

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 817

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-21-82
DATE FOR REVIEW 5-28-82
DATE DUE 6-3-82

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

Approved 6-3-82 Disapproved _____ Returned to Agency 6-4-82

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

Date filed w/Secretary of State 6-4-82 Revisor approved 5/24/82 disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 5.11.82 Date

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

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

N/A Hearing Examiner's Report

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

✓ Agency's Findings of Fact

_____ 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

N/A 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, State Bd. of Education

DATE: 6/3/82

ATTN : MICHAEL J. BRADLEY, Assistant Atty. Gen.

FROM : LARRY D. STARNS
Special Assistant
Attorney General

L. D. Starns dw

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Amendments to and Repeal of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools, EDU 380-388

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-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Education
747 Capitol Square Bldg.

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

DATE: May 19, 1982

FROM : Lois E. Steinhaus LES
Education Statistics Section

PHONE: 6-4428

SUBJECT: Approval of Rules Governing Private Business, Trade and Correspondence Schools

Rules Without a Public Hearing

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

1. Rules as Adopted (original plus three; includes one with changes)
2. Order Adopting Rules (original plus one)
3. Certificate of Board's Resolution Adopting Rules
4. Order for Notice of Intent to Adopt Rules Without Public Hearing
5. Certificate of Board's Authorizing Resolution
6. Notice of Intent to Adopt Rules Without Public Hearing
7. Affidavit of Mailing
   Affidavit of the Additional Notice....Rulemaking Mailing List Certificate
8. Rules as Proposed - State Register (copy of appropriate pages) and as mailed
9. Findings of Fact and Conclusions
10. Statement of Need and Reasonableness
11. Correspondence
12. Notice of Intent to Solicit Outside Opinion n/a
13. Affidavit of Mailing Notice of Submission to the Attorney General n/a

Please call me when the record is ready to be returned and I will have someone come and pick it up. Thank you.

State Board of Education
Department of Education
Special Services Division

Adopted Amendments to and Repeal of Rules Governing Private Business, Trade and Correspondence Schools (EDU 380-388)

Rules as Adopted

EDU 380 School licensing.

B. Application.

5. Information to be submitted on instructor qualifications. To satisfy the requirements of Minn. Stat. S 141.25, subd. 3, clause (f) the school shall name the instructors and supervisors currently employed for each specified field of instruction and certify that each instructor and teaching supervisor has met all teacher qualification requirements of the State of Minnesota in EDU 381 C. and has been approved by the Department of Education to teach in that specified field.

EDU 382 Catalog or brochure.

B. Contents.

3. Refund policy. The catalog or brochure shall contain the refund policy printed in its entirety. The policy shall be in accordance with Minn. Stat. S 141.271. A simple statement indicating merely that the school is in compliance with Minnesota law or Minnesota refund policies will not suffice. Along with the printed policy shall be an explanation of the word "student," as defined in EDU 385.

EDU 385 Contracts; definition of student.

A. Student defined. "Student" used in Minn. Stat. S 141.271 means the student if the student is the party to the contract, or the student's parent or guardian or another person if the parent or guardian or other person is the party to the contract on behalf of the student.

EDU 386 Degree granting.

A school which offers both degree and non-degree programs shall obtain a license for its non-degree programs. The school is not exempt by reason of Minn. Stat. S 141.35, clause (a).

Repealer. Rules EDU 380 B.4., 4.a. and 4.b.; EDU 381 D.; EDU 385 A., A.1. and 2., B., B.1. and 2.; and EDU 386 A. and C. are repealed.

Renumbering and Relettering. Renumber EDU 380 B.5. as EDU 380 B.4. Reletter EDU 385 D. as EDU 385 B.

OFFICE OF THE REVISOR OF STATUTES

AR0101
5/24/82

Certificate of Approval of Adopted Rules

Agency: State Board of Education, Department of Education, Special Services Division

Rule Numbers: EDU 380, 381, 382, 385, 386

Rule Title: Adopted Amendments to and Repeal of Rules Governing Private Business, Trade and Correspondence Schools (EDU 380-388)

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference: None

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
June 3, 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 4 1982
Joan Anderson Growe
Secretary of State
9:19AM

Name: Ann L. Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

State of Minnesota
State Board of Education

In the Matter of the Proposed Adoption of Amendments to and Repeal of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools EDU 380-388.

ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above entitled rule without a public hearing was published in the State Register on February 22, 1982, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minn. Stat. § 15.0412, Subd. 4 on February 18, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30-day comment period, and determining the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE IT IS ORDERED that these rules identified as EDU 380-388 are adopted this 11th day of May, 1982, pursuant to authority vested in the board by Minn. Stat. §§ 141.21-141.36.

