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STATE REGISTER



STATE OF MINNESOTA

PROPOSED RULES

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OFFICIAL NOTICES

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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
39	Monday Mar 19	Monday Mar 26	Monday Apr 2
40	Monday Mar 26	Monday Apr 2	Monday Apr 9
41	Monday Apr 2	Monday Apr 9	Monday Apr 16
42	Monday Apr 9	Monday Apr 16	Monday Apr 23

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

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

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

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

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they

are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

TITLE 5 EDUCATION

Part 1 Education Department

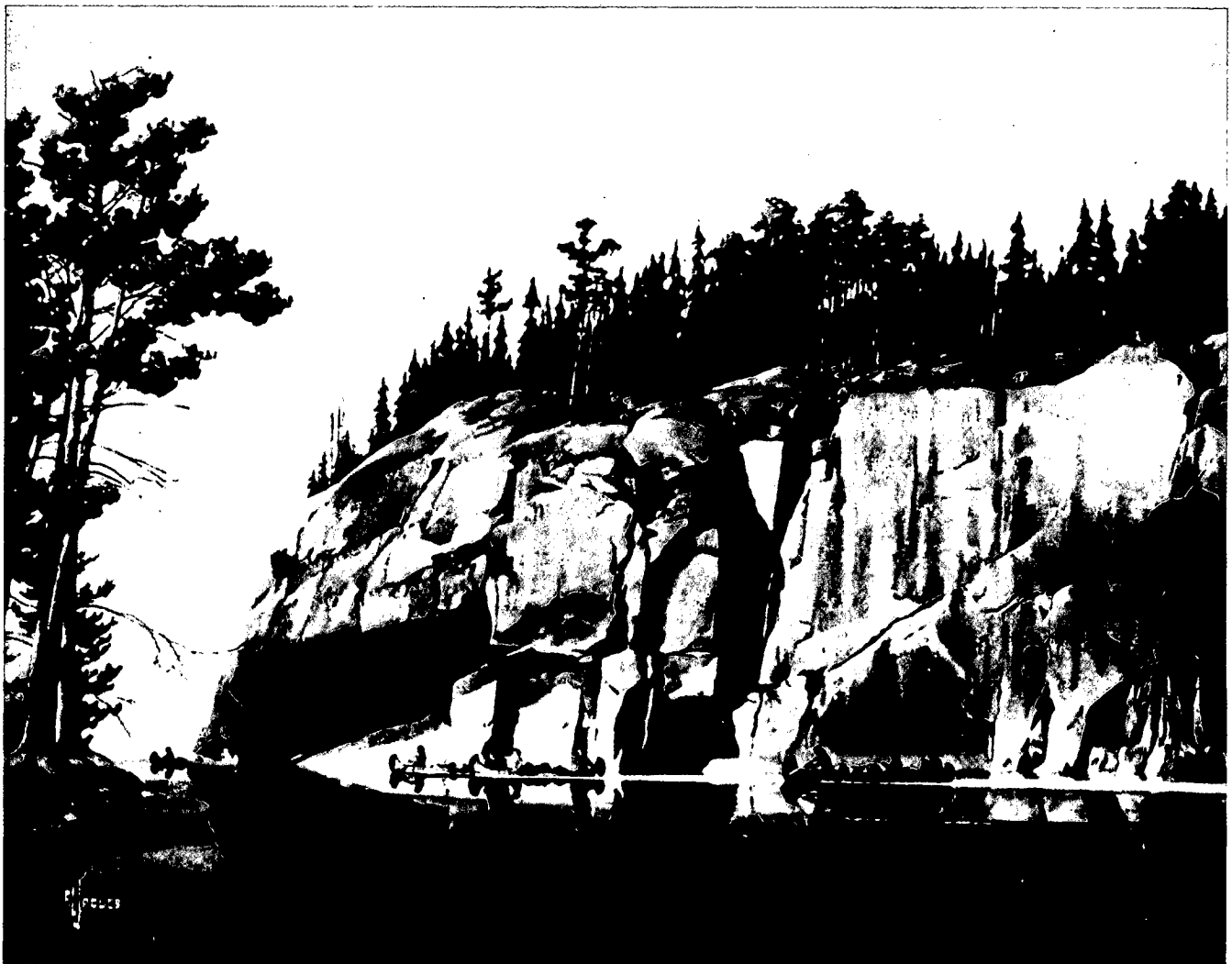
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5 MCAR §§ 1.0820-1.0824, 1.0840-1.0843,
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TITLE 8 LABOR

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Picture Rock, shown in this oil painting by Minnesota artist F. Lee Jacques, rises in lithic magnificence from Crooked Lake in the granitic Boundary Waters Canoe Area of northeastern Minnesota. From 1680 to 1800, the early voyageurs passed beneath Picture Rock on the old route from Grand Portage to Winnipeg. It was also known as "Arrow Stick in the Rock" due to many arrows shot into a crevice in the face, as a warning by the Sioux. (Courtesy of the James Ford Bell Museum of Natural History)

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

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

Board of Education Department of Education Proposed Rules Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above-entitled matter in the Veterans Service Building, Conference Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, on Monday, May 7, 1979, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to Peter C. Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8118. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The conduct of the hearing will be governed by the rules of the Office of Hearing Examiners.

Notice is hereby given that 25 days prior to the hearing a

statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing, justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted to the hearing examiner and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or to the agency (in the case of the agency's submission or re-submission to the Attorney General).

