long and shall be two to three inches wide. The units shall be kept clean and in good repair and stored so as to be readily available when needed;

g. from October 1 to April 30, each vehicle shall carry an ice scraper and a blanket;

h. all vehicles with interior fuse boxes shall carry extra electrical fuses.

2. All seats shall be securely fastened to the floor or frame of the vehicle and all vehicles purchased after January 1, 1981 shall have a usable seat belt for each person being transported and for the driver.

3. All ramps shall have a slip-proof surface to provide traction and one end of the ramp shall be secured to the floor of the vehicle when the ramp is in use.

4. A vehicle which is equipped with a wheelchair lift and which carries semi-ambulatory persons who use the wheelchair lift shall be equipped with either a wheelchair lift with adjustable or removable railings which are thirty-six inches high on two sides of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters shall comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR § 1.603 C.4. and C.1.b.

C. Operation.

1. All vehicles shall be maintained and operated in compliance with Minn. Stat. ch. 169 and rules adopted pursuant to that chapter.

2. All providers shall conduct or cause to be conducted, a daily visual safety inspection of the following items:

a. coolant level;

b. lights, turn signals, hazard flashers;

c. tires;

d. windshield wipers and washer fluid;

e. mirrors;

f. fuel level.

3. All providers shall conduct or cause to be conducted a vehicle safety inspection once each week or every 1000 miles, whichever comes first. The date and mileage at each safety inspection and a notation of needed repairs and replacements shall be made in a driver's logbook which shall be maintained in the vehicle or in the provider's files. The safety inspection shall include inspection of the following items:

a. coolant level;

b. oil level;

c. lights, turn signals, hazard flashers;

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d. tires and tire pressure;

e. brake, parking brake and brake fluid level, if visible in the engine compartment;

f. instrument panel;

g. horn;

h. windshield wipers and washer fluid;

i. fan belt;

j. mirrors, inside and outside;

k. wheelchair ramps and lifts and lift electrical systems, if applicable; and

l. wheelchair or stretcher securement device, if applicable.

4. Smoking shall be prohibited in vehicles at all times. A sign stating "NO SMOKING" shall be posted in the vehicle so that it is visible to all passengers.

5. Drivers and passengers shall use seat belts at all times in vehicles which are equipped with them and drivers shall instruct each passenger to use the seat belt. Children who weigh less than fifty pounds shall use approved child restraint systems at all times.

6. When any vehicle is stopped for any emergency purpose or is disabled on the roadway or shoulder of any highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle shall be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on any one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

D. Maintenance.

1. All vehicles shall be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

2. Providers shall correct any deficiency which might interfere with the safe operation of the vehicle before the vehicle is placed in service.

3. Windows and lights shall be kept clean.

4. Interior of vehicles shall be clean and in good repair.

14 MCAR § 1.7010 Insurance.

A. Each provider shall have in effect an insurance plan which provides the following minimum coverage for each vehicle:

1. Basic economic loss benefits as required by Minn. Stat. ch. 65B;

2. Residual liability coverage in the following minimum amounts:

a. private providers; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injuries to, or the death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident, or if the policy is written on a single limit basis, $300,000 per occurrence;

b. municipalities; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injury to, or death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident;

c. the state; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $500,000 for bodily injury to, or death of two or more persons in a single accident, and $100,000 for destruction of, or damage to property in a single accident;

3. uninsured motorist coverage as required by Minn. Stat. ch. 65B.

B. Each provider shall obtain a certificate of insurance for the special transportation service vehicles which it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155. The certificate shall show the vehicles covered by the policy and the policy limits. The insurer shall notify the department in writing ten days prior to the termination of coverage by either party.

C. A provider shall qualify as a self-insurer by providing evidence that it has complied with the requirements of Minn. Stat. § 65B.48, subd. 3.

14 MCAR § 1.7011 Records.

A. Each provider shall maintain files containing the following information:

1. For each driver, a driver's application form which contains the following information:

a. the name, address and birthdate of the driver;

b. the driver license number and the class of the license;

c. whether the driver has had at least one year of driving experience;

d. whether the driver's license has been revoked, suspended or cancelled within the three year period prior to this application;

e. the date on which the driver successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A.5.;

f. the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A.6. or 7. whichever is applicable;

g. the date and location at which driver was trained in the use of the fire extinguisher;

2. For each driver, the physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely.

3. For each attendant, an attendant's application form which contains the following information:

a. the name and address of the attendant;

b. the date on which the attendant successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A.5.;

c. the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A.6. or 7. whichever is applicable;

d. the date and location at which the attendant was trained in the use of the fire extinguisher;

4. All correspondence with the commissioner, including the certificate of compliance;

5. All accident reports;

6. A record of all insurance claims arising from the operation of the vehicle;

7. Service records for each vehicle indicating the date, the odometer reading and the nature of the repair or replacement each time the vehicle was serviced;

8. The driver's logbook for each vehicle, unless the logbook is maintained in the vehicle.

B. The following documents shall be maintained in each vehicle:

1. A card showing the name of the insurance company which insures the vehicle and the telephone number of the insurance agent;

2. Accident report forms;

3. A card showing local emergency telephone numbers.

14 MCAR § 1.7012 Certification of training courses.

A. All training courses shall be approved by the commissioner prior to being offered to fulfill the requirements of these rules.

