

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 807

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-26-82
DATE FOR REVIEW 5-7-82
DATE DUE 5-17-82

Adopted w/a hearing ✓
Adopted w/o hearing
Temporary rule

Approved 5-17-82 Disapproved Returned to Agency 5-18-82

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 5-18-82 Revisor approved 5/5/82 disapproved 4/28/82

✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 4.12.82 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 7.20.81

✓ Order for rulemaking
1.8.82 date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

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

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
2.23.82 Approving H.E.'s Report
4.1.82 Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

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

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JOHN J. FEDA
Secretary, St. Bd. of Education

DATE: 5/17/82

ATTN : CHARLES T. MOTTL, Spec. Ass't. Atty. Gen.

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of Proposed Adoption of Rules of the State Board of Education (State Board for Vocational Education) Governing Criteria for Adult Vocational Program Funding 5 MCAR §§ 1.0111-1.0117

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;

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.

LDS:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Education
747 Capitol Square Building

TO : Special Ass't. Attorney General
204 Administration Building

DATE: April 22, 1982

FROM : Lois E. Steinhaus
Education Statistics Section

PHONE: 6-4428

SUBJECT: Approval for Rules Governing Criteria for Adult Vocational Program Funding (5 MCAR SS 1.0111-1.0117)

Rules With Hearing - Docket No. EDU 82003-RL

Enclosed is the complete record of the Hearing.

Also enclosed are four copies of the Rules as Adopted and two copies of the Order Adopting Rules. In addition, is a copy of each of the following:

1. Certificate of Board's Resolution Adopting Rules
2. Notice of Intent to Solicit Outside Opinion and any written Material received
3. Order for Hearing
4. Certificate of Board's Authorizing Resolution
5. Notice of Hearing
6. Affidavit of Mailing
   Affidavit of the Additional Notice....Rulemaking Mailing List Certificate
7. Rules as Proposed - State Register (copy of appropriate pages) and as mailed
8. Hearing Examiner's Report
9. Chief Hearing Examiner's Reports
10. Findings of Fact and Conclusions
11. Statement of Need and Reasonableness
12. Affidavit of Mailing Notice of Submission to the Attorney General and accompanying Notice

Please return all material to me. When you have completed your report, please give me a call and I will have some one come and pick it up. Thank you.

AR0106
5/3/82

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: State Board of Education (State Board for Vocational Education) Department of Education
Vocational-Technical Education Division

Rule Numbers: 5 MCAR SS 1.0111-1.0117

Rule Title: Adopted Rules Governing Criteria for Adult Vocational Program Funding

Type of Rules: Permanent X

Temporary ____

Documents Incorporated by Reference: None

STATE OF MINNESOTA
DEPARTMENT OF STATE
11:00 A.M. FILED
MAY 18 1982
Joan Anderson Growe
Secretary of State

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
May 17, 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Name: Ann L. Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

AG copy.

State Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Education Division

Adopted Rules Governing Criteria for Adult Vocational Program Funding (5 MCAR SS 1.0111-1.0117)

Rules as Adopted

5 MCAR S 1.0111 Scope. Rules 5 MCAR SS 1.0111-1.0117 govern the operation of adult vocational-technical programs offered by a school district or cooperative center for which state aids are paid.

5 MCAR S 1.0112 Program criteria. An adult vocational-technical program shall meet the following criteria to be approved as eligible for state aid.

A. Enrollees. The enrollees shall have completed or terminated secondary school. They shall be at least 16 years old.

B. Instructor licensure. For the purpose of B., instructor includes a specialist, a guest lecturer and a resource person. An instructor shall hold a valid adult vocational-technical license in the area taught. An instructor who teaches more than 500 clock hours annually shall meet full-time adult licensure requirements or post-secondary licensure requirements in the area taught if full-time adult licensure requirements do not exist. An instructor who teaches six hours or less in three consecutive months in any individual program is not required to hold a license in order to teach in that program.

HE 10

C. Administrative services. Administrative services shall be provided to administer the adult vocational-technical program needs.

D. Advisory committee. The district or center shall have either an adult vocational-technical advisory committee or program advisory committees for each occupational area in which

courses are offered. A district or center may have both types of committees. A committee shall meet at least once a year. District or center employees shall not be voting members of the advisory committees in the district or center in which they are employed but may serve as ex officio nonvoting members.

E. Evaluation. The district or center shall conduct an annual evaluation. The evaluation shall be based on the following concepts:

1. planning and development;
2. needs assessment;
3. diversity of offerings;
4. management; and
5. program operations.

HE 12

F. Review by accrediting body. If a program is subject to review by a national or state accrediting body, the district or center shall notify the Department of Education of the review date at least 30 days before the review. The district or center shall copy all information supplied to the accrediting body and retain the copies.

5 MCAR S 1.0113 Course criteria, procedures and priorities. For purposes of this rule, a course includes an adult vocational course, workshop or instructional services.

A. Course criteria. A course shall meet one or more of the following criteria to be approved as eligible for state aid.

1. The course is vocational in nature. Courses which train, retrain or upgrade adults for paid employment in agriculture, businesses, offices, marketing, distribution, health occupations, trades, industries, technical occupations, and service occupations are vocational in nature. Courses in which adults are pursuing avocational or leisure time activities or hobbies are not vocational in nature.

2. The course trains, retrains or upgrades adults who are responsible for public health and safety even if the adults are not financially compensated for the services.

3. The course trains, retrains or upgrades adults in occupational areas which have employment opportunities.

4. The course trains, retrains or upgrades adults in response to area or state businesses.

5. The course trains, retrains or upgrades adults to own, operate or manage a business or farm.

6. The course trains, retrains or upgrades adults for occupations in a particular business if the skills and knowledge taught are transferable to other businesses.

7. The course teaches consumer skills, resource management, nutrition, parent, individual, and family development, and the care and nurturing of children. Home crafts, home cooking and home sewing courses are not eligible.

8. The course trains, retrains or upgrades adults who are required to meet local, state, or federal government standards to enter or maintain an occupation.

9. The course has been offered in the past and has been determined by the community to be successful in meeting occupational or public service needs. The term "public service" means courses which promote public health and safety. HE16

10. The course provides specialized assistance for ~~disadvantaged~~ persons with special needs who are preparing for economic self-sufficiency when those persons are also enrolled or plan to become enrolled in vocational courses. The term "persons with special needs" includes but is not limited to persons who are disadvantaged, handicapped or have limited English proficiency. HE14

11. The course is economical and efficient either as calculated per student, per student per hour, per employer, per family business or when necessary specialized equipment is available at low cost or no cost through a business or school.

12. The course provides training in new technology or new equipment and enables adults to retain their present employment.

B. List of approved courses. The Department of Education shall make available to districts and centers a list of course descriptions that meet the criteria in A.

C. Prior written approval. A district or center shall not offer a course which is not on the list if it intends to claim

state aid unless the district or center has obtained prior written approval for that fiscal year from the department. The department shall approve or disapprove a course within 30 days after it receives a complete, written request for approval.

D. Course selections and priorities. When moneys available for adult vocational-technical education are insufficient to fund all the courses and services desired, the district or center shall develop and maintain a breadth of course selections. The department shall review course selections to assure that breadth is developed and maintained throughout the state. The department shall give priority to the following when it approves courses for funding:

1. Courses addressing needs of adults who are currently unemployed or employed in unskilled, low-paying positions and who have potential for employment in more highly skilled, higher paying positions;

2. Courses which are planned, coordinated, and jointly offered with other districts, public or nonpublic agencies or organizations;

3. Programs mandated by the Legislature, if any; and

4. Courses likely to improve the economy of the community, area or state by attracting or expanding business.

The foregoing are not listed in any particular order and each is of equal weight. HE 18

5 MCAR S 1.0114 General and special requirements.

A. Applicability. The requirements of B. and C. apply only to courses other than adult farm management and small business management. The provisions of ~~D.-J.~~ D.-K. HE 23 apply only HE 20 to adult farm management and small business management. The provisions of L. apply to the variances available under C. and I. HE 21, 22

B. Minimum enrollment. A course shall have at least ten people enrolled for vocational purposes to be eligible for state aid. If more than one section of a course is offered, the average enrollment shall be at least ten.

C. Variance. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education

for a variance. The commissioner shall grant a variance when:

1. The course is required by law; or HE21

2. Fewer than ten people need specialized training to become employed; or HE21

3. Fewer than ten people need specialized services to prepare for economic self-sufficiency; or

4. Equipment limitations require fewer than ten people.

D. Full-time adult farm management instructor. A full-time adult farm management instructor shall have a minimum enrollment of ~~42~~ cooperators~~, 30 of whom~~ representing not less than 42 farms, 30 farms of which shall be represented by cooperators who have been enrolled six years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance. HE23

E. New adult farm management. When a district or center first offers instruction in adult farm management or when a new instructor is employed, the minimum enrollment of ~~42~~ cooperators representing 42 farms shall be reached within four years. After the first four years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met. HE 23

F. Part-time adult farm management instructor. An adult farm management instructor shall be employed at least 40 percent of full-time. The minimum enrollment in D. and E. shall be reduced proportionately for an instructor employed less than full-time. A fraction smaller than one-half shall be rounded down and a fraction of one-half or larger shall be rounded up to the nearest whole number.

G. Full-time business management instructor. A full-time small business management instructor shall have a minimum enrollment of 30 adults who have been enrolled three years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

H. New small business management. When a district or center first offers instruction in small business management or when a

new instructor is employed, the minimum enrollment of 30 adults shall be reached within three years. After the first three years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

I. Variance for completion. The Commissioner of Education shall grant a variance from the enrollments required in D.-H. if the variance would allow enrollees to complete the instruction. The variance granted shall be only for the amount of time needed for enrollees to complete the instruction. No adults may begin instruction in adult farm management or small business management unless the number of adults beginning would be sufficient to meet the required minimum enrollments.

J. Cooperator defined. For the purposes of D., E., F., I., the term "cooperator" means a farm family, consisting of any number of natural persons, responsible for the management of a farm business.

~~J.~~ K. Account analysis. Eighty percent or more of the enrolled adults who have been enrolled in adult farm management or small business management for one year or more, from July 1 of any year, shall annually have an analysis of their farm or business accounts.

L. Procedures for obtaining a variance. Any school district or center which desires to obtain a variance pursuant to C. or I. shall make a request for such a variance in writing addressed to the Commissioner of Education. The request may be in the form of a letter and shall identify the specific rule and subsection under which the variance is requested and shall state the facts which support the request. The Commissioner of Education shall issue a response in the form of a letter addressed to the school district or center not more than 15 days after the receipt of the request from the school district or center. If the request is denied, the affected school district or center may request a review by the state board as set forth in 5 MCAR S 1.0115 H.

5 MCAR S 1.0115 Adult vocational aid.

A. District procedures. A district or center shall use the

following procedures when requesting aid.

1. It shall authorize an administrator to represent it. The administrator shall hold a valid license as a superintendent, adult vocational director, AVTI director, or secondary vocational director.

2. It shall plan and submit the program and state aid budget request to the district school board or the center board. The board shall approve the program and the state aid budget request before submitting them to the department.

3. It shall submit the program and the state aid budget request by January 1 preceding the fiscal year in which aids are to be paid.

4. It may submit additional state aid budget requests for any moneys remaining after the initial budget approval dates designated in B.

5. It shall conduct the program for which aid is approved or return the aid.

6. It shall submit adult report forms by August 15 for the program that was conducted during the preceding state fiscal year.

B. Department procedures. The department shall approve or disapprove the program and state aid budget request by July 1 in odd numbered calendar years or by March 1 in even numbered calendar years.

OK see HE 25 F&F 7

C. Aid for personnel. The state shall pay 75 percent of salaries paid to essential licensed personnel and personnel exempt from licensure. Salaries for instructors, coordinators, administrators, specialists, guest lecturers and resource personnel as part of an approved program are eligible for aid if licensure requirements are met.

D. Administrative staff. A district or center is eligible for aid for one full-time equivalent adult vocational licensed administrative staff member if either of the following conditions ~~are~~ is met.

1. The district or center enrolls 2,000 or more adults annually in approved programs. Adults enrolled in more than one

program may be counted in each program in which they are enrolled.

2. The district or center provides supervision to all full-time adult instructors through the vocational administrator and maintains 2,500 instructional hours of part-time vocational education. Courses with full-time instructors may be counted as 200 instructional hours toward this requirement.

E. Additional administrative staff. A district or center is eligible for additional full-time equivalent administrative staff when increments of D.1. or 2. are met. If a district or center has less than a complete increment of D.1. or 2., it is eligible for proportionate additional part-time administrative staff.

F. Only the portion of time devoted to adult vocational-technical programs shall be eligible for aid.

G. Aid for travel. The state shall pay 50 percent of the cost of necessary travel between instructional sites for essential licensed personnel.

H. Review by the state board. If the department disapproves a proposed adult vocational education course for purposes of being eligible for state aid pursuant to 5 MCAR S 1.0113, or if the Commissioner of Education denies a variance requested pursuant to 5 MCAR S 1.0114, the affected school district or center may, within 15 days of the date of the department's or commissioner's decision, as applicable, demand and shall be given an opportunity to present its position to the State Board of Education (State Board for Vocational Education) at the next regular meeting of the State Board of Education. For purposes of this section, the "next regular meeting of the State Board of Education" means the next regularly scheduled meeting of the State Board of Education occurring not less than 20 days after receipt by the department or commissioner of the school district or center's demand. The state board may place reasonable restrictions on the length of time for the district or center to present its position. The board may issue its decision at the meeting and shall, in any event, issue its decision no later

HE2

than its next regularly scheduled board meeting.

