

1 Higher Education Coordinating Board

2

3 Adopted Permanent Rules Relating to Minnesota State

4 Postsecondary Review Program

5

6 Rules as Adopted

7 4890.0100 PURPOSE.

8 The Minnesota Higher Education Coordinating Board is the
9 designated State Postsecondary Review Entity (SPRE) to implement
10 the State Postsecondary Review Program (SPRP) pursuant to the
11 Higher Education Act of 1965 (HEA), Title IV, Part H, United
12 States Code, title 20, sections 1099a to 1099a-3. The purpose
13 of the program is to conduct or coordinate reviews of
14 postsecondary institutions either referred by the United States
15 Department of Education or identified by the Minnesota Higher
16 Education Coordinating Board and approved for review by the
17 United States Department of Education.

18 4890.0200 DEFINITIONS.

19 Subpart 1. Scope. For the purposes of this chapter, the
20 following terms have the meanings given them unless otherwise
21 indicated.

22 Subp. 2. Board. "Board" means the Minnesota Higher
23 Education Coordinating Board.

24 Subp. 3. Clock hour. "Clock hour" has the meaning given
25 it in Code of Federal Regulations, title 34, section 600.2.

26 Subp. 4. Cohort. "Cohort" means the graduates of a
27 program during the 12-month period from July 1 of one calendar
28 year through June 30 of the next calendar year.

29 Subp. 5. Educational program. "Educational program" has
30 the meaning given it in Code of Federal Regulations, title 34,
31 section 600.2.

32 Subp. 6. Enrolled. "Enrolled" has the meaning given it in
33 Code of Federal Regulations, title 34, section 668.2, paragraph
34 (b).

35 Subp. 7. Institution. "Institution" has the meaning of

1 the types of institutions given in Code of Federal Regulations,
2 title 34, part 600.

3 Subp. 8. Licensure or other certification. "Licensure or
4 other certification" means an explicit credential based on
5 assessed competence or other procedure, possession of which is
6 required for an individual to practice a particular profession
7 or engage in a particular occupation or trade.

8 Subp. 9. Professional program. "Professional program" has
9 the meaning given it in Code of Federal Regulations, title 34,
10 section 667.2, paragraph (c).

11 Subp. 10. Referred institution. "Referred institution"
12 has the meaning given it in Code of Federal Regulations, title
13 34, section 667.2, paragraph (c).

14 Subp. 11. Refund policy. "Refund policy" means an
15 established policy or policies of an institution governing the
16 specific portion of tuition and fees that are refundable at
17 specific periods of an enrollment period, and the specific
18 manner in which a student may obtain a refund upon withdrawal
19 from the institution.

20 Subp. 12. Title IV. "Title IV" means that portion of the
21 Higher Education Act of 1965, Title IV, United States Code,
22 title 20, subchapter IV, that establishes federal programs of
23 financial assistance to students identified in Code of Federal
24 Regulations, title 34, section 668.1, paragraph (c).

25 Subp. 13. Tuition and fees. "Tuition and fees" means the
26 amount of money charged to students for instructional services.
27 Tuition may be charged per term, per course, or per credit.
28 Fees are those fixed sums charged to students for items not
29 covered by tuition, excluding room and board, but required of
30 such a large portion of all students that students who do not
31 pay the charge are exceptions.

32 Subp. 14. Vocational program. "Vocational program" has
33 the meaning given it in Code of Federal Regulations, title 34,
34 section 667.2, paragraph (c).

35 4890.0300 REVIEW CRITERIA.

1 The board shall review institutions pursuant to Code of
2 Federal Regulations, title 34, sections 667.5 and 667.6.

3 4890.0400 BOARD REVIEW.

4 The board shall review an institution pursuant to part
5 4890.0300 according to the standards in part 4890.0500. The
6 review of each standard shall be based on information from the
7 most recently completed academic year for which information
8 regarding that standard exists unless otherwise required under
9 this chapter, or as required by the secretary of the United
10 States Department of Education.

11 4890.0500 REVIEW STANDARDS.

12 Subpart 1. **Consumer information.** The board shall review
13 an institution for:

14 A. the availability of catalogs, admission
15 requirements, course outlines, schedules of tuition and fees,
16 policies regarding course cancellations, and the rules and
17 regulations of the institution relating to students; and

18 B. the accuracy of catalogs and course outlines in
19 reflecting the courses and programs offered by the institution.

20 To be in compliance with this subpart, the institution must
21 meet the requirements in:

22 (1) Code of Federal Regulations, title 34,
23 section 668.16, Standards of administrative capability;

24 (2) Code of Federal Regulations, title 34,
25 sections 668.41 to 668.45, Student consumer information
26 services;

27 (3) Code of Federal Regulations, title 34,
28 sections 668.71 to 668.75, Misrepresentation; and

29 (4) Higher Education Act of 1965, Title IV,
30 United States Code, title 20, section 1092, paragraph (a),
31 Information dissemination activities.