B. The application for approval of a training course shall be made on a form prescribed by the commissioner. A course shall be approved if it meets the following minimum standards:

1. It shall include instruction in the elements required by these standards;

2. The application shall specify when and where the instructor has previously taught the course;

3. The name, address, employment and relevant training of the instructor must be shown;

4. The name and address of any institution which is sponsoring the course must be shown.

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C. Instructors.

1. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician or a certified first aid instructor.

2. Passenger assistance technique training shall be taught by any person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse or other health professional who has had work experience with physical disabilities, aging and communication disorders or by a team which includes one of those persons.

D. Applications for approval of training courses shall be granted or denied in writing by the commissioner within thirty days of receipt of the complete application.

14 MCAR § 1.7013 Variance.

A. The commissioner may grant a variance from any of these rules except 14 MCAR § 1.7004.

1. A variance shall be granted if the applicant shows that:

a. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;

b. the application of the rule in question would impose an excessive burden on the applicant; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing his reasons for granting or denying the variance.

3. Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

4. Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

5. A variance shall be revoked if a material change occurs in the circumstances which justified granting the variance, or if the applicant fails to comply with the alternative practice specified in the application for a variance.

14 MCAR §§ 1.7014 to 1.7050 Reserved for future use.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Agriculture
Plant Industry Division

Adopted Rules Governing Disposal of Refuse from Transport Involved in Foreign Commerce (3 MCAR §§ 1.0190-1.0192)

The rules proposed and published at *State Register*, Volume 4, Number 28, pp. 1125-1128, January 14, 1980 (4 S.R. 1125) are now adopted, with the following amendments:

Amendments as Adopted

3 MCAR § 1.0190 General.

B. Definitions. For purposes of these rules, the following definitions and those in Minn. Stat. § 18.46 shall apply:

2. "Dunnage" means structural wood products in any form used to secure cargo in any manner. Standards and criteria for handling and disposing of dunnage are contained in 3 MCAR § 1.0192.

3. "Refuse" means all material derived in whole or in part from the fruits, vegetables, meats, or other plant or animal (including poultry) material which is carried aboard any vehicle involved in foreign commerce. Standards and criteria for handling and disposing of refuse are contained in 3 MCAR § 1.0192.

3 MCAR § 1.0191 Registration.

A. Every person who engages in the business of removing or disposing of refuse and/or dunnage from transport involved in foreign commerce shall register annually with the commissioner, and shall furnish such information as may be required to demonstrate compliance with the certification requirements and operating standards set forth in these rules.

B. An annual inspection shall be made of equipment utilized in the removal, transportation and disposal of refuse and/or dunnage by the commissioner before a certificate is granted. If all the requirements are satisfied, a certificate of approval shall be issued by the commissioner. This certificate must be retained by the certificate holder.

C. If at any time the requirements of these rules are not met, after notice and hearing pursuant to Minn. Stat. ch. 15, the certificate shall be revoked. The commissioner may, when it is deemed upon proper investigation and consultation that the continued operation of certificate holder poses an imminent threat of plant pest dissemination, suspend the certificate until the commissioner has issued an order on the certificate revocation.

3 MCAR § 1.0192 Operating standards.

B. Approved refuse disposal. The following methods shall be used for refuse disposal:

1. Incineration, providing the incinerator is capable of reducing its contents completely to ash in a 24 hour period. No refuse residue shall be removed from an incinerator for disposal unless it has been reduced to ash or slag.

2. Sterilization by live steam, cooking, or boiling at a temperature of no less than 212 degrees F (100 degrees C) for 30 minutes.

3. Grinding into an approved sewage system.

4. If the above methods are not available or practical, any ~~Any~~ other manner ~~approved by the commissioner that would~~ sufficient to eliminate all pest risks.

C. Dunnage disposal.

2. Pest risk. If evidence of plant pests is found, all of the dunnage material involved shall be treated in a manner prescribed.

a. Complete incineration or open burning in compliance with Minnesota Air Pollution Control rules.

b. Fumigation by chemicals and treatment schedules ~~deemed necessary by the commissioner~~ sufficient to eliminate the pest risk.

c. Spraying or dusting with proper chemical concentrations ~~deemed necessary by the commissioner~~ sufficient to eliminate the pest risk and in conformance with 3 MCAR § 1.0338.

d. Steam sterilization in a manner ~~approved by the commissioner~~ sufficient to eliminate the pest risk.

D. If ~~the commissioner determines that~~ the preceding methods of disposal are not available, the refuse and/or dunnage shall be required to remain on the transport involved in foreign commerce until an alternative means of disposal has been approved by the commissioner as complying with the purpose of these rules.

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."

SUPREME COURT

Decisions Filed Friday, October 10, 1980

Compiled by John McCarthy, Clerk

50559/SP State of Minnesota v. Kevin Peter Anderson, Appellant. Hennepin County.

Examination of entire record reveals that while defendant was promised that a woman friend would be released from jail if he gave a written statement, defendant's subsequent admissions were the product of defendant's free will and were not coerced.

