

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

CBE

RULE REVIEW CHECKLIST

File No. 1593 Docket No. 05.0009.0020

DATE RECEIVED 4-20-89 ADOPTED W/O HEARING X

REVIEW DATE ~~4-29-89~~ 5/1/89 EMERGENCY RULE _____

DUE DATE 5-4-89 REVISOR APPROVED _____

APPROVED 5/3/89 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~
- _____ ~~Date published in State Register~~
- _____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution
- 9/14/88 Date adopted

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 12.11 Statutory Authority
- yes Small Business Statement
- yes Expenditure of public money statement
- yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- yes Small Business Statement
- _____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 9/8/88 Date 30/25 days before adoption
- ok Notice attached
- yes Copy of rule or summary attached

✓ Publication in State Register
- 10/3/88 Date 30/25 days before adoption

_____ 180-day deadline from:
- _____ Effective date of law requiring rule (14.12) (both rules)
- 11/2/88 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 12/8/88 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 12/13/88 Date
- revised submitted on 5/2/88

✓ Written requests, submissions or comments (16)

✓ Declaration of attorney
- Carol Nelson Name of SAAG representing agency

✓ Notice of Submission to Atty. Gen. (if applicable)

✓ Aff. of Mailing Notice to Atty. Gen. (if applicable)

✓ Certif of Mailing

DEPARTMENT : ATTORNEY GENERAL

SF-00006-05 (4-86)

STATE OF MINNESOTA

Office Memorandum

DATE : May 4, 1989

TO : H. CAMILLA NELSON
Special Assistant Attorney General

FROM : CHRISTIE B. ELLER
Assistant Attorney General

PHONE : 6-9421

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Multicultural and Gender Fair Cirriculum

The above-referenced rule has been approved as to its legality by the Attorney General on May 3, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

CBE:klk
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Board of Education

Adopted Permanent Rules Relating to Multicultural and Gender Fair Curriculum

Rules as Adopted

3500.0550 MULTICULTURAL AND GENDER FAIR CURRICULUM.

Subpart 1. **Establishment of a plan.** The school board in each district shall adopt a written plan to assure that the curriculum developed for use in district schools establishes and maintains an inclusive educational program. An inclusive educational program is one that employs a curriculum that is developed and delivered so that students and staff gain an understanding and appreciation of:

A. The cultural diversity of the United States. Special emphasis must be placed on American Indians/Alaskan natives, Asian Americans/Pacific Islanders, Black Americans, and Hispanic Americans. The program must reflect the wide range of contributions by and roles open to Americans of all races and cultures.

B. The historical and contemporary contributions of women and men to society. Special emphasis must be placed on the contributions of women. The program must reflect the wide range of contributions by and roles open to American women and men.

C. The historical and contemporary contributions to society by handicapped persons. The program must reflect the wide range of contributions by and roles open to handicapped Americans.

Subp. 2. **Specifications for the plan.** The current plan must:

A. address the manner in which the multicultural and gender fair concepts in subpart 1, items A, B, and C are to be incorporated into the curriculum goals, learner outcomes, and evaluation processes established in the district;

Approved by Revisor

B. determine the extent to which the district curriculum advisory committee established by Minnesota Statutes, section 126.666, subdivision ~~3~~ 2, will be involved in implementing this part;

C. include evidence of substantive involvement by women, persons of color, and handicapped persons in the development of the plan. In communities with no persons of color, the district shall use resource people available in the region, state, or nation whenever the plan is developed, reviewed, or revised;

D. include specific goals, objectives, and implementation timelines for the curriculum processes, content, and materials needed for each of the areas in subpart 1;

E. include procedures for systematic monitoring and evaluation of the plan; and

F. include a description of the program planned to provide inservice training for all staff in the areas related to subpart 1, items A, B, and C, and subpart 2, items D and E.

Subp. 3. **Filing, reports, review, and revision.**

A. The current plan must be on file in the administrative offices of the district and with the commissioner of education.

B. The district shall submit status reports on implementing the plan as requested by the commissioner.

C. The current plan must be reviewed at least every six years and be revised as necessary.

EFFECTIVE DATE. Minnesota Rules, part 3500.0550, is effective June 1, 1990. The plan required to be adopted under subpart 1 must be adopted before that date and must be in effect and on file in the district and with the commissioner by that date.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY.

May 3, 19 89

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie B Ellen
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 4 1989

Joan Anderson Growe
Secretary of State

9:25 AM

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

CERTIFICATE OF AUTHORIZING RESOLUTION

I, Ruth E. Randall, do hereby certify that I am the Secretary of the Minnesota State Board of Education, an agency 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 Minnesota State Board of Education duly and properly called and held on the fourteenth day of September, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that Ruth E. Randall, Secretary of the Minnesota State Board of Education (Board), is hereby granted the authority and directed to sign and to give notice of the Board's intent to adopt without a public hearing, the attached rule governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Part 3500.0550, to all persons who have registered their names with the Board for that purpose and publish the notice and the rule in the State Register, and to perform any acts incidental thereto, including making any form changes in the rule that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's certification as required by Minnesota Statutes § 14.07, Subdivision 2 (1986 and as amended).

IN WITNESS WHEREOF, I have hereunto subscribed my name this fourteenth day of September, 1988.

Ruth E. Randall

Ruth E. Randall, Secretary
State Board of Education

SJ/dec MGR1.32
September 12, 1988

Board of Education

Proposed Permanent Rules Relating to Multicultural and Gender Fair Curriculum

Rules as Proposed (all new material)

3500.0550 MULTICULTURAL AND GENDER FAIR CURRICULUM.

Subpart 1. **Establishment of a plan.** The school board in each district shall adopt a written plan to assure that the curriculum developed for use in district schools establishes and maintains an inclusive educational program. An inclusive educational program is one that employs a curriculum that is developed and delivered so that students and staff gain an understanding and appreciation of:

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B. determine the extent to which the district

Approved by Revisor

curriculum advisory committee established by Minnesota Statutes, section 126.666, subdivision 3, will be involved in implementing this part;

C. include evidence of substantive involvement by women, persons of color, and handicapped persons in the development of the plan. In communities with no persons of color, the district shall use resource people available in the region, state, or nation whenever the plan is developed, reviewed, or revised;

D. include specific goals, objectives, and implementation timelines for the curriculum processes, content, and materials needed for each of the areas in subpart 1;

E. include procedures for systematic monitoring and evaluation of the plan; and

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B. The district shall submit status reports on implementing the plan as requested by the commissioner.

C. The current plan must be reviewed at least every six years and be revised as necessary.

EFFECTIVE DATE. Minnesota Rules, part 3500.0550, is effective June 1, 1990. The plan required to be adopted under subpart 1 must be adopted before that date and must be in effect and on file in the district and with the commissioner by that date.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Multicultural and Gender Fair Curriculum

AGENCY: Board of Education

MINNESOTA RULES: Chapter 3500

The attached rules are approved for publication in the State Register

Richard J. Sands
Senior Assistant Revisor

Minnesota State Board of Education

703 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1923

In the Matter of the Proposed Rule Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Part 3500.0550

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota State Board of Education (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in Minnesota Statutes § 121.11, Subdivision 7 (1987 Supplement), and Minnesota Statutes § 121.11, Subdivision 12 (1986).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. That date would end on November 2, 1988, at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minnesota Statutes §§ 14.131 to 14.20 (1986 and as amended).

Comments or written requests for a public hearing must be submitted to:

Wayne Erickson, Manager
Curriculum Services Section
Minnesota Department of Education
631 Capitol Square
550 Cedar Street
St. Paul, MN 55101-2273
(612) 296-1451

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from the Curriculum Services Section, 638 Capitol Square, 550 Cedar Street, St. Paul, MN 55101-2273, (612) 296-4073.

You are hereby advised, pursuant to Minnesota Statutes § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no effect on small businesses.

You are hereby advised, pursuant to Minnesota Statutes § 14.11 (1986), that the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule will not exceed $100,000 in either of the two years. The establishment and adoption of a plan for multicultural and gender-fair curriculum does not require the constitution of any additional committees or other bodies than already exist in the districts; the provisions of the rule can be accomplished within the normal, ongoing Planning, Evaluating, and Reporting (P.E.R.) Process. The only potential cost to a local school district would be the employment of resource person(s) from outside the district when no persons of color are locally available. It is estimated that fewer than 100 school districts in the state would have such needs and that the cost per year would be less than $1000 per district.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule, must submit the written request to Wayne Erickson, Curriculum Services Section Manager, at the address above.

Dated: September 14, 1988

Ruth E. Randall

Ruth E. Randall, Secretary
State Board of Education

SJ/dec MGR1.28
September 14, 1988

Board of Education

Proposed Permanent Rules Relating to Multicultural and Gender Fair Curriculum

Rules as Proposed (all new material)

3500.0550 MULTICULTURAL AND GENDER FAIR CURRICULUM.

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Approved by Revisor

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A. The current plan must be on file in the administrative offices of the district and with the commissioner of education.

B. The district shall submit status reports on implementing the plan as requested by the commissioner.

C. The current plan must be reviewed at least every six years and be revised as necessary.

EFFECTIVE DATE. Minnesota Rules, part 3500.0550, is effective June 1, 1990. The plan required to be adopted under subpart 1 must be adopted before that date and must be in effect and on file in the district and with the commissioner by that date.