5 MCAR S 1.0116 Tuition and fees.

A. Determination. The district or center shall determine tuition and fees.

B. Nonresidents. The district or center may charge different tuition and fees to nonresidents of the district or state.

C. Individuals, employers and agencies. Tuition and fees may be charged to individuals, employers or agencies that sponsor enrollees.

D. Senior citizens. ~~The district or center may charge full, partial or no tuition or fees for people 62 years old or older at the beginning of a course not offered for credit.~~ Any charge made by the district or center of tuition or fees for people 62 years of age or older shall be consistent with Minn. Stat. SS 136A.80-136A.81. FOF 8

E. Special situations. An adult enrolled in a full-time adult farm management program for more than six years or a small business management program for more than three years shall be charged record analysis fees and hourly charges. The hourly charge shall be determined by dividing the total direct cost of the program by the hourly assignment of the instructor. Direct cost is the sum of instructional staff salary and travel cost between instructional sites. A full-time adult farm management or small business management instructor load shall constitute 1200 contact hours.

5 MCAR S 1.0117 Nursing assistant program.

A. Curriculum, test and evaluation. A nursing assistant education program shall use the curriculum and test developed by the Commissioner of Education as reviewed and evaluated by the Board of Nursing. The program shall include an individual written or oral test and performance evaluation. The test shall be administered monthly by the department through area vocational-technical institutes or community colleges in accordance with instructions from the commissioner. The program

shall be 30 hours of planned learning activities, exclusive of the evaluation. The commissioner may prescribe a fee for administration of the test not to exceed $30.

B. Definitions. In this rule the following terms have the meanings given them.

1. "Nursing assistant" means an individual working in or employed by a nursing home, including, but not limited to, a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of direct patient care services under the supervision of a registered nurse.

2. "Curriculum" means the aggregate of courses of study and planned learning activities developed by the Commissioner of Education.

3. "Successfully completed" means the attainment of 70 percent on the oral or written test and 70 percent on the performance evaluation.

4. "Supplemental nursing service" means an entity which recruits and employs nursing and ancillary health care personnel for temporary assignments to supplement the staff of health care institutions. It is not an employment agency but the employer of all such personnel assigned.

C. Technical assistance. Technical assistance provided by the Department of Education may include:

1. Training of instructors;

2. Utilization of the curriculum; and

3. Instructional materials.

D. Instructional staff qualifications. An instructor for an approved nursing assistant education program shall be:

1. A registered nurse with at least 2,000 hours of experience within the last five years, at least 500 hours of which must be in a geriatric or rehabilitation nursing setting; or

2. A licensed practical nurse who was teaching this course in a nursing home as of January 1, 1979 who continues to teach this course in that same facility as of January 1, 1982.

E. Exemptions. The following nursing assistants shall not

be required to comply with the education requirements of Minn. Stat. SS 144A.61 and 144A.611:

1. Nursing assistants who began employment in a nursing home on or before December 31, 1978, and who continue employment in the same nursing home in which they were employed on December 31, 1978;

2. Nursing assistants who successfully completed after January 1, 1976 a training program for nursing assistants employed in nursing homes which used a program approved by the Department of Education, unless employment has been interrupted for greater than five consecutive years;

3. Nursing assistants who successfully completed a state approved nursing education program which prepares an individual for licensure as a registered nurse or licensed practical nurse if the completion occurred no more than five calendar years prior to employment;

4. Persons who have successfully completed the individual oral or written test and performance evaluation, even though they had not taken the course;

5. Registered nurses or licensed practical nurses holding current licensure in Minnesota; and

6. Nursing assistants who began employment in a supplemental nursing service on or before December 31, 1978 and who continue employment in that same nursing service in which they were employed on or before December 31, 1978, and who have worked a minimum of 12 hours per week for that same supplemental nursing service in a nursing home prior to December 31, 1978. Supplemental nursing services shall provide to the Department of Health by January 15, 1979, a list of all nursing assistants employed by the supplemental nursing services who have worked 12 hours in a nursing home on or before December 31, 1978.

Effective Date. Rules 5 MCAR SS 1.0111-1.0117 are effective for programs and courses approved after July 1, 1982.

Repealer. Rule 5 MCAR S 1.0112 G. is repealed. Rules 5 MCAR SS 1.0113; 1.0114; 1.0115; and 1.0117, as they existed before the

effective date of 5 MCAR SS 1.0111-1.0117 above are repealed on the effective date of the new 5 MCAR SS 1.0113; 1.0114; 1.0115; and 1.0117.

OFFICE OF THE REVISOR OF STATUTES
Disapproval of Form of Rules

AR0106
4/28/82

__X__ The form of the attached rules is not approved. The revisor requests the changes described below before the rules will be approved.

Page 2, line 25, after "individual" reinsert the comma which appeared in the State Register.

Page 3, line 21, after "public" delete "and" and insert "or" which appeared in the State Register.

Page 4, clause J., add a headnote such as "Cooperator defined."

Page 5, clause L., add a headnote such as "Procedure for obtaining a variance."

Page 5, line 39, strike "are" and insert "is".

Page 6, line 40, delete "as amended". Minn. Stat. S 645.001 makes the rules of statutory construction applicable to rules. Minn. Stat. S 645.31, subd. 2 generally provides that an adoption of a law by reference is an adoption of any subsequent amendments of the law.

Page 7, line 31, delete "for" which appeared in the State Register and insert "of".

Steven C. Cross
Revisor of Statutes

Name: Ann L. Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

- -

_____ The changes requested by the revisor are approved by the agency.

_____ The changes requested by the revisor are not approved by the agency

_____
Agency's Representative

- -

_____ The attorney general agrees that the changes requested by the revisor are form changes, not substantive changes.

_____
Assistant Attorney General

5 MCAR § 1.0111 Scope. Rules 5 MCAR §§ 1.0111-1.0117 govern the operation of adult vocational-technical programs offered by a school district or cooperative center for which state aids are paid.

5 MCAR § 1.0112 Program criteria. An adult vocational-technical program shall meet the following criteria to be approved as eligible for state aid.

A. Enrollees. The enrollees shall have completed or terminated secondary school. They shall be at least 16 years old.

B. Instructor licensure. For the purpose of B., instructor includes a specialist, a guest lecturer and a resource person. An instructor shall hold a valid adult vocational-technical license in the area taught. An instructor who teaches more than 500 clock hours annually shall meet full-time adult licensure requirements or post-secondary licensure requirements in the area taught if full-time adult licensure requirements do not exist. ~~An instructor who teaches six hours or less in three consecutive months is not required to hold a license.~~ An instructor who teaches six hours or less in three consecutive months in any individual program is not required to hold a license in order to teach in that program.

C. Administrative services. Administrative services shall be provided to administer the adult vocational-technical program needs.

D. Advisory committee. The district or center shall have either an adult vocational-technical advisory committee or program advisory committees for each occupational area in which courses are offered. A district or center may have both types of committees. A committee shall meet at least once a year. District or center employees shall not be voting members of the advisory committees in the district or center in which they are employed but may serve as ex officio nonvoting members.

E. Evaluation. The district or center shall conduct an annual evaluation. The evaluation shall be based on the following concepts:

1. planning and development;

2. needs assessment;

3. diversity of offerings;

4. management; and

5. program operations.

F. Review by accrediting body. If a program is subject to review by a national or state accrediting body, the district or center shall notify the Department of Education of the review date at least 30 days before the review. The district or center shall copy all information supplied to the accrediting body and retain the copies.

5 MCAR § 1.0113 Course criteria, procedures and priorities. For purposes of this rule, a course includes an adult vocational course, workshop or instructional services.

A. Course criteria. A course shall meet one or more of the following criteria to be approved as eligible for state aid.

1. The course is vocational in nature. Courses which train, retrain or upgrade adults for paid employment in agriculture, businesses, offices, marketing, distribution, health occupations, trades, industries, technical occupations, and service occupations are vocational in nature. Courses in which adults are pursuing avocational or leisure time activities or hobbies are not vocational in nature.

2. The course trains, retrains or upgrades adults who are responsible for public health and safety even if the adults are not financially compensated for the services.

3. The course trains, retrains or upgrades adults in occupational areas which have employment opportunities.

4. The course trains, retrains or upgrades adults in response to area or state businesses.

5. The course trains, retrains or upgrades adults to own, operate or manage a business or farm.

6. The course trains, retrains or upgrades adults for occupations in a particular business if the skills and knowledge taught are transferable to other businesses.

7. The course teaches consumer skills, resource management, nutrition, parent, individual and family development, and the care and nurturing of children. Home crafts, home cooking and home sewing courses are not eligible.

8. The course trains, retrains or upgrades adults who are required to meet local, state, or federal government standards to enter or maintain an occupation.

9. The course has been offered in the past and has been determined by the community to be successful in meeting occupational or public service needs. The term "public service" means courses which promote public health and safety.

10. The course provides specialized assistance ~~for disadvantaged persons~~ for persons with special needs who are preparing for economic self-sufficiency when those persons are also enrolled or plan to become enrolled in vocational courses. The term "persons with special needs" includes but is not limited to persons who are disadvantaged, handicapped or have limited English proficiency.

11. The course is economical and efficient either as calculated per student, per student per hour, per employer, per family business or when necessary specialized equipment is available at low cost or no cost through a business or school.

12. The course provides training in new technology or new equipment and enables adults to retain their present employment.

B. List of approved courses. The Department of Education shall make available to districts and centers a list of course descriptions that meet the criteria in A.

C. Prior written approval. A district or center shall not offer a course which is not on the list if it intends to claim state aid unless the district or center has obtained prior written approval for that fiscal year from the department. The department shall approve or disapprove a course within 30 days after it receives a complete, written request for approval.

D. Course selections and priorities. When moneys available for adult vocational-technical education are insufficient to fund all the courses and services desired, the district or center shall develop and maintain a breadth of course selections. The department shall review course selections to assure that breadth is developed and maintained throughout the state. The department shall give priority to the following when it approves courses for funding:

1. Courses addressing needs of adults who are currently unemployed or employed in unskilled, low-paying positions and who have potential for employment in more highly skilled, higher paying positions;

2. Courses which are planned, coordinated, and jointly offered with other districts, public and nonpublic agencies or organizations;

3. Programs mandated by the Legislature, if any; and

4. Courses likely to improve the economy of the community, area or state by attracting or expanding business.

The foregoing are not listed in any particular order and each is of equal weight.

5 MCAR § 1.0114 General and special requirements.

A. Applicability. The requirements of B. and C. apply only to courses other than adult farm management and small business management. The provisions of ~~B. to J.~~ D.-K. apply only to adult farm management and small business management. The provisions of L. apply to the variances available under C. and I.

B. Minimum enrollment. A course shall have at least ten people enrolled for vocational purposes to be eligible for state aid. If more than one section of a course is offered, the average enrollment shall be at least ten.

C. Variance. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance. The commissioner shall grant a variance when:

1. The course is required by law; or

2. Fewer than ten people need specialized training to become employed; or

3. Fewer than ten people need specialized services to prepare for economic self-sufficiency; or

4. Equipment limitations require fewer than ten people.

D. Full-time adult farm management instructor. A full-time adult farm management instructor shall have a minimum enrollment of ~~42 cooperators, 30 of whom shall~~ cooperators representing not less than 42 farms, 30 farms of which shall be represented by cooperators who have been enrolled six years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

E. New adult farm management. When a district or center first offers instruction in adult farm management or when a new instructor is employed, the minimum enrollment of ~~42~~ cooperators representing 42 farms shall be reached within four years. After the first four years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

F. Part-time adult farm management instructor. An adult farm management instructor shall be employed at least 40 percent of full-time. The minimum enrollment in D. and E. shall be reduced proportionately for an instructor employed less than full-time. A fraction smaller than one-half shall be rounded down and a fraction of one-half or larger shall be rounded up to the nearest whole number.

G. Full-time business management instructor. A full-time small business management instructor shall have a minimum enrollment of 30 adults who have been enrolled three years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

H. New small business management. When a district or center first offers instruction in small business management or when a new instructor is employed, the minimum enrollment of 30 adults shall be reached within three years. After the first three years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

I. Variance for completion. The Commissioner of Education shall grant a variance from the enrollments required in D.-H. if the variance would allow enrollees to complete the instruction. The variance granted shall be only for the amount of time needed for enrollees to complete the instruction. No adults may begin instruction in adult farm management or small business management unless the number of adults beginning would be sufficient to meet the required minimum enrollments.

J. For the purposes of D., E., F., I., the term "cooperator" means a farm family, consisting of any number of natural persons, responsible for the management of a farm business.

~~J.~~ K. Account analysis. Eighty percent or more of the enrolled adults who have been enrolled in adult farm management or small business management for one year or more, from July 1 of any year, shall annually have an analysis of their farm or business accounts.

L. Any school district or center which desires to obtain a variance pursuant to C. or I. shall make a request for such a variance in writing addressed to the Commissioner of Education. The request may be in the form of a letter and shall identify the specific rule and subsection under which the variance is requested and shall state the facts which support the request. The Commissioner of Education shall issue a response in the form of a letter addressed to the school district or center not more than 15 days after the receipt of the request from the school district or center. If the request is denied, the affected school district or center may request a review by the State Board as set forth in 5 MCAR § 1.0115 H.

5 MCAR § 1.0115 Adult vocational aid.

A. District procedures. A district or center shall use the following procedures when requesting aid.

1. It shall authorize an administrator to represent it. The administrator shall hold a valid license as a superintendent, adult vocational director, AVTI director, or secondary vocational director.