STATE OF MINNESOTA

John J. Feeley

Secretary, State Board of Education

State of Minnesota
Department of Education

State Board of Education
Special Services Division

In the Matter of the Proposed Adoption of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 18th day of January, 1982 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Board of Education for that purpose and be published in the State Register.

State of Minnesota
Board of Education

John J. Freeh
Secretary

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, John J. Feda, do hereby certify that I am secretary of the Board of Education, A Board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Education duly and properly called and held on the 18th day of January, 1982; that a quorum was present at said meeting; and that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that John J. Feda, secretary of the Board of Education, be and he hereby is granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing rules governing Private Business, Trade and Correspondence Schools, to sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he or his deputy hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name the 18th day of January, 1982.

John J. Feda
Secretary, Board of Education

Patricia A. Skeber
Member, Board of Education

State Board of Education
Department of Education
Special Services Division

In the Matter of the Proposed Adoption of
Amendments to and Repeal of Rules of the
State Board of Education Governing Private
Business, Trade and Correspondence Schools
EDU 380-388

Notice of Intent to Adopt Rules
Without a Public Hearing

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

These rules govern the operation of Private Business, Trade and Correspondence Schools licensed pursuant to Minn. Stat. §§ 141.21-141.36.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency 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 period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4 - 4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

James Beck, Supervisor
Private Vocational School Unit
626 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-7896

Authority for adoption of these rules is contained in Minn. Stat. § 141.23. Additionally, a statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from James Beck upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, and a Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney

General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to James Beck.

A copy of the proposed rules is attached to this notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting James Beck.

State of Minnesota
State Board of Education

John J. Feda, Secretary

State of Minnesota
Department of Education

State Board of Education
Special Services Division

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Adoption of Amendments to and Repeal of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools EDU 380-388 Without Public Hearing

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 10 o'clock A.M., this 17th day of February, 1982, which includes school superintendents, Directors of ECSUs, AVTIs, Vocational Centers and Joint Powers Districts.

State Board of Education

John J. Feda, Secretary

Subscribed and sworn to before me
this 18 day of February, 1982

Luana Vadnais
Notary Public

Ramsey County, Minnesota

My commission expires _____.

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

State of Minnesota
Department of Education

State Board of Education
Special Services Division

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Adoption of Amendments to and Repeal of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools EDU 380-388 Without Public Hearing

STATE OF MINNESOTA)
) ss.
County of Ramsey)

AFFIDAVIT OF MAILING

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

That on the 18th day of February, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules without Public 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 19 day of February

1982.

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
Special Services Division

STATE OF MINNESOTA

COUNTY OF RAMSEY

IN THE MATTER OF: The Proposed Adoption of Rules of the State Board of Education Governing Adoption of Amendments to and Repeal of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools EDU 380-388 Without Public Hearing

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 10 o'clock A .M. this 17th day of February, 1982.

State Board of Education

By Linda Alberg

PROPOSED RULES

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

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

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

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

State Board of Education
Department of Education
Special Services Division

Proposed Amendments to and Repeal of Rules Governing Private Business, Trade and Correspondence Schools (EDU 380-388)

Notice of Intent to Adopt Rules without a Public Hearing

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

These rules govern the operation of Private Business, Trade and Correspondence Schools licensed pursuant to Minn. Stat. §§ 141.21-141.36.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency 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 period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

James Beck, Supervisor
Private Vocational School Unit
626 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-7896

Authority for adoption of these rules is contained in Minn. Stat. § 141.23. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from James Beck upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, and a statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to James Beck.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting James Beck.

John J. Feda, Secretary
State Board of Education

Rules as Proposed

EDU 380 School licensing.

B. Application.

~~6.~~ 5. Information to be submitted on instructor qualifications. To satisfy the requirements of ~~section~~ Minn. Stat. § 141.25, subd. 3, ~~paragraph~~ clause (f) the school shall name the instructors and supervisors currently employed for each specified field of instruction and certify that each instructor and teaching supervisor has met all teacher qualification requirements of the State of Minnesota in EDU 381 C. and has been approved ~~or certified~~ by the ~~Minnesota~~ Department of Education to teach in that specified field.

EDU 382 Catalog or brochure.

B. Contents.

3. Refund policy. The catalog or brochure shall contain the refund policy printed in its entirety. The policy shall be in accordance with ~~section 141.27~~ Minn. Stat. § 141.271. A simple statement indicating merely that the school is in compliance with Minnesota law or Minnesota refund policies will not suffice. Along with the printed policy shall be an explanation of the word "student,"~~,~~ as defined in EDU 385 ~~C~~.

EDU 385 Contracts; definition of student.