The Board proposes to adopt rules of the State Board of Education Governing Educational Aids for Pupils Attending Nonpublic Schools and the Repeal of Rules EDU 740-744. Notice: The proposed rules are subject to change as a result of the rule hearing process. The agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the Director, State Department of Education, State Aids Section, Nonpublic Aid, 807 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

The Board's statutory authority to promulgate the pro-

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PROPOSED RULES

posed rules is contained in Minn. Stat. §§ 123.933, 123.935, 123.938 (1978).

Under Minn. Stat. § 10A.01, subd. 11, as amended by Laws of Minnesota, 1978, ch. 463, § 11, a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute:

“Lobbyist” means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

“Lobbyist” does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual whole engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over \$250, excluding his own travel expenses, in any year in communicating with public officials.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office

Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-5615.

February 21, 1979

Howard B. Casmeay
Secretary

Rules as Proposed (all new material)

Chapter Forty-One: Textbooks and Standardized Tests for Pupils Attending Nonpublic Schools

5 MCAR § 1.0820 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, textbooks and standardized tests as provided by Minn. Stat. §§ 123.931-123.937, shall be made available to pupils in nonpublic schools.

5 MCAR § 1.0821 Definitions.

A. “Textbooks” means books, workbooks, or manuals, whether bound or in looseleaf form, which a pupil uses as a text or principal source of study in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term includes only such textbooks as are available and of benefit to Minnesota public school pupils and which are secular, neutral and nonideological such that the material contained therein is not regarded as religious, spiritual, or sacred, and presents events, facts and theories that pertain to religion or religious doctrine in an impartial manner.

B. “Standardized tests” means tests and scoring services available from commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

5 MCAR § 1.0822 State administration.

A. The Department of Education shall administer funds allocated for the purchase of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

B. The Department of Education, in cooperation with the state auditor’s office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of textbooks and standardized tests to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the Department of Education shall determine, from the most recent data available, the allocation available

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per pupil for textbooks and standardized tests to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for textbooks and standardized tests by all public school districts in the state for pupils enrolled in public schools by the average daily membership of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

5 MCAR § 1.0823 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the textbooks and standardized tests aid program, for textbooks and tests to be used the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for textbooks and standardized tests.

2. An estimate of the total allocation available to the nonpublic pupils attending the nonpublic school for textbooks and standardized tests. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for textbooks and standardized tests. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for textbooks and standardized tests for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to each nonpublic school in the public school district or intermediary service area for distribution to the pupil applicants.

C. Final application. On or before September 25 the nonpublic school shall make final application for participation in the textbooks and standardized tests aid program to

the district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the department of education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed pupil request forms for textbooks and standardized tests.

2. The allocation for textbooks and standardized tests to the nonpublic pupils attending the nonpublic school. The actual allocation shall be determined by multiplying the allocation available per pupil for textbooks and standardized tests by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for textbooks and standardized tests loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the Department of Education, the public school district, or the intermediary service area.

E. Inventory. Textbooks and standardized tests loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district or intermediary service area may declare loaned school books unusable after five years, remove them from the inventory, and divest of them in any manner.

F. Reimbursement. Upon completion of the distribution of the textbooks and standardized tests, each public school district or intermediary service area may claim from the Department of Education (1) the cost of materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the vendor shall be included in the allocation for textbooks and standardized tests for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the lim-

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itations set forth in § 1.0821. The public school district shall also include a list of the textbooks actually purchased, which list shall include the publisher of those textbooks.

Chapter Forty-One-A: Instructional Materials for Pupils Attending Nonsectarian Nonpublic Schools

5 MCAR § 1.0840 Policy. Instructional materials, as provided by Minn. Stat. § 123.938, shall be made available to pupils attending nonsectarian nonpublic schools, provided such schools have an enrollment less than 200 pupils and whose programs do not have as a primary purpose education to preschool children or to children under the age of seven. The instructional materials aid shall be supplement to the educational aids and services available to nonpublic school pupils as provided by Minn. Stat. §§ 123.931-123.937.

5 MCAR § 1.0841 Definitions and general requirements.

A. "Nonsectarian nonpublic school" means any nonpublic school which is not church-related, not controlled by a church, and does not promote a religious belief.

B. The enrollment limitation of 200 pupils is based on the total number of pupils in kindergarten through grade twelve who are enrolled as of September 15 of the school year in which the aid is to be provided. For purposes of this count, all pupils, kindergarten through grade twelve are counted as one pupil each.

C. "Instructional materials" means "school library and audio-visual materials" and "instructional supplies."

1. School library and audio-visual materials include materials such as school library books and pamphlets, maps and globes, periodicals and newspapers, and audio-visual materials used in the instructional program such as films, filmstrips, recordings, exhibits, models, and television and radio teaching materials, exclusive of equipment.

2. Instructional supplies are consumable items such as tests, chalk, paper, test tubes, ink, pencils, paint, paint brushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, instructional farming supplies, supplies for the operation of equipment used in the teaching-learning process, physical education supplies, printing of individual materials, and magazines or periodicals, exclusive of equipment.

D. Instructional materials must be secular, neutral, and nonideological such as the materials normally provided for pupils in public schools.

5 MCAR § 1.0842 State administration.

A. The Department of Education shall administer funds for the provision of instructional materials to pupils attending nonsectarian nonpublic schools.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of instructional materials to be loaned or provided to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1, the Department of Education shall determine the allocation available per pupil for instructional materials to be used for the following school year. The allocation per pupil shall be determined by dividing the total expenditure for instructional materials by all public school districts in the state for pupils enrolled in public schools by the total number of pupils based on an unduplicated count of pupils enrolled in the districts during the same fiscal year. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

5 MCAR § 1.0843 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the public school district or intermediary service area a preliminary application for participation in the instructional materials aid program. The preliminary application shall be on forms provided by the Department of Education and shall include:

1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for instructional materials.