2. It shall plan and submit the program and state aid budget request to the district school board or the center board. The board shall approve the program and the state aid budget request before submitting them to the department.

3. It shall submit the program and the state aid budget request by January 1 preceding the fiscal year in which aids are to be paid.

4. It may submit additional state aid budget requests for any moneys remaining after the initial budget approval dates designated in B.

5. It shall conduct the program for which aid is approved or return the aid.

6. It shall submit adult report forms by August 15 for the program that was conducted during the preceding state fiscal year.

B. Department procedures. The department shall approve or disapprove the program and state aid budget request by July 1 in odd numbered calendar years or by March 1 in even numbered calendar years.

C. Aid for personnel. The state shall pay 75 percent of salaries paid to essential licensed personnel and personnel exempt from licensure. Salaries for instructors, coordinators, administrators, specialists, guest lecturers and resource personnel as part of an approved program are eligible for aid if licensure requirements are met.

D. Administrative staff. A district or center is eligible for aid for one full-time equivalent adult vocational licensed administrative staff member if either of the following conditions are met.

1. The district or center enrolls 2,000 or more adults annually in approved programs. Adults enrolled in more than one program may be counted in each program in which they are enrolled.

2. The district or center provides supervision of all full-time adult instructors through the vocational administrator and maintains 2,500 instructional hours of part-time vocational education. Courses with full-time instructors may be counted as 200 instructional hours toward this requirement.

E. Additional administrative staff. A district or center is eligible for additional full-time equivalent administrative staff when increments of D.1. or 2. are met. If a district or center has less than a complete increment of D.1. or 2., it is eligible for proportionate additional part-time administrative staff.

F. Only the portion of time devoted to adult vocational-technical programs shall be eligible for aid.

G. Aid for travel. The state shall pay 50 percent of the cost of necessary travel between instructional sites for essential licensed personnel.

H. Review by the state board. If the Department disapproves a proposed adult vocational education course for purposes of being eligible for state aid pursuant to 5 MCAR § 1.0113, or if the Commissioner of Education denies a variance requested pursuant to 5 MCAR § 1.0114, the affected school district or center may, within 15 days of the date of the Department's or Commissioner's decision, as applicable, demand and shall be given an opportunity to present its position to the State Board of Education (State Board for Vocational Education) at the next regular meeting of the State Board of Education. For purposes of this section, the "next regular meeting of the State Board of Education" means the next regularly scheduled meeting of the State Board of Education occurring not less than 20 days after receipt by the Department or Commissioner of the school district or center's demand. The State Board may place reasonable restrictions on the length of time for the district or center to present its position. The Board may issue its decision at the meeting and shall, in any event, issue its decision no later than its next regularly scheduled Board meeting.

5 MCAR § 1.0116 Tuition and fees.

A. Determination. The district or center shall determine tuition and fees.

B. Nonresidents. The district or center may charge different tuition and fees to nonresidents of the district or state.

C. Individuals, employers and agencies. Tuition and fees may be charged to individuals, employers or agencies that sponsor enrollees.

D. Senior citizens. ~~The district or center may charge full, partial or no tuition or fees for people 62 years old or older at the beginning of a course not offered for credit.~~ Any charge made by the district or center of tuition or fees for people 62 years of age or older shall be consistent with Minn. Stat. §§ 136A.80-136A.81 as amended.

E. Special situations. An adult enrolled in a full-time adult farm management program for more than six years or a small business management program for more than three years shall be charged record analysis fees and hourly charges. The hourly charge shall be determined by dividing the total

direct cost of the program by the hourly assignment of the instructor. Direct cost is the sum of instructional staff salary and travel cost between instructional sites. A full-time adult farm management or small business management instructor load shall constitute 1200 contact hours.

5 MCAR § 1.0117 Nursing assistant program.

A. Curriculum, test and evaluation. A nursing assistant education program shall use the curriculum and test developed by the Commissioner of Education as reviewed and evaluated by the Board of Nursing. The program shall include an individual written or oral test and performance evaluation. The test shall be administered monthly by the department through area vocational-technical institutes or community colleges in accordance with instructions from the commissioner. The program shall be 30 hours of planned learning activities, exclusive of the evaluation. The commissioner may prescribe a fee for administration of the test not to exceed $30.

B. Definitions. In this rule the following terms have the meanings given them.

1. "Nursing assistant" means an individual working in or employed by a nursing home, including, but not limited to, a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of direct patient care services under the supervision of a registered nurse.

2. "Curriculum" means the aggregate of courses of study and planned learning activities developed by the Commissioner of Education.

3. "Successfully completed" means the attainment of 70 percent on the oral or written test and 70 percent on the performance evaluation.

4. "Supplemental nursing service" means an entity which recruits and employs nursing and ancillary health care personnel for temporary assignments to supplement the staff of health care institutions. It is not an employment agency but the employer of all such personnel assigned.

C. Technical assistance. Technical assistance provided by the Department of Education may include:

1. Training for instructors;

2. Utilization of the curriculum; and

3. Instructional materials.

D. Instructional staff qualifications. An instructor for an approved nursing assistant education program shall be:

1. A registered nurse with a least 2,000 hours of experience within the last five years, at least 500 hours of which must be in a geriatric or rehabilitation nursing setting; or

2. A licensed practical nurse who was teaching this course in a nursing home as of January 1, 1979 who continues to teach this course in that same facility as of January 1, 1982.

E. Exemptions. The following nursing assistants shall not be required to comply with the education requirements of Minn. Stat. §§ 144A.61 and 144A.611:

1. Nursing assistants who began employment in a nursing home on or before December 31, 1978, and who continue employment in the same nursing home in which they were employed on December 31, 1978;

2. Nursing assistants who successfully completed after January 1, 1976 a training program for nursing assistants employed in nursing homes which used a program approved by the Department of Education, unless employment has been interrupted for greater than five consecutive years;

3. Nursing assistants who successfully completed a state approved nursing education program which prepares an individual for licensure as a registered nurse or licensed practical nurse if the completion occurred no more than five calendar years prior to employment;

4. Persons who have successfully completed the individual oral or written test and performance evaluation, even though they had not taken the course;

5. Registered nurses or licensed practical nurses holding current licensure in Minnesota; and

6. Nursing assistants who began employment in a supplemental nursing service on or before December 31, 1978 and who continue employment in that same nursing service in which they were employed on or before December 31, 1978, and who have worked a minimum of 12 hours per week for that same supplemental nursing service in a nursing home prior to December 31, 1978. Supplemental nursing services shall provide to the Department of Health by January 15, 1979, a list of all nursing assistants employed by the supplemental nursing services who have worked 12 hours in a nursing home on or before December 31, 1978.

Effective Date. Rules 5 MCAR §§ 1.0111-1.0117 are effective for programs and courses approved after July 1, 1982.

Repealer. Rule 5 MCAR § 1.0112 G. is repealed. Rules 5 MCAR §§ 1.0113; 1.0114; 1.0115; and 1.0117, as they existed before the effective date of 5 MCAR §§ 1.0111-1.0117 above are repealed on the effective date of the new 5 MCAR §§ 1.0113; 1.0114; 1.0115; and 1.0117.

State Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Education Division

In the Matter of Proposed Adoption of Rules
of the State Board of Education
(State Board for Vocational Education)
Governing Criteria for Adult Vocational
Program Funding
5 MCAR §§ 1.0111-1.0117

ORDER ADOPTING
RULES

The above-entitled matter came on for hearing before Hearing Examiner Richard C. Luis on Friday, January 8, 1982 at 9:00 a.m. in Room 83 of the State Office Building, Wabasha Street between Aurora and Fuller Street, St. Paul, Minnesota. Proper notice was served upon all persons, associations and other interested groups registered with the State Board of Education (State Board for Vocational Education) and upon those who filed with the Department of Education for the purpose pursuant to Minnesota Statutes § 15.0412.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Criteria for Adult Vocational Program Funding, 5 MCAR §§ 1.0111-1.0117 are adopted this 12th day of April, 1982, pursuant to authority vested in the Board by Minnesota Statutes § 124.572, subd. 3.

STATE OF MINNESOTA

John J. Feda

John J. Feda, Secretary

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 Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Granting of Accredited Status and Withdrawal of Accredited Status

Notice is hereby given that the State Department of Education is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing accreditation. The promulgation of these rules is authorized by Minnesota Statutes, § 121.11, subd. 12 which permits the agency to promulgate rules governing procedures by which the State Department of Education shall address the conditions for granting or withdrawing accredited status from public post secondary institutions under the terms of a franchise with the U.S. Department of Education.

The State Department of Education requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Melvin E. Johnson
Minnesota State Department of Education
Room 548, Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 612-296-2421 and in person at the above address.

All statements of information and comment shall be accepted until August 17, 1981. Any written material received by the State Department of Education shall become part of the record in the event the Rules are promulgated.

June 30, 1981

Melvin E. Johnson, Manager
Operational Services Section

Department of Education
Vocational-Technical Education Division

Notice of Intent to Solicit Outside Opinion Regarding Rules Governing Criteria for Adult Program Funding

Notice is hereby given that the State Department of Education, Vocational-Technical Education Division is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing the criteria to be applied by the commissioner in approving funding of Adult Vocational Education programs. The promulgation of these rules is authorized by Minnesota Statutes, section 124.572, subdivision 3, which requires the state board to adopt criteria for program approval.

The State Department of Education, Vocational-Technical Education Division requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Ms. Sharon Grossbach
Division of Vocational-Technical Education
524 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-6516 and in person at the above address.

All statements of information and comment shall be accepted until August 21, 1981. Any written material received by the State Department of Education, Vocational-Technical Division shall become part of the record in the event that the rules are promulgated.

Board of Nursing

Notice of Intent to Solicit Outside Opinion Concerning Amendment of 7 MCAR § 5.1031 A.4. Pertaining to Continuing Education for Registered Nurses

Notice is hereby given that the Board of Nursing is considering amendment of a rule relating to continuing education required on or after August 1, 1986. The amendment would provide the detail necessary for the application of the rule.

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

Joyce M. Schowalter, RN
Executive Secretary
Minnesota Board of Nursing
717 Delaware St. SE
Minneapolis, MN 55414
Phone: 612/296-5493

Any written materials received will become part of the record.

July 6, 1981

Joyce M. Schowalter, RN
Executive Secretary

Minnesota Pollution Control Agency

Recommendation by the Director to Certify Proposed Solid Waste Disposal Sites in Dakota County as Intrinsically Suitable

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that an information gathering hearing concerning the intrinsic suitability of the proposed solid waste disposal sites in Dakota County will be held by the Minnesota Pollution Control Agency (MPCA) pursuant to Minnesota Laws of 1981, Chapter 352, § 41 on Wednesday, August 5, 1981, at the Farmington High School, 800 Denmark, Farmington, Minnesota, commencing at 10:00 a.m. An evening session will be held at 7:00 p.m., also on August 5, 1981, at the same location in order to provide an opportunity to participate to those who cannot attend the day session. If necessary, the hearing will be continued at 10:00 a.m. on August 6, 1981, at the same location and thereafter until adjournment.

The hearing will be held before Kent Roberts, 1745 University Avenue, St. Paul, Minnesota 55104 (telephone (612) 296-8112), a hearing examiner appointed by the chief hearing examiner of the State of Minnesota.

The procedures to be followed at this hearing will be published in the *State Register* on July 13, 1981. A copy of these procedures may also be obtained by contacting the MPCA at the address noted below.

Dakota County has provided to the MPCA data relating to the intrinsic suitability of five sites proposed for its solid waste disposal site inventory. The director of the MPCA has made a preliminary recommendation that these five sites be certified by the MPCA board as intrinsically suitable for their intended uses because they can reasonably be expected to qualify for MPCA permits assuming certain conditions are met.

State Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Education Division

In the Matter of the Proposed Adoption
of Rules of the State Board of Education
(State Board for Vocational Education)
Governing Criteria for Adult Vocational
Program Funding
5 MCAR §§ 1.0111-1.0117

ORDER FOR HEARING

IT IS ORDERED this 13th day of October, 1981, that a public hearing on the proposed rules captioned above be held in the State Office Building, Room 83, Auditorium, St. Paul, Minnesota on Friday, January 8, 1982, commencing at 9:00 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be 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
STATE BOARD OF EDUCATION

John J. Feda, Secretary

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, John J. Feda, do hereby certify that I am Secretary of the Board of Education (State Board for Vocational 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 (State Board for Vocational Education) duly and properly called and held on the 13th day of October, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that John J. Feda, Secretary of the Board of Education (State Board for Vocational Education), be and he hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Board governing the criteria to be applied by the Commissioner in approving funding of Adult Vocational Education Programs as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing as well as acting as the Board's representative at all hearings."
>
> IN WITNESS THEREOF, I have hereunto subscribed my name this 13th day of October, 1981.

John J. Feda
Secretary, State Board of Education
(State Board for Vocational Education)

Patricia A. Nelson
Member, State Board of Education
(State Board for Vocational Education)

State Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Education Division

In the Matter of Proposed Adoption of Rules
of the State Board of Education
(State Board for Vocational Education)
Governing Criteria for Adult Vocational
Program Funding
5 MCAR §§ 1.0111-1.0117

Notice of Hearing

A public hearing concerning the proposed rule will be held at the State Office Building, Room 83, Auditorium, 435 Park Street, St. Paul, Minnesota 55155 on January 8, 1982, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements will 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 Richard C. Luis, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8114 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. 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). If you have any questions about the procedure, call or write the hearing examiner.

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. The Statement of Need and Reasonableness will include a summary of all the evidence and arguments which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The purpose of the proposed rule amendment is to promulgate rules governing the criteria to be applied by the Commissioner in approving funding of Adult Vocational Education Programs.