Approved
by Revisor _____

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

STATE OF MINNESOTA
STATE BOARD OF EDUCATION
as prepared by the
MINNESOTA DEPARTMENT OF EDUCATION
DIVISION OF INSTRUCTIONAL EFFECTIVENESS
CURRICULUM SERVICES SECTION

In the Matter of the Proposed Rule
Governing Multicultural and Gender-Fair
Curriculum, Minnesota Rules Parts 3500.0550

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The proposed rule governing multicultural and gender-fair curriculum is intended to assist Minnesota public elementary and secondary schools in the development and implementation of an inclusive educational program, that is, one which provides students and staff with a curriculum that promotes understanding and appreciation of all groups and individuals, especially those who may have formerly been underrepresented. These latter are specifically identified as persons of color, women, and the handicapped. The proposed rule suggests policies and procedures similar to those in the Planning, Evaluation, and Reporting (P.E.R.) Process (Minnesota Statutes Section 121.661-126.666) and requires the adoption and filing of a district plan, with review or revision at least once every six years. The district plan must address curriculum goals, learner outcomes, evaluation processes, course content, instructional materials, monitoring, and staff development. Further, each plan would be developed by a committee or other body that would include representatives of the three groups: persons of color, women, and handicapped individuals.

In the early 1970s, the Minnesota State Board of Education had guidelines in place for "Quality Intercultural and Non Sex-biased Education." A decade later it became apparent that school districts in Minnesota had not implemented these guidelines in local curriculum. Subsequent actions to meet the identified need included the proposal, in 1983, of a bill on Multicultural/Gender-Fair Curriculum drafted by the Equal Educational Opportunities Section of the Department of Education. This bill was not enacted into law by the Minnesota Legislature.

As the result of a 1984 hearing on Indian Education, the State Board of Education appointed a Task Force with the charge "to 1) determine the status of multicultural/gender-fair curriculum presently being implemented by local school districts in the state; 2) write a report on the findings; and 3) make recommendations to the State Board based on the findings." In fulfillment of the charge, the Multicultural/Gender-Fair Curriculum Task Force developed and administered a survey of districts, met monthly from January to April, 1985, created six subcommittees, and received supplementary information from the three Department of Education staff liaison persons and from outside consultants. The Task Force reported to the State Board in May, 1985.

S-75

On April 15, 1986, the State Board of Education held an Information Gathering Session on multicultural/gender-fair curriculum. Testimony was heard and numerous letters of support were received.

In April, 1987, the State Board of Education's Sex Equity Advisory Committee (SEAC), charged by the State Board with "reviewing the report of the Multicultural/Gender-Fair [Curriculum] Task Force, consulting with interested educational and professional organizations, and recommending appropriate voluntary or legislative approaches for systematic implementation of multicultural/gender-fair curriculum in Minnesota K-12 public schools," presented their report to the State Board. The SEAC reaffirmed the findings of the Task Force and advised the State Board to adopt a rule.

In October, 1987, the Special Populations Committee of the State Board of Education reviewed a proposed Multicultural/Gender-Fair Curriculum Rule. At that meeting, Department of Education staff were directed to revise the proposed rule. This was done by members of the Curriculum Services Section of the Division of Instructional Effectiveness in consultation with the Equal Educational Opportunities Section and outside consultants. Discussion of the rule continued between the Committee and Department of Education staff until September, 1988, when the Committee recommended that the Board pass a Resolution to Proceed with Adoption of Rules Without a Public Hearing. That Resolution passed on September 13, 1988.

II. AUTHORITY

The statutory authority of the State Board of Education to promulgate the proposed rules is set forth in Minnesota Statutes Section 121.11, Subdivision 7 (1987 Supplement), and Minnesota Statutes Section 121.11, Subdivision 12 (1986), which provide:

> Subdivision 7. **General supervision over educational agencies.** The state board of education shall exercise general supervision over public schools and public educational agencies in the state, classify and standardize public elementary and secondary schools, and prepare for them outlines and suggestive courses of study. The board shall establish rules relating to examinations, reports, acceptances of schools, courses of study, and other proceedings in connection with elementary and secondary schools applying for special state aid. The state board may recognize educational accrediting agencies for the sole purpose of sections 120.101, 120.102, and 120.103.
>
> Subdivision 12. **Administrative rules.** The state board shall adopt and enforce rules, consistent with this code, appropriate for the administration and enforcement thereof. Notwithstanding the provisions of section 14.05, subdivision 4, the state board may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or school management which attempt to make better use of community resources or available technology.

Under this statute the Board has the necessary statutory authority to adopt the proposed rule.

III. STATEMENT OF NEED

Minnesota Statutes Chapter 14 (1986) requires the State Board of Education to make an affirmative presentation of facts establishing the need for and reasonableness of the rule as proposed. In general terms, this means that the State Board must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the State Board is appropriate. The need for the proposed rule is discussed below.

A. Need for the Rule as a Whole

A rule governing the development and implementation of multicultural and gender-fair curriculum in Minnesota public elementary and secondary schools is needed to provide staff and students with an educational setting that recognizes and promotes understanding and appreciation of the cultural diversity of the United States and the historical and contemporary contributions of all groups and individuals within that culture. Such an inclusive educational program would enhance the equality of educational opportunity for all students in Minnesota.

The State Board of Education recognizes that there may be many causes of inequality in educational opportunity, among which are racism, sexism, and a lack of a multicultural and gender-fair curriculum. The stability of our nation depends, in large measure, on the understanding and respect that are derived from a common educational experience by citizens. Recognizing that changes must occur in the relationships between and among human beings if the destiny envisioned in the United States Constitution and Bill of Rights is ever to be attained, schools must create an atmosphere for learning that is inclusive of all groups and individuals. Knowledge of the complex causes and divisive consequences of prejudice, sex-role stereotyping, discrimination, and separatism must supplant existing myths and misconceptions. These understandings should be integrated with content throughout the curriculum rather than presented as separate courses or units. The State Board of Education believes that such a multicultural and gender-fair approach to instruction will lead to the attainment of the desired outcomes.

As cited in the Introduction, previous attempts to achieve an inclusive educational program in public elementary and secondary schools throughout the state have not been completely successful. This is vividly illustrated in the key conclusions derived from reports of the State Board of Education's Multicultural/Gender-Fair Curriculum Task Force (1985) and Sex Equity Advisory Committee (1987):

- Of the tabulated survey results and supplementary information reviewed and analyzed by the Task Force, the overwhelming majority of the respondents did not indicate that multicultural/gender-fair curriculum was a priority. The districts also indicated a low level of concern and awareness regarding the issue of implementation and monitoring of multicultural/gender-fair curriculum. The responding districts represented 61% of the 435 districts in all but one of the state's 87 counties, indicating that these opinions are held statewide.

- The Task Force discovered that there appeared to be a general lack of understanding of the terminology and concepts regarding multicultural/gender-fair curriculum.

- The Task Force concluded that without some mechanism for requiring a multicultural/gender-fair curriculum approach as an integrated component of all curriculum areas, the status of equal educational opportunity would remain inadequate in the state. Even those districts that had reported progress were lacking uniform standards for policy-making, monitoring, evaluation, and staff development.

- The Sex Equity Advisory Committee (SEAC) agreed with the Task Force finding that school districts in Minnesota do not have multicultural/gender-fair curriculum as a priority. They cited evidence from the State of Iowa and the St. Paul (MN) Public Schools that a mandate and technical assistance (financial and personnel) are needed to assure implementation at the district level.

- The SEAC concluded that Minnesota public schools should implement multicultural/gender-fair curriculum "because it is the right thing to do." Among their supporting reasons were the need for Minnesota students to prepare for life in a global society and to validate and provide reinforcement for members of groups too long overlooked by the majority culture in our society.

There is no reason to believe that the needs for multicultural/gender-fair approaches to curriculum development and implementation identified in the 1970s and 1980s have diminished or will disappear. The State Board of Education believes the need for the proposed rule exists and requires its administrative attention.

B. Need for Individual Sections of the Rule

Subpart 1. Establishment of a Plan

A plan is needed in order for the board of education, staff, and community of each district to determine the appropriate processes necessary to the establishment of an inclusive educational program. A written plan provides guidance to all who are involved in the development of curriculum and evidence of compliance for the community and the state.

The identification of the three areas in items A, B, and C is needed to define the scope of the multicultural/gender-fair concepts required for inclusion in the curriculum. Specifically:

A. To gain a multicultural perspective in the development and delivery of curriculum and to establish and maintain an inclusive educational program, educational planners must reach beyond the dominant white culture, which is traditionally featured in textbooks and other curriculum materials. Students and staff need to gain an understanding of and appreciation for persons of color, namely American Indians, Asian Americans, Black Americans, and Hispanic Americans. Such representation is also essential if all students and staff, many of whom are themselves persons of color, are to feel included in the educational program. There is an established need in United States education for staff and students to understand and appreciate the wide range of contributions by and roles open to Americans of all races and cultures. As the percentage of persons of color grows in the nation and state of Minnesota, the need for multicultural education increases as well.

B. To gain a gender-fair perspective in the development and delivery of curriculum and to establish and maintain an inclusive educational program, there is a need for educational planners to provide examples of the achievements and potential of both women and men in textbooks and other curriculum materials. The language and illustrations of district curriculum documents, as well as the curriculum materials purchased or developed for use in the classroom, should be inclusive, that is, acknowledging the contributions and career options open to both females and males. With few exceptions this requires special attention to women, but the end result is a balanced program in which both females and males are included.