2. An estimate of the nonpublic school's total allocation available for instructional materials. The estimated allocation is determined by multiplying the estimated count of participating pupils by the allocation available per pupil for instructional materials. Pupils in grades kindergarten through twelve are counted as one pupil each.

3. A statement by representatives of the nonpublic school indicating that the school shall meet all the requirements for the instructional materials aid for the following school year as set forth in § 1.0840 and § 1.0841.

B. Purchase of materials. On or before May 1, the public school district or intermediary service area shall have completed its review of the preliminary application and shall notify the nonpublic school that it may begin submitting requests for instructional materials for the following school year based on the estimated allocation. The materials requested by the nonpublic school shall be purchased by the public school district or intermediary service area within a reasonable time of the receipt of the requests. After the materials have arrived, they shall be promptly transmitted to the nonpublic school for distribution to the pupil applicants.

C. Final application. On or before September 25 the

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nonpublic school shall make final application for participation in the instructional materials aid program to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall be on forms provided by the Department of Education and shall include:

1. A count of the nonpublic school pupils, kindergarten through grade twelve, who are enrolled as of September 15 of the current school year and who have signed pupil request forms for instructional materials.

2. The nonpublic school's allocation for instructional materials. The actual allocation shall be determined by multiplying the allocation available per pupil for instructional materials by the total number of participating pupils. Pupils in grades one through twelve are counted as one pupil each.

3. A statement by representatives of the nonpublic school indicating that the school meets all the requirements for the instructional materials aid as set forth in § 1.0840 and § 1.0841.

D. Nonpublic school files. The nonpublic school shall maintain on file for a period of three years all pupil request forms for instructional materials loaned or provided to nonpublic school pupils. The forms shall be available for inspection by the Department of Education.

E. Inventory. Instructional materials loaned to pupils in nonpublic schools shall be maintained on inventory by the public school district or intermediary service area except in cases of consumable or nonreusable materials. The public school district may declare loaned school books unusable after five years and remove them from the inventory.

F. Reimbursement. Upon completion of the distribution of the instructional materials, each public school district or intermediary service area may claim from the Department of Education (1) the cost of the materials, not to exceed the allocation available, and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the supplier shall be included in the allocation for each nonpublic school. A public school district shall not be considered a vendor.

G. Certificate of compliance. Each claim for reimbursement shall include a certificate of compliance from the public school district or intermediary service area indicating

that all materials have been reviewed prior to the expenditure of public funds and are in accordance with the limitation as set forth in § 1.0840. The public school district shall also include a list of textbooks actually purchased, which list shall include the publisher of those textbooks.

Chapter Forty-One-B: Health Services for Pupils Attending Nonpublic Schools

5 MCAR § 1.0860 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, health services as provided by Minn. Stat. §§ 123.931-123.937 shall be made available to pupils in nonpublic schools.

5 MCAR § 1.0861 Definitions and general requirements.

A. "Health services" means physical and mental health services provided by licensed health services personnel or their assistants. Licensed health services personnel includes physicians, dentists, professional nurses or optometrists.

B. Health services shall not include the direct educational instruction of nonpublic pupils by health services personnel.

C. Health services shall not include those services which are required under the Special Education Law, Minn. Stat. § 120.17 (1976, as amended), or which are eligible to receive reimbursement under the Special Education Aid Law, Minn. Stat. § 124.32 (1976, as amended).

D. The public school district or intermediary service areas shall provide those specific health services which it offers to its public school pupils, provided the costs for such services do not exceed the amount allocated for health services by the Department of Education.

E. Costs relating to the provision of health services shall include (1) the salaries of licensed health services personnel and their assistants and (2) expenses for supplies, equipment and travel that are directly associated with the provision of health services by the licensed health services personnel or their assistants.

F. Health services may be provided at the nonpublic school, a neutral site, or at the public school.

5 MCAR § 1.0862 State administration.

A. The Department of Education shall administer funds

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for the provision of health services to nonpublic school pupils.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of health services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the Department of Education shall determine from the most recent data available the allocation available per pupil for health services to be used for the following school year. The allocation per pupil for health services shall be the average expenditure per public school pupil for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of health services the actual cost of the services provided during the school year. The actual allotment shall not exceed the pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved budget.

F. Final payment. On or before September 1 following the school year, the department shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

5 MCAR § 1.0863 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for health services beginning with the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include an estimate of the nonpublic school pupils, kindergarten through grade twelve, who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for health services. The preliminary application may also include an assessment of the type and level of health services desired for the following school year.

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which health services

for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before August 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of health services that are to be made available during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for health services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed pupil request forms for health services.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the Department of Education a program and budget of the health services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the Department of Education and shall include:

1. Projected health services expenditures for salaries, supplies, equipment and other expenses, which expenditures shall not exceed the amount allocated for health services to the public school district or intermediary service area by the department of education. The allocation for health services is determined by multiplying the total number of participating pupils by the allocation available per pupil for health services as set forth in § 1.0862 C. Pupils in grades one through twelve are counted as one pupil each; kindergarten pupils are counted as one-half pupil each.

2. Projected expenditures for health services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for health services for nonpublic school pupils and which shall be in addition to the health services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the department of education a year-end report of health services provided to nonpublic school pupils. The report shall be on forms made available by the Department of Education.

G. Nonpublic school files. The nonpublic school shall maintain on file for three years all pupil request forms for health services. The forms shall be available for inspection by the Department of Education, the public school district or the intermediary service area.