The agency intends to present only a short summary of the Statement of Need and Reasonableness at the hearing, but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing.

The Board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 124.572, subd. 3, which requires the State Board to adopt criteria for program approval.

The Board estimates that there will be no cost to local bodies in the state to implement the rules for the two years immediately following the adoption within the meaning of Minn. Stat. § 15.0412, subd. 7.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Sharon Grossbach, Division of Vocational-Technical Education, 529 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. If you have any questions on the content of the proposed rules, contact Sharon Grossbach.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the Board. 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 Board, in the case of the Board'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 days after he or she commences lobbying. A lobbyist is defined in Minnesota Statute § 10A.01, subd. 11 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 one 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 communication 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.

State of Minnesota
State Board of Education

John J. Feda, Secretary

Date: October 13, 1981

State of Minnesota
Department of Education

State Board of Education
(State Board for Vocational Education)
Vocational-Technical Education Division

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Criteria for Adult Vocational Program Funding 5 MCAR §§ 1.0111-1.0117

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

I hereby certify that in addition to the Notice required for persons on the State Board of Education rulemaking mailing list, of persons who have specifically requested notice of rulemaking proceedings, a Notice was mailed to all persons on the Education Statistics memo series mailing list, as of 1 o'clock P.M., this 25th day of November, 1981, which includes school superintendents, Directors of ECSUs, AVTIs, Vocational Centers and Joint Powers Districts.

State Board of Education

John J. Finley
Commissioner of Education

Subscribed and sworn to before me
this 1 day of December,
1981.

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
(State Board for Vocational Education)
Vocational-Technical Education Division

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Criteria for Adult Vocational Program Funding 5 MCAR §§ 1.0111-1.0117

STATE OF MINNESOTA)
) ss.
County of Ramsey)

AFFIDAVIT OF MAILING

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

That on the 25th day of November, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations named on the certified list (see attached Certificate) who have requested that their names be placed on file with the Minnesota Department of Education for the purpose of receiving notice of the proposed adoption of rules by the State Board of Education.

Harold E Klecker

Subscribed and sworn to before me
this 1 day of December
1981.

Luana Vadnais

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

State of Minnesota
Department of Education

State Board of Education
(State Board for Vocational Education)
Vocational-Technical Education Division

STATE OF MINNESOTA

COUNTY OF RAMSEY

IN THE MATTER OF: The Proposed Adoption
of Rules of the State Board of Education
Governing Criteria for Adult Vocational
Program Funding 5 MCAR §§ 1.0111-1.0117

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the Minnesota Department of Education for the purpose of receiving notice of the proposed adoption of rules by the State Board of Education is accurate and complete as of 1 o'clock P.M. this 24th day of November, 19 81.

STATE BOARD OF EDUCATION

By Linda Elberg

State Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Education Division

Proposed Rules Governing Criteria for Adult Vocational Program Funding (5 MCAR §§ 1.0111-1.0117)

Notice of Hearing

A public hearing concerning the proposed rule will be held at the State Office Building, Room 83, Auditorium, 435 Park Street, St. Paul, Minnesota 55155 on January 8, 1982, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements will 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 Richard C. Luis, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8114 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. 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). If you have any questions about the procedure, call or write the hearing examiner.

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. The statement of need and reasonableness will include a summary of all the evidence and arguments which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The purpose of the proposed rule amendment is to promulgate rules governing the criteria to be applied by the commissioner in approving funding of Adult Vocational Education Programs.

The agency intends to present only a short summary of the statement of need and reasonableness at the hearing, but will answer questions raised by interested persons. You are therefore urged to review the statement of need and reasonableness before the hearing. Additional copies will be available at the hearing.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 124.572, subd. 3, which requires the state board to adopt criteria for program approval.

The board estimates that there will be no cost to local bodies in the state to implement the rules for the two years immediately following the adoption within the meaning of Minn. Stat. § 15.0412, subd. 7.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Sharon Grossbach, Division of Vocational-Technical Education, 529 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. If you have any questions on the content of the proposed rules, contact Sharon Grossbach.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the Board. 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 board, in the case of the board'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 days after he or she commences lobbying. A lobbyist is defined in Minnesota Statute § 10A.01, subd. 11 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 one 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 communication 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.

October 13, 1981

John J. Feda, Secretary

Rules as Proposed

5 MCAR § 1.0111 Scope. ~~These~~ Rules 5 MCAR §§ 1.0111-1.0117 govern the operation of adult vocational-technical programs offered by ~~the public schools of Minnesota.~~ a school district or cooperative center ~~desiring to offer adult vocational-technical programs~~ for which state aids are ~~to be received shall be in compliance with these rules~~ paid.

5 MCAR § 1.0112 ~~Instructional program approval~~ Program criteria. An adult vocational-technical program shall meet the following ~~requirements shall apply~~ criteria to ~~all requests for initial and annual program approval. Only~~ be approved ~~programs can be a part of the district's budget request~~ as eligible for state aid.

A. Enrollees. ~~An overall adult vocational-technical advisory committee or program advisory committees for each occupational area shall be maintained which shall meet one or more times a year. Nothing shall prevent a district or center from having both. Local school personnel shall not be members of advisory committees within the district or center except as ex officio nonvoting members~~ The enrollees shall have completed or terminated secondary school. They shall be at least 16 years old.

B. Instructor licensure. For the purpose of B., instructor includes a specialist, a guest lecturer and a resource person. ~~Instructional staff~~ An instructor shall hold a valid adult vocational-technical license in the area ~~for which aid is claimed~~ taught. ~~Adult instructors serving over~~ An instructor who teaches more than 500 clock hours ~~on an annual basis~~ annually shall meet full-time adult licensure requirements or post-secondary licensure requirements in the area taught if full-time adult licensure requirements do not exist. An instructor who teaches six hours or less in three consecutive months is not required to hold a license.

C. Administrative services. Administrative services shall be provided to administer the adult vocational-technical program needs.

D. Advisory committee. ~~Part-time programs shall have an enrollment of ten or more enrollees per program. When more than one program section is in operation, enrollment shall average ten or more enrollees~~ The district or center shall have either an adult vocational-technical advisory committee or program advisory committees for each occupational area in which courses are offered. A district or center may have both types of committees. A committee shall meet at least once a year. District or center employees shall not be voting members of the advisory committees in the district or center in which they are employed but may serve as ex officio nonvoting members.

E. Evaluation. ~~Programs with full time adult enrollees shall meet the following criteria:~~ The district or center shall conduct an annual evaluation.

~~1. Shall employ a minimum of a 40 percent instructor.~~

~~2. Adult farm management shall have a minimum enrollment of 42 cooperators, 30 of whom shall have been enrolled six years or less. When more than one adult farm management education program is operated within a district, enrollment shall average 42 or more. Eighty percent or more of the cooperators who have been enrolled for one full year or more, as measured from July 1 of any calendar year, shall have an annual analysis of their farm accounts. For programs not meeting the minimum enrollment prior to July 1, 1982, school districts shall apply annually to the commissioner of education for an exception. This exception shall be granted if:~~

~~a. An exception would allow enrolled cooperators to complete their program of education, or,~~

~~b. The instructional quality and efficiency would be improved by the exception.~~

~~3. New programs in adult farm management or an existing program with a new instructor shall reach minimum~~

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~~enrollment of 42 enrollees within four years. For programs not meeting the minimum requirements school districts shall apply annually to the commissioner of education for an exception to this rule which shall be granted if the school district provides evidence that:~~

~~a. An exception would allow enrolled cooperators to complete their program of education, or~~

~~b. The instructional quality and efficiency would be improved by the exception.~~

~~4. Small business management education programs shall have a minimum enrollment of 30 enrollees who have been enrolled three years or less. Eighty percent or more of the persons who have been enrolled for one full year or more, as measured from July 1 of any calendar year, shall have an annual analysis of their business accounts. For programs not meeting the minimum enrollment prior to July 1, 1981, school districts shall apply annually to the commissioner of education for an exception. This exception shall be granted if:~~

~~a. An exception would allow enrolled cooperators to complete their program of education, or,~~

~~b. The instructional quality and efficiency would be improved by the exception.~~

~~5. New programs in adult small business management or an existing program with a new instructor shall have 3 years to reach minimum enrollment as specified in E.4. above. For programs not meeting the minimum requirements school districts shall apply annually to the commissioner of education for an exception to this rule which shall be granted if the school district provides evidence that:~~

~~a. An exception would allow enrolled cooperators to complete their program of education, or,~~

~~b. The instructional quality and efficiency would be improved by the exception.~~

~~6. Full-time adult education programs except adult farm management and small business management shall have a minimum student enrollment of 14.~~

F. Review by accrediting body. ~~When an existing program does not meet the minimum enrollment, the program shall be placed on probation for one year~~ If a program is subject to review by a national or state accrediting body, the district or center shall notify the Department of Education of the review date at least 30 days before the review. The district or center shall copy all information supplied to the accrediting body and retain the copies.

5 MCAR § 1.0113 Course criteria, procedures and priorities. For purposes of this rule, a course includes an adult vocational course, workshop or instructional services.

A. Course criteria. A course shall meet one or more of the following criteria to be approved as eligible for state aid.

1. The course is vocational in nature. Courses which train, retrain or upgrade adults for paid employment in agriculture, businesses, offices, marketing, distribution, health occupations, trades, industries, technical occupations, and service occupations are vocational in nature. Courses in which adults are pursuing avocational or leisure time activities or hobbies are not vocational in nature.

2. The course trains, retrains or upgrades adults who are responsible for public health and safety even if the adults are not financially compensated for the services.

3. The course trains, retrains or upgrades adults in occupational areas which have employment opportunities.

4. The course trains, retrains or upgrades adults in response to area or state businesses.

5. The course trains, retrains or upgrades adults to own, operate or manage a business or farm.

6. The course trains, retrains or upgrades adults for occupations in a particular business if the skills and knowledge taught are transferable to other businesses.

7. The course teaches consumer skills, resource management, nutrition, parent, individual, and family development, and the care and nurturing of children. Home crafts, home cooking and home sewing courses are not eligible.

8. The course trains, retrains or upgrades adults who are required to meet local, state, or federal government standards to enter or maintain an occupation.

9. The course has been offered in the past and has been determined by the community to be successful in meeting occupational or public service needs.

10. The course provides specialized assistance for disadvantaged persons preparing for economic self-sufficiency when those persons are also enrolled or plan to become enrolled in vocational courses.

11. The course is economical and efficient either as calculated per student, per student per hour, per employer, per family business or when necessary specialized equipment is available at low cost or no cost through a business or school.

12. The course provides training in new technology or new equipment and enables adults to retain their present employment.

B. List of approved courses. The Department of Education shall make available to districts and centers a list of course descriptions that meet the criteria in A.

C. Prior written approval. A district or center shall not offer a course which is not on the list if it intends to claim state aid unless the district or center has obtained prior written approval for that fiscal year from the department. The department shall approve or disapprove a course within 30 days after it receives a complete, written request for approval.

D. Course selections and priorities. When moneys available for adult vocational-technical education are insufficient to fund all the courses and services desired, the district or center shall develop and maintain a breadth of course selections. The department shall review course selections to assure that breadth is developed and maintained throughout the state. The department shall give priority to the following when it approves courses for funding:

1. Courses addressing needs of adults who are currently unemployed or employed in unskilled, low-paying positions and who have potential for employment in more highly skilled, higher paying positions;

2. Courses which are planned, coordinated, and jointly offered with other districts, public or nonpublic agencies or organizations;

3. Programs mandated by the Legislature, if any; and

4. Courses likely to improve the economy of the community, area or state by attracting or expanding business.

5 MCAR § 1.0114 General and special requirements.

A. Applicability. The requirements of B. and C. apply to courses other than adult farm management and small business management. The provisions of D.-J. apply to adult farm management and small business management.

B. Minimum enrollment. A course shall have at least ten people enrolled for vocational purposes to be eligible for state aid. If more than one section of a course is offered, the average enrollment shall be at least ten.

C. Variance. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance. The commissioner shall grant a variance when:

1. The course is required by law;

2. Fewer than ten people need specialized training to become employed;

3. Fewer than ten people need specialized services to prepare for economic self-sufficiency; or

4. Equipment limitations require fewer than ten people.

D. Full-time adult farm management instructor. A full-time adult farm management instructor shall have a minimum enrollment of 42 cooperators, 30 of whom shall have been enrolled six years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

E. New adult farm management. When a district or center first offers instruction in adult farm management or when a new instructor is employed, the minimum enrollment of 42 cooperators shall be reached within four years. After the first four years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

F. Part-time adult farm management instructor. An adult farm management instructor shall be employed at least 40 percent of full-time. The minimum enrollment in D. and E. shall be reduced proportionately for an instructor employed less than full-time. A fraction smaller than one-half shall be rounded down and a fraction of one-half or larger shall be rounded up to the nearest whole number.

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G. Full-time business management instructor. A full-time small business management instructor shall have a minimum enrollment of 30 adults who have been enrolled three years or fewer. If the minimum enrollment is not met, the district or center shall apply to the Commissioner of Education for a variance.

H. New small business management. When a district or center first offers instruction in small business management or when a new instructor is employed, the minimum enrollment of 30 adults shall be reached within three years. After the first three years, the district or center shall apply to the Commissioner of Education for a variance if the minimum enrollment is not met.

I. Variance for completion. The Commissioner of Education shall grant a variance from the enrollments required in D.-H. if the variance would allow enrollees to complete the instruction. The variance granted shall be only for the amount of time needed for enrollees to complete the instruction. No adults may begin instruction in adult farm management or small business management unless the number of adults beginning would be sufficient to meet the required minimum enrollments.