Trial court did not commit prejudicial error in permitting the prosecutor to impeach its own witness with prior inconsistent hearsay statements which implicated defendant.

Affirmed. Otis, J. Took no part, Simonett, J.

49873/450 Anthony Crea v. Sally Bly, et al, Skarda's Liquors, Defendant, and Mancini's Bar and Liquors, Appellant. Ramsey County.

As a matter of law a dram shop's serving of liquor to an obviously intoxicated person is not the proximate cause of plaintiff's injuries which were inflicted by a third person who had been encouraged by the intoxicated person to inflict the injuries.

Reversed. Otis, J. Took no part, Todd, Amdahl, and Simonett, JJ.

50911/219 In re Condemnation Proceedings for the Wilmarth Line of the C U Project. Blue Earth County.

The statutory notice required in a certificate of need hearing was not conformed with in this case. The matter is remanded with instructions.

Reversed and remanded. Todd, J. Concurring Specially, Yetka, J. Took no part, Peterson, J.

51050/SP State of Minnesota v. Eugene Azor Scott, Appellant. Cass County.

Offenses of burglary and possession of burglary tools were part of same behavioral incident and therefore, under Minn. Stat. § 609.035 (1978), trial court properly could sentence defendant for only one of the two offenses.

Judgments of conviction affirmed but lesser sentence vacated. Scott, J. Took no part, Simonett, J.

50180/190 In the Matter of the Application for the Discipline of Victor John Michaelson, Jr., an Attorney at Law of the State of Minnesota. Supreme Court.

In disciplinary proceedings, respondent, a member of general counsel staff for a St. Paul industry, was suspended indefinitely from practicing law in Minnesota except on behalf of his employer; fined $5,000; and required to comply with all continuing legal education requirements for those in general practice. After five years respondent may petition for reinstatement to general practice.

Suspended indefinitely. Per Curiam. Took no part, Amdahl and Simonett, JJ.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Housing Finance Agency

Notice of Availability of Contract for a Real Estate Property Appraisal for Mortgage Purposes

The Minnesota Housing Finance Agency intends to engage the services of a professional real estate appraiser to express an opinion of value for residential property in Duluth. The appraisal is to be completed by November 7, 1980.

The estimated fee for this project is $3,000 to $4,000.

Proposals must be received in writing by the agency no later than 12:00 noon, October 20, 1980. For detailed information, contact:

Kevin Filter
Housing Development Officer
Minnesota Housing Finance Agency
333 Sibley Street, Suite 200
St. Paul, Minnesota 55101
(612) 296-9826

Department of Natural Resources Forestry Division

Notice of Availability of Contracts for Incentives Programs (Forestry)

The Department of Natural Resources is seeking self-employed foresters to perform special technical forestry contractual services. These services will be directly related to both the forestry Incentives Program and the Agricultural Conservation Program.

Technical services will include:

1. Privately owned woodland inventory and analysis.

2. Management plan preparation.

3. Incentive programs needs and compliance determinations.

The estimated amount of the 7 (seven) contracts is expected to be $10,000 each. Contracts may begin November 15, 1980.

Qualified self-employed foresters should contact the Minnesota Department of Natural Resources Forestry Office for a resume outline by phone at 612-296-4484 or in writing to:

Raymond Hitchcock, Director
Department of Natural Resources
Box 44
Centennial Office Building
St. Paul, MN. 55155

All inquiries should be made no later than October 31, 1980.

Department of Transportation Technical Services Division Research and Development Office

Notice of Availability of A Contract for A Synthesis Study of Surfacing Design and Construction Technology for Low Volume Roads

The Department of Transportation acting as the agent for the Local Road Research Board requires the services of a consultant for a synthesis study of surfacing design and construction technology for low volume roads.

The study will be a synthesis and report identifying, compiling and categorizing the various designs and construction technologies, rate these for applicability in Minnesota and compare them to the present Minnesota State Aid Standards and current Minnesota practices on a benefit/cost basis.

The Local Road Research Board has budgeted a maximum of thirty thousand ($30,000) dollars for this work.

Those interested may obtain a Request for Proposal from:

Gabriel S. Bodoczy, P.E.
Research Services Engineer
Research and Development Office
Minnesota Department of Transportation
Room G29-D, Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-4925

Requests for Proposals will be available through November 5, 1980. All proposals will be due no later than November 10, 1980.

Minnesota Zoological Garden

Notice of Availability of Advertising Contract

The Minnesota Zoological Garden wishes to enter into a contract with an agency to provide advertising creative and media placement services.

I. Purpose:
To increase the visitor attendance at the MZG and to develop more public awareness of special events and the MZG as a year around facility.

II. Objectives:
A) To plan, develop and produce the creative material for special events and an ad campaign and to conduct comprehensive, professional media planning and buying keeping production expenses less than 15% of the contract and maximizing use of a public service program in electronic and print to increase zoo visibility locally and nationally.
B) Maintain or increase attendance through an increase in market penetration in the Twin Cities area, aiding in the development and solicitation of co-op programs and business funds for promotions.

III. Scope:
To utilize as much of the available production/creative work as possible.
To utilize and complement the internal creative capacities currently available at the Zoo.