C. To gain a truly inclusive perspective in the development and delivery of curriculum and to establish and maintain an educational program that reflects the broad spectrum of individuals and groups in American society, it is necessary for educational planners to include the handicapped. The current trend toward mainstreaming and community-based care underscores the need for students and staff to understand and appreciate the contributions by and roles open to handicapped individuals. Likewise, handicapped staff and students need a school environment that provides examples of these contributions and roles and values them as contributing members of society.

Both the state and federal government prohibit discrimination on the basis of race, creed, color, national origin, age, sex, or physical handicap. There is, therefore, a need for students in the schools to learn and practice the knowledge, skills, and affect necessary to be citizens in a pluralistic society that holds these values. The State Board of Education has also adopted statements of learner and system values, philosophy, and learner goals that highlight the need for the educational community to be attentive to the precepts of a multicultural, gender-fair, and inclusive program for students and staff. These statements are part of each Model Learner Outcome document published by the Department of Education, of other Department and Board publications, and are also available upon request from the Department or the Board.

Subpart 2. Specifications for the Plan.

The six components of the district plan specified in this subpart are those that are needed to assure a comprehensive approach:

A. Curriculum goals, learner outcomes, and evaluation processes are key factors in school curriculum and are required under the P.E.R. process. Without goals, outcomes, or evaluation, there is little direction for educational planners to accomplish their task. All three ingredients must be in congruence in order for staff and students to achieve an inclusive educational program and environment. Likewise, the three required areas of subpart 1, items A, B, and C, must be addressed in the goals, outcomes, and evaluation processes. Statements of these goals, outcomes, and evaluation processes are needed in the plan for purposes of communication within and outside the educational community, for monitoring, and for staff inservice.

B. Districts should consider the potential role of their P.E.R.-mandated curriculum advisory committee in the implementation of the rule. Boards of education often determine a need for an advisory body to provide community, parent, and staff input into procedures to implement new rules. By examining the potential role of the district curriculum advisory committee, an existing advisory group with curriculum responsibilities, the State Board believes that local boards will see the linkage between the proposed rule and the P.E.R process, may avoid duplication of effort, and possibly achieve increased integration of multicultural/gender-fair concepts in district curriculum. A statement describing the extent of this committee's role is needed in the plan to show the degree to which multicultural/gender-fair curriculum development is part of the district P.E.R. process. While this integration is not mandated, it is the intention of the State Board of Education that the provisions of this rule can be accomplished within the P.E.R. format; they would like local boards to at least consider this possibility and report their decision through the plan.

C. Substantive involvement by women, persons of color, and handicapped persons is necessary to assure the appropriateness of the decisions, especially in districts without representation of one or more of these groups. To gain a true multicultural, gender-fair, and inclusive perspective, it is necessary to involve the target groups directly in at least the development of the district plan. This is most efficiently accomplished by having representatives of each group serve on the district committee as available; it can also be achieved if appropriate representatives work closely with the planners. Whatever the process, it is necessary to show evidence of this involvement in the current plan, which will be on file in the district and at the Minnesota Department of Education.

D. Specific goals, objectives, and timelines are needed to assure full compliance with all aspects of the rule and to provide an achievable plan. Without such specificity, it will be difficult for the local board to monitor progress, to conduct efficient and successful reviews at least every six years, and to make appropriate revisions as required. There is a need for districts to determine specific goals, objectives, and implementation timelines for curriculum processes, curriculum content, and curriculum materials for each of the areas in subpart 1, so that there is a systematic approach over time. The first step is a thoughtful plan that will assure an inclusive educational program through an integrated curriculum development process. Such a plan requires specific goals, objectives, and evaluation processes.

E. Systematic monitoring and evaluation procedures are needed to assist in the review and possible revision of the plan as proposed in Subpart 3. Without such a systematic approach, it may be virtually imnpossible for a board to assure implementation of the plan or to determine how well (or poorly) the plan has achieved the district goals in providing an inclusive educational program. There is a need for these procedures to be included in the plan so that all who work with it, review it, and suggest directions for revision can know the intent of the board and the planners.

F. An inservice program is needed to ensure that all members of the district staff receive appropriate and timely instruction in developing their own understandings and appreciation of the emphasized areas and for applying the concepts in all curriculum development and implementation activities. The inservice program must address all areas related to subpart 1, items A, B, and C, so that opportunities exist for staff to learn about or increase their understanding of and appreciation for all three target groups: persons of color, women, and the handicapped. It must also address items D and E of subpart 2 so that staff will be prepared to develop and implement specific goals, objectives, timelines, and systematic procedures for monitoring and evaluation. The description of this program is needed in the plan so that planners, participants, monitors, and evaluators have a blueprint for their activities.

Subpart 3. Filing, Review, Revision.

This section is needed to establish the places where the current plan is to be filed and the cycle for review and possible revision. Copies of the plan are needed on file in the district office for local use and review and in the office of the Commissioner of Education for monitoring of compliance. A six-year cycle is needed to parallel the cycle required for the P.E.R. Process; this should facilitate implementation in the district.

Effective Date.

Normally, rules are effective five days after the date of publication of the Notice of Adoption in the State Register. The effective date of June 1, 1990, is needed in order to allow districts an appropriate time frame in which they can address each aspect of the rule and develop their plan. It is also necessary to explain that the effective date is the same date by which all requirements of the rule must have been met.

IV. STATEMENT OF REASONABLENESS

The State Board of Education is required by Minnesota Statutes Chapter 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rule. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Board's proposed action. The reasonableness of the proposed rule is discussed below.

A. Reasonableness of the Rule as a Whole

The approach to the establishment of inclusive educational programs in all Minnesota school districts as proposed by the State Board of Education is a reasonable one in that it requires districts to address the issues of multicultural/gender-fair curriculum in a manner appropriate to local needs and conditions. There is great flexibility in the design of the required plan; no one model is imposed or even suggested for districts. Instead, technical assistance from the Department of Education will be made available, or districts may use their own or other outside resources.

A further indication of the reasonableness of the approach is the fact that the proposed specifications and timelines are similar to those required by the P.E.R. Process. Therefore, this would not be an entirely new activity for the districts, but one that could be designed as part of a process in which an existing legal mandate for curriculum is carried out. It is realistic to assume that the majority of school districts will establish a plan that incorporates multicultural/gender-fair curriculum development into the same policies and procedures adopted for their P.E.R. work. These districts would use the P.E.R. cycle, district curriculum advisory committee, monitoring and evaluation strategies, staff development opportunities, and the curriculum goals, learner outcomes, and evaluation processes already under way to address the multicultural/gender-fair issues.

B. Reasonableness of Individual Sections of the Rule

Subpart 1. Establishment of a Plan.

The adoption of a written plan is a reasonable request of districts in that it allows them to proceed at the local level by developing a process that provides direction in the home community and assurance of compliance at the state level. The subpart identifies three areas of special attention and emphasis so that districts know where to focus their efforts. Specifically:

A. It is reasonable to give special emphasis to American Indians, Asian Americans, Black Americans, and Hispanic Americans because all are represented in Minnesota and the nation and all have been historically underserved and underrepresented in the curriculum content and materials. The availability of informational and human resources for each group makes their inclusion both necessary and reasonable. It is also reasonable to expect districts to focus on both historical and contemporary contributions of American Indians, Asian Americans, Black Americans, and Hispanic Americans, and on roles open to all Americans as a way of increasing understanding and appreciation as well as a sense of inclusion. While some effort will be needed for districts to increase consideration of these four groups in local curriculum, it is a reasonable task and technical assistance is obtainable.

B. Inclusion of women's contributions, both historical and contemporary, and use of language that is either gender fair or gender neutral is not a new phenomenon in American society. Progress has already been made in these areas, in schools and in the community, but more is needed. Therefore, it is a reasonable task for districts, which are not being asked to replace the accomplishments of men with those of women but to present a balanced picture for students and staff. In this way, the full range of opportunities open to both women and men will serve as models for students and staff, fostering the sense of inclusiveness for all.

C. At the same time that persons of color and women are identified for special emphasis and representation in the educational program. it is reasonable to include the handicapped, also. Districts are already addressing the mainstreaming of handicapped individuals into their schools and classrooms, making it reasonable to extend this concern to the development and delivery of curriculum. Most, if not all, school

districts count handicapped adults in their community population; these persons and the parents of handicapped students are valuable local resources, who are often vocal activists in the area of handicapped awareness. It is reasonable for these members of the community to expect the local curriculum not only to foster understanding and appreciation of the contributions by and roles open to the handicapped but also a sense of inclusion within the educational program. These expectations are already held by state and local government, including the State Board of Education.

Subpart 2. Specifications for the Plan.

A. It is reasonable to require districts to address the three key curriculum components identified in the subpart: curriculum goals, learner outcomes, and evaluation processes. All three are already being addressed through the P.E.R. Process.

B. It is reasonable to expect the district to examine the potential role of its curriculum advisory committee in the implementation of the rule. This established group is already involved in curriculum development processes and may be the designated body to deal with the multicultural/gender-fair curriculum rule. If not, that group will probably know best who should assume responsibility for the requirements of the rule.

C. It is reasonable to expect district planners to involve women, persons of color, and handicapped persons in their work, knowing that their personal experiences and insights will bring a necessary perspective to the task. It is also reasonable to assume that some districts will not have local representatives of one or more of these groups immediately available and will require assistance from outside resource persons. While this might seem to suggest an unreasonable aspect of the rule, the need for this stipulation outweighs any potential hardship for a local district. Qualified women are certainly available in each district, and the handicapped may be also. Persons of color are increasingly represented throughout the state and region, bringing them closer to individual districts than ever before.