J. Account analysis. Eighty percent or more of the enrolled adults who have been enrolled in adult farm management or small business management for one year or more, from July 1 of any year, shall annually have an analysis of their farm or business accounts.

5 MCAR § 1.0115 Adult vocational aid.

A. District procedures. A district or center shall use the following procedures when requesting aid.

1. It shall authorize an administrator to represent it. The administrator shall hold a valid license as a superintendent, adult vocational director, AVTI director, or secondary vocational director.

2. It shall plan and submit the program and state aid budget request to the district school board or the center board. The board shall approve the program and the state aid budget request before submitting them to the department.

3. It shall submit the program and the state aid budget request by January 1 preceding the fiscal year in which aids are to be paid.

4. It may submit additional state aid budget requests for any moneys remaining after the initial budget approval dates designated in B.

5. It shall conduct the program for which aid is approved or return the aid.

6. It shall submit adult report forms by August 15 for the program that was conducted during the preceding state fiscal year.

B. Department procedures. The department shall approve or disapprove the program and state aid budget request by July 1 in odd numbered calendar years or by March 1 in even numbered calendar years.

C. Aid for personnel. The state shall pay 75 percent of salaries paid to essential licensed personnel and personnel exempt from licensure. Salaries for instructors, coordinators, administrators, specialists, guest lecturers and resource personnel as part of an approved program are eligible for aid if licensure requirements are met.

D. Administrative staff. A district or center is eligible for aid for one full-time equivalent adult vocational licensed administrative staff member if either of the following conditions are met.

1. The district or center enrolls 2,000 or more adults annually in approved programs. Adults enrolled in more than one program may be counted in each program in which they are enrolled.

2. The district or center provides supervision to all full-time adult instructors through the vocational administrator and maintains 2,500 instructional hours of part-time vocational education. Courses with full-time instructors may be counted as 200 instructional hours toward this requirement.

E. Additional administrative staff. A district or center is eligible for additional full-time equivalent administrative staff when increments of D.1. or 2. are met. If a district or center has less than a complete increment of D.1. or 2., it is eligible for proportionate additional part-time administrative staff.

F. Only the portion of time devoted to adult vocational-technical programs shall be eligible for aid.

G. Aid for travel. The state shall pay 50 percent of the cost of necessary travel between instructional sites for essential licensed personnel.

5 MCAR § 1.0116 Tuition and ~~attributable costs:~~ fees.

A. Determination. The ~~school~~ district or center shall determine tuition and fees ~~except where cited below~~.

B. Nonresidents. ~~Differential tuition rates may be charged for nonresidents versus residents of a district~~ The district or center may charge different tuition and fees to nonresidents of the district or state.

C. Individuals, employers and agencies. ~~Attributable costs for individuals enrolled in a full-time adult farm management education program for more than six years, or a small business management education program for more than three years, shall be charged on an hourly basis. The hourly charge shall be determined by dividing the total direct cost of the program by the hourly assignment of the instructor. A full-time instructor load shall constitute 1200 contact hours. Record analysis fees are in addition to attributable costs~~ Tuition and fees may be charged to individuals, employers or agencies that sponsor enrollees.

D.Senior citizens. ~~Direct costs shall be determined by the sum of costs for instructional staff salary and travel between instructional sites~~ The district or center may charge full, partial or no tuition or fees for people 62 years old or older at the beginning of a course not offered for credit.

E. Special situations. An adult enrolled in a full-time adult farm management program for more than six years or a small business management program for more than three years shall be charged record analysis fees and hourly charges. The hourly charge shall be determined by dividing the total direct cost of the program by the hourly assignment of the instructor. Direct cost is the sum of instructional staff salary and travel cost between instructional sites. A full-time adult farm management or small business management instructor load shall constitute 1200 contact hours.

5 MCAR § 1.0117 Nursing assistant program.

A. Curriculum, test and evaluation. A nursing assistant education program shall use the curriculum and test developed by the Commissioner of Education as reviewed and evaluated by the Board of Nursing. The program shall include an individual written or oral test and performance evaluation. The test shall be administered monthly by the department through area vocational-technical institutes or community colleges in accordance with instructions from the commissioner. The program shall be 30 hours of planned learning activities, exclusive of the evaluation. The commissioner may prescribe a fee for administration of the test not to exceed $30.

B. Definitions. In this rule the following terms have the meanings given them.

1. "Nursing assistant" means an individual working in or employed by a nursing home, including, but not limited to, a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of direct patient care services under the supervision of a registered nurse.

2. "Curriculum" means the aggregate of courses of study and planned learning activities developed by the Commissioner of Education.

3. 'Successfully completed" means the attainment of 70 percent on the oral or written test and 70 percent on the performance evaluation.

4. "Supplemental nursing service" means an entity which recruits and employs nursing and ancillary health care personnel for temporary assignments to supplement the staff of health care institutions. It is not an employment agency but the employer of all such personnel assigned.

C. Technical assistance. Technical assistance provided by the Department of Education may include:

1. Training of instructors;

2. Utilization of the curriculum; and

3. Instructional materials.

D. Instructional staff qualifications. An instructor for an approved nursing assistant education program shall be:

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1. A registered nurse with at least 2,000 hours of experience within the last five years, at least 500 hours of which must be in a geriatric or rehabilitation nursing setting; or

2. A licensed practical nurse who was teaching this course in a nursing home as of January 1, 1979 who continues to teach this course in that same facility as of January 1, 1982.

E. Exemptions. The following nursing assistants shall not be required to comply with the education requirements of Minn. Stat. §§ 144A.61 and 144A.611:

1. Nursing assistants who began employment in a nursing home on or before December 31, 1978, and who continue employment in the same nursing home in which they were employed on December 31, 1978;

2. Nursing assistants who successfully completed after January 1, 1976 a training program for nursing assistants employed in nursing homes which used a program approved by the Department of Education, unless employment has been interrupted for greater than five consecutive years;

3. Nursing assistants who successfully completed a state approved nursing education program which prepares an individual for licensure as a registered nurse or licensed practical nurse if the completion occurred no more than five calendar years prior to employment;

4. Persons who have successfully completed the individual oral or written test and performance evaluation, even though they had not taken the course;

5. Registered nurses or licensed practical nurses holding current licensure in Minnesota; and

6. Nursing assistants who began employment in a supplemental nursing service on or before December 31, 1978 and who continue employment in that same nursing service in which they were employed on or before December 31, 1978, and who have worked a minimum of 12 hours per week for that same supplemental nursing service in a nursing home prior to December 31, 1978. Supplemental nursing services shall provide to the Department of Health by January 15, 1979, a list of all nursing assistants employed by the supplemental nursing services who have worked 12 hours in a nursing home on or before December 31, 1978.

Effective Date. Rules 5 MCAR §§ 1.0111-1.0117 are effective for programs and courses approved after July 1, 1982.

Repealer. Rule 5 MCAR § 1.0112 G. is repealed. Rules 5 MCAR §§ 1.0113; 1.0114; 1.0115; and 1.0117, as they existed before the effective date of 5 MCAR §§ 1.0111-1.0117 above are repealed on the effective date of the new 5 MCAR §§ 1.0113; 1.0114; 1.0115; and 1.0117.

State Board of Education
Department of Education
Department of Public Safety

Proposed Rules of the State Board of Education and Rules of the Department of Public Safety Governing Qualifications of School Bus Drivers

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Board of Education and the Department of Public Safety are proposing to adopt the above entitled rules without a public hearing. The State Board of Education and the Commissioner of Public Safety have determined that the proposed adoption of these rules will be noncontroversial in nature and have elected to follow procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed rules, a copy of which is attached, clarifies the school bus drivers endorsement, testing requirements, control of diabetes, and renewal requirements.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to either the Department of Education or the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA BOARD OF EDUCATION
(STATE BOARD FOR VOCATIONAL EDUCATION)

In the Matter of Proposed Rules Governing
Criteria for Adult Vocational Program Funding
(5 MCAR §§ 1.0111 - 1.0117)

REPORT OF THE
HEARING EXAMINER

On October 13, 1981, the Minnesota Board of Education (State Board for Vocational Education), hereinafter "Board" passed a resolution authorizing its Secretary, John J. Feda, Commissioner of the Minnesota Department of Education, to issue an Order for and Notice of the Hearing in the above-entitled matter. Pursuant to the Order for and Notice of Hearing accordingly issued by Secretary-Commissioner Feda on October 13, 1981, this matter came on for hearing before Richard C. Luis, duly appointed as Hearing Examiner by the Chief Hearing Examiner, at 9:00 a.m. on Friday, January 8, 1982, in Room 83 of the State Office Building, Wabasha Street between Aurora and Fuller Streets, St. Paul, Minnesota. This Report is part of a rulemaking process conducted pursuant to Minn. Stat. Chapter 15 to determine whether the Board should adopt proposed 5 MCAR §§ 1.0111-1.0117, which amend, clarify, repeal in part, and add certain new standards to existing 5 MCAR §§ 1.0111-1.0117 governing criteria for adult vocational program funding.

Charles T. Mottl, Special Assistant Attorney General, 1100 Bremer Tower, Seventh Place and Minnesota Street, St. Paul, Minnesota 55101, appeared as counsel for the Board. The Board's panel included Mary Thornton Phillips, Assistant Commissioner, Vocational-Technical Education, Minnesota Department of Education (hereinafter "Department"), the executive arm of the Board, Sharon Grossbach, Manager of Adult Vocational Education for the Department, and Janice Templin, Adult Program Supervisor for the Department. Sixteen persons signed the hearing register, and five members of the public spoke at the hearing.

The Board of Education (Board of Vocational Education) must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d (1980), this Report has been submitted to the Chief Hearing Examiner for his approval. If the Chief Hearing Examiner approves the findings of this Report, he will advise the Board of actions which will correct the defects and the Board may not adopt the rule until the Chief Hearing Examiner determines that the defects have been corrected. However, in those instances where the Chief Hearing Examiner identifies defects which relate to the issues of need or reasonableness, the Board may either adopt the Hearing Examiner's recommendations to cure the defects or, in the alternative, if the Board does not elect to adopt the recommendations, it may submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment. Provisions relating to this submission to the Commission may be found in Minn. Stat. § 15.0412, subd. 4d (1980).

If the Board elects to adopt the recommendations of the Hearing Examiner and makes no other changes and the Chief Hearing Examiner determines that the defects have been corrected, then the Board shall submit the rule to the Attorney General for review of form and legality. If the Board makes changes in the rule other than those recommended by the Hearing Examiner, then it shall submit the rule, with the complete record, to the Chief Hearing Examiner for a review of the changes before adopting it and submitting it to the Attorney General. Procedures relating to this subsequent review by the Chief Hearing Examiner are set forth in Minn. Stat. § 15.0412, subd. 4e (1980).

When the Board submits the rule to the Attorney General, it shall give notice on the day of submission to all persons who requested that they be informed of the submission to the Attorney General.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On October 16, 1981, the Board filed the following documents with the Chief Hearing Examiner:

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

2. On November 30, 1981, a Notice of Hearing and a copy of the proposed rules were published at 6 State Register 1050.

3. On November 25, 1981, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Board for the purpose of receiving such notice.

4. On December 10, 1981, the Board filed the following documents:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Board's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Board personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.
(g) An Affidavit of Additional Notice.
(h) All materials received following a Notice of Intent to Solicit Outside Opinion published at 6 State Register 82 on July 20, 1981.

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

5. The record remained open through January 22, 1982 for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner.

Statutory Authority and Discussion

6. The Board cites Minn. Stat. § 124.572. subd. 3, as authority for adoption of the proposed rules. Minn. Stat. § 124.572, subd. 3 (1981 Supp.) reads:

> Subd. 3. This aid shall be paid only for services rendered or for travel costs incurred in adult vocational education programs approved for funding by the commissioner of education.

> Rules shall be adopted by the state board providing criteria to be applied by the commissioner in appoving programs for funding pursuant to this section including: economic impact of the program, legislative mandate for the program, employment opportunities in the occupational area, and proven contribution of the program. All programs shall be operated in accordance with rules promulgated by the state board. These rules shall provide minimum student-staff ratios required for an adult vocational education program to qualify for this aid. Rules relating to adult vocational education programs shall not incorporate the provisions of the state plan for vocational education by reference.

The Hearing Examiner finds that the Board has documented its general statutory authority to adopt proposed 5 MCAR §§ 1.0111-1.0117.

7. Proposed 5 MCAR §§ 1.0111-1.0117 essentially replace the rules having the same State Register designations currently in effect. The discussion which follows proceeds from the posture that the Board is proposing an entirely new set of rules for adoption. For purposes of organization, and in an effort to enhance clarity, individual proposals will be discussed, as much as possible, in sequential order as they appear in the proposed new rules. Any provisions of the rules as finally proposed which are not specifically discussed below are found to be necessary and reasonable, and have been adequately supported by an affirmative presentation of facts in the record.

Section 1.0111 - Scope

8. The proposed section is substantively the same as the current § 1.0111. The language has been re-written for clarity purposes. It is found that the proposed section's need and reasonableness have been demonstrated by an affirmative presentation of facts in the record.

Section 1.0112 - Program Criteria

9. The proposed Section is, with the exceptions noted below, substantively the same as the present rule. The language has been re-written for clarity. The Hearing Examiner finds that the proposed section is needed and reasonable, and that this has been proven by the Board with an affirmative presentation of facts in the record, except as noted below.