32 Subp. 2. **Ability to complete.** The board shall review an
33 institution's method of assessing a prospective student's
34 ability to successfully complete an educational program for
35 which the prospective student has applied. To be in compliance

1 with this subpart, the institution must meet the requirements in:

2 A. Code of Federal Regulations, title 34, section
3 668.7, paragraph (b), Ability to benefit; and

4 B. Higher Education Act of 1965, Title IV, United
5 States Code, title 20, section 1091, paragraph (d).

6 Subp. 3. Standards of progress and student records.

7 A. The board shall review an institution's method of
8 maintaining and enforcing standards related to student academic
9 progress. To be in compliance with this item, the institution
10 must meet the requirements in:

11 (1) Code of Federal Regulations, title 34,
12 section 668.7, paragraph (c), Satisfactory progress;

13 (2) Code of Federal Regulations, title 34,
14 section 668.16, paragraph (e), Standards of administrative
15 capability;

16 (3) Code of Federal Regulations, title 34,
17 section 668.23, Audits, records, and examinations;

18 (4) Code of Federal Regulations, title 34,
19 section 668.43, paragraph (c)(2), Financial assistance
20 information; and

21 (5) Code of Federal Regulations, title 34,
22 section 668.36, Record retention requirements.

23 B. The board shall evaluate an institution's method
24 of maintaining adequate student records. To be in compliance
25 with this item, an institution shall maintain permanent records
26 for all students enrolled at any time. Permanent records
27 include transcripts, documents, and files containing student
28 data relating to periods of attendance, academic credits earned,
29 courses completed, grades awarded, and degrees and other formal
30 recognitions awarded.

31 (1) To preserve permanent student records, an
32 institution shall:

33 (a) hold at least one copy of all records in
34 a depository that is secure from fire damage, water damage, and
35 theft;

36 (b) designate an appropriate official to

1 provide a student with official copies of records or official
2 transcripts upon request, consistent with the institution's
3 policies;

4 (c) execute a binding agreement with another
5 organization, acceptable to the board, complying with this item
6 for at least 50 years from the day the institution ceases to
7 exist; and

8 (d) if the institution has no binding
9 agreement under unit (c) for preserving and providing official
10 copies of student records under this item, the institution must
11 hold a continuous surety bond in an amount not to exceed \$20,000
12 to cover the projected costs of record administration by the
13 board, or an entity designated by the board.

14 (2) When an institution decides to terminate
15 postsecondary education operations, it must submit the following
16 to the board:

17 (a) the planned date for termination of
18 postsecondary education operations;

19 (b) the planned date for the transfer of
20 permanent student records;

21 (c) the name and address of the entity to
22 receive and hold the permanent student records; and

23 (d) the official of the entity receiving the
24 permanent student records who is designated to provide official
25 copies of records or transcripts upon request.

26 Subp. 4. **Safety and health.** The board shall review an
27 institution's safety and health record. To be in compliance
28 with this subpart, an institution must have no outstanding
29 unresolved citations on the public record regarding any local,
30 county, state, or federal safety or health law or regulation.

31 Subp. 5. **Financial and administrative capacity.**

32 A. The board shall review the financial capacity of
33 an institution relative to its scale of operation and its method
34 of keeping adequate financial and other information. To be in
35 compliance with this item, an institution must meet the
36 requirements in Code of Federal Regulations, title 34, section

1 668.15, Factors of financial responsibility.

2 B. The board shall review the administrative capacity
3 of an institution relative to its specified scale of operations
4 and its method of keeping adequate administrative information.
5 To be in compliance with this item, an institution must meet the
6 requirements in Code of Federal Regulations, title 34, section
7 668.16, Standards of administrative capability.