D. In the same way that it is reasonable to address curriculum goals, learner outcomes, and evaluation processes, it is reasonable to require districts to include specific goals, objectives, and implementation timelines for the processes, content, and materials needed to include persons of color, women, and handicapped persons in all areas of the curriculum. These are regular activities of all curriculum development. Determination of each component is to be made entirely at the local level, allowing a reasonable approach that can be unique for each district. Only a completed plan and an implementation timeline are required by the effective date (June 1, 1990), not complete implementation of all aspects of the plan.

E. It is reasonable to require districts to plan for systematic monitoring and evaluation, particularly when these may be the same as those established for their P.E.R. Process. Monitoring and evaluation are both recognized and expected educational procedures.

F. It is reasonable to require districts to plan for staff inservice in areas related to the rule. Only a description of the program is required by the effective date (June 1, 1990); it is realistic to expect the implementation of the program to extend well beyond the effective date. Staff development appropriate to the goals and activities of a building and/or district is a common undertaking in Minnesota schools.

Subpart 3. Filing, Review, Revision.

A. It is reasonable to require that the current plan be on file in the administrative offices of the district and with the Commissioner of Education. At least one copy of the plan must be readily accessible at the local level; the district office seems the logical and appropriate place. The office of the Commissioner of Education is selected for the state file copy so that it can be accessible to both the State Board of Education, which the Commissioner serves as Secretary, and to staff in the Department of Education, who will be available to provide technical assistance to help districts comply with and implement the rule.

B. It is reasonable to expect the district to submit status reports on implementation of their plan so that the State Board can be assured that districts are making progress toward the establishment and maintenance of an inclusive educational program. It is also reasonable to expect the Commissioner of Education to determine the format for those reports, as s/he has several existing means at her/his disposal, such as the Department compliance procedures for the Civil Rights Act of 1964 and Title IX (1972), special education monitoring, the MINCRIS reporting system, etc. The Commissioner can also adjust the nature and determine the frequency of these reports, giving more flexibility than might be afforded if these were stipulated in the rule.

C. A cycle of six years is a reasonable length of time for districts to review their plan and to propose revisions. This is the same time frame required for the curriculum review cycle under P.E.R. It is anticipated that revisions will not be extensive, particularly after the first cycle is completed.

Effective Date.

The effective date of June 1, 1990, for both the rule and the adoption and filing of the first plan provides a reasonable length of time for the adoption of the rule and work in the districts to comply with its requirements. Also, the rule requires only the adoption and filing of the plan by the effective date, not full implementation.

It is anticipated that the rule will be adopted without a public hearing and that the Notice of Adoption will be published in the State Register during December, 1988, or January, 1989. Districts will then have approximately 16 months to establish and adopt their plan and file it in the district office and with the Commissioner of Education.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

It has been determined that there will be no impact on small business.

VI. CONCLUSION

Based on the foregoing, the proposed Minnesota Rules Part 3500.0550 is both needed and reasonable.

Dated: September 23, 1988

Ruth E. Randall

Ruth E. Randall, Ed.D.
Commissioner of Education and
Secretary, State Board of Education

SJ/dec
MGR:1.36

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed Rule Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Part 3500.0550

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Suzanne P. Jebe, being duly sworn, says: On the twenty-eighth day of September, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail a copy thereof, with postage prepaid, to all persons and associations on the Minnesota State Board of Education's rulemaking mailing list, and that the aforementioned list is the same certified as accurate, complete, and current as of this date by Ted L. Suss, Administrator of the State Board.

SIGNED Suzanne P. Jebe

Subscribed and sworn to before me
this twenty-eighth day of September, 1988.

Hollis Dee Britz-Mitchell
Notary Public

HOLLIS DEE BRITZ - MITCHELL
NOTARY PUBLIC-MINNESOTA
CHISAGO COUNTY
MY COMMISSION EXPIRES OCTOBER 4, 1990

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register.*

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Education

Proposed Permanent Rules Relating to Multicultural and Gender Fair Curriculum

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota State Board of Education (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in *Minnesota Statutes* § 121.11, Subdivision 7 (1987 Supplement), and *Minnesota Statutes* § 121.11, Subdivision 12 (1986).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. That date would end on November 2, 1988, at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986 and as amended).

Comments or written requests for a public hearing must be submitted to:

Wayne Erickson, Manager
Curriculum Services Section
Minnesota Department of Education
631 Capitol Square
550 Cedar Street
St. Paul, MN 55101-2273
(612) 296-1451

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from the Curriculum Services Section, 638 Capitol Square, 550 Cedar Street, St. Paul, MN 55101-2273, (612) 296-4073.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no effect on small businesses.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11 (1986), that the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule will not exceed $100,000 in either of the two years. The establishment and adoption of a plan for multicultural and gender-fair curriculum does not require the constitution of any additional committees or other bodies than already exist in the districts; the provisions of the rule can be accomplished within the normal, ongoing Planning, Evaluating, and Reporting (P.E.R.) Process. The only potential cost to a local school district would be

the employment of resource person(s) from outside the district when no persons of color are locally available. It is estimated that fewer than 100 school districts in the state would have such needs and that the cost per year would be less than $1000 per district.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule, must submit the written request to Wayne Erickson, Curriculum Services Section Manager, at the address above.

Dated: 14 September 1988

Ruth E. Randall, Secretary
State Board of Education

Rules as Proposed (all new material)

3500.0550 MULTICULTURAL AND GENDER FAIR CURRICULUM.

Subpart 1. **Establishment of a plan.** The school board in each district shall adopt a written plan to assure that the curriculum developed for use in district schools establishes and maintains an inclusive educational program. An inclusive educational program is one that employs a curriculum that is developed and delivered so that students and staff gain an understanding and appreciation of:

A. The cultural diversity of the United States. Special emphasis must be placed on American Indians, Asian Americans, Black Americans, and Hispanic Americans. The program must reflect the wide range of contributions by and roles open to Americans of all races and cultures.

B. The historical and contemporary contributions of women and men to society. Special emphasis must be placed on the contributions of women. The program must reflect the wide range of contributions by and roles open to American women and men.

C. The historical and contemporary contributions to society by handicapped persons. The program must reflect the wide range of contributions by and roles open to handicapped Americans.

Subp. 2. **Specifications for the plan.** The current plan must:

A. address the manner in which the multicultural and gender fair concepts in subpart 1, items A, B, and C are to be incorporated into the curriculum goals, learner outcomes, and evaluation processes established in the district;

B. determine the extent to which the district curriculum advisory committee established by Minnesota Statutes, section 126.666, subdivision 3, will be involved in implementing this part;

C. include evidence of substantive involvement by women, persons of color, and handicapped persons in the development of the plan. In communities with no persons of color, the district shall use resource people available in the region, state, or nation whenever the plan is developed, reviewed, or revised;

D. include specific goals, objectives, and implementation timelines for the curriculum processes, content, and materials needed for each of the areas in subpart 1;

E. include procedures for systematic monitoring and evaluation of the plan; and

F. include a description of the program planned to provide inservice training for all staff in the areas related to subpart 1, items A, B, and C, and subpart 2, items D and E.

Subp. 3. **Filing, reports, review, and revision.**

A. The current plan must be on file in the administrative offices of the district and with the commissioner of education.

B. The district shall submit status reports on implementing the plan as requested by the commissioner.

C. The current plan must be reviewed at least every six years and be revised as necessary.

EFFECTIVE DATE. Minnesota Rules, part 3500.0550, is effective June 1, 1990. The plan required to be adopted under subpart 1 must be adopted before that date and must be in effect and on file in the district and with the commissioner by that date.

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.

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

CERTIFICATE OF RESOLUTION ADOPTING RULE

I, Ruth E. Randall, do hereby certify that I am the Secretary of the Minnesota State Board of Education, an agency 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 Minnesota State Board of Education duly and properly called and held on the thirteenth day of December, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota State Board of Education (Board) hereby approves and adopts the rule governing multicultural and gender-fair curriculum pursuant to the authority vested in the Board by Minn. Stat. § 121.11, Subdivision 7 (1987 Supplement), and Minn. Stat. § 121.11, Subdivision 12 (1986).

BE IT FURTHER RESOLVED, that prior to publishing the rule as adopted in the State Register, the Secretary of the Board is authorized to make any form changes in the rule that the Revisor of Statutes or the Attorney General requires the Board to make.

BE IT FURTHER RESOLVED, that the Board adopts the attached Findings of Fact, Conclusions and Order Adopting Rules and that the Secretary of the Board is hereby authorized to sign the above-mentioned document on behalf of the Board and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this thirteenth day of December, 1988.

Ruth E. Randall

Ruth E. Randall, Commissioner
of Education and Secretary of
the Board

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

Revised

In the Matter of the Proposed Rule Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Parts 3500.0550

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE

The above-entitled matter came on for decision before the Minnesota State Board of Education (Board) on the thirteenth day of December, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota State Board of Education's intent to adopt the above-entitled rule without a public hearing was published in the State Register on October 3, 1988, and was sent by mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes §§ 14.14, subdivision 1a, and 14.22 on September 28, 1988.

2. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on November 2, 1988.

4. During the comment period the Board received seven (7) requests for public hearing. Therefore, the Board did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. During the comment period the Board received sixteen (16) written comments.