10. Additional language is proposed for subsection 1.0112 B. in order to comply with the mandate of Minn. Stat. § 125.031 (1980), which exempts from a license requirement any ". . . person who teaches in an adult vocational-technical education program not more than six hours per quarter . . .". The Hearing Examiner finds that the proposed rule's use of the language "three consecutive months" rather than a "quarter" in the last sentence of the proposed subsection does not violate the statute, since the administrative decision to so quantify the concept of a "quarter" as it is used in the academic world has a rational basis.

It is noted, however, that the language proposed is more restrictive than the statute which it purports to accommodate. The language used in the statute implies that licensure is not required for a person who teaches less than the six hours per quarter in <u>any</u> given program, which in turn implies that any individual who teaches less than the requisite number of hours in any number of individual programs is exempt from licensure. The proposed language, however, implies required licensure for any one who teaches in any number of vocational-technical programs more than six hours <u>total</u> in any three-month period, no matter whether that person does not teach more than six hours in any individual program. The purpose of the statute is remedial - to make it

possible for local programs to gain specialized information from individuals who are not otherwise teachers but who are knowledgeable in technical fields. For example, the statute would allow a medical doctor with a particular specialty to "guest lecture" to any number of individual medical receptionist or nursing assistant programs without a vocational-technical teaching license so long as the doctor teaches no more than six hours in any one program. The rule, as proposed, would require licensure for that doctor if he or she taught more than six hours total within three months anywhere within the State's vocational-technical system. The Board has no authority to enact a rule which conflicts with or is contrary to the language of the statute or legislative intent upon which it is based, and it is found that the last sentence of proposed 5 MCAR § 1.0112 B. violates that principle. See, Can Manufacturers' Institute, Inc. v. State, 289 N.W.2d 416 (Minn. 1979), and Buhs v. State, 306 N.W.2d 127, 131 (Minn. 1981). Therefore, the proposed subsection cannot be adopted at this time. This defect can be corrected by withdrawal of the subsection's last sentence or by re-writing the sentence to conform with legislative intent. It is suggested that the adopted language read:

so amended p. 1

> "An instructor who teaches six hours or less in three consecutive months in any individual program is not required to hold a license in order to teach in that program."

11. Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d, the finding of no statutory authority with respect to the final sentence of proposed 5 MCAR § 1.0112 B. has been submitted to the Chief Hearing Examiner for his approval. In the event that the Chief Hearing Examiner overrules that Finding, it is further found that the final sentence of proposed subsection 1.0112 B. is ambiguous and therefore cannot be adopted because it violates substantive provisions of law. See, Minn. Stat. § 15.0411, subd. 3 (1980), which defines "rule", in part, as "every agency statement . . . made to implement or make specific the law enforced or administered . . ." (Emphasis supplied). The ambiguity lies in the fact that it is unclear from reading the rule whether an instructor is exempt from licensure if, during any consecutive three-month period, he or she teaches less than six hours, even if that person teaches more than six hours in any other consecutive three-month period. This defect can be remedied by withdrawal of the subsection's last sentence or by re-writing the subsection in the manner suggested in Finding of Fact No. 10.

12. In response to a concern raised at the hearing, the Department proposed, in its final submission prior to the close of the record, to add the following language after proposed 5 MCAR § 1.012 E. as originally published in the State Register:

> ". . . the evaluation shall be based on the following concepts:
> (a) planning and development;
> (b) needs assessment;
> (c) diversity of offerings;
> (d) management; and
> (e) program operations."

added p. 2.

It is found that the proposed additional language is needed and reasonable because it will assist local school districts and vocational education centers in identifying standards to use in their self-evalation and will also provide state-wide uniformity from district to district as to what standards are to be used for the required evaluation. It is further found that the additional language constitutes a clarification of, and not a substantial change from, the

originally-published subsection. It is also noted that the Department is in the process of developing a "model instrument" to assist school districts and vocational education centers in the preparation of the required evaluation, which instrument is intended to apply the proposed standards.

Section 1.0113 - Course Criteria, Procedures and Priorities.

13. The Department's Statement of Need and Reasonableness, as introduced into the record of this proceeding at the hearing, adequately supports the need for and reasonableness of the course criteria enumerated at subsections 1.0113 A.1.-12. as originally published in the State Register. It is found that the Board has established the need for and reasonableness of these subsections by an affirmative presentation of facts in the record, and that portion of the Department's Statement of Need and Reasonableness regarding subsections 1.0113 A.1.-12. is hereby incorporated by reference into this Report.

14. In response to a suggestion made at the hearing by David Kingsbury, a member of the Minnesota State Advisory Council for Vocational Education, the Department proposed an amendment to subsection 1.0113 A.10. in its final submission prior to the close of the record. The amendment substitutes the words "persons with special needs who are" for "disadvantaged persons" in the originally-published rule, and adds the following sentence:

> "The term 'persons with special needs' includes but is not limited to persons who are disadvantaged, handicapped or have limited English proficiency".

✓ p. 3

It is found that the inclusion of the proposed additional language is not a substantial change from the rule as published in the State Register, but merely a clarification. It is further found that the subsection, as amended, is necessary and reasonable (Tr. pp. 30-37).

15. Subsections 1.0113 B. and C. are necessary, respectively, to assist local management personnel in the planning process, and in order to establish a system whereby courses not offered on a regular basis can be approved as eligible for aid under the 12 criteria set out in subsection 1.0113 A.1.-12. Subsection B. is reasonable because it provides an expedient method for obtaining state approval, and subsection C. is reasonable in order that unique approaches to meeting some of the above-referenced 12 criteria can be used for approval of funding. These subsections are found to be needed and reasonable as originally published.

16. Ed Hill and Jerry Johnson of the Dakota County Area Vocational-Technical Institute each wrote to express concern over the potential of being "locked-in" by past practices, good or bad, if subsection 1.0113 A.9. is adopted. The Department does not share this concern, and the Hearing Examiner agrees with the Department. One of the mandates of Minn. Stat. § 124.572, subd. 3, is that vocational program funding rules consider the "proven contribution" of each program, and the subsection in question meets that mandate. It is suggested, however, that the subsection's language could be clarified by adding a definition of "public service needs" or "public service". The Department, in response to Mr. Hill's concern that the term "public service" was too broad, stated in its final submission that "public service" means public health and safety. While the Hearing Examiner believes that this meaning of "public service" is understood by the general population, the addition of a definition so stating would not be a substantial change, and, if adopted, would be necessary and reasonable.

added p. 3

17. With respect to subsections 1.0113 B. and C., Jerry Johnson proposed that they should not be adopted because their implementation will result in additional administrative costs, involving processing written approval requests, and because the response time involved with obtaining approval for a new course may result in a "drop-out" of otherwise interested students. It is the conclusion of the Hearing Examiner that such results, while not ideal, are simply part of the price to be paid for retaining a necessary and reasonable control over the spending of public funds.

18. Subsection 1.0113 D. sets up considerations which are to be given "priority" by the Department in deciding which courses to approve when monies are not available to fund all courses that would otherwise meet established criteria. The subsection is found to be necessary and the criteria selected for "priority" consideration are found to be reasonable. It is noted that the Department did not intend for any of the four "priorities" listed to have greater weight than any other "priority" (Tr. p. 71). It is suggested that this be so stated in the rule as finally adopted in order to avoid a question of whether one "priority" should take precedence over any or all of the rest. Such a clarification would not be a substantial change, and, if adopted, is found to be necessary and reasonable. clarified p. 4

Section 1.0114 - General and Special Requirements.

19. Section 1.0114 is essentially a re-writing and clarification of existing requirements, which are in place in an effort to assure the cost effectiveness of the funded programs. The section generally sets out minimum enrollment requirements and student-instructor ratios. It is found that the need for and reasonableness of this section, as originally published, has been established by the Department in its Statement of Need and Reasonableness relating to this section, and that portion of the Statement of Need and Reasonableness is hereby incorporated by reference herein, except as specified below.

20. Although a reading of § 1.0114 makes it apparent, it is suggested that it be made clear in subsection 1.0114 A. that subsections B. and C. apply only to courses other than adult farm management and small business management, whereas, subsections D. through K. apply to those two specific areas, only. Such a change would be editorial and clarifying, not substantial in nature. If the Department adopts the suggestion, the subsection so adopted is found to be necessary and reasonable. Even if this suggestion is not adopted, it is found that subsection 1.0114 A., as originally published, is necessary and reasonable. so clarified p. 4

21. In its final submission prior to the close of the record, the Department amended subsections 1.0114 C.1. and 2. by adding the word "or" after the semicolons at the end of each subsection as originally published. This amendment is editorial and clarifying in nature, and not a substantial change. However, the variance process provided, in subsection 1.0114 C. as finally proposed and as finally published, violates substantive provisions of law. Specifically, Minn. Stat. § 15.0412, subd. 1a, provides, in relevant part: so added p. 4

> ". . . Before any agency grants a variance, it shall have promulgated rules setting forth procedures and standards by which variances shall be granted and denied."

While the subsection in question sets forth standards to be used in deciding whether to grant or deny a variance, it fails to establish a procedure whereby

the reader is able to tell how to apply for a variance, or how and when the applicant will be notified of the Board's decision. Absent such procedural rules, the Board may not adopt the variance procedure. In order to cure this defect, the Board must adopt rules setting forth procedures to be used in the granting of and denial of variance applications. It cannot simply withdraw the variance subsection because such action would constitute a substantial change from the rules as originally published, which held out a representation to all interested parties that variances to minimum enrollment requirements would be possible.

22. Subsections 1.0114 D., E., G., and H. contain, in part, provisions for variances from minimum enrollment requirements for adult farm management and business management programs. Subsection 1.0114 I., entitled "Variance for Completion", sets up standards to be used in deciding whether or not to grant or deny these variances, but fails to establish a procedure whereby it is evident how to apply for a variance, or how and when the applicant will be notified of the decision. For the same reasons as identified in Finding of Fact No. 20, subsection 1.014 I. cannot be adopted as proposed because it violates substantive provisions of law. In order to cure this defect, the Board must adopt rules setting forth procedures to be used in the granting and denial of variance applications. It would be a substantial change to simply withdraw the variance provisions for these subsections, for the same reason as specified in the above Finding of Fact.

23. Pursuant to a suggestion made at the hearing, the Department has added a definition of the term "cooperators" as it is used in originally-published 5 MCAR §§ 1.0114 D. and E. The new definition, which would constitute new subsection 1.0114 K., reads:

> For the purposes of D. - K., the term "cooperator" shall mean a farm family, consisting of any number of natural persons, responsible for the management of a farm business.

In addition, the final complete sentences of subsections 1.0114 D. and E., would read:

> D. . . . A full-time adult farm management instructor shall have a minimum enrollment of cooperators representing not less than 42 farms, 30 farms of which shall be represented by cooperators who have been enrolled six years or fewer. . . .

> E. . . . When a district or center first offers instruction in adult farm management, or when a new instructor is employed, the minimum enrollment of cooperators representing 42 farms shall be reached within four years. . . .

These changes are found to be necessary and reasonable clarifications and not substantial changes. In addition, it is suggested that subsection 1.0114 A. be amended to substitute "K." for "J.". This would be an editorial, not a substantial, change, which is found to be necessary and reasonable.

Section 1.0115 - Adult Vocational Aid

24. Part V of the Department's Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of this section by an affirmative presentation of facts. That portion of the Statement of Need and Reasonableness is hereby incorporated by reference into this Report. It is found that the section, as proposed, is needed and reasonable.

25. Subsection 1.0115 B., as proposed, reads:

> B. Department procedures. The Department shall approve or disapprove the program and state aid budget request by July 1 in odd-numbered calendar years or by March 1 in even-numbered calendar years.

The above-quoted subsection is intended to be based upon, and follow the mandates of, Minn. Stat. § 124.572, subd. 3a (1981 Supp.). That statute reads:

> Subd 3a. In any fiscal year when monies requested for programs approved for funding are more than the amount appropriated, the commissioner of education shall, to the extent possible, continue full funding for programs which are approved by July 1 for aid for even-numbered years or by the preceding March 1 for aid for odd-numbered years. The commissioner shall pro-rate any remaining monies among programs which are approved for funding after these days.

It appears from reading the proposed subsection and the statute from which it is derived that the rule is possibly inconsistent with the authorizing statute and thus may violate substantive provisions of law. It is suggested that the Department evaluate whether this is, in fact, the case, and if it is necessary to re-word the rule in order to comply with the statute, "July 1" and "March 1" should be transposed with each other in the subsection as adopted, so that March 1 is the operative date in odd-numbered years and July 1 the operative date in even-numbered years. Such a change would be clerical or editorial in nature, and not substantial. The suggested change, if adopted, is found to be necessary and reasonable.

evaluated - found OK - see F & F 7

26. In its final submission, the Department added a proposed new subsection, 1.0115 H., which reads:

> Review by the state board. If the Department disapproves a proposed adult vocational education course for purposes of being eligible for state aid pursuant to 5 MCAR § 1.0113, or if the Commissioner of Education denies a variance requested pursuant to 5 MCAR § 1.0114, the affected school district or center may, within 15 days of the date of the Department's or Commissioner's decision, as applicable, demand and shall be given an opportunity to present its position to the State Board of Education (State Board for Vocational Education) at the next regular meeting of the State Board of Education. For purposes of this section, the "next regular meeting of the State Board of Education" shall mean the next regularly scheduled meeting of the State Board of Education occurring not less than 20 days after receipt by the Department or Commissioner of the school district or center's demand. The State Board may place reasonable restrictions on the length of time for the district or center to present its position. The Board may issue its decision at the meeting and shall, in any event, issue its decision no later than its next regularly scheduled Board meeting.

added p. 8, 9

This proposal is found to be needed and reasonable because it provides a process whereby school districts or vocational education centers denied funding or variances under the Rule can pursue their case beyond the level of an initial determination by Department staff persons, directly to the Board. In addition, it is found that the addition of a review process providing recourse for denials by the Department of Education staff is not a substantial change.