8 Subp. 6. Student protection for at-risk institutions.

9 A. The board shall review an institution's provisions
10 to provide for instruction of students in the event the
11 institution closes. If, during the review, an institution is
12 determined to be financially at-risk by the board under subpart
13 5, item A, the board shall review the institution's compliance
14 with the requirements in this subpart. To be in compliance with
15 this item, an institution must have a plan that assures students
16 that in the event the institution closes, further instruction is
17 available. This plan must include:

18 (1) the name of other institutions that can
19 provide educational programs substantially similar to those
20 offered by the institution ceasing instruction; and

21 (2) a commitment by the institution ceasing
22 instruction to fulfill the current term of enrollment without
23 requiring students to incur an additional financial liability
24 beyond that incurred by the students and clearly identified in
25 the original student term of enrollment.

26 B. The board shall review an institution's method of
27 providing for the retention and accessibility of financial aid
28 records for students in the event the institution closes. To be
29 in compliance with this item, the institution must meet the
30 requirements in Code of Federal Regulations, title 34, section
31 668.23, Audits, records, and examinations.

32 C. The board shall review an institution's method of
33 providing for the retention and accessibility of student
34 academic records in the event the institution closes. To be in
35 compliance with this item, the institution must meet the
36 requirements in subpart 3, item B.

1 Subp. 7. Vocational program tuition, fees, and training.

2 A. For the purposes of this subpart, the terms in
3 subitems (1) and (2) have the meanings given them.

4 (1) "Tuition and fees" means tuition and fees set
5 by the institution and charged to a full-time student for the
6 academic year as defined in Code of Federal Regulations, title
7 34, section 668.2, paragraph (b). For a program less than one
8 year in length, the actual tuition and fees charged for the
9 entire program applies.

10 (2) "Remuneration" means average annual salaries
11 or wages for employment in specific trades, occupations, or
12 specialty areas, that are related to a vocational program.
13 Acceptable sources of documentation include:

14 (a) the most recent average wage according
15 to Minnesota Salary Survey by Area 1990, issued by the Minnesota
16 Department of Economic Security, August 1990, and incorporated
17 by reference. It is available through the Minitex interlibrary
18 loan system. It is subject to frequent change;

19 (b) the most recent data on wages according
20 to the Dictionary of Occupational Titles, fourth edition, 1991,
21 issued by the Bureau of Labor Statistics of the United States
22 Department of Labor. The data on wages is incorporated by
23 reference. It is available through the Minitex interlibrary
24 loan system. It is subject to frequent change;

25 (c) projections by organizations or
26 governmental units at the state or national level that
27 specialize in employment and industries, expert opinion from
28 refereed journals, and private for-profit or nonprofit
29 organizations that specialize in providing employment and
30 industry statistical projections; or

31 (d) actual earnings of an institution's most
32 recent cohort of graduates for a program.

33 B. The board shall review the relationship between an
34 institution's tuition and fees and the remuneration that can be
35 reasonably expected by students who complete a vocational
36 program and the quality of the educational preparation for

1 useful employment. To be in compliance with this subpart, an
2 institution must meet the requirements in items C and D and in:

3 (1) Code of Federal Regulations, title 34,
4 section 667.2, paragraph (c), Vocational program;

5 (2) Code of Federal Regulations, title 34,
6 section 668.16, Standards of administrative capability;

7 (3) Code of Federal Regulations, title 34,
8 sections 600.1 to 600.11; and

9 (4) Code of Federal Regulations, title 34,
10 section 668.14, Program participation agreement, paragraph
11 (b)(26).

12 C. An institution's ratio of expected annual
13 remuneration to tuition and fees must be at least 2 to 1 and the
14 ratio must be disclosed in clear and unambiguous language to all
15 students and prospective students. The ratio must be based upon
16 tuition and fees in each program and expected remuneration for
17 graduates of the program.

18 D. An institution must disclose to all students and
19 prospective students of vocational programs the following
20 information in clear and unambiguous language:

21 (1) evidence, including verified occupational
22 placement, that employers accept the program as part of the
23 criteria for entry into a job, position, career, or occupation;

24 (2) nationally recognized standards of quality
25 training in the occupation or trade;

26 (3) trade, occupational, or professional
27 organization information concerning preparation standards and
28 occupational outcomes; or

29 (4) trade, occupational, or professional
30 organizational standards for licensure or other certification.