6. The Board finds that certain modifications to the proposed rules are justified in this proceeding, as follows:

a. In Subpart 1. A., change "American Indians" to read "American Indians/Alaskan Natives."
b. Also in Subpart 1. A., change "Asian Americans" to read "Asian Americans/Pacific Islanders."

As evidenced in the Statement of Need and Reasonableness (see page 4 [need] and page 8 [reasonableness]), the intent of the proposed rule is to be inclusive of "Amer-

icans of all races and cultures" (page 4) and of those who "are represented in Minnesota and the nation and have been historically underserved and underrepresented in the curriculum content and materials" (page 8). The addition of the two identifiers "Alaskan Natives" and "Pacific Islanders" makes the proposed rule more inclusive, brings it into conformity with federal and state protected class guidelines, and does not substantially change the proposed rule but only expands it slightly. By providing a more complete listing of people of color in the rule, the Board feels that both the intent and the nature of the rule will be clearer. In the same way that the proposed rule asks that curriculum be developed to ensure an inclusive educational program, the rule itself should contain the inclusive language identifications of American Indians/Alaskan Natives and Asian Americans/Pacific Islanders.

The need for the two modifications is the same as the need for the other identifications of people of color in Subpart 1. A. of the proposed rule, namely, so that students and staff gain an understanding of and appreciation for persons of color, so that all students and staff feel included in the educational program, and so that the wide range of contributions by and roles open to Americans of all races and cultures can be understood and appreciated. As stated in the Statement of Need and Reasonableness (page 4): "As the percentage of persons of color grows in the nation and state of Minnesota, the need for multicultural education increases as well."

The modifications are reasonable in that they are parallel to the other identifications in Subpart 1. A. and do not substantially change either the intent or the nature of the proposed rule. It is not only reasonable but necessary to list all the appropriate groups in the rule itself rather than in interpretations of the rule or in subsequent directions for implementation. Expanding the rule to include Alaskan Natives and Pacific Islanders also expands the pool of persons of color who might be represented in a community. Thus, districts may be more readily able to comply with the stipulation in Subpart 2. C. that persons of color be involved in a substantive way as the district develops the plan required by the proposed rule.

The modifications are not a substantial change but rather a slight expansion of the proposed rule. The addition of the two cultural groups does not change either the intent or the nature of the proposed rule. None of the specifications of the plan is affected by the modifications. Rather, the definition of cultural diversity in Subpart 1. A. is stated more clearly and inclusively. Likewise, the only changes in the Statement of Need and Reasonableness would be the modification of the two identifiers each time they occur, that is, American Indians would be American Indians/Alaskan Natives and Asian Americans would be Asian Americans/Pacific Islanders.

8. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule. The Board hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding Number 7 above.

9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota State Board of Education duly acquired and has jurisdiction over this proceeding.

2. The Board published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Minnesota Rules Parts 3500.0550 governing Multicultural and Gender-Fair Curriculum is adopted pursuant to the authority vested in the Minnesota State Board of Education by Minnesota Statutes Section 121.11, Subdivision 7 (1987 Supplement), and Minnesota Statutes Section 121.11, Subdivision 12 (1986).

STATE BOARD OF EDUCATION

Ruth E. Randall

Ruth E. Randall, Commissioner
of Education and Secretary of
the Board

SJ/dec
MGRule 1.51

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed
Rule Governing Multicultural and Gender-Fair
Curriculum, Minnesota Rules Parts 3500.0550

FINDINGS OF FACT,
CONCLUSIONS, AND ORDER
ADOPTING RULE

The above-entitled matter came on for decision before the Minnesota State Board of Education (Board) on the thirteenth day of December, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota State Board of Education's intent to adopt the above-entitled rule without a public hearing was published in the State Register on October 3, 1988, and was sent by mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes §§ 14.14, subdivision 1a, and 14.22 on September 28, 1988.

2. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on November 2, 1988.

4. During the comment period the Board received seven (7) requests for public hearing. Therefore, the Board did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. During the comment period the Board received sixteen (16) written comments.

6. The Board finds that certain modifications to the proposed rules are justified in this proceeding, as follows:

a. In Subpart 1. A., change "American Indians" to read "American Indians/Alaskan Natives."
b. Also in Subpart 1. A., change "Asian Americans" to read "Asian Americans/Pacific Islanders."

As evidenced in the Statement of Need and Reasonableness (see page 4 [need] and page 8 [reasonableness]), the intent of the proposed rule is to be inclusive of "Amer-

icans of all races and cultures" (page 4) and of those who "are represented in Minnesota and the nation and have been historically underserved and underrepresented in the curriculum content and materials" (page 8). The addition of the two identifiers "Alaskan Natives" and "Pacific Islanders" makes the proposed rule more inclusive, brings it into conformity with federal and state protected class guidelines, and does not substantially change the proposed rule but only expands it slightly. By providing a more complete listing of people of color in the rule, the Board feels that both the intent and the nature of the rule will be clearer. In the same way that the proposed rule asks that curriculum be developed to ensure an inclusive educational program, the rule itself should contain the inclusive language identifications of American Indians/Alaskan Natives and Asian Americans/Pacific Islanders.

The need for the two modifications is the same as the need for the other identifications of people of color in Subpart 1. A. of the proposed rule, namely, so that students and staff gain an understanding of and appreciation for persons of color, so that all students and staff feel included in the educational program, and so that the wide range of contributions by and roles open to Americans of all races and cultures can be understood and appreciated. As stated in the Statement of Need and Reasonableness (page 4): "As the percentage of persons of color grows in the nation and state of Minnesota, the need for multicultural education increases as well."

The modifications are reasonable in that they are parallel to the other identifications in Subpart 1. A. and do not substantially change either the intent or the nature of the proposed rule. It is not only reasonable but necessary to list all the appropriate groups in the rule itself rather than in interpretations of the rule or in subsequent directions for implementation. Expanding the rule to include Alaskan Natives and Pacific Islanders also expands the pool of persons of color who might be represented in a community. Thus, districts may be more readily able to comply with the stipulation in Subpart 2. C. that persons of color be involved in a substantive way as the district develops the plan required by the proposed rule.

The modifications are not a substantial change but rather a slight expansion of the proposed rule. The addition of the two cultural groups does not change either the intent or the nature of the proposed rule. None of the specifications of the plan is affected by the modifications. Rather, the definition of cultural diversity in Subpart 1. A. is stated more clearly and inclusively. Likewise, the only changes in the Statement of Need and Reasonableness would be the modification of the two identifiers each time they occur, that is, American Indians would be American Indians/Alaskan Natives and Asian Americans would be Asian Americans/Pacific Islanders.

8. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule. The Board hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding Number 7 above.

9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota State Board of Education duly acquired and has jurisdiction over this proceeding.

2. The Board published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Minnesota Rules Parts 3500.0550 governing Multicultural and Gender-Fair Curriculum is adopted pursuant to the authority vested in the Minnesota State Board of Education by Minnesota Statutes Section 121.11, Subdivision 7 (1987 Supplement), and Minnesota Statutes Section 121.11, Subdivision 12 (1986).

STATE BOARD OF EDUCATION

Ruth E. Randall

Ruth E. Randall, Commissioner
of Education and Secretary of
the Board

SJ/dec
MGRule 1.51

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed Rule Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Parts 3500.0550

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE

The above-entitled matter came on for decision before the Minnesota State Board of Education (Board) on the thirteenth day of December, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota State Board of Education's intent to adopt the above-entitled rule without a public hearing was published in the State Register on October 3, 1988, and was sent by mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes §§ 14.14, subdivision 1a, and 14.22 on September 28, 1988.

2. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on November 2, 1988.

4. During the comment period the Board received seven (7) requests for public hearing. Therefore, the Board did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. No requests for notice of submission to the Attorney General were received by the Board.

6. During the comment period the Board received sixteen (16) written comments.

7. The Board finds that certain modifications to the proposed rules are justified in this proceeding, as follows:

a. In Subpart 1. A., change "American Indians" to read "American Indians/Alaskan Natives."
b. Also in Subpart 1. A., change "Asian Americans" to read "Asian Americans/Pacific Islanders."

As evidenced in the Statement of Need and Reasonableness (see page 4 [need] and page 8 [reasonableness]), the intent of the proposed rule is to be inclusive of "Amer-

icans of all races and cultures" (page 4) and of those who "are represented in Minnesota and the nation and have been historically underserved and underrepresented in the curriculum content and materials" (page 8). The addition of the two identifiers "Alaskan Natives" and "Pacific Islanders" makes the proposed rule more inclusive, brings it into conformity with federal and state protected class guidelines, and does not substantially change the proposed rule but only expands it slightly. By providing a more complete listing of people of color in the rule, the Board feels that both the intent and the nature of the rule will be clearer. In the same way that the proposed rule asks that curriculum be developed to ensure an inclusive educational program, the rule itself should contain the inclusive language identifications of American Indians/Alaskan Natives and Asian Americans/Pacific Islanders.

The need for the two modifications is the same as the need for the other identifications of people of color in Subpart 1. A. of the proposed rule, namely, so that students and staff gain an understanding of and appreciation for persons of color, so that all students and staff feel included in the educational program, and so that the wide range of contributions by and roles open to Americans of all races and cultures can be understood and appreciated. As stated in the Statement of Need and Reasonableness (page 4): "As the percentage of persons of color grows in the nation and state of Minnesota, the need for multicultural education increases as well."