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Chapter Forty-One-C: Guidance and Counseling Services for Pupils Attending Nonpublic Schools

5 MCAR § 1.0880 Policy. In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, guidance and counseling services as provided by Minn. Stat. §§ 123.931-123.937 (1978) shall be made available to secondary pupils in nonpublic schools.

5 MCAR § 1.0881 Definitions and general requirements.

A. "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance.

B. Guidance and counseling services provided to nonpublic school pupils shall not include the planning or selection of particular courses or classroom activities of the nonpublic school.

C. The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided guidance and counseling services.

D. The public school district or intermediary service areas shall provide those specific guidance and counseling services which it offers to its public school secondary pupils, provided the costs for such services do not exceed the amount allocated for guidance and counseling services by the Department of Education.

E. Costs relating to the provision of guidance and counseling services shall only include (1) the salaries of licensed guidance and counseling services personnel and their assistants and (2) expenses for supplies, equipment and travel. The costs in (2) must be directly associated with the provision of guidance and counseling services by the licensed guidance and counseling services personnel or their assistants.

F. Guidance and counseling services may only be provided at a neutral site or at the public school.

5 MCAR § 1.0882 State administration.

A. The Department of Education shall administer funds for the provision of guidance and counseling services to nonpublic school pupils.

B. The Department of Education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records associated with the provision of guidance and counseling services to nonpublic school pupils.

C. Computation of pupil allocation available. On or before March 1 the Department of Education shall determine from the most recent data available the allocation available per secondary pupil for guidance and counseling services to be used for the following school year. The allocation available per secondary pupil for guidance and counseling services shall be the average expenditure per public secondary school pupil for these services by those Minnesota public school districts which provide guidance and counseling services to public secondary school pupils. Pupils shall be counted as one pupil each.

D. Computation of actual allocation. Based on the year-end report filed by each district, the department shall allot to each district or intermediary service area for the provision of guidance and counseling services the actual cost of the services provided in that school year. The actual allotment for guidance and counseling services for the nonpublic secondary pupils shall not exceed the total pupil allocation available.

E. December 1 payment. On or before December 1, the department shall distribute to the public school district or intermediary service area an amount equal to 90 percent of the approved allocation.

F. Final payment. On or before September 1, the Department of Education shall make the final adjustment payment to the district or intermediary service area based on the year-end report.

5 MCAR § 1.0883 Local administration.

A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for guidance and counseling services beginning with the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include an estimate of the nonpublic secondary school pupils who may be enrolled as of September 15 of the following school year and who may be signing pupil request forms for guidance and counseling services. The preliminary application may also include an assessment of the type and level of guidance and counseling services desired for the following school year.

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

PROPOSED RULES

B. Annual consultation. The district or intermediary service area shall hold an annual consultation with the nonpublic school regarding the location at which guidance and counseling services for nonpublic school pupils are to be offered. Final decision as to location shall be made by the public school district or intermediary service area.

C. Notification of services. On or before August 1 the public school district or intermediary service area shall inform the nonpublic school of the type, level, and location of guidance and counseling services that are to be made available during the following school year.

D. Final application. On or before September 25 the nonpublic school shall make final application for guidance and counseling services to the public school district or intermediary service area by or on behalf of each participating nonpublic school pupil. The final application shall indicate the number of nonpublic school pupils who are enrolled as of September 15 and have signed pupil request forms for guidance and counseling services.

E. Submission of program and budget. On or before October 15 the public school district or intermediary service area shall submit to the Department of Education a program and budget of the guidance and counseling services that are being offered to the nonpublic school pupils for the current school year. The program and budget shall be on forms made available by the Department of Education and shall include:

1. Projected guidance and counseling services expenditures for salaries, supplies, equipment and other expenses, which expenditures shall not exceed the amount allocated for guidance and counseling services to the public school district or intermediary service area by the Department of Education. The allocation for guidance and counseling services is determined by multiplying the total number of participating secondary pupils by the allocation available per pupil for guidance and counseling services as set forth in § 1.0882 C. Pupils shall be counted as one pupil each.

2. Projected expenditures for guidance and counseling services administration, which expenditures shall not exceed an amount equal to five percent of the public school district's or intermediary service area's expenditures for guidance and counseling services for nonpublic school pupils and which shall be in addition to the guidance and counseling services allocation.

F. Year-end report. On or before July 15, following each school year, the public school district or intermediary service area shall submit to the Department of Education a year-end report of guidance and counseling services provided to nonpublic school pupils. The report shall be on forms made available by the Department of Education.

G. Nonpublic school files. The nonpublic school shall maintain on file for a period of 3 years all pupil request forms for guidance and counseling services. The forms shall be available for inspection by the Department of Education, the public school district or the intermediary service area.

Rules as Proposed

~~Chapter Thirty Seven: Instructional Materials for Pupils attending Nonpublic Schools~~

~~EDU 740 Policy.~~ In order to promote equal educational opportunity for every school child in Minnesota and to assure all Minnesota pupils and their parents freedom of choice in education, the benefits provided by Minn. Laws 1975, Chapter 396 shall be made available to pupils in nonpublic schools as provided in this chapter.