31 Subp. 8. Availability of relevant information. The board
32 shall review availability to an institution's students of
33 relevant information regarding market and job availability for
34 students in occupational, professional, and vocational programs,
35 and the relationship of educational programs to specific
36 standards necessary for state licensure or other certification

1 in specific occupations. To be in compliance with this subpart,
2 an institution must meet the requirements in:

3 A. Code of Federal Regulations, title 34, section
4 668.14, Program participation agreement, paragraph (b)(10) and
5 (22);

6 B. Code of Federal Regulations, title 34, section
7 668.74, Employability of graduates; and

8 C. existing statute or rule pertaining to licensure
9 or other certification in specific occupations.

10 Subp. 9. **Appropriate program length.** The board shall
11 review the appropriateness of the number of credit or clock
12 hours required to complete an institution's programs. To be in
13 compliance with this subpart, an institution's programs must be
14 approved by the appropriate state regulatory agency, or the
15 program lengths must comply with existing Minnesota statute or
16 rule, and its programs must meet the requirements in:

17 A. Code of Federal Regulations, title 34, section
18 668.8, Eligible program; and

19 B. Code of Federal Regulations, title 34, section
20 668.9, Relationship between clock hours and semester, trimester,
21 or quarter hours in calculating Title IV, HEA program assistance.

22 Subp. 10. **Administrative integrity.** The board shall
23 review the actions of an institution, owner, shareholder, or
24 person exercising control over an educational institution which
25 may adversely affect its participation in Title IV programs. To
26 be in compliance with this subpart, an institution must meet the
27 requirements in:

28 A. Code of Federal Regulations, title 34, section
29 600.30, Institutional changes requiring review by the secretary;

30 B. Code of Federal Regulations, title 34, section
31 668.15, Factors of financial responsibility;

32 C. Code of Federal Regulations, title 34, section
33 668.16, Standards of administrative capability;

34 D. Code of Federal Regulations, title 34, section
35 668.14, Program participation agreement, paragraph (b)(18); and

36 E. Code of Federal Regulations, title 34, section

1 668.82, paragraph (d), Standard of conduct.

2 Subp. 11. **Student complaint process.** The board shall
3 review an institution's procedures for investigating and
4 resolving student complaints regarding wrongs, grievances, or
5 injuries pertaining to the standards in part 4890.0500. To be
6 in compliance with this subpart, an institution must publish and
7 follow the procedures in items A and B.

8 A. An institution shall establish, publish, and
9 document that it administers a complaint process to receive,
10 investigate, and respond to student complaints regarding wrongs,
11 grievances, or injuries pertaining to the standards in part
12 4890.0500. The process must include:

13 (1) the institution's definition of the term
14 "complaint" within the guidelines in this subpart;

15 (2) how a complaint shall be received (for
16 example, by telephone, in writing, or in person) and the office
17 and personnel designated to receive and file complaints;

18 (3) a time frame for completing the complaint
19 process, including documenting, investigating, and responding to
20 complaints;

21 (4) an appeal process in which the final
22 determination is made by an official not directly involved in
23 the alleged complaint;

24 (5) provisions that the institution shall not
25 take adverse action against the student filing the complaint as
26 a result of a complaint; and

27 (6) information regarding appropriate entities
28 that may receive complaints in addition to the institution (for
29 example, the Minnesota Department of Human Rights, the Minnesota
30 State Approving Agency for Veteran's Education, or the Minnesota
31 Higher Education Coordinating Board).

32 B. An institution shall maintain an annual summary
33 from each of the most recent five years as to how it received,
34 investigated, and resolved complaints, and an annual summary as
35 to the number of complaints received, the number of complaints
36 investigated, and the number of complaints that were resolved.

1 **Subp. 12. Student recruitment process.**

2 A. The board shall review an institution's
3 advertising, promotion, and student recruitment practices. To
4 be in compliance with this item, an institution must meet the
5 requirements in:

6 (1) Code of Federal Regulations, title 34,
7 section 668.14, Program participation agreement, paragraph
8 (b)(10) and (22); and

9 (2) Code of Federal Regulations, title 34,
10 sections 668.71 to 668.75, Misrepresentation.

11 B. The board shall evaluate the truthfulness of an
12 institution's publications and promotions. To be in compliance
13 with this item, an institution must assure the board that it
14 uses for promotion and student recruitment publications and
15 advertisements that are truthful and do not give any false,
16 fraudulent, deceptive, inaccurate, or misleading information
17 about the institution, its personnel, programs, services, or
18 occupational opportunities for its graduates.

19 **Subp. 13. Refund policy.** The board shall review an
20 institution's refund policy for fairness and equity. To be in
21 compliance with this subpart, an institution must meet the
22 requirements in:

23 A. Code of Federal Regulations, title 34, section
24 668.22, Fair and equitable refund policy;

25 B. Code of Federal Regulations, title 34, part 668,
26 Appendix A;

27 C. Minnesota Statutes, section 141.271, Refunds,
28 private trade schools; and

29 D. part 2644.0650, Refund policy, cosmetology schools.

30 **Subp. 14. Performance outcomes.**

31 A. (1) The board shall review the completion and
32 graduation rate of an institution subject to Code of Federal
33 Regulations, title 34, section 668.8, paragraph (e)(1)(i). To
34 be in compliance with this subitem, an institution must have a
35 graduation rate equal to or greater than 70 percent.