~~C. Definition. The word~~ A. Student defined. "Student" ~~where~~ used in ~~section 141.27~~ Minn. Stat. § 141.271 ~~shall be construed to mean~~ means the student ~~himself,~~ if ~~he~~ the student is the party to the contract, or ~~his~~ the student's parent or guardian or another person~~,~~ if the parent or guardian or other person is the party to the contract on behalf of the student.

EDU 386 Degree granting.

~~B. Approval, not exemption. Such approval for granting of degrees to schools covered under the Act shall~~ A school which offers both degree and non-degree programs shall obtain a license for its non-degree programs. The school is not ~~serve to~~ exempt ~~such schools from the Act under section~~ by reason of Minn. Stat. § 141.35, clause (a).

Repealer. Rules EDU 380 B.4., 4.a. and 4.b.; EDU 381 D.; EDU 385 A., A.1. and 2., B., B.1. and 2.; and EDU 386 A. and C. are repealed.

Renumbering and Relettering. Renumber EDU 380 B.5. as EDU 380 B.4. Reletter EDU 385 D. as EDU 385 B.

Department of Energy, Planning and Development Energy Division (Minnesota Energy Agency) Alternative Energy Development Section

Proposed Temporary Rules for the Administration of the District Heating Bonding Act Regarding Construction Loans

Request for Public Comment

Notice is hereby given that, in compliance with Laws of 1981, Chapter 334, § 1, known as the District Heating Bonding Act, the Department of Energy, Planning and Development (the Minnesota Energy Agency) is proposing the following temporary rules for the purpose of administering the act.

Persons interested in these rules have 20 days from this publication to submit data and views on the proposed temporary rules in writing: Comments should be submitted to:

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

State of Minnesota
State Board of Education

In the Matter of the Proposed Adoption of Amendments to and Repeal of Rules of the State Board of Education Governing Private Business, Trade and Correspondence Schools EDU 380-388.

FINDINGS OF FACT AND CONCLUSIONS

FINDINGS OF FACT

1. At the meeting of January 18, 1982, the State Board of Education (hereinafter the "Board") proposed that the above entitled amendment and repeal of Rules be adopted after compliance with the procedures which authorize an agency to propose and adopt rules without a public hearing.

2. Pursuant thereto, the Notice of Intent to Adopt Rules Without a Public Hearing was published in the State Register on February 22, 1982, together with a copy of the proposed Rule.

3. These Rules govern the operation of Private Business, Trade and Correspondence Schools licensed pursuant to Minn. Stat. §§ 141.21-141.36. The Board's authority to promulgate the proposed Rules is contained in Minn. Stat. § 141.23.

4. The Statement of Need and Reasonableness for proposed Rules EDU 380-388 sets forth the need for and the reasonableness of the rule to be adopted herein.

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

6. Copies of the Notice of Intent to Adopt the amendments to and repeal of EDU 380-388 Without Public Hearing and of the proposed amendments and repeal were mailed on February 18, 1982, to the names appearing on the Department of Education rule making list and all schools licensed pursuant to Minn. Stat. §§ 141.21-141.36.

7. No one requested a public hearing within the 30 day comment period.

8. Two items of correspondence were received pertaining to this topic. One letter expressed concern, however, did not request a public hearing. Another letter requested a copy of the final rules and the effective date of the rules.

CONCLUSIONS

1. The Board gave due, timely, and adequate legal notice of its intent to adopt amendments to and repeal of the rule without a public hearing.

2. No one requested a public hearing during the 30 day comment period.

3. The Board has the statutory authority to promulgate the proposed amendment to and repeal of the rules.

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

5. The Board has demonstrated the need for and the reasonableness of the proposed amendment to and repeal of the rule by an affirmative presentation of facts.

Date 11th Day of May, 1982

John J. Fader

Secretary, State Board of Education

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, John J. Feda, do hereby certify that I am Secretary of the Board of Education, a Board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Education, duly and properly called and held on the 11th day of May, 1982, that 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 have not been rescinded or modified.

> "Resolved, that the rules governing Private Business, Trade and Correspondence Schools be and they hereby are approved and adopted pursuant to the authority vested in us by Minn. Stat. §§ 141.21-141.36, and that John J. Feda, the Secretary of the Board of 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 have the force and effect of law."

IN WITNESS WHEREOF, I have hereto subscribed my name this 11th Day of May, 1982.

John J. Feda, Secretary, State Board of Education

Patricia A. Wieben
Member, State Board of Education

State of Minnesota
Board of Education

Statement of Need and Reasonableness for Proposed Amendment of Rules EDU 380 B.6., EDU 382 B.3. and EDU 386 B. and Repeal of EDU 380 B.4., 4.a., and 4.b.; EDU 381 D.; EDU 385 A., A.1., and 2.; EDU 385 B.1.; EDU 385 B.2.; EDU 386 A.; EDU 386 C.; and relettering of EDU 380 B.5.; EDU 385 D.