IV. Project Tasks:
A. Provide creative concepting, copywriting, scripting, visualization, artwork, creative strategy, graphics and art direction on a project by project basis.
B. Provide media plan to draw visitors to the MZG during all seasons of the year; execute media plan; audit; provide post analysis of media campaigns.
C. Assist in coordination of special event advertising and promotion and provide post analysis research.
D. Work with the Group Sales department to develop a promotion with a major institution to achieve additional ticket sales.
E. Develop proposals and assist in solicitation of, co-op programs with other attractions or businesses and aid in the solicitation of at least $50,000.00 in business fund for promotions.

V. Cost: $200,000 (inclusive of media and creative costs)

VI. Contract Date:
The contract will run from December 1, 1980 through November 30, 1981 with 1-1 year extension at the MZG's option. Portion of contract after June 30, 1981 is subject to budget approval by the legislature.

VII. MZG Contacts:
Prospective responders who have any questions regarding this request for proposal may call or write:

Ladd Conrad
(612) 432-9010

Minnesota Zoological Garden
12101 Johnny Cake Ridge Road
Apple Valley, MN. 55124

VIII. Submission of Proposals:
Proposals must be sent to: Ladd Conrad
Minnesota Zoological Garden
12101 Johnny Cake Ridge Road
Apple Valley, MN. 55124

Proposals must be received no later than 4:30 p.m., Monday, November 10, 1980. Two copies of the proposal must be signed by an authorized member of the firm. The terms and prices in the proposal must be valid for the length of the contract.

IX. Requirements for those submitting proposals:
Full Service agency
Must be able to work on a project by project basis
Must be able to complement Zoo creative work—in house graphics, photo and AV depts.
Must develop cost estimates for all projects
Must have had previous experience with a large entertainment attraction and/or with a government agency
Special media discounts must be passed back to the MZG
Must have out-state media purchase experience
Must display sensitivity to the MZG purpose, objectives and constraints
Must have extensive PR experience which can be utilized on a local, regional and national basis
Must have contacts with the local cultural, business, and attraction community

X. Proposal Contents:
References to company background
References to zoo-related clients
Examples of creative and media effectiveness
Restatement of objectives as the responder views them
Identify and describe the deliverables to be provided
Billing/rate proposed based on complementing MZG developed creative work
Account team assigned to the project

XI. Evaluation:
All proposals will be evaluated by representatives of the Minnesota Zoological Garden.Finalist companies will be asked to discuss their programs before a selection committee. The final decision will be based on, but not limited to, the criteria listed above in IX and X. The evaluation and selection will be completed by November 30, 1980. All applicants will be notified of the decision by letter that same day.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration
Data Privacy Division

Notice of Intent to Consider An Application for Temporary Classification for Statewide Applicability

The Commissioner of Administration has received an application for temporary classification of data collected pursuant to the Domestic Abuse Act; this application was submitted by the County of Anoka, Minnesota. The commissioner has determined that it is advisable to consider this application for statewide applicability under the authority vested in him by Minnesota Statutes, § 15.1642 as amended by Chapter 603, Laws of Minnesota 1980. The commissioner hereby gives notice of his intent to approve or disapprove, for the use of all clerks of court, sheriff's offices and local police departments in the State of Minnesota, a ''confidential'' classification of data for the following:

All government data on individuals which is collected, created, received or maintained pursuant to the Domestic Abuse Act (Minn. Stat. § 518B.01), until such time as a temporary court order made pursuant to subdivisions 5 or 7 of the Act is executed and/or served upon the data subject who is the respondent to the action.

Following the execution or service of the order, the data shall be public.

Any governmental agency, public or private association or member of the public who wishes to submit comments on this application must do so within 30 days of the publication of this notice. Comments received after 30 days need not be considered by the commissioner. Comments should be submitted to the Commissioner of Administration, c/o Data Privacy Division, 200 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. A copy of the application may also be obtained from the Data Privacy Division.

Minnesota State Agricultural Society
Minnesota State Fair

Meeting Notice

The board of managers of the Minnesota State Agricultural Society, governing body of the Minnesota State Fair, will conduct a business meeting at 10 a.m. Friday, Nov. 14, at the Administration Building on the fairgrounds, Falcon Heights. Preceding the general meeting will be a meeting of the board's space rental committee at 9:30 a.m.

Ethical Practices Board

Advisory Opinion #73

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

Approved by the Ethical Practices Board on September 19, 1980.

Issued to:

Michael L. Flanagan, Esq.
2350 IDS Center
Minneapolis, MN 55402

William F. Brooks, Jr., Esq.
900 Midland Bank Building
Minneapolis, MN 55401

#73. A corporation may spend money to promote or defeat a ballot question either by registering its own political fund or by contributing to an already registered political fund.

Department of Public Welfare Social Service Bureau

Notice of Intent To Solicit Outside Opinion Concerning A Proposed Rule Relating to the Investigation and Reporting of Maltreatment of Vulnerable Adults

Notice is hereby given that the Minnesota Department of Public Welfare is drafting a proposed rule 12 MCAR § 2.221 (The Investigation and Reporting of Maltreatment of Vulnerable Adults).

This rule will govern the reporting of suspected abuse or neglect of vulnerable adults, investigation of reports, provision of protective and counseling services and outreach.