The modifications are reasonable in that they are parallel to the other identifications in Subpart 1. A. and do not substantially change either the intent or the nature of the proposed rule. It is not only reasonable but necessary to list all the appropriate groups in the rule itself rather than in interpretations of the rule or in subsequent directions for implementation. Expanding the rule to include Alaskan Natives and Pacific Islanders also expands the pool of persons of color who might be represented in a community. Thus, districts may be more readily able to comply with the stipulation in Subpart 2. C. that persons of color be involved in a substantive way as the district develops the plan required by the proposed rule.

The modifications are not a substantial change but rather a slight expansion of the proposed rule. The addition of the two cultural groups does not change either the intent or the nature of the proposed rule. None of the specifications of the plan is affected by the modifications. Rather, the definition of cultural diversity in Subpart 1. A. is stated more clearly and inclusively. Likewise, the only changes in the Statement of Need and Reasonableness would be the modification of the two identifiers each time they occur, that is, American Indians would be American Indians/Alaskan Natives and Asian Americans would be Asian Americans/Pacific Islanders.

c. In Subpart 2. B., change "subdivision 3" to read "subdivision 2."

Due to an error in typing, the incorrect subdivision of the P.E.R. Law (M.S. section 126.666) was referenced in the proposed rule. Upon consultation with the Revisor of Statutes, the change was made to the correct subdivision at the same time the two modifications above were requested.

It is both necessary and reasonable for the citation of the applicable statute to be correct in the rule. This would have been the case except for the original error. Throughout its discussion of the proposed rule the Board understood the reference to be to subdivision 2, in which the curriculum advisory committee is described. Subdivision 3, which allows for the establishment of building teams, clearly is unrelated to the concept contained in Subpart 2. B.

This modification is not a substantial change but rather a needed and reasonable change to provide the correct citation so that there will be no confusion on the part of readers and implementers of the rule. As stated above, subdivision 3 has no relationship to this section of the proposed rule, while subdivision 2 is clearly related to it.

8. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule. The Board hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding Number 7 above.

9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota State Board of Education duly acquired and has jurisdiction over this proceeding.

2. The Board published and served due, timely, and adequate notice of the intent to adopt the rule without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule are supported by the record and do not result in a substantial change in the proposed rule.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached Minnesota Rules Parts 3500.0550 governing Multicultural and Gender-Fair Curriculum is adopted pursuant to the authority vested in the Minnesota State Board of Education by Minnesota Statutes Section 121.11, Subdivision 7 (1987 Supplement), and Minnesota Statutes Section 121.11, Subdivision 12 (1986).

STATE BOARD OF EDUCATION

Ruth E. Randall

Ruth E. Randall, Commissioner
of Education and Secretary of
the Board

SJ/dec
MGRule 1.51

RECEIVED
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MAY 02 89

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed Rules Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Parts 3500.0550

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ruth E. Randall, being duly sworn on oath deposes and says:

1. That Wayne Erickson is the person named in the Notice of Intent to Adopt Rules Without a Public Hearing (13 S.R. 800-801, October 3, 1988) as the person to receive comments on the Board's intent to adopt rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on November 2, 1988.

3. That the following comments were received by the Board:

Five oral and 16 written comments, seven of which requested a public hearing. The comments were both in favor of and in opposition to the proposed rule. Several respondents suggested or requested changes in the rule. While most commentary supported the concepts of multicultural and gender-fair curriculum, the reasons cited by those in opposition to the proposed rule focused on the potential costs of implementing the rule (8), the time required to do so (3), the need to involve persons of color from outside the district when no one was available locally (4), duplication of efforts already required by state and federal laws or underway at the local level (9), and the general burden the rule would place on boards of education and school districts, particularly on those of small size and/or resources (3). (Copies of the written comments received are attached.)

Ruth E. Randall

Ruth E. Randall, Ed.D.
Commissioner of Education

Subscribed and sworn to before me
this thirtieth day of November, 1988.

Hollis Dee Britz-Mitchell

Notary Public

HOLLIS DEE BRITZ - MITCHELL
NOTARY PUBLIC-MINNESOTA
CHISAGO COUNTY
MY COMMISSION EXPIRES OCTOBER 4, 1990

(1) I am writing in support of the proposed rule governing multicultural and gender-fair curriculum. As a classroom teacher, I can attest to the inadequacy of the teacher training I received to develop a curriculum that includes the contributions, perspectives, and experiences of women and men from multicultural backgrounds.

As our school population changes and the teaching staff does not, it is particularly important that the process requires consultants from backgrounds other than those inside the district.

This rule will also encourage those school districts like where I teach to continue in efforts already begun to work toward the day when our curriculum is gender inclusive and multicultural. It is an important, long-term project, and the adoption by the Minnesota State Board of Education of the proposed rule will take the necessary first step for Minnesota school districts.

(2) I wish to support and commend the Department for its continued efforts to support the development and implementation of multicultural and gender fair curriculum.

My work as a consultant to schools and education programs has made clear the crying need for inclusive information for all children, for practical reasons of educational effectiveness and -- quite simply -- because it is the "right" thing to do.

(3) The strongly supports adoption of the Proposed Rule Governing Multicultural and Gender-Fair Curriculum. We believe that compliance with this rule will create programs and a climate for much needed inclusivity in the Minnesota public schools programs.

The has worked during its entire history for equity in public services, including education. We have monitored the progress of the present rule for many years and believe the proposed rule contains needed components for creating change.

The establishment of a plan for creating an inclusive program as required in Subpart 1 is a reasonable and effective process. We support the specifications in Subpart 2 which will both fulfill the necessary elements in the plan and which will provide helpful structure to school boards as they draw up their plans. We believe the requirements in Subpart 3 will assure accountability to local citizens as well as to the state.

We commend the State Board of Education and Department of Education staff for drafting and proposing this measure.

(4) Let me offer three recommendations regarding the proposed Minnesota Rules Part 3500.0550 governing Multicultural and Gender-Fair Curriculum. First of all, there should be an addition to the proposed Rules stipulating that there will be a careful, rigorous evaluation of the effects of the proposed Rules on the achievement levels of students. Secondly, the proposed Rules should stipulate that there will be a rigorous statewide content analysis which will indicate what academic topics are displaced from the school curricula as a result of the proposed Rules. Lastly, the explication of multicultural education in the proposed Rules should be made more inclusive to recognize specific nationality groups (e.g., Lebanese Americans, Ethiopian Americans, Italian Americans, Lithuanian Americans, and Korean Americans) and religious groups (e.g., Jews, Catholics, Protestants, and Moslems) and their contributions to our

⑤

1) I am very much in favor of the goals addressed in the proposed Rule.

2) The tone of the Rule is too abstract. When I read it, the impression it made on me, thinking as a person who would have to follow the Rule, and devise a Plan, was "Here is something that requires me to waste a lot of time, writing down a bunch of stuff to satisfy a distant-government bureaucratic requirement that looks like it just wants me to change the words I use, from "mailman" to "carrier", from "waitress" to "server", from "_____-man" to "_____"-person", and to put in a lot of platitudes about the great things "people of color", women, and the handicapped have done." Nothing in the Rule would suggest to a person who responds this way that such a plan could be developed in the classrooms in the district, e. g. as part of social studies, making use of the children themselves, and their families' memories, traditions and dreams.

3) The Rule seems to call mostly for the making of a plan; it does not emphasize nearly enough that the plan must be put into effect! For example, wouldn't it satisfy Subpart 3 B., to file a report saying that the status of the plan is that it has not been possible to put it into effect because of "lack of resources"?

4) The Rule does not include a timetable for detailed checking, in every district, by the State Board of Education, on the plan and its implementation.

5) It is very important that, in developing and carrying out these plans, we listen to children, their parents and their teachers, and seek out the great value of their individual, personal experiences. What do children who come from diverse backgrounds think school is for? What is it like for them to be in school? Are their appearance and manners ridiculed, feared, from their perspective? Who in school is most important to them, and when? Teachers? Peers? Principals? Janitors? Nurses? Aides? Why? The same questions can be asked of teachers, parents, school administrators, legislators, the press, and even the Minnesota State Board of Education..

6) Specific comments.

Page 1	Line 16.	What special emphasis?
	Line 18.	Contributions to what? Roles in what?
	Line 21.	What is meant here by "society"? It seems to me that we have many "societies", and that we are working on giving each child in each one respect, recognition, and dignity.
	Line 23.	Contributions to what? Roles in what?
	Line 27.	Contributions to what? Roles in what?
	Line 31.	Does "address the manner in which" mean "state how"?
Page 2	Lines 7-8.	How are such resource people to be found, and does "whenever" mean "each time"?

7) I hope that, should this Rule be adopted, it would be publicized with a view to giving every person encouragement to participate in the developing of each district plan.

(6) I am writing concerning Multicultural and Gender Fair Curriculum, Minnesota Rules Part 3500.0050 which the Minnesota State Board of Education has proposed to adopt without a public hearing.

Please know that I understand and value the importance of such a rule. Also, I am supportive of a curriculum plan which enables students and staff members to gain an understanding and appreciation of the cultural diversity of the United States, as well as the historical and contemporary contributions of men and women and handicapped persons to society.

However, I want to strongly object to the idea that developing this proposed plan would cost each district less than $1000 per year.

While we have talented people on staff who are capable of meeting the specifications of the proposed plan, they are not idly waiting for a new project. Their schedules are filled and they work hard. They also receive pay for the jobs they do. Additional duties mean additional pay or substituting a former duty for a new one.