~~(EDU 1975)~~

~~EDU 741 Instructional materials.~~

~~A. Eligible instructional materials.~~

~~1. The term shall be limited to "textbooks," "school library and audio-visual materials," and "instructional supplies" as those terms or their equivalent are described or designated in the manual of instructions for uniform accounting for Minnesota school districts.~~

~~a. Textbooks include elementary and secondary textbooks furnished free to public school pupils including supplementary textbooks, and dictionaries. Textbooks are primarily for use in certain classes or grades rather than for general school use.~~

~~b. School library and audiovisual materials; materials such as include school library books and pamphlets available for use by individual students; maps and globes for individual use; periodicals and newspapers for individual use; audiovisual materials used in the instructional program such as films, filmstrips, recordings, exhibits, models, and television and radio teaching materials exclusive of equipment.~~

~~c. Instructional supplies are consumable items such as tests, chalk, paper, text tubes, ink, pencils, paint, paint brushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, instructional farming supplies, supplies for the operation of equipment used in the teaching-learning process, workbooks, physical education supplies, printing of individual materials, and magazines or periodicals for classroom use.~~

~~2. Instructional materials must be secular, neutral, and nonideological such as the materials normally provided for pupils in public schools.~~

PROPOSED RULES

B. Ineligible instructional materials: Items such as unabridged dictionaries, encyclopedias, and other major reference works are classified as equipment and are therefore ineligible instructional materials.

(EDU 1975)

~~EDU 742 General administration.~~

A. The department of education shall administer funds allocated for the purchase of instructional materials to be loaned or provided to nonpublic school pupils.

B. The department of education, in cooperation with the state auditor's office, shall establish proper accounting methods for fiscal control, fund accounting, and the maintenance of records for the acquisition of instructional materials to be loaned or provided to nonpublic school pupils.

C. The department of education's administrative costs shall not exceed two percent of the state allocation for instructional materials to be loaned or provided to nonpublic school pupils.

(EDU 1975)

~~EDU 743 Local administration.~~

A. An application for instructional materials to be loaned or provided shall be made by or on behalf of each participating nonpublic school pupil through the nonpublic school to the public school district in which the nonpublic school is located. For the 1975-76 year the application shall be made within 30 days of the elective date of these regulations. For the following school year it shall be made on or before September 15. The applications shall be on a form prescribed by the commissioner. Application forms shall be available in the office of the public school superintendent on the effective date of these regulations.

B. The department of education shall determine the allocation of aid for instructional materials.

C. The local school district shall purchase and transmit the instructional materials to the nonpublic schools in the district for distribution to the pupil applicants.

D. Instructional materials loaned to pupils in nonpublic schools shall be maintained on inventory by the local school district except in cases of consumable or nonreusable instructional materials.

E. The local school district may declare loaned school books unusable after five years and remove them from the inventory.

F. The nonpublic school shall maintain on file all applications for instructional materials loaned or provided to nonpublic school pupils. The applications shall be available for inspection by the department of education.

G. Upon completion of the distribution of the instructional materials each local school district may claim from the department of education (1) the cost of the instructional materials and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the instructional materials distributed. The administrative costs shall be in addition to the allocation for the nonpublic school. Handling and shipping charges by the supplier shall be included in the allocation for each nonpublic school.

(EDU 1975)

~~EDU 744 Availability of funds.~~

A. The allocation for instructional materials shall be the total expenditure for instructional materials by all public school districts in the state divided by the total number of pupil units based on an unduplicated count of pupils enrolled in the districts during the same fiscal year.

B. Kindergarten pupils shall be counted as one-half unit; elementary pupils (grades 1-6) shall be counted as one pupil unit and secondary pupils (grades 7-12) shall be counted as 1.4 pupil units notwithstanding the local nonpublic school organization.

C. For the 1975-76 school year, the allocation shall not exceed \$45.43 per nonpublic pupil unit. Future allocations will be based upon the most recent data available.

(EDU 1975)

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PROPOSED RULES

Department of Labor and Industry Occupational Safety and Health Division Proposed Revisions to Occupational Safety and Health Standards

Request for Public Comment

Please take notice that Russell B. Swanson, Deputy Commissioner of the Minnesota Department of Labor and Industry, has determined that the following revisions to the Occupational Safety and Health Codes shall be promulgated pursuant to Minn. Stat. § 182.655 (1978) establishing, modifying, or revoking Occupational Safety and Health Standards as printed below.

Complete copies of the specific standards, changes, additions, deletions and corrections are available by writing: Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Interested persons are hereby afforded a period of thirty (30) days to submit written data or comments on the rules proposed. Any interested person may file with the Commissioner written objections to the proposed rules stating the grounds therefor and such person may request a public hearing on such objections.

Russell B. Swanson
Deputy Commissioner

Rules as Proposed

MOSHC 1

Minnesota Occupational Safety and Health Codes and Rules, MOSHC 1, are hereby changed and modified by incorporating and adopting by reference, changes, additions, deletions and corrections made prior to January 1, 1979 to the following parts of Title 29 of the Code of Federal Regulations:

Part 1910, Occupational Safety and Health Standards for General Industry, as published in Part II, Volume 39, No. 125, of the Federal Register on June 27, 1974; and Part 1928, Occupational Safety and Health Standards for Ag-

riculture as published in Part II, Volume 40, No. 81, of the *Federal Register* on April 25, 1975.