36 (2) The board shall review an institution not

1 subject to Code of Federal Regulations, title 34, section 668.8,
2 paragraph (e)(1)(i), on the basis of the institution's
3 completion and graduation rates as calculated in accordance with
4 appropriate federal regulations, and the requirements of this
5 item. To be in compliance with this subitem, an institution
6 must have either:

7 (a) a graduation and completion rate equal
8 to or greater than 40 percent as calculated according to Code of
9 Federal Regulations, title 34, section 668.46, Completion or
10 graduation rate, or Higher Education Act of 1965, Title IV,
11 United States Code, title 20, section 1092, paragraph (a)(3); or

12 (b) a graduation, completion, and retention
13 rate equal to or greater than 50 percent computed as the sum of:

14 i. the graduation and completion rate
15 as calculated according to Code of Federal Regulations, title
16 34, section 668.46, Completion or graduation rate, or Higher
17 Education Act of 1965, Title IV, United States Code, title 20,
18 section 1092, paragraph (a)(3); and

19 ii. the percent of students included
20 in the cohort in subunit i who continued their enrollment in the
21 institution or transferred to other institutions not included in
22 the computation of the graduation and completion rate.

23 (3) To be in compliance with this item, an
24 institution must meet the requirements in Higher Education Act
25 of 1965, Title IV, United States Code, title 20, section 1092,
26 paragraph (a)(1)(L).

27 B. The board shall review the withdrawal rate of an
28 institution's students as established in Code of Federal
29 Regulation, title 34, section 668.16, paragraph (1). To be in
30 compliance with this item, the institution must have a
31 withdrawal rate that does not exceed 33 percent.

32 C. (1) The board shall review the placement rate of
33 an institution subject to Code of Federal Regulations, title 34,
34 section 668.8, paragraph (e)(1)(ii). To be in compliance with
35 this subitem, the institution must have a placement rate equal
36 to or greater than 70 percent.

1 (2) The board shall review the rate of placement
2 of an institution's graduates in occupations related to
3 educational programs not subject to Code of Federal Regulations,
4 title 34, section 668.8, paragraph (e)(1)(ii). To be in
5 compliance with this subitem, an institution must verify a
6 placement rate of all graduates in a cohort for each vocational
7 or professional program equal to or greater than 50 percent.
8 For the purposes of this item, the terms in units (a) to (d)
9 have the meanings given them.

10 (a) "Graduate" means an individual who has
11 received a degree, diploma, or certificate for completion of a
12 program during the most recent 12-month period that ended June
13 30 for which data are available.

14 (b) "Placement" means a graduate who within
15 12 months after graduation has reported:

16 i. obtaining a paid position; and
17 ii. the most important paid position
18 is in a related occupation within the 12-month period following
19 the graduate's date of graduation.

20 (c) "Occupations related to educational
21 program" means employment in a related occupation as reported by
22 the graduate, the graduate's parent or guardian, spouse or
23 domestic partner, adult sibling, employer, or instructional
24 staff at the institution. The placement rate of graduates in
25 occupations related to their educational programs shall be based
26 on the list of occupations in the NOICC (National Occupational
27 Information Coordinating Committee) Master Crosswalk, August 29,
28 1994, National Crosswalk Service Center, Iowa SOICC, Des Moines,
29 Iowa, which is incorporated by reference. It is available
30 through the Minitex interlibrary loan system. It is subject to
31 frequent change.

32 (d) "Rate of placement" means the number of
33 graduates in a cohort who obtained employment related to their
34 educational program as a percent of the total number of
35 graduates in the cohort.

36 D. The board shall review the rate at which graduates

1 of programs of an institution pass required licensure or other
2 certification examinations. To be in compliance with this item,
3 the passing rate of an institution's graduates on licensure or
4 other certification examinations must be equal to or greater
5 than 85 percent of the national or state passing rate. For the
6 purposes of this item, the terms in subitems (1) to (4) have the
7 meanings given them.

8 (1) "Program" means a vocational or professional
9 program preparing students for an occupation which requires
10 licensure or other certification by examination for entry into
11 the occupation in Minnesota and completion of the program is
12 required for admission to the examination.