Authority for this rule is contained in Minnesota Statute § 626.557, subd. 15(c), passed by the 1980 Legislature on Reporting of Maltreatment of Vulnerable Adults.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be made addressed to:

Art Jauss
Division of Social Services
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3730.

All statements of information and comment must be received by December 1, 1980. Any written material received by the Department shall become part of the hearing record.

Department of Public Welfare Support Services Bureau

Notice of Intent to Solicit Outside Opinion on Rules for Determining Welfare Per Diem Rates for Nursing Home Providers under the Title XIX Medical Assistance Program

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.049 (DPW Rule 49), rules for determining welfare per diem rates for nursing home providers under the Title XIX Medical Assistance Program. This rule governs the rate-setting for all nursing and boarding care homes participating in the Medical Assistance Program and those boarding care homes participating in the Minnesota Supplemental Aid Program. The rule defines cost reporting requirements and reasonable cost principles in order to provide a uniform and equitable mechanism for promoting efficiency and economy in the aforementioned programs.

Authority for this rule is contained in Minn. Stat. §§ 256B.27 and 256B.04, subd. 2. Such legislative authority allows the Commissioner of Public Welfare to require reports, information and audits and to promulgate rules and regulations for carrying out and enforcing the Medical Assistance provisions.

The proposed changes relate to C.3.a.-c., C.4.a., D.1.i.-j. and D.2.c. of the current DPW Rule 49. Paragraph C.3. is currently titled "Definitions" and is proposed to be changed to "Cost to be Included in the Per Diem." The proposed changes to C.3.a.-c. redefine and expand the costs which will be allowable for welfare rate determination. Specific amendment has been made to nursing service items, such as, nursing supplies and durable medical equipment and to therapy service. Paragraph C.3.d. was added to restate the definition of patient days. Paragraph C.4.a. has been revised to identify the adjustments for revenue received from Medicare or other third party payors. Paragraph D.1.i. and j. were added to the rule to identify the reimbursement for oxygen and wheelchairs. D.2.c. identifies nursing care exceptions as required by Laws of 1980, ch. 614, § 184.

All interested or affected persons or groups are invited to participate. Copies of this agency's proposal shall be transmitted upon request. Such requests and statements of information or comment may be made in writing to the following individual:

Robert Rau
Audit Division
Department of Public Welfare
Centennial Office Building
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2738.

All statements of information and comment must be received by November 14, 1980. Any written material received by the department shall become part of the hearing record.

Department of Transportation

Petition of Sibley County for A Variance from Standards for Diagonal Parking in the City of Arlington, MN

Notice is hereby given that the Sibley County Board of Commissioners has made a written request to the Commissioner of Transportation for a variance from minimum design standard for diagonal parking along County State Aid Highway No. 17 from 2nd Avenue to Trunk Highway No. 5, located in the City of Arlington.

The request is for a variance from 14 MCAR § 1.5032, H.4.a., Rules for State Aid Operations under Minn. Stat. chs. 161 and 162, (1978) as amended, so as to permit a minimum roadway width of 60 feet and that diagonal parking be permitted along both sides of the street.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155 within 20 days of the publication of this notice in the *State Register*.

If a written objection is received within said 20 days, the variance shall be granted only after a contested case hearing has been held on the request.

Dated this 13th day of October, 1980.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

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

Statement of Need and Reasonableness
For Proposed Rules 5 MCAR § 1.0800, §§ 1.0805-1.0806

Minn. Stat. §§ 134.351-134.353 (Suppl. 1979) provides a statutory base for grants made by the State Board of Education for planning, development and operation of cooperative programs involving public, academic, school and special libraries within multicounty areas of Minnesota. Within the Minnesota Department of Education, the library grant program is administered by the Office of Public Libraries and Interlibrary cooperation (OPLIC) in the Division of Special Services.

BACKGROUND

The grant program for multi-county multi-type library cooperation is a new component in the state's library development program, but related to previously established grant programs. Since 1957, grants have been made for extension and improvement of public library services, using state appropriated funds as well as funds allocated to Minnesota under the federal Library Services Act (renamed the Library Services and Construction Act in 1964 and most recently extended in 1977, 20 USC § 351 et seq.). These grant programs are governed by Minn. Stat. §§ 134.30-134.36 (1978) and Minn. Stat. §§ 134.351-134.353 (Suppl. 1979), and 5 MCAR §§ 1.0800-1.0804.

Under temporary rules published in Volume 4 State Register at pp. 707-708 and adopted by the State Board of Education on December 11, 1979, seven multi-county multi-type library systems have been organized, covering the state and involving more than three hundred academic, public, school and special libraries. The temporary rules governed the establishment of geographic boundaries for the multi-county multi-type library systems as well as application procedures and the distribution formula for Multi-county Multi-type Library Cooperation Planning Grants. At its meeting on March 10, 1980, the State Board of Education approved the establishment of the seven multi-county multi-type library systems and their geographic boundaries, as authorized by Minn. Stat. § 134.351, subd. 1 (Suppl. 1979) and awarded to each system a one-year Planning Grant as authorized by Minn. Stat. § 134.352 (Suppl. 1979).