A. A new permanent standard for Occupational Exposure to Acrylonitrile as published in the *Federal Register*, Volume 43, No. 192, on Tuesday, October 3, 1978, pages 45762 through 45819, which establishes a new permanent standard for occupational exposure to acrylonitrile (AN) (also known as vinyl chloride) at § 1910.1045; revises paragraph (c) of § 1910.19; and amends Table Z-1 of § 1910.1000. This standard sets the permissible limit of occupational exposure to acrylonitrile (AN) at 2 parts acrylonitrile per million parts of air (2 ppm), as an 8-hour time-weighted average concentration (TWA), with a ceiling level of 10 ppm for any 15-minute period during the 8-hour day. The standard also establishes an action level of 1 ppm as an 8-hour time-weighted average. The basis for this standard is OSHA's determination that laboratory and epidemiological data indicate that exposure to AN presents a cancer hazard to workers. Provision is also made for specific exemptions from the standard for the processing, handling, and use of acrylic and modacrylic fibers, ABS/SAN resins, nitrile barrier resins, and nitrile rubbers, when these materials are in the form of finished polymers, and certain other materials containing and/or made from AN. This standard is intended to minimize the potential for cancer among employees exposed to AN in the workplace. Employees protected by this standard work principally in the chemical and plastics industries. The standard requires that employee exposures be controlled to within the permissible exposure limits by engineering and work practices, supplemented by respiratory and other protective equipment in limited situations. The standard also requires the measurement of employee exposure, employee training, medical surveillance, and recordkeeping. The 2 ppm limit has been set because it will provide significant employee protection and is the lowest level feasible for most employers affected by the standard. This standard supersedes the Emergency Temporary Standard (ETS) which was adopted on March 13, 1978 (2 S.R. 1664).

B. The revocation of certain Occupational Safety and Health Standards as published in the *Federal Register*, Volume 43, No. 206, October 24, 1978 and corrected in Volume 43, No. 216, November 7, 1978. This final rule revoked certain general industry safety and health standards codified in 29 CFR Part 1910. These revoked standards are among those proposed for revocation by Federal OSHA on December 13, 1977. It has been determined that revoking most of the provisions proposed for revocation will better effectuate the purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on hazards which have greater significance and impact on exposed employees. Certain of the standards originally proposed for revocation were determined, in the final analysis, to be necessary to benefit employee safety or health, and therefore these requirements have been retained

PROPOSED RULES

in the best interest of worker protection. Of the 1100 standards originally proposed for revocation, 928 have been revoked by Federal OSHA. By this notice, Minnesota proposes to revoke the same 928 standards.

C. Corrections made in Title 29 of the Code of Federal Regulations as published in the *Federal Register*, Volume 43, No. 153, on Tuesday, August 8, 1978 pages 35032 through 35036 which corrects the following standards:

1. 1910.1043 — Occupational Exposure to Cotton Dust. This notice announces further corrections to the cotton dust standard which appeared in the *Federal Register* on June 23, 1978 and corrected in the *Federal Register* on June 30, 1978. This standard, with corrections, was adopted by the Minnesota OSH Division on November 6, 1978 (3 S.R. 910). This latest publication (August 9, 1978) corrects errors and omissions which were in the preamble to the cotton dust standard and a few errors remaining in the standard and appendices.

2. 1910.1046, 1928.113 — Occupational Exposure to Cotton Dust in Cotton Gins. This notice further corrects errors and omissions which appeared in the *Federal Register* on June 23, 1978 and corrected in the *Federal Register* on June 30, 1978. This standard, and corrections, was adopted by the Minnesota OSH Division on November 6, 1978 (3 S.R. 910). This latest publication (August 8, 1978) corrects errors and omissions which were in the preamble to the standard and a few remaining errors in the standard and appendices. Among the corrections is the deletion of all medical questionnaires in Appendix B except for Appendix B-II, The Respiratory Questionnaire for Non-Textile Workers for the Cotton Industry. On June 30, 1978, a new Subpart I "Toxic and Hazardous Substances" consisting of 1928.113, Exposure to Cotton Dust in Cotton Gins was added to Part 1928. The text of 1910.1045 and 1928.113 is

identical and, therefore, the corrections made to § 1910.1045 are also made to 1928.113.

D. Corrections made in Title 29 of the Code of Federal Regulations as published in the *Federal Register*, Volume 43, No. 234, on Tuesday, December 5, 1978, pages 56893 through 56894 which corrects the following standards:

1. 1910.1043 — Occupational Exposure to Cotton Dust. This notice makes further corrections in the standard adopted on November 6, 1978 (3 S.R. 910) and corrected in paragraph C-1 of this notice. The December 5, 1978 *Federal Register* announcement adds a provision which appeared originally in Appendix C of the proposed standard but was inadvertently omitted from the final standard.

2. 1910.1046, 1928.113 — Occupational Exposure to Cotton Dust in Cotton Gins. This notice makes further corrections in the standard adopted on November 6, 1978 (3 S.R. 910) and corrected in paragraph C-2 of this notice. The December 5, 1978 *Federal Register* announcement adds a provision which originally appeared in Appendix C of the proposed standard but was inadvertently omitted from the final standard.

E. Federal OSHA published corrections to the tables of exposure limits for air contaminants in 29 CFR 1910.1000 in the *Federal Register*, Volume 43, No. 237, on Friday, December 8, 1978. The corrections were published to avoid any confusion as to the content of the section. The only question considered in making these corrections was whether OSHA had accurately transcribed the source documents for these standards and whether errors have occurred in subsequent republications or recodifications of these tables. These corrections do not establish, modify or revoke substantive rights and obligations.

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SUPREME COURT

Decisions Filed Friday,
March 16, 1979

Compiled by John McCarthy, Clerk

48193/31 State of Minnesota vs. Dennis LeRoy Wakefield, Appellant. St. Louis County.

Evidence of an offense other than the one for which a defendant is on trial and of which he has previously been acquitted is inadmissible.

Reversed and remanded. Sheran, C. J.

48389/99 Roy Matson Truck Lines, Inc., vs. Michelin Tire Corporation, Appellant. Hennepin County.

The trial court's finding that the blowout was caused by a bonding defect in the tire rather than misuse was not clearly erroneous.