I think it is time that we in education realize something that the business world discovered long ago: **Time is money.**

It costs money and/or quality when additional responsibilities are given us. It is unrealistic to think otherwise, and I object to the statement, "The only potential cost to a local school district would be the employment of resource person(s) from outside the district when no persons of color are locally available. It is estimated that fewer than 100 school districts in the state would have such needs and that the cost per year would be less than $1000 per district".

(7) In reference to the intent of the State Board of Education to adopt the rule "Governing Multicultural and Gender-Fair Curriculum," MN Rules Part 3500.0550, we wish to express some concerns.

The intent of the federal Civil Rights laws and the 1979 rulings concerning curriculum content to establish non-sexist and multicultural materials should have been sufficient to establish all necessary components. Our concern lies in the mandate of having representatives to establish the plan, to examine the curriculum, and to assist with the evaluation and revision. The estimate of the state is at $1000 per year to hire people to attend. Another concern will be their lack of knowledge concerning our community, staff, and student population. As we do not have "people of color," it will be difficult for anyone to readily understand our system. We feel the the curriculum that we have established does provide for equal treatment and educational values for the identified people in this proposed ruling.

Many of our students are Asian Americans; they have been adopted by Caucasian families and are being raised in that environment. It is not our place to point out those differences; that responsibility should be at the discretion of the family.

Repeating, our concern lies in hiring people from other areas to assist us in our planning and curriculum development. We think the expense is unnecessary and not in the best interest of our system. Also, the amount of money proposed to be expended by the Department could best be used in other areas of development. Multicultural, gender-fair curriculum and employment should not be an issue in these times. The laws have been established previously, and it should not be necessary to impose restrictions on districts that do provide adequate procedures.

(8) The Minnesota School Boards Association has informed me of the intention of the Minnesota State Board of Education to adopt the MULTICULTURAL AND GENDER FAIR CURRICULUM, Minnesota Rules Part 3500.0050 without a public hearing. I wish to make the following comments on the proposed curriculum.

Small schools will have a problem with the part of the plan that mandates minority involvement in the plan development. As the plan states, an outside "resource person" would have to be employed by the district to assist in the development of the Gender Fair Curriculum. Does the State Board of Education plan to pay the cost of the resource person and provide a list of candidates for this position?

I completely agree in curriculum design that includes cultural diversity. I also believe that we are capable of a competent plan without the involvement of mandated resource personnel.

Please take into consideration the position of the small school when drafting or supporting mandated rules.

(9) The reason for our objection is that there are already many state and federal rules/laws in this area. More rules of this nature may do more harm than good in reference to full implementation in the area of multiculture and gender curriculum. Also, cost and the implementation of another set of papers on this topic appears to be a duplication and would certainly be a great time consumer.

(10) The proposed rule called "The Multi-Cultural and Gender Fair Curriculum", Minnesota rules 3500.0050 is an imposition of rule that is erroneous in assumption, trite in content, a burden on districts and non-functional in nature. With this rule you will succeed in requiring additional paper work that will only add burden without creating any major change in view.

I find it particularly displeasing in its reference to people of color. In my mind color is of no consequence in making judgments and is a patently false standard to include as a factor in any rule. All rules should be color-blind.

As a second factor of concern is time required to develop a comprehensive plan, within the time left after the multitude of other requirements placed upon the the staff in our school. The estimate of $1000 to implement this rule is ludicrous and unrealistic. In our area the cost of a specialist from the "Metro Area" is in excess of $500 per day regardless of color. Thus your estimate is low in terms of cost for that one item.

In our school we operate as grade level curriculum committees, with an area representative from each grade level working on specific multi-level curriculum. Each adoption or adaptation is presented to the PER committee and the curriculum advisory committee for review. This is no simple task, the time involved in meetings for any major adaptation can run into several hundred hours or more for numbers of people. Considering $20 per hour and 20 people as a minimum involved, do you think your estimate is correct? I do not!

Wayne, I am opposed to this rule as is my board. We want to enter our opposition and request a hearing on this

(11) Please provide for a public hearing in regard to the proposed Multicultural and Gender Fair Curriculum, Minnesota Rules Part 3500.0050. I believe that the drafters of this rule have far overestimated the problem and have far underestimated the cost of implementing this rule.

(12) I hereby request that a Public Hearing be held regarding State Board of Education Rules 3500.0050. I see no necessity for such a rule.

(13) The proposed Multicultural and Gender Fair Curriculum, Minnesota Rules Part 3500.0050, seems far too costly to implement for the amount of effectivness it would provide. Please provide for a public hearing.

(14) Please consider this letter as a formal request for a public hearing regarding the Minnesota State Board of Education proposed rules relating to Multicultural and Gender Fair Curriculum, Minnesota Rules part 3500.0050. The projected cost of complying with the proposed rules seems excessive and should be reviewed in a public setting.

(15) I would like to respond to the matter of the Proposed Permanent Rules Relating to Multicultural and Gender Fair Curriculum. I specifically would like to request in writing for a public hearing regarding this rule.

The proposed rule would establish that the school board adopt a written plan regarding Multicultural and Gender Fair Curriculum. I feel this proposal would put a burden of another mandate on school boards. The plan would have to state in detail that there was involvement of people in the development of the plan. Some of those resource people including persons of color which would again impose a hardship on southwestern Minnesota schools.

I would also request a public hearing because I feel that the school boards, at the present time, are in the process of developing an affirmative action plan which addresses some of the same issues. We have, over a number of years, had to do our civil rights check list for the State Department of Education which states that we are not in effect discriminating against people.

Another problem is, an already overburdened PER Committee that has been given significant new duties in the past few years by the state legislature, now has to ramrod another curriculum study in another aspect of curriculum development on top of their already numerous duties. This time committment is costly of personnel, staff, professionals, and money for a process that should be met through the various forms of curriculum work and the affirmative action already in place in the school districts.

(16)

This letter is a request for a public hearing on the proposed rule governing multicultural and gender-fair curriculum, Minnesota Rules Part 3500.0550.

This letter also offers comments on the proposed rule, on the announced estimated cost of implementing it, and on the Statement of Need and Reasonableness prepared by the Department of Education in the proposed rule's defense. The comments praise the proposed rule's good intentions but question whether the rule as written will achieve what is intended at the projected costs in dollars and local district staff time. The comments also note possible mischievous effects of adopting the rule and raise the question of whether the Department of Education has actually shown a need for the proposed rule, given other laws and policy directives covering the same territory and given the survey data disclosed in the Department's own Statement of Need and Reasonableness.

1. The Rule's Directives Are Relatively Clear and Simple. As proposed the rule is relatively clear and unambiguous as to what administrative actions it requires local school districts to take. Its language is more free of arcane jargon than earlier drafts, and what it requires of school districts is simpler and less constricting than the "laundry list" of activities that earlier versions of the rule would have required. If a rule must be adopted, this draft is better than previous drafts.

2. The Rule Is Unclear about Its Aims. The rule is murky, however, about what is the purpose of the administrative actions it requires and what educational goals they are to serve. The underlying aim of the rule is touched on in the Statement of Need and Reasonableness, but that statement will not be available to

most school administrators when they try to put the rule into effect.

The rule appears to respond to a need felt by many people in the educational community to remedy serious defects in how women, certain ethnic minorities, and persons with handicapping conditions have been depicted in curriculum materials and courses of study. Its language implies (but does not state) that these special populations have been depicted (directly, or by omission from positive depictions) as being less able to contribute to the work, art, literature, and culture of the larger society in the same ways that men of European origin who have no handicapping conditions have been able to contribute.

In the opinion of this writer, these concerns for fair, honest, and attractive depictions of women, ethnic minorities, and persons with handicapping conditions are proper. The motivation and aspiration of young people for excellence and for the ability to contribute lives and work which are valuable to society are hampered if they have not been routinely exposed to pictures of that success in people like themselves.

The rule would profit, I think, from a little more plain language explanation (such as the above) about why it is needed. And this explanation should be in the rule itself to explicate what are the aims of its requirements and the reasons for them. If this is not done, there will be insufficient guidance in the rule about how best to attain its underlying educational goals, and the mechanical processes it proposes will take precedence over attaining the real goals.

3. <u>The Rule May Create More Administrative Burdens Than Are Necessary</u>, administrative processes and requirements which add to the net of tiny threads which too often pin the educational Gulliver helplessly to the ground in a petty Lilliput of well-intentioned rules and legalisms. This may not always be the result, but the written plan and special procedures for writing it and monitoring progress toward its goals which are required by the rule invite spending time on "process" goals so as to be able to certify "activity" to the state.

What is needed is not more mechanical assembling of committees but greater clarity on the part of teachers, administrators, and textbook editors about what we are aiming at. This clarity can come from getting together to talk about goals and identified problems. But having committee meetings and written plans may not achieve it or may achieve other less praiseworthy results instead. If adopted, the rule should focus school administrators' and teachers' attention on choosing and using gender-fair, handicapped-fair, and multicultural curriculum materials and teaching methods, but it should not create a new

tangle of mandated committees, reports, and elaborate search procedures for the selection of committee members.

The rule as written, however, adds to that tangle. It seeks to compel performance as if there were no good will among teachers and local district administrators toward women, ethnic minorities, and persons with handicaps. The results achieved by the rule would be more profound and more durable if they grew out of documentation of the underlying problems and persuasion of the personnel in local districts that those problems exist and can be remedied. That might be better achieved if each teacher and administrator in each local district were asked to find one clear instance in his/her area of work where curriculum or teaching methods were not fair in their depiction of or treatment of ethnic minorities, women, or handicapped persons. . .and then were asked to find a remedy for that instance.