Concerning: The Proposed Amendment and Repeal of Rules governing Private Business, Trade and Correspondence schools.

The proposed amendment of rules EDU 380 B.6., and EDU 382 B.3., and EDU 386 B. is necessary to clarify the regulation of Private Business, Trade and Correspondence Schools licensed persuant to Minn. Stat. §§ 141.21-141.36 which established authority for the State Board of Education to adopt rules and regulations to carry out the provisions of Minn. Stat. § 141.23.

The amendments are primarily housekeeping amendments which will eliminate duplication found in current law and reflect current law and administrative practice.

EDU 380 B.5. is relettered as EDU 380 B.4. since it is proposed to repeal the current EDU 380 B.4.

EDU 380 B.6. is relettered as EDU 380 B.5. and the words "or certified" are deleted since a teacher is only required to be approved and such language is now obsolete.

EDU 382 B.3. is proposed to change the § 141.27 to 141.271 which refers to current numbering found in Minnesota law since § 141.27 was repealed and replaced by § 141.271.

EDU 385 is proposed to change the § 141.27 to 141.271 which refers to current numbering found in Minnesota law since § 141.27 was repealed and replaced by § 141.271. It is also proposed to make minor language changes to clarify the definition, which are not substantive changes.

EDU 386 is proposed to reflect that a school which offers both degree and non-degree programs is still subject to licensure of its non-degree programs and is not exempt by reason of Minn. Stat. § 141.35, clause (a). The correlation between the two programs is recognized in Minn. Stat. § 136.A653, subd. 1.

That latter provision relates to the Higher Education Coordinating Board's regulation of degree programs and institutions which use the term college, university, institute or academy in their name. If non-degree programs were not regulated under Minn. Stat. Chapter 141, the following situation could and would exist. A college offering one degree program could have all of its non-degree programs exempted from Chapter 141 even though those programs are identical to programs offered by other trade schools licensed under Chapter 141. Since the HECB does not take an in-depth look at non-degree programs and does not require the type of refund policies, or instructor qualifications, a significant difference in regulation would occur. The diversity of treatment would be unjust to both the students and the competing schools. It should be noted that the changes to this rule merely continue the long time administrative application of this rule and § 141.35, clause (a). In addition, a school's failure to achieve exemption under this provision does not prevent exemption under the other clauses of § 141.35. The most common exemption for colleges offering both degree and non-degree programs is § 141.35, clause (e) -- "Private and parochial non-profit schools exempt from taxation under the constitution of Minnesota...." Therefore, the rule is needed to provide uniform regulation and is reasonable in that it does not infringe upon any other available exemption.

It is proposed to repeal EDU 380 B.4.a. under the mandate of Minn. Stat. § 15.0412, subd. 1, since this rule is a duplication of Minn. Stat. § 141.25, subd. 3., clause (g), and is not crucial to its meaning and effect.

It is proposed to repeal EDU 380 B.4.b. under the mandate of Minn. Stat. § 15.0412, subd. 1, since this rule is a duplication of Minn. Stat. § 141.25, subd. 7, clause (a) and is not crucial to its meaning and effect.

It is proposed to repeal EDU 381 D. since Minnesota law no longer contains Minn. Stat. § 141.25, subd. 7, clause (c) (1971).

It is proposed to repeal EDU 385 A.1. under the mandate of Minn. Stat. § 15.0412, subd. 1, since this rule is a duplication of Minn. Stat. § 141.271, subd. 10, and is not crucial to its meaning and effect.

It is proposed to repeal EDU 385 A.2. since this rule is in conflict with Minn. Stat. § 141.271, subd. 4., 5., and 6. which was enacted subsequent to the promulgation of the rule.

It is proposed to repeal EDU 385 B.1., under the mandate of Minn. Stat. § 15.0412, subd. 1, since this rule is a duplication of part of Minn. Stat. § 141.271, subd. 1, and is not crucial to its meaning and effect.

It is proposed to repeal EDU 385 B.2., under the mandate of Minn. Stat. § 15.0412, subd. 1, since the rule is a duplication of part of Minn. Stat. § 141.271, subd. 5 and is not crucial to its meaning and effect.

It is proposed to repeal EDU 386 A. and C. since the Minnesota Higher Education Coordinating Board, and not the State Board of Education, now has authority to approve degrees. (Minn. Stat. §§ 136A.61-136A.71)

In the Matter of the Proposed
Adoption of Rules of the State
Board of Education Governing
Private Business, Trade and
Correspondence Schools,
EDU 380-388

STATEMENT OF COMPLIANCE
WITH RULEMAKING PROCEDURES

I, Assistant Attorney General Michael J. Bradley, 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: May 20, 1982

Michael J. Bradley

Michael J. Bradley
Assistant Attorney General