Affirmed. Sheran, C. J. Took no part, JCO

48661/382 Patricia C. Remole, et al, Plaintiffs, vs. Jonathan Development Corporation, et al, First Trust Company of St. Paul, Appellant, Frank Fox. Carver County.

Under Minn. St. 581.10, a holder of a sheriff's certificate of sale following foreclosure by action of a real estate mortgage has no standing to complain of a junior lienholder's late filing of notice of intent to redeem.

Reversed and remanded with instructions to vacate the judgment of January 31, 1978, and to order entry of judgment confirming Trust Company's November 22, 1977, certificate of redemption. Rogosheske, J. Took no part, Todd, J.

48291 John J. Alexander, Respondent-Relator, vs. Kenneth R. LaLonde Enterprises, et al, Relators-Respondents. Workers' Compensation Court of Appeals.
48298/319

The Workers' Compensation Court of Appeals did not abuse its discretion in vacating an award made 7 years earlier to petitioner for nursing services performed by his wife where, in the unusual circumstances of the case, it is clear that through no fault of petitioner the nature and value of those nursing services was not actually considered in the original hearing.

The court of appeals' factual determination of the reason-



Early automobiles looked like the horse-drawn buggies that preceded them. They had big wheels to help them travel on slippery, muddy roads. The first cars appeared in Minnesota about 1900. This one was photographed in Redwood Falls about 1902. In that year a Minneapolis driver was arrested for exceeding the speed limit of ten miles an hour. (Courtesy of Minnesota Historical Society)

able value of nursing services provided petitioner by his wife has sufficient evidentiary support.

Affirmed. Peterson, J.

48272/288 Roger Lanoue, Individually and d.b.a. Rog & Jim's Superette, and Rog & Jim's, Inc., Appellants, vs. Fireman's Fund American Insurance Companies, State Automobile and Casualty Underwriters, Donald L. Anderson, et al, Richard D. Taaffe, Individually and d.b.a. Pixie Liquors, Speedy Market, Incorporated, Jeffrey Lindsholm, et al, Daniel O'Brien, et al, Greg Orthun, et al. Hennepin County.

A liability insurer who refuses to defend his insured has the burden of showing that no duty to defend exists.

Where a complaint against an insured states a cause of action excluded from insurance coverage, but the insurer is aware that facts outside the complaint establish that the exclusion is inapplicable, the insurer will be required to defend.

A liability insurer who has wrongfully refused to defend must reimburse the insured for attorneys fees, costs, and disbursements incurred by the insured in his defense.

An insured seeking to force his liability insurer to defend or to recover the costs of his defense may, if successful, also recover the costs of the action establishing the duty to defend.

SUPREME COURT

Reversed and remanded for a determination of damages in accord with this opinion. Kelly, J. Dissenting: Sheran, C. J., Peterson, J. Took no part, Otis, J.

**49029, 49083 In the Matter of the Petition of Turners
437 Crossroad Development Co. for an Order
Directing Deletion of a Restriction. Hen-
nepin County.**

Whether a restrictive covenant in a 1949 deed is interpreted as a covenant, when the owner of the benefited land conveys the land but attempts to retain the benefit of the covenant to itself, the covenant is extinguished.

Under the facts of this case, Minn. St. 500.20, subd. 2, automatically terminates a restrictive covenant in land 30 years after the same was drafted and filed.

Affirmed. Yetka, J.

**47600 In the Matter of the Welfare of S. W. T.
47601/13 and In the Matter of the Welfare of
(1978) N. R. S. Hennepin County.**

The right not to be tried or convicted while incompetent is a fundamental right, even in the context of a juvenile adjudicatory proceeding. Where the juvenile court possesses substantial information which raises doubts as to a juvenile's competency to participate in an adjudicatory proceeding, the court has an obligation to hold a competency proceeding.

A juvenile's Fifth Amendment rights may not be waived for him by his parent. Where the totality of the circumstances indicate that a juvenile does not understand these rights and could not intelligently waive them, the juvenile's confession is inadmissible in a juvenile adjudicatory proceeding.

We do not reach the issue of the constitutional propriety of joinder in juvenile proceedings.

The standard of care to be applied in juvenile proceedings for criminally negligent manslaughter is that of an ordinary and reasonably prudent juvenile of similar age.

Based on the facts of this case, it was reasonable to conclude that both juveniles aided and abetted the commission of criminally negligent manslaughter.

Even though the juvenile court applied the wrong legal standard, the evidence was sufficient to support the conclusion that the juvenile's actions were culpably negligent under the proper standard if the confessions were inadmissible.

Affirmed as to N. R. S., reversed as to S. W. T. and remanded. Wahl, J.

**47956/114 Leo C. Beuttner vs. City of St. Cloud,
(1978) Appellant. Stearns County.**

The trial court must conduct an independent review of an assessment under Minn. St. 429.081 when presented with the constitutional claim that the assessment exceeds the special benefits to the property.

A trial court reviewing such a constitutional claim should communicate its independent finding of special benefits and order a reassessment; not a specific reduction in the assessment.

Affirmed in part; reversed in part. Wahl, J.

**48374/348 In the Matter of the Application for the
Discipline of Gerald Hubert Hanratty, an
Attorney at Law of the State of Min-
nesota. Supreme Court.**

Conduct of an attorney in signing an affidavit which he knew to be materially false for the purpose of monetary gain warranted a public censure and a \$5000 fine.

Censured. Per Curiam.