13 (2) "Examination" means an examination
14 administered by a national or state testing body, the state of
15 Minnesota, or the federal government for licensure or other
16 certification in a profession or occupation.

17 (3) "Graduates passing an examination" means the
18 number of graduates from the institution that the testing agency
19 or agencies report passed the examination during the most recent
20 12-month period ending June 30 for which data are available.

21 (4) "Passing rate" means the number of graduates
22 who passed the examination as a percent of the number of
23 graduates that the testing agency or agencies report took the
24 examination.

25 E. The board shall review additional documentation
26 that an institution provides to explain or expand on information
27 required in this subpart.

28 4890.0600 PRIORITY SYSTEM FOR REVIEWING REFERRED INSTITUTIONS.

29 Subpart 1. Review. The board shall establish an order of
30 review for institutions either referred by the secretary of the
31 United States Department of Education or identified by the board
32 and approved for review by the secretary in accordance with Code
33 of Federal Regulations, title 34, section 667.12.

34 Subp. 2. Category A. Category A includes referred
35 institutions that the secretary has scheduled for

1 recertification under Code of Federal Regulations, title 34,
2 sections 668.11 to 668.25. The board shall review institutions
3 according to items A to C.

4 A. The board shall review first those institutions
5 referred for review on the basis of limitation, suspension, or
6 termination under Code of Federal Regulations, title 34, section
7 667.5, paragraph (b)(4). These institutions shall be placed in
8 priority from highest to lowest according to each institution's
9 cohort default rate.

10 B. The board shall next review those institutions
11 referred for review on the basis of audit findings under Code of
12 Federal Regulations, title 34, section 667.5, paragraph (b)(5).
13 These institutions shall be placed in priority from highest to
14 lowest according to each institution's cohort default rate.

15 C. The board shall next review all other referred
16 institutions scheduled for recertification. They shall be
17 placed in priority from highest to lowest according to the
18 institution's cohort default rate.

19 Subp. 3. **Category B.** Category B includes referred
20 institutions that the secretary has not scheduled for
21 recertification under Code of Federal Regulations, title 34,
22 sections 668.11 to 668.25. The board shall review institutions
23 according to items A to C.

24 A. The board shall review first those institutions
25 referred for review on the basis of limitation, suspension, or
26 termination under Code of Federal Regulations, title 34, section
27 667.5, paragraph (b)(4). These institutions shall be placed in
28 priority from highest to lowest according to each institution's
29 cohort default rate.

30 B. The board shall next review those institutions
31 referred for review on the basis of audit findings under Code of
32 Federal Regulations, title 34, section 667.5, paragraph (b)(5).
33 These institutions shall be placed in priority from highest to
34 lowest according to each institution's cohort default rate.

35 C. The board shall next review all other referred
36 institutions not scheduled for recertification. They shall be

1 placed in priority from highest to lowest according to the
2 institution's cohort default rate.

3 Subp. 4. **Category C.** The board shall review last the
4 referred institutions that no longer participate in Title IV
5 programs.

6 Subp. 5. **Priority.** All institutions listed in category A
7 shall be considered for review before the institutions listed in
8 category B. Institutions within category A or B whose initial
9 priority rating is the same shall be ranked according to the
10 total Title IV funds received during the most recent academic
11 year for which data are available. Institutions shall be placed
12 in priority from highest to lowest according to total dollar
13 volume received by the institution. All institutions listed in
14 category B shall be considered for review before institutions
15 listed in category C.

16 4890.0700 BOARD REVIEW AND NOTIFICATION PROCESS.

17 Subpart 1. **Notification of referral.** Within 30 calendar
18 days of the date the board is notified by the United States
19 Department of Education that an institution is referred, the
20 board shall notify the institution by certified mail, return
21 receipt requested, that it has been referred for review. The
22 following documents shall be included as part of the initial
23 notification:

- 24 A. a copy of this chapter;
- 25 B. written materials describing the review procedures
26 that will be followed;
- 27 C. materials the institution must have available for
28 inspection during the review;
- 29 D. procedures by which the board shall communicate
30 its findings to the institution; and
- 31 E. procedures the institution must follow in
32 responding to the board's findings.

33 An institution shall have 90 calendar days to gather the
34 materials it must have available for inspection during the
35 review unless an institution agrees to an earlier start date for

1 the review.

2 Subp. 2. Priority for review. Institutions shall be
3 reviewed in the order established under part 4890.0600.

4 Subp. 3. Notification of review. At least seven calendar
5 days before the start date of the review, the board shall notify
6 the institution by certified mail, return receipt requested, of
7 its intent to conduct a review. The board also shall notify
8 accrediting agencies of the referred institution of its intent
9 to conduct a review.