AUTHORITY

The State Board of Education's authority to promulgate the proposed rules is contained in Minn. Stat. § 121.09 and § 121.11, subd. 12 (1978).

GRANT APPLICATION AND REVIEW PROCEDURES

Presently 5 MCAR § 1.0800 governs grant application and review procedures for four types of library grants administered by the State Department of Education: Establishment Grants, Regional Library Basic System Support Grants, Special Project Grants, and Grants for Institution Library Service. Minn. Stat. §§ 134.351-134.353 (Suppl. 1979) authorizes the State Board of Education to award planning, development and operating grants to multi-county multi-type library systems. Planning Grants were made to all multi-county multi-type library systems under temporary rules. Proposed amendments to 5 MCAR § 1.0800 add provisions for the two new types of grants: Multi-county Multi-type Library Cooperation Development Grants and Multi-county Multi-type Library Cooperation Operating Grants.

5 MCAR § 1.0800 A. notes that eligible applicants for each type of library grant are specified in the rule for that type of grant. The proposed amendment continues the present enumeration by referring to the statutory base and rules for the new Multi-county Multi-type Library Cooperation Development Grants and Multi-county Multi-type Library Cooperation Operating Grants.

5 MCAR § 1.0800 B. requires that grant applications be submitted on forms supplied by the Office of Public Libraries and Interlibrary Cooperation. Content of appliction forms varies with each type of grant and is specified in the rule for each type of grant. The proposed amendment would extend provisions of this subdivision to Multi-county Multi-type Library Cooperation Development Grants and Operating Grants.

5 MCAR § 1.0800 C. establishes due dates for grant applications. The library grant program operates on the state fiscal year of July 1 through June 30. Therefore, for those types of grants funded totally or partially with state funds or that are ongoing grants awarded year after year, it is necessary that applications be filed on or before the first day of the state fiscal year. July 1 is established as the deadline for such applications so that compliance with law and rule can be determined, formula amounts calculated without delay, and the earliest possible notification given to applicants.

Different circumstances prevail for Multi-county Multi-type Library Cooperation Development Grants, just as they now prevail for Establishment Grants and Special Project grants. All of these grants are of limited duration and are supported with federal funds. It is proposed that the application date for Multi-county Multi-type Library Cooperation Development Grants be established annually by the State Board of Education, and publicized in the newsletter of the Office of Public Libraries and Interlibrary Cooperation. The amount of federal funds available for these grants cannot be determined until Congress has appropriated the funds and a notification of grant award is received from the U. S. Department of Education. The federal fiscal year begins three months later than the state fiscal

year, and recent experience has been that the notification of grant award is not received by the Minnesota Department of Education until six to nine months after the beginning of the federal fiscal year. Therefore, some flexibility is needed in the application date for these federally funded grants. The newsletter of the Office of Public Libraries and Interlibrary Cooperation, published monthly, is distributed to 772 individuals, organizations and agencies, including all seven multi-county multi-type library systems.

Unusual circumstances require different application date for Multi-County Multi-Type Library Cooperation Operating Grants in F.Y. 1981 only. Multi-county multi-type library systems were organized during the fall and winter, 1979-80. The State Board of Education, operating under temporary rules, awarded one-year Planning Grants as specified in Minn. Stat. § 134.352 (Suppl. 1979) on March 10, 1980. The seven systems are now engaged in planning, and will be completing their planning processes in February and March. The proposed rule would allow systems to apply for an operating grant as soon as their planning is completed, allowing a smooth transition from the planning to the operating phase.

MULTI-COUNTY MULTI-TYPE LIBRARY COOPERATION DEVELOPMENT GRANTS

Proposed 5 MCAR § 1.0805 establishes procedures for application, review and award of Multi-county Multi-type Library Cooperation Development Grants.

Subd. A cites Minn. Stat. § 134.353 (Suppl. 1979) as the statutory base for these grants. It also lists information to be presented by each applicant in the application form. Information identifying the applicant and a contact person are sought so that the OPLIC staff can communicate with applicants if additional information or clarification are needed. Applicants must submit a statement of the purpose for which grant funds are requested, a narrative description of the purposes for which grant funds are requested, objectives of the project and results to be accomplished, and a proposed budget for expenditure of the funds. This information is needed so that grant applications can be compared by the review committee in subd. B below in order to determine their recommendations. For the Department of Education to comply with reporting requirements in Minn. Stat. § 134.351, subd. 5 (Suppl. 1979) and with requirements for monitoring and reporting the use of federal funds under the Library Services and Construction Act, it is necessary to know what the grant funds will accomplish, how the accomplishments will be measured, and the budget categories in which the grant funds will be spent.

Subd. B establishes a Development Grants Review Committee and the committee's review process. Appointed by the Chairperson of the Advisory Council to the Office of Public Libraries and Interlibrary Cooperation, the Development Grants Review Committee consists of seven persons, one person from each of the geographic areas served

by the multi-county multi-type library systems to ensure geographic representation. Representatives of public, school, special, public supported and private supported academic libraries serve on the committee in proportions identical to representation of each type of library established in Minn. Stat. § 134.351, subd. 4 (Suppl. 1979) for each system's advisory committee. This ensures representation of various type-of-library interests.