Section 1.0116 - Tuition and Fees.

27. The Department's Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of this section by an affirmative presentation of fact. That portion of the Statement of Need and Reasonableness relating to § 1.0116 is hereby incorporated by reference into this Report, and

the section is specifically found to be necessary and reasonable.

Section 1.0117 - Nursing Assistant Program.

28. The proposed section is a re-writing, without making substantive changes, of present 5 MCAR § 1.0113. It is found that the Department has established the need for and reasonableness of the proposed section through an affirmative presentation of facts.

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

CONCLUSIONS

1. That the Board of Education gave proper notice of the hearing in this matter.

2. That the Board has fulfilled the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) and all other procedural requirements of law or rule.

3. That the Board has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 3(4)(i) and (ii) (1980), except as noted at Findings 10, 11, 21, and 22.

4. That the Board has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That the amendments and additions to the proposed rules which were suggested by the Board after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 15.0412, subd. 4d (1980) and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That the Hearing Examiner has suggested action to correct the defects cited in Conclusion 3 as noted at Findings 10, 11, 21, and 22.

7. That due to Conclusions 3 and 6, this Report has been submitted to the Chief Hearing Examiner for his approval pursuant to Minn. Stat. § 15.0412, subd. 4d (1980).

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

9. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Board from further modification of the proposed rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

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

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated this 22nd day of February, 1982.

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA BOARD OF EDUCATION
(STATE BOARD FOR VOCATIONAL EDUCATION)

In the Matter of Proposed Rules Governing Criteria for Adult Vocational Program Funding (5 MCAR SS 1.0111- .0117).

REPORT OF THE CHIEF HEARING EXAMINER

The above-entitled matter came on for review by the Chief Hearing Examiner pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d (1980) which provides in part:

> If the [hearing examiner's] report contains a finding that the proposed rule is substantially different from that which was proposed at the public hearing, or that the agency has not met the requirements of section 15.0412, subdivisions 4 through 4f, it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, he shall advise the agency of actions which will correct the defects, and the agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected. If the chief hearing examiner determines that the need for and reasonableness of the rule has not been established pursuant to subdivision 4, clause (c), and if the agency does not elect to follow the suggested actions of the hearing examiner to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not proceed to adopt the rule until it has received and considered the advice of the commission; provided, that the agency is not required to delay adoption longer than 30 days after the commission's receipt of the agency's submission.

Based upon a review of the record in this proceeding, the Chief Hearing Examiner hereby approves the Report of the Hearing Examiner in all respects and specifically as to any finding of substantial change or of failure to comply with Minn. Stat. § 15.0412, subd. 4-4f (1980) or of failure to establish need for and reasonableness of the proposed rule.

In order to correct the defects enumerated by the Hearing Examiner, the agency shall either take the action recommended by the Hearing Examiner or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Hearing Examiner, it shall, prior to submitting the rules to the Attorney General for review, submit to the Chief Hearing Examiner a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Hearing Examiner will then make a determination as to whether the defect in regard to substantial change and the requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) have been corrected.

Should the agency make changes in the rules other than those recommended by the Hearing Examiner, it shall also, prior to submitting the rule to the Attorney General, submit the complete record to the Chief Hearing Examiner for a review in regard to substantial changes.

Dated: February 23rd, 1982.

DUANE R. HARVES
Chief Hearing Examiner

EDU-82-003-RL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA BOARD OF EDUCATION
(STATE BOARD FOR VOCATIONAL EDUCATION)

IN THE MATTER OF THE PROPOSED RULES GOVERNING CRITERIA FOR ADULT VOCATIONAL PROGRAM FUNDING (5 MCAR §§ 1.0111-1.0117).

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on January 8, 1982, before Richard C. Luis, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Minnesota Board of Education and;

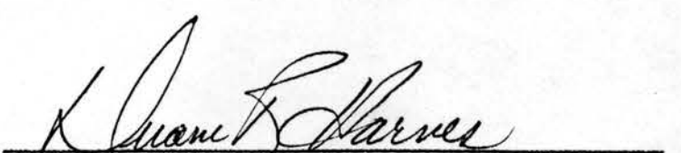
WHEREAS, the Minnesota Board of Education has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4-4f; and

WHEREAS, the Minnesota Board of Education has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 4, and 9 MCAR § 2.111; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Minnesota Board of Education has cured the defects in the rules as required.

NOW, THEREFORE, upon receipt of this Order, the Minnesota Board of Education has the responsibility of submitting the complete hearing record and the rules as adopted by the Minnesota Board of Education to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4e and 4f.

Dated: April 1, 1982.



DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
STATE BOARD OF EDUCATION
(STATE BOARD FOR VOCATIONAL EDUCATION)
DEPARTMENT OF EDUCATION

BEFORE RICHARD C. LUIS
HEARING EXAMINER
OFFICE OF ADMINISTRATIVE HEARINGS

FINDINGS OF FACT AND CONCLUSIONS:

In the Matter of Proposed
Adoption of Rules of the State
Board of Education (State Board
for Vocational Education)
Governing Criteria for Adult
Vocational Program Funding
5 MCAR §§ 1.0111 - 1.0117
File No. EDU 82-003-RL

The above entitled matter came on for hearing before State Hearing Examiner Richard C. Luis on Friday, January 8, 1982 at 9:00 a.m. in Room 83 of the State Office Building, Wabasha Street between Aurora and Fuller Street, St. Paul, Minnesota. Proper notice was served upon all persons, associations and other interested groups registered with the State Board of Education and upon those who filed with the Department of Education for the purpose pursuant to Minnesota Statutes § 15.0412. All interested persons were afforded the opportunity to be heard concerning the adoption of the proposed rules captioned above by the submission of either oral or written data, statements, or arguments.

After having reviewed all of the testimony and evidence submitted at the public hearing and to the Hearing Examiner, Richard C. Luis, before the close of the hearing record, after having considered the report of the Hearing Examiner, and applicable statutory standards, after having withheld action on the proposed rules for the required period of time, after receipt of the Report of the Hearing Examiner and after having confirmed the need for the above captioned rules, the State Board of Education finds that the findings of fact of the Hearing Examiner accurately reflect the facts in the record, except as described below.

NOW, THEREFORE, IT IS RESOLVED that the State Board of Education hereby adopts and incorporates herein the Report of the Hearing Examiner dated February 22, 1982, relative to the above-entitled matter, except as set forth below:

1. Adopts the recommendation of the Hearing Examiner contained in Finding 10 suggesting the deletion of the last sentence of proposed 5 MCAR § 1.0112 B. and substituting the following language:

> An instructor who teaches six hours or less in three consecutive months in any individual program is not required to hold a license in order to teach in that program.

The Board finds the recommended deletion and addition to be needed and reasonable for the same reasons set forth in the Board's Statement of Need and Reasonableness and because the language recommended by the Hearing Examiner clarifies the original intention of the Board.

2. Inasmuch as the Board has adopted the recommendation of the Hearing Examiner contained in Finding 10, the Board finds it unneccessary to address the concerns of the Hearing Examiner set forth in Finding 11.

3. Adopts the recommendation of the Hearing Examiner contained in Finding 16 that the clarity of the rules would be enhanced by adding a definition of the term "public service". The Board finds the following definition, as stated in the record and based upon Finding 16, to be both needed and reasonable. 5 MCAR § 1.0113 A.9. is amended by adding a sentence to read:

> The term "public service" means courses which promote public health and safety.

4. Adopts the recommendation of the Hearing Examiner contained in Finding 18 that 5 MCAR § 1.0113 D. be clarified to indicate that the four "priorities" have equal weight. Therefore, the Board clarifies 5 MCAR § 1.0113 D. by adding a sentence to follow 5 MCAR § 1.0113 D.4.:

> The foregoing are not listed in any particular order and each is of equal weight.

Based upon Finding 18, this clarification is both needed and reasonable.

5. Adopts the recommendation of the Hearing Examiner contained in Finding 20 that 5 MCAR § 1.0114 be clarified by the insertion of the word "only" in two places. Furthermore, in order to accommodate the insertion of a procedure for variances, discussed below, 5 MCAR § 1.0114 A. is amended to clarify the application of the new section which sets forth the procedure for obtaining a variance. Therefore, 5 MCAR § 1.0114 A. shall read:

> The requirements of B. and C. apply only to courses other than adult farm management and small business management. The provisions of D.-K. apply only to adult farm management and small business management. The provisions of L. apply to the variances available under C. and I.

Based upon Findings 20, 21, 22, and 23, the Board finds the foregoing changes to be both needed and reasonable.

6. Adopts the recommendation of the Hearing Examiner contained in Findings 21 and 22 requiring the establishment of procedures by which variances will be granted and denied. Therefore, 5 MCAR § 1.0114 is amended by adding a subsection to read:

> L. Any school district or center which desires to obtain a variance pursuant to C. or I. shall make a request for such a variance in writing addressed to the Commissioner of Education. The request may be in the form of a letter and shall identify the specific rule and subsection under which the variance is requested and shall state the facts which support the request.

> The Commissioner of Education shall issue a response in the form of a letter addressed to the school district or center not more than 15 days after the receipt of the request from the school district or center. If the request is denied, the affected school district or center may request a review by the State Board as set forth in 5 MCAR § 1.0115 H.

Based upon the Findings 21 and 22 of the Hearing Examiner, the Board finds the foregoing procedure to be both needed and reasonable.

7. Declines to implement the suggestion contained in Finding 25 of the Hearing Examiner. The Board finds that the provisions of Minn. Stat. § 124.572, subd. 3a (Supp. 1981) and 5 MCAR § 1.0115 B., as proposed, to be consistent. Section 124.572, subdivision 3a relates to:

> programs which are approved by July 1 for aid for even-numbered years or by the preceding March 1 for aid for odd-numbered years.

(Emphasis supplied.) Section 124.572 provides for current funding for adult vocational education programs. Consequently, the phrase "for aid for even-numbered years" refers to a fiscal year ending in an even number such as e.g., 1981-1982. Inasmuch as the program is approved in advance of the aid payments and since the aid payments are made current with the operation of the program, July 1, 1981 is the deadline for approval for aid for programs operating in 1981-1982. Similarly March 1, 1982 is the deadline for 1982-1983. Thus, approval by July 1 in an odd-numbered calendar year (5 MCAR § 1.0115 B.) is approval by July for aid for an even-numbered fiscal year (section 124.572, subdivision 3a), and similarly, approval by March 1 in an even-numbered calendar year is approval by March 1 for aid for an odd-numbered fiscal year. Based upon the foregoing, the Board finds that 5 MCAR § 1.0115 B. assists school districts and centers in identifying the date in each calendar year by which approval must be given. The Board finds this rule to be both needed and reasonable.

8. Amends 5 MCAR § 1.0116 D. as proposed to reflect legislative changes enacted since the rules were proposed. Therefore, 5 MCAR § 1.0116 D. shall read:

> Any charge made by the district or center of tuition or fees for people 62 years of age or older shall be consistent with Minn. Stat. §§ 136A.80-136A.81 as amended.

The rule as adopted is needed and reasonable because it alerts districts and centers concerning their authority to charge tuition and fees for senior citizens.

9. The State Board of Education (State Board for Vocational Education) has carefully reviewed all comments submitted to the Hearing Examiner and expressed to the Board prior to the adoption of the rules governing criteria for adult vocational program funding.

10. The State Board of Education (State Board for Vocational Education) finds that the rules, as amended, are both needed and reasonable.

STATE OF MINNESOTA
STATE BOARD OF EDUCATION
(STATE BOARD FOR VOCATIONAL EDUCATION)

April 12, 1982
Date

John J. Feda, Secretary

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, John J. Feda, do hereby certify that I am the Secretary of the Board of Education (State Board for Vocational 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 April, 1982, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules relating to Criteria for Adult Vocational Program Funding be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes § 124.512, subd. 3, and that John J. Feda, the Secretary of the Board of Education (State Board for Vocational Education), be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of April, 1982.

John J. Feda, Secretary

Member, State Board of Education

STATE OF MINNESOTA
BOARD FOR VOCATIONAL EDUCATION

STATEMENT OF NEED AND REASONABLENESS

FOR PROPOSED RULES 5 MCAR §§ 1.0111-1.0117

GOVERNING CRITERIA FOR ADULT VOCATIONAL PROGRAM FUNDING

Introduction

In the 1981 session, the Minnesota Legislature passed legislation regarding vocational education including a section on adult education.

Minnesota Statute § 124.572, subd. 3 charges the State Board for Vocational Education with the responsibility for promulgating rules which establish criteria for program funding. These criteria are then applied by the Commissioner of Education in approving the funding process. Legislation mandates that these criteria include a) the economic impact of the program, b) the legislative mandate for the program, c) the employment opportunities in the occupational area, and d) the proven contribution of the program.

Rules Revision

I. 5 MCAR § 1.0111 Scope. This section is substantively the same as the present rule. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading.

II. 5 MCAR § 1.0112 Program Criteria. This section is substantively the same as the present rule. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading.

Subsection A. The subsection regarding enrollees is substantively the same as the present rule. The present rule is currently found at 5 MCAR § 1.0117. Since the subject of enrollee eligibility relates to program criteria, it has been transferred into 5 MCAR § 1.0112 which governs program criteria. This transfer will consolidate program criteria into a single rule and make the rule easier to understand.