10 Subp. 4. Time allowed for review. The review shall be
11 completed within 90 calendar days of the start date of the
12 review unless the institution or the reviewer requests, and the
13 board grants, an extension of time to complete the review. The
14 review is complete at the conclusion of an exit conference
15 conducted by the reviewer at the referred institution.

16 Subp. 5. Initial report issued. Within 45 calendar days
17 after the board completes its review, the board shall issue an
18 initial report of findings to the institution. If the
19 institution is not in compliance with the review standards in
20 part 4890.0500, the initial report must cite each standard that
21 is violated, describe the nature of the violation, and prescribe
22 a course of action the institution must follow to correct the
23 violation.

24 Subp. 6. Institution response to initial report. Within
25 30 calendar days after the institution receives by certified
26 mail, return receipt requested, the initial report from the
27 board, the institution must respond to the findings and
28 prescribed corrective actions. If the institution does not
29 respond within the 30-day period, the initial report becomes the
30 final report, pursuant to Code of Federal Regulations, title 34,
31 section 667.23, paragraph (f)(1)(ii).

32 Subp. 7. Draft final report issued. If the institution
33 responds to the initial report, the board shall review the
34 additional information provided by the institution and issue its
35 draft final report to the institution, within 30 calendar days
36 of receiving by certified mail, return receipt requested, the

1 response of the institution to the initial report.

2 Subp. 8. **Institution response to draft final report.** The
3 institution must respond no later than 30 calendar days after
4 the institution receives by certified mail, return receipt
5 requested, the draft final report from the board. If the
6 institution does not respond within the 30-day period, the draft
7 final report becomes the final report, pursuant to Code of
8 Federal Regulations, title 34, section 667.23, paragraph
9 (f)(1)(ii).

10 Subp. 9. **Additional response time.** An institution may
11 request an additional 30 days to respond to the board's initial
12 report and draft final report. The board shall approve these
13 requests.

14 Subp. 10. **Final report issued.** Within 30 calendar days of
15 receiving by certified mail, return receipt requested, the
16 institution's response to the draft final report, the board
17 shall review the institution's response to the draft final
18 report, and shall issue its final report, including its
19 notification to the secretary of the United States Department of
20 Education, to the institution.

21 Subp. 11. **Initial notification to secretary.** Within 30
22 calendar days of issuing its final report to the referred
23 institution, the board shall submit a copy of its final report
24 to the secretary of the United States Department of Education
25 and the accrediting agencies of the referred institution.

26 Subp. 12. **Final notification to secretary.** If the final
27 report prescribes a course of action the institution must follow
28 to correct violations cited during the review, the institution
29 must respond within the time period prescribed in the final
30 report. If the institution complies with the prescribed course
31 of action, the board shall issue a final notification to the
32 secretary of the United States Department of Education that the
33 institution is in compliance with the standards. If the
34 institution does not comply with the prescribed course of action
35 within the prescribed time period, the board shall initiate a
36 proceeding as described in Code of Federal Regulations, title

1 34, section 667.23, paragraph (g), to terminate the
2 institution's participation in Title IV programs pursuant to
3 Code of Federal Regulations, title 34, section 667.25.

4 4890.0800 CONSUMER COMPLAINT PROCESS.

5 Subpart 1. Consumer complaints; complaint records.

6 Pursuant to the Higher Education Act of 1965, Title IV, part H,
7 United States Code, title 20, section 1099a-3, paragraph (j),
8 the board shall establish and publish the availability of
9 procedures for receiving and responding to complaints regarding
10 the review standards in part 4890.0500 and keep records of the
11 complaints to determine their frequency and nature for specific
12 institutions. Records regarding the number and nature of
13 complaints shall be maintained by the board for each institution.

14 Subp. 2. Requirements for consumers filing a complaint.

15 A. For the purposes of this subpart and subpart 3,
16 the terms in subitems (1) and (2) have the meanings given them.

17 (1) "Complaint" means a written statement of
18 wrong, grievance, or injury pertaining to the standards in part
19 4890.0500 and filed with the board by an individual.

20 (2) "Written documentation" means information
21 provided by an individual on a complaint form provided by the
22 board.

23 B. An individual may receive information regarding
24 how to file a complaint in person, via telephone, or by written
25 request. Except when an individual alleges fraud, all
26 complaints shall require written documentation.