Development Grants are intended to assist multi-county multi-type library systems in initiating expensive new services or greatly expanding existing services, requiring capital expenditures or other one-time expenditures larger than the systems are able to make from their operating budgets. Recognizing that the amount of funds requested in Development Grant applications is likely to exceed the amount of funds available, based on the agency's experience with public library Special Project Grants over the past four years, Development Grants would be awarded on a competitive basis. The evaluation of the Development Grants Review Committee is beneficial in ensuring that each application is thoroughly and fairly considered for funding, and that limited funds will be targeted to projects having the greatest benefit.

Standards which the Development Grants Review Committee apply are listed. The degree to which a project relates to the system's plan, developed under the Planning Grant awarded in March 1980 and updated annually, will be evaluated to ensure that the project is a priority in the system's own plan and compatible with other development activities in the system. Evidence of careful planning of the project, including identification of results to be accomplished and evaluation methods appropriate to project objectives, are important in judging the relative value of one project over another. When a project involves bibliographic data, such as a machine readable cataloging record, evidence of compatibility with state and national bibliographic standards and practices must be judged to determine that products resulting from the project will allow maximum sharing of bibliographic data with other systems, state and national. Cost-effectiveness of the project must be judged to evaluate results to be accomplished relative to the amount of funds expended, and to consider the extra costs incurred in systems located in sparsely populated and large geographic regions as specified in Minn. Stat. § 134.353 (Suppl. 1979). Expenditures from grant funds are to be for purposes identified in statute and for other cooperative activities agreed to by participants. This criterion is necessary if the Department of Education is to be accountable for funds appropriated or allotted to it for grants. Recipients of grant funds are assuring that they will use the funds as intended in legislation establishing the program. Because Development Grants are intended to assist a system in initiating new services or greatly expanding existing services, they are not a source of financial support for on-going activities. Operating Grants provide a source of financial support for on-going activities. It is reasonable to require that applicants supply evidence that the project would not or could not be undertaken with operating grants or

other financial resources, and that the project is of limited duration to accomplish a long term benefit. Finally, evidence is provided that the project will benefit at least two types of libraries since the grant program is for multi-type library cooperation. Development Grants Committee recommendations are made to the Director of the Office of Public Libraries and Interlibrary Cooperation.

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

Subd. D requires that the State Board of Education review funding recommendations of the Director of the Office of Public Libraries and Interlibrary Cooperation, using the same standards used by the Development Grants Committee. This ensures that the State Board is fully aware of the process used in review of all applications and provides an opportunity for the State Board to discuss funding of any and all projects for which applications were received. Grants are awarded subject to availability of funds. The State Board of Education must determine annually the amount of funds available for Development Grants because the size of the state appropriation and the amount of the Federal Library Services and Construction Act Title III funds for interlibrary cooperation will vary from year to year. Funds not used for Development Grants will be used for Operating Grants so annual determination will provide more stability to the systems in the amounts of their Operating Grants.

Subd. E list criteria for eligibility to be met by applicant multi-county multi-type library systems. Two criteria are established to complement and further criteria established in Minn. Stat. § 134.351, subd. 3 (Suppl. 1979). The first criterion requires each system to file an updated five-year plan. Systems must develop plans using Planning Grant funds awarded in March, 1980. The plans address the five qualifying services established in statute and any other cooperative services the system proposes to undertake. Updated plans are to be filed before July 1 each year so that the Office of Public Libraries and Interlibrary Cooperation has plans available for use in preparation of its annual report to legislature required in Minn. Stat. § 134.351, subd. 5 (Suppl. 1979) and for preparation of its biennial appropriations request. Since federal funds are used, the system plans will assist the agency in its preparation of the Minnesota Long Range Plan for Library Service required by the Library Services and Construction Act, 20 USC § 351 et seq. Plans also are used in evaluation of application for Development Grants.

The second criterion requires that each public library participating in a multi-county multi-type library system shall also participate in its regional public library system. This criterion is necessary so

that the multi-county multi-type library cooperation program complements rather than conflicts with the regional public library system development program. Established by the 1957 Minnesota Legislature and funded by state appropriations since that time, the regional public library system development program encourages public libraries to work cooperatively together to share resources and services. Minn. Stat. §§ 134.30-134.35 also establishes minimum qualifications for public libraries to participate in the state's public library grant programs. Currently the thirteen regional public library systems serve a total of 3,586,809 persons, constituting 94.3% of Minnesota's population, in 71 Minnesota counties. The regional public library systems represent 335 service outlets. The 26 public libraries in small cities which have chosen to remain independent of their regional public library systems have determined that their independence is more important to them than the strengthened services resulting from participation in a regional public library system. They do not share resources and services with other libraries. Participation in a regional public library system is the first level of cooperation for a Minnesota public library, encouraging the maximum use of locally owned materials and the development of cooperative services, and reducing the burden on large metropolitan libraries for interlibrary loan of their materials. While services of the multi-county multi-type library systems will enhance rather than duplicate services of the regional public library systems, two state-supported library development programs could, in the long run, be working at cross-purposes if local public libraries could choose not to participate in their first level cooperative program and derived benefits through participation in a second level of cooperation. Only public libraries in Minnesota are organized in regional cooperative systems, so it is necessary to extend this criterion to academic, special and school library media centers.