If this were done, sensitivity to the fairness of curriculum and teaching methods would be fostered among all staff, and promoting it would not be one more procedure imposed by a committee of "experts" on staff who are treated as if they were too stupid or too prejudiced to contribute.

4. <u>The Rule Confuses Means and Ends</u>. The proposed rule seems to treat multiculturality and gender-fairness (and handicapped-fairness) of curriculum as having an importance roughly equal to the other aims of public education. This confuses means with ends. Means may be necessary or useful, but they are not the same thing as the objectives for whose attainment they are tools. The language of the rule should emphasize that what is being aimed at is access to self-esteem, motivation, a quality education, and and a spirit of inter-group respect and good will for all students.

Multiculturality and fairness in curriculum may be necessary components to bring forth from ethnic minorities, girls, and handicapped children that level of interest, self-esteem, and ambition which lead to success in school. If this is so, multiculturality and fairness are essential if these populations are to have a fair chance at a proper education.

Multiculturality and gender-fairness/handicapped-fairness are also important for preparing male, non-handicapped, and Caucasian students to appreciate the contributions which are and can be made by persons different from themselves. This promotes harmony in society, mutual respect, and a diminished tendency among persons educated in this way unfairly to discriminate against women, minorities, and the handicapped later in life when they are employers, co-workers, parents, and voters.

But it is not enough to have a fair curriculum. Multiculturality

is a means to ends, not an end in itself. And some of the goals it aims to put within reach are goals with more traditional academic contents. The core curriculum skills are not satisfied by multiculturality. They are only promoted by it. The need to learn basic skills remains basic, and pursuit of those skills must take priority and be clearly served by any push for multiculturality and gender-fairness.

5. **The Rule Creates a Risk of Ideological Censorship of School Curricula.** The rule creates some real risk that the preferential selection of women, handicapped persons, and ethnic minorities to develop each school district's plan for multicultural gender-fair curriculum may result, in some considerable percentage of the districts, in the appointment of a disproportionate representation of angry people who have private ideological axes to grind and revenges to implement on those cultural artifacts and populations that they think have been their oppressors. It is important to involve women, ethnic minorities, and persons with handicapping conditions in the process of planning how to make school curricula more fair to persons like themselves. But it is important also to give care lest the cures proposed turn out to have hidden agendas.

Ideological censorship is not new in American schools. It can be seen in the substantial disappearance of biological evolution from public school textbooks for the sixty years following the Scopes trial in Tennessee. (See, for instance, Stephen Jay Gould's three essays on the teaching of evolution in his collection Hens' Teeth and Horses Toes).

On the other political extreme, censorship can also be seen in the massive omission of curriculum references to the role of religion in the history of Europe, the Americas, and the Middle East (not to mention China, Japan, and India) or to the role or existence of religious faith, fellowship, and belief in modern life. (See the studies on this topic reported by Paul Vitz in The Public Interest and elsewhere.)

6. **The Cost of Implementing the Rule is Seriously Understated.** The cost of implementing the rule will far exceed the $ 100,000 annual ceiling proposed in the Notice of Intent to Adopt Rules without a Public Hearing. If the $ 100,000 annual ceiling is divided by 600 (something less than the total number of school disticts that would be affected by the rule) the result is a maximum acceptable cost of about $ 167 per district per year. At a paltry $ 20 per hour for salaries, benefits, and overhead, this gives about 9 hours of staff time per year for implementation.

But the real cost of implementation, if the rule is taken seriously, will be clearly in excess of 100 hours of staff time

per district per year. Again at a cost of $ 20 per hour for salaries, benefits, and overhead, the resulting total cost comes out to about $ 1,200,000 per year or 12 times the amount proposed as justification for adopting the rule without a hearing.

These costs, if they are incurred, will either require new funds or will be met by eliminating other activities from schools' educational programs. If the costs are not incurred, then the plans and reports proposed will surely be only a trivial lip service to ideals of multiculturality and gender-fairness, which are already adequately served by existing state laws and directives from the State Board of Education, (as in the Board's policy directive, "Quality Intercultural and Non Sex-biased Education"). (Even more stringent standards already exist in state law regarding fairness in the education of American Indian students.)

7. <u>The Evidence Offered of Need for the Rule Is Peculiar</u>. The Statement of Need and Reasonableness for the proposed rule declares a need for the rule (Section III, Part A) on grounds that surveys of school districts indicate a lack of belief that there is a pressing need for implementing and monitoring a system of multicultural, gender-fair education. The surveys are reported also to have found "a general lack of understanding of the terminology and concepts regarding multicultural, gender-fair education."

Thus the Department of Education seems to have concluded that a consensus among school district administrators that there was no pressing need for more action on multicultural and gender-fair education was itself proof of the need for more action. A consensus to the contrary is argued to be proof of the proposition.

The Statement of Need goes on to argue that a lack of understanding of the arcane terminology used by special advocates of change further proves the need for change. But that lack of understanding may in fact only prove that communications to local school districts have been badly written or badly thought out.

That there is a need for multicultural and gender-fair curriculum and teaching in our society is not greatly in doubt. The question, however, is whether those goals are not already substantially achieved and whether the rule being proposed is the best way (or even a workable way) to ensure that they are. Maybe there are other less costly ways to the same goals, ways which also do not carry the risk of creating committees of inquisition for the censoring of curriculum materials. (*) Maybe some restatement of the aims the rule is to accomplish and the censorships it should be forbidden to request might be useful.

End of Comments.

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* The new model curriculum which results from the rule should not be required to purge great love poems like Ezra Pound's "The River Merchant's Wife: A Letter," the short stories of Rudyard Kipling, or stories in which girls grow up, sometimes, to be married women with husbands and children.)

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

In the Matter of the Proposed
Rule Governing Multicultural and Gender-Fair
Curriculum, Minnesota Rules Parts 3500.0550

DECLARATION OF COUNSEL

I, H. Camilla Nelson, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rule-making record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules Chapter 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0020 .

April 13, 1989
Date

H. Camilla Nelson
Special Assistant Attorney General

SJ/dec
MGRule 1.61

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed Adoption of the Rule of the State Board of Education Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules, part 3500.0550

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, April 20, 1989, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule, which was published in the State Register and made available to the public on October 3, 1988, has been modified. A copy of the rule as modified is enclosed with this notice.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Wayne Erickson, Manager
Curriculum Services Section
Minnesota Department of Education
631 Capitol Square
550 Cedar Street
St. Paul, MN 55101-2273
Telephone Number: (612) 296-1451

Wayne Erickson

Manager, Curriculum Services

Dated: April 20, 1989

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed Adoption of the Rule of the State Board of Education Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules, part 3500.0550

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Suzanne P. Jebe, being sworn says:

That on the twentieth day of April, 1989, in the City of Saint Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Suzanne P. Jebe
Specialist, World Languages Education
Minnesota Department of Education

Subscribed and sworn to before me
this twentieth day of April, 1989.

Hollis Dee Britz-Mitchell
Notary Public

HOLLIS DEE BRITZ - MITCHELL
NOTARY PUBLIC-MINNESOTA
CHISAGO COUNTY
MY COMMISSION EXPIRES OCTOBER 4, 1990

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

In the Matter of the Proposed Rule Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules Part 3500.0550

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ted L. Suss, being duly sworn, says: I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes § 14.14, Subdivision 1a, and § 14.22, that their names be placed on the Minnesota State Board of Education's rulemaking mailing list is accurate, complete, and current as of this twenty-eighth day of September, 1988, and that this is the list used to prepare the mailing of the Notice of Intent to Adopt Rule without a Public Hearing.

SIGNED Ted L Suss

Subscribed and sworn to before me
this twenty-eighth day of September, 1988.

Hollis Dee Britz-Mitchell
Notary Public

HOLLIS DEE BRITZ - MITCHELL
NOTARY PUBLIC-MINNESOTA
CHISAGO COUNTY
MY COMMISSION EXPIRES OCTOBER 4, 1990

Recd 4/20/89 RL

Minnesota Department of Education

Capitol Square 550 Cedar Street Saint Paul, Minnesota 55101

TTY/TDD Number: (612) 297-2094
Phone: (612) 296-4073

April 20, 1989

Rita Desmond
Legal Assistant
Attorney General's Office
515 Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Rule of the State Board of Education Governing Multicultural and Gender-Fair Curriculum, Minnesota Rules, Part 3500.0550

Dear Ms. Desmond:

On December 12, 1988, the Minnesota State Board of Education adopted the above-captioned rule governing Multicultural and Gender-Fair Curriculum. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).
2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).
3. Certificate and Resolution Adopting Rules.
4. Certificate of Authorizing Resolution.
5. Notice of Intent to Adopt Rules and rules as proposed (13 S.R. 800-801, October 3, 1988).
6. Affidavit Regarding Comments Received.
7. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.
8. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.
9. Rules as proposed.
10. Statement of Need and Reasonableness.
11. Declaration of Counsel.

12. Notice of Submission of Rule Adopted without Public Hearing to the Attorney General.

13. Affidavit of Mailing of Notice of Submission of Rule to the Attorney General.

Very truly yours,

Suzanne P. Jebe. Specialist
World Languages Education
640 Capitol Square

SJ/dec
MG Rule 1.61(2.2)

Enclosures