27 C. If an individual alleges fraud, written
28 documentation is not required and the individual need not follow
29 the institution's complaint process. The board shall refer the
30 individual to the United States Inspector General for the
31 Department of Education.

32 D. A complaint form, designed by the board, shall
33 include a data privacy waiver. The form shall provide space for
34 information about the individual, including name and signature,
35 the institution against which the complaint is filed, the nature

1 of the complaint, a narrative section, and an invitation to
2 provide supporting documentation.

3 E. A current student of an institution shall be
4 required to affirm that all published internal complaint
5 processes provided by the institution the student attends have
6 been exhausted before the board shall act on the student's
7 written complaint.

8 F. A complaint shall not be rejected because an
9 individual chooses to remain anonymous. However, this item is
10 notice to anonymous complainants that a request to remain
11 anonymous potentially limits the board's ability to review a
12 complaint fully.

13 Subp. 3. Requirements for the board.

14 A. Within ten working days of receiving a written
15 complaint, the board shall notify the individual that the
16 complaint was received. If necessary, the board may request
17 further information. The board shall enter into a database
18 maintained by the board complaint information from:

19 (1) current students who have affirmed that all
20 published internal complaint processes provided by the
21 institution the student attends have been exhausted; and

22 (2) other individuals.

23 B. The board shall refer the written complaint to the
24 institution named in the complaint, an appropriate entity (for
25 example, Minnesota Department of Commerce, Minnesota State
26 Approving Agency for Veterans' Education, public governing
27 boards, Minnesota Attorney General, Minnesota Department of
28 Human Rights, United States Department of Education), or both.

29 C. The board shall forward allegations regarding
30 fraud to the United States Inspector General for the Department
31 of Education.

32 D. With the exception of allegations of fraud, the
33 institution named in a complaint shall have the opportunity to
34 respond to the complaint.

35 E. Referrals made by the board to institutions and
36 other entities may require periodic follow-up by the board to

1 determine the status of the complaint.

2 F. Within 90 days of receiving a written complaint
3 that has not been addressed by the institution, the board shall
4 issue a written notice to the individual and the institution
5 named in the complaint, describing the status of the complaint.

6 G. The board shall maintain records of all complaints
7 for at least five years from the end of the state fiscal year in
8 which the complaint was received.

9 H. Complaints received by the board under Minnesota
10 Statutes, chapter 141, and sections 136A.61 to 136A.71, shall be
11 included in a database maintained by the board to determine
12 whether a pattern of complaints has been established.

13 I. The board shall request that other entities which
14 license institutions in Minnesota report complaints they have
15 received in order to help determine a pattern of complaints.

16 Subp. 4. Pattern of complaints.

17 A. For the purposes of this subpart, the terms in
18 subitems (1) to (3) have the meanings given them.

19 (1) "Fall term head count" means the number of
20 students enrolled in courses at an institution creditable toward
21 a diploma, certificate, degree, or other formal award, as
22 reported on the most recent Integrated Postsecondary Education
23 Data System, Fall Enrollment Survey, IPEDS-EF-2, June 1, 1994,
24 Bureau of the Census, United States Department of Commerce,
25 which is incorporated by reference. It is available through the
26 Minitex interlibrary loan system. It is subject to frequent
27 change.

28 (2) "Student" means an individual who is enrolled
29 or was enrolled in an institution. For institutions subject to
30 Minnesota Statutes, chapter 141, student also means any
31 individual who is party to the contract on behalf of the student.

32 (3) "Pattern of complaints" means the following
33 number of complaints by students received within any 12-month
34 period:

35 (a) for an institution with a fall term head
36 count of 1,500 students or less, 15 complaints; or

1 (b) for an institution with a fall term head
2 count greater than 1,500, the head count multiplied by .01,
3 rounded to the nearest whole number.

4 B. When a pattern of complaints against an
5 institution is established, the board shall forward the
6 complaints to the Secretary of the United States Department of
7 Education, and notify the affected institution. Subsequent
8 complaints received during the same 12-month period also shall
9 be forwarded to the secretary.

10 4890.0900 BOARD PEER REVIEW SELECTION PROCESS.

11 To conduct or coordinate a review of a referred
12 institution, the board shall follow contracting procedures under
13 Minnesota Statutes, chapter 16B. In determining whether a
14 contractor is competent to assess educational programs, the
15 board shall use the criteria and procedures in Code of Federal
16 Regulations, title 34, section 667.24. The board shall also
17 require a contractor to demonstrate an ability to review an
18 institution's compliance with the standards in part 4890.0500.