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

MULTI-COUNTY MULTI-TYPE LIBRARY COOPERATION OPERATING GRANTS

Proposed 5 MCAR § 1.0806 establishes procedures for applications, review and award of Multi-county Multi-type Library Cooperation Operating Grants, and the formula for calculating the amount of the Operating Grants.

Subd. A cites Minn. Stat. § 134.353 (Suppl. 1979) as the statutory base for these grants. It also lists information to be presented by each applicant in the application form. Information identifying the applicant and a contact person are sought so that OPLIC staff can communicate with applicants if additional information or clarification are needed. Applicants must identify participating libraries by type of library and provide copies of organizational agreements so that OPLIC staff are able to verify that two or more types of libraries are participating in each system and that participants have adopted organizational agreements providing for services specified in Minn. Stat. § 134.351 subd. 3 (Suppl. 1979). Applicants submit narrative descriptions of programs to be operated with grant funds, including objectives and results to be accomplished, a statement of relationship of programs to the system's long range plan, and proposed expenditures. Because the statute identifies kinds of services which are to be developed and operated it is necessary that OPLIC know which services will be developed and operated and how funds are budgeted to accomplish the services. For the Department of Education to comply with reporting requirements in Minn. Stat. § 134.351, subd. 5 (Suppl. 1979) and with requirements for monitoring and reporting the use of federal funds under the Library Services and Construction Act, it is necessary to know what the grant funds will accomplish and how the accomplishments will be measured. Information on relationship to the system's long range plan allows the system to state how services operated during the year for which funding is sought relate to the ongoing development of the system.

Subd. B provides for review of applications for Operating Grants by the Director of the Office of Public Libraries and Interlibrary Cooperation. Compliance with provisions of the statute establishing the program and with provisions of this rule must be judged so that the Department of Education can administer the program as intended by the Minnesota Legislature, and following procedures established in rule to ensure that all requirements are met by all applicants. Results of the Director's review are reported as recommendations for action to the State Board of Education so the State Board can award grants as authorized in Minn. Stat. § 134.353 (Suppl. 1979).

Subd. C establishes criteria for eligibility for Operating Grants. Criteria established are identical to criteria established for Development Grants in proposed 5 MCAR § 1.0805 E. The need for and reasonableness of these criteria for Operating Grants are identical to the need for and reasonableness of the criteria for Development Grants.

Subd. D establishes the formula for calculating Operating Grants amounts. The State Board of Education establishes the amount of funds to be provided as Operating Grants, taking into consideration the availability of funds for multi-county multi-type library cooperation. It is necessary that the State Board of Education make this determina-

tion annually because the size of the state appropriation will vary from year to year and the amount of federal Library Services and Construction Act Title III funds for interlibrary cooperation, if any, will also vary from year to year. For example, when state appropriations are low, the State Board may choose to use the federal funds to supplement state funds in Operating Grants. Should state appropriations increase substantially, the State Board may be able to use state funds for Operating Grants and federal funds for Development Grants. Because the amount of available funds will vary greatly from year to year, an annual determination should result in more stable Operating Grant funding for the system than would be accomplished by any other method, such as through application of established percentages to the total amount.

The formula by which Operating Grant amounts are calculated consists of three factors. Sixty percent of the available funds are divided equally among the eligible systems. This factor recognizes that there are certain base operating costs in each system which do not vary greatly from system to system. Costs such as salaries for system coordinators and clerical support staff, rental of office space, basic telephone service, supplies and materials are comparable whether a system serves a large or a small number of libraries in a large or small geographic area. Twenty percent of the available funds are divided among the systems in an equal amount per capita. This factor recognizes that the largest numbers of libraries are located in the geographic areas having the largest population, and that operating costs for system services such as delivery systems and communications systems are affected by the number of libraries participating. The remaining twenty percent of the available funds are distributed among the systems in an equal amount per square mile. The last two factors respond to the statutory requirement that the extra costs incurred in systems located in sparsely populated and large geographic areas be taken into consideration. Again, operating costs of system services such as delivery systems and communication systems are affected, this time by the long distances between participating libraries. Establishing a formula for calculation of Operating Grant amounts results in the awarding of grants on a strictly objective basis. This particular formula takes into consideration cost factors in operating system services, recognizing that some costs will be roughly equivalent in all systems and other costs will be affected by the number of libraries participating as reflected in the number of people served, and the size of the geographic area served by the system.

Subd. E requires an annual audit in each multi-county multi-type library system. This provision is identical to the audit requirement for Development Grants in proposed 5 MCAR § 1.0805 F. The need for and reasonableness of the audit and the audit procedures for Operating Grants are identical to the need for and reasonableness of the audit and the audit procedures for Development Grants.

State of Minnesota
State Board of Education

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing the Library Grant Program and Multi-County and Multi-Type Library Cooperation Development and Operating Grants

Statement of Compliance With Rulemaking Procedures

I, Special Assistant Attorney General Charles T. Mottl, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the Rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Charles T. Mottl

CHARLES T. MOTTL
Special Assistant
Attorney General

Dated: Jan. 27, 1981