Subsection B. The first portion of the proposed amendment to Subsection B. clarifies the term "instructor," consistent with Minnesota Statute § 124.572, subd. 2 and § 125.031, and stipulates that no license is required for short-term instructors. The rule is needed to make it possible for local programs to gain specialized information from individuals who are not otherwise teachers but who are knowledgeable in technical fields. The amendment is reasonable because it provides the flexibility needed to secure persons with special expertise. The second portion of the proposed amendment to Subsection B. clarifies licensure requirements if an adult license is not available. Where an adult license is not available, the amendment establishes that post-secondary licensure is appropriate. Post-secondary licensure is reasonable because the training/retraining/upgrading goals of adult vocational education are substantially the same as post-secondary goals.

Subsection C. No change has been made.

Subsections D., E., and F. The language in D., E., and F. clarifies the present rule as suggested by the Revisor of Statutes' Office. No substantive change has been made. Enrollment information formerly in Subsections D. and E. have been transferred to 5 MCAR § 1.0114 with other general and special requirements.

Additional Rules Due to Legislation

III. 5 MCAR § 1.0113 Course criteria, Procedures and Priorities. Criteria are needed to assist school districts and centers to determine which of their courses meet requirements for state categorical funding. Being able to predict with reasonable accuracy which courses will receive state aid and those that will need to be funded from other sources is crucial for local management. Criteria are necessary to assure that public funds will be expended in an efficient and socially benefical manner. Twelve criteria are proposed to thoroughly and reasonably address the four concerns identified by the 1981 Minnesota Legislature in Minnesota Statute § 124.572, subd. 3 (Supp. 1981). The local board is only required to meet one of the twelve criteria for each course.

The criteria proposed are reasonable because they: 1) assist local school boards to meet the vocational educational needs of adults in the community; 2) permit the continuation of subjects, content, approaches and methods for adult vocational education courses which have been successful in the past; 3) encourage new subjects for adult vocational education; and 4) include the range of training, retraining and upgrading objectives for the many paid and unpaid occupations. A variety of adult vocational courses offered over the years has proved to be of direct value to society in relation to the stability of the economy and the supply and demand of the work force. This rule is reasonable because it includes criteria which have been understood and applied over the years in adult vocational education.

Some specific statements regarding need or reasonableness of subsections of this rule follow.

Subsection A.1. is needed to establish a framework for the wide variety of paid occupations for which adults can be trained through vocational education. These categories have evolved over the years and are well established in the vocational education community.

Subsection A.2. is necessary because many communities have volunteer fire departments, making it reasonable and appropriate to provide instructional courses for both the persons who are compensated and those who are not compensated. It is reasonable because both types of persons are of economic value to the community.

Subsections A.3. and A.4. are reasonable because it is not cost effective to use state funds to provide vocational training for which there is no employment.

Subsection A.5. is reasonable because a large portion of the state's economy is based on small businesses and farms.

Subsection A.6. is necessary because it is reasonable to prepare a person for a specific job if the indiviual can apply those job skills and knowledges in other work settings if the person desires to do so at a later time.

Subsection A.7. is necessary to establish that vocational education prepares adults for the occupation of homemaking which is unpaid in our society. This subsection is reasonable because these courses benefit the individual, family and community by addressing concerns such as nutrition, child development, consumer decisions and energy use. These benefits are economically and socially valuable to individuals and to society.

Subsection A.8. is necessary because courses which assist people in meeting established standards are appropriately and reasonably supported by the state.

Subsection A.9. is reasonable because it identifies community support as a measure of success. Indications of community support could include advisory committees' recommendations or the positive results from the annual evaluation of the program.

Subsection A.10. is reasonable becuase it is crucial to serve individuals who have special needs and who are economically dependent on society. State funds are appropriately spend on support services in order that such persons have the opportunity a) to succeed in the program and b) to become financially independent because of the training received. Such courses are reasonable because of the cost benefit to the taxpayer.

Subsection A.11. is reasonable because it lists methods whereby local administrators may calculate cost effectiveness of vocational courses.

Subsection A.12. is reasonable since it is economically sound to prevent people from being displaced from their jobs, thus a) unemployment costs will be avoided, b) cost of training for a new job will be avoided and c) individual and family stability can be improved.

Subsection B. is necessary to assist local management personnel in the planning process. The state maintains a list of course titles which meet criteria for aid eligibility. This list is updated on the basis of frequently offered courses eligible for aid. Subsection B. is reasonable because it provides an expedient method for obtaining state approval.

Subsection C. is necessary since it establishes a process whereby a course which is not frequently offered can be approved as eligible for aid. It is reasonable to have such a process so that unique approaches to meeting some of the twelve criteria can be used for approval.

Subsection D. is necessary since it is a statewide problem when funds available to the state are inadequate to fund all approvable courses at the standard rate. Subsection D. is needed to assist and enable local managers and boards to predict the posture of the state with reasonable accuracy in the event adequate state funds are not available. This subsection is reasonable because the most cost effective programs of greatest need would be funded before others. Furthermore, item one will assure service to adults with the greatest potential for economic advancement. Item two is reasonable because it includes the opportunity for the efficient use of vocational resources, likelihood of comprehensive programs to meet the varied need of individuals when more than one system is involved and recognition of local joint planning efforts. Item three is reasonable because it recognizes that programs required by the Legislature will be given priority for state funding. It is reasonable that when the economic impact on the community is directly related to an adult vocational course, priority will be given, as stated in item four.

Rule Revisions Plus Additional Rules

IV. 5 MCAR § 1.0114 General and Special Requirements.

Subsection A. is needed to clarify the organization of the subsections in 5 MCAR § 1.0114. The subsection relates to enrollment requirements necessary for cost effectivness. It is reasonable to organize the subsection in this manner to make the rule easier to understand.

Subsection B. is substantively the same as the present rule. The present rule is currently found at 5 MCAR § 1.0112 D. Since minimum enrollment relates to general and special requirements, it has been transferred into 5 MCAR § 1.0114 which governs general and special requirements.

Subsection C. Items listed under Subsection C. are necessary for these reasons: Item one is needed to carry out legal requirements; item two is needed to provide the opportunity to become trained for employment even though the number of related job opportunities is small; item three is needed to allow for provision of support services to small numbers of people who are presently economically dependent on society; item four is needed to provide the opportunity for improving safety, increasing cost effectiveness when expensive equipment is involved and reducing time lost while waiting to use equipment.

Items two and three are reasonable because this variance makes it possible to serve individuals who have special needs and who are economically dependent on society. The variance will benefit both individuals enrolled in the courses and the taxpayer.

Item four is reasonable because the course will be more efficient and instructional quality should increase as a result of the variance.

Subsections D. - J. regarding adult farm management and small business management are substantively the same as the present rule with the exception of the last two sentences of I. The present rule is currently found at 5 MCAR § 1.0112.

Since minimum enrollment in these areas relates to general and special requirements, it has been transferred into 5 MCAR § 1.0114 which governs general and special requirements. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading. The last two sentences in I. are needed to clarify the intent that small number of persons do not justify a long term variance. This subsection is needed and reasonable to provide for cost effectiveness of state funds.

V. 5 MCAR § 1.0115 Adult Vocational Aid. Subsections A.1., 2., 3., 5., and 6. are substantively the same as the present rule. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading.

Subsection A.4. is required in Minnesota Statute § 124.572, subd. 3a. The subsection is needed to provide a procedure for determining the use of any funds remaining after approvals on the initial due dates have been made. It is reasonable to provide procedures so local school districts and centers know how to approach the state to request remaining moneys. It is also reasonable because adult courses may be planned after the original deadline and subsequently need state approval.

Subsection B. is required in Minnesota Statute § 124.572, subd. 3a. It is reasonable because the education omnibus bill is passed on a biennial basis and in recent appropriations years has been enacted in the month of May and is normally effective on July 1. The Department needs time to understand and apply the law. That time is not generally needed during the alternate years and the statute and rule move the initial approval date up to March 1 from July 1.

Subsection C. is substantively the same as the present rule. The item regarding aid for personnel exempt from licensure has been added to reflect the requirement in Minnesota Statute § 125.031.

Subsections D. and E. are substantively the same as the present rule. The present rule is currently found at 5 MCAR § 1.0114. Since the administrative staff salaries relate to aid, it has been transferred into 5 MCAR § 1.0115 which governs adult vocational aid. The variance in the present rule regarding districts not meeting the minimum ratios in order to receive aid for administrative time has been removed because the effective date will have passed. The original exception was granted to allow local programs to provide for efficient and economical ways to meet the needs of adults. Three years was a reasonable time to accomplish this objective.

Subsections F. and G. are substantively the same as the present rule. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading.

VI. 5 MCAR § 1.0116 Tuition and Fees. Subsections A., B., C., and E. are substantively the same as the present rule. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading. The information formerly in Subsection C. has been moved to Subsection E.

Subsection D. addresses senior citizen fees. It is needed to carry out Minnesota Statute § 136A.81, subd. 1 for adult vocational education courses. It is reasonable to provide local school districts the opportunity to determine tuition or fees to provide for cost effectiveness.

VII. 5 MCAR S 1.0117 All subsections are substantively the same as the present rule except for item A., line six. The option of giving the test through community colleges was added because of legislative mandate, Minnesota Statute § 144A.61, subd. 3 (Supp. 1981). The present rule is currently found at 5 MCAR § 1.0113. The language has been rewritten with the assistance of the Revisor of Statutes' Office to provide for easier reading.

Effective Date. The effective date is needed so local school districts and centers will know when the rules become effective and can make plans to carry out the rule. The effective date is reasonable because local schools have six months to reasonably predict the new rules and to make plans at the local level.

Repealer. Rule 5 MCAR § 1.0112 G.; Rules 5 MCAR §§ 1.0113; 1.0114; 1.0115 and 1.0117, as they existed before the effective date of 5 MCAR §§ 1.0111-1.0117, are repealed because they will be replaced by these new rules. When the new 5 MCAR §§ 1.0113; 1.0114; 1.0115 and 1.0117 became effective, the old provisions will serve no purpose.

State of Minnesota

Board for Vocational Education

Proposed Rules 5 MCAR §§ 1.0111-1.0117

Persons Who Will Testify on Behalf of the State

State Department of Education Staff

Mary Phillips
Sharon Grossbach
Rosemary Fruehling
Melvin Johnson
J. Thomas Strom
Robert Babcock
Odell Barduson
Janet Christenson
Glenda Moyers
Janice Templin
Stanton Williams
Gerald Briggs
Ronald Dreyer
William Stock
Colleen Kish

Persons Who Will Appear on Behalf of the State Department of Education

Mary Bath
Ellen Leger
Leon Linden
George Copa
Jerome Moss
William Knaak
Marilyn Rossmann
Ruth Thomas
Gordon Swanson
Rose Andersen
Pat Brunsberg
Ray Engelland
John Butler
Mary Cheese
Wes Cochrane
Clifford Helling
Ed Hill
Ron Johnson
David Kingsbury
Marge Kirchhoff
Louis Langer
Walter Larson
Ricky Littlefield
June Long
Bruce Nelson
Dale Neppel
Yasmin Overlid
Dorothea Owens
Marlene Palkovich
Warren Phillips
Jane Preston
Melvin Ptacek
Mary Jo Richardson
Mary Ryland
Beverly Sande
Arthur Schulze
Hester Stone
Lyle Sorum
Barb Trombley
Ken Peatross
Bill Weiser
Jim Baymler
Jerry Setterholm
Verle Conners
Maurice McFarlin
Larry Foley
Jim Kastanek
Frank Quam
Dennis Lehto
Elaine Wray
Joan Comeau
Rena Gray
Laurel Goulding
LaDonna Nelson

State Board of Education
(State Board for Vocational Education)
Department of Education
Vocational-Technical Education Division

In the Matter of Proposed Adoption of
Rules of the State Board of Education
(State Board for Vocational Education)
Governing Criteria for Adult Vocational
Program Funding
5 MCAR §§ 1.0111-1.0117

STATEMENT OF COMPLIANCE
WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Charles T. Mottl, do hereby declare that I have examined the 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.

Dated: April 22, 1982

Charles T. Mottl

CHARLES T. MOTTL
Special Assistant
Attorney General

State of Minnesota
State Board of Education
(State Board for Vocational Education)
Department of Education

In the Matter of the Proposed Adoption of the Rules of the State Board of Education (State Board for Vocational Education) Governing the Criteria for Adult Vocational Program Funding
5 MCAR §§ 1.0111 - 1.0117

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

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

That on the 23rd day of April, 1982, in the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the hearing record, has been submitted to the Attorney General.

Harold E Klecker

Subscribed and sworn to before me
this 23rd day of April,
1982.

JUDITH A. MORGAN
RAMSEY COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES SEPT. 14, 1986

Judith A. Morgan

State of Minnesota
State Board of Education
(State Board for Vocational Education)
Department of Education

In the Matter of the Proposed Adoption of the Rules of the State Board of Education (State Board for Vocational Education) Governing the Criteria for Adult Vocational Program Funding
5 MCAR §§ 1.0111 - 1.0117

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, April 23, 1982, for review as to form and legality. Pursuant to 1 MCAR § 1.206 C., the Attorney General will not approve the rules for ten calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 204 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General you may contact Sharon Grossbach, Division of Vocational-Technical Education, State Department of Education, 529 Capitol Square Building, 550 Cedar St., St. Paul, Minnesota 55101, or telephone (612) 296-6516.

John J. Feda

John J. Feda, Secretary