**48528/431 Gordon Lockwood vs. Tower Terrace
Mobile Homes, Employer, AID Insurance
Company, Relator, Western Casualty
and Surety Company, State Treasurer,
Custodian of the Special Compensation
Fund. Workers' Compensation Court of
Appeals.**

The finding of the Workers' Compensation Court of Appeals that employee did not sustain additional low back injury in August 1975 when employee's back pain flared-up following his driving a truck down a six inch ramp, but that the flare-up was instead a manifestation of symptoms caused by a 1973 injury has substantial and credible evidentiary support. Therefore, employer's compensation carrier in 1973, rather than its carrier in August 1975, is liable to pay employee's disability benefits.

Affirmed. Per Curiam.

**47799/36 Vivian M. Palmquist, Widow of Luther E.
Palmquist, Deceased, vs. Richard Meis-
ter, Relator, and/or Bessie Strand, surviv-
ing spouse of Eric Strand, and Uninsured
and State Treasurer, Custodian of the
Special Compensation Fund. Workers'
Compensation Court of Appeals.**

SUPREME COURT

Where a widow's now deceased husband was hired at an hourly wage to assist in repairing and remodeling a building according to the owner's specifications and, while showing the owner the work done, fell through a trapdoor sustaining serious injury to his arm and shoulder which, together with complications and extensive medical treatment incident thereto, aggravated an existing heart condition and accelerated death therefrom 18 months later, the Workers' Compensation Court of Appeals was justified in awarding dependency compensation based on findings that decedent was an employee, that the injury arose out of and in the course of employment, and that the injury contributed substantially to employee's death.

Affirmed. Per Curiam.

48650/38 **State of Minnesota vs. Russell Howard Lambert, Jr., Appellant. Rice County.**

Eyewitness identification testimony was properly admitted and evidence of defendant's guilt was legally sufficient.

Affirmed. Per Curiam.

48894/54 **Lianne C. Severson, Relator, vs. Color Ad Packaging, et al. Workers' Compensation Court of Appeals.**

The Workers' Compensation Court of Appeals decision that employee's work-related injury, consisting of an aggravation of a prior nonwork-related injury to her cervical spine, resulted only in temporary total disability is adequately supported by the evidence. Conflicts in the opinions of medical experts must be resolved by the trier of fact and its findings will not be disturbed unless consideration of the evidence and the inferences permissible therefrom clearly requires reasonable minds to adopt contrary conclusions.

Affirmed. Per Curiam.

STATE CONTRACTS

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

Department of Administration procedures require that notice of any

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

Environmental Quality Board Power Plant Siting

Notice of Request for Proposals to Characterize the Transmission Line Electrical Environment

The Power Plant Siting Staff of the Minnesota Environmental Quality Board is soliciting for contractual assistance in characterizing the electric field environment of high voltage transmission lines. This assistance is necessary to provide the background for regulating the electrical environment of new high voltage transmission lines.

The purpose of this contract will be to provide background information concerning the coupling

mechanisms of EHV and HVDC lines, and to provide the Board a computer-based model to compute the various field strengths associated with HVTLs at various heights above the ground, both during normal operations and during switching surges and faults.

The maximum cost to the Board shall not exceed \$20,000. The anticipated period of performance is 12 weeks, commencing May 7, 1979.

Complete copies of the Request for Proposals may be obtained by contacting:

Environmental Quality Board
Power Plant Siting Staff
Capitol Square Building, Room 100
550 Cedar Street
St. Paul, Minnesota 55101
ATTN: Sheldon Mains
612/296-2757

STATE CONTRACTS

Proposers may be invited for an interview on April 19, 1979, if necessary for clarification purposes.

Proposals shall be sent via certified U.S. mail, received no later than April 16, 1979.

Notice of Request for Proposals to Study Various Aspects of Water Storage Reservoirs for Coal Fired Power Generating Plants

The Power Plant Siting Staff of the Minnesota Environmental Quality Board is undertaking to study reservoirs used to store water for coal-fired power plants. The Board's staff is soliciting for contractual assistance in the preparation of the study.

The purpose of this contract will be to provide the Board with state-of-the-art information on reservoir operations, management and impacts so that the Board can effectively evaluate and review the use of reservoirs. The information will also be used to identify alternate reservoir sites.

The work is to address water storage reservoirs for coal-fired plants capable of generating between 400-800 megawatts (MW) of electricity. The reservoir size can range from 5,000-50,000 acre-feet of storage. The area of the state to be considered is the southern half of the state; conditions in these areas should be addressed.

The maximum cost to the Board shall not exceed \$20,000. The anticipated period of performance is twelve weeks, commencing May 1, 1979.

Complete copies of the Request for Proposals may be obtained by contacting:

Environmental Quality Board
Power Plant Siting Staff
Capitol Square Building, Room 100
550 Cedar Street
St. Paul, Minnesota 55101
ATTN: Nancy Onkka
(612) 296-9030

Proposers may be invited in for an interview on April 18, 1979 if necessary for clarifications in proposals.

Proposals shall be sent via certified U.S. mail and shall be received no later than April 16, 1979.

Notice of Request for Proposals to Evaluate Low-Head Hydro-Electric Plants

The Power Plant Siting Staff of the Minnesota Environmental Quality Board is undertaking to study the potential for hydro-electric power in Minnesota and the tradeoffs associated with its use. The Board's staff is soliciting for contractual assistance.

The Minnesota Environmental Quality Board is interested in evaluating the environment and other tradeoffs involved in significant development of hydropower. This requires an understanding of the operations and impacts of hydro-electric plants and the ability to locate and estimate power yield from sites without dams. The potential for increased power yield due to recently proposed technological innovations must also be explored.

The work should address low-head (head less than 50 feet) hydro-electric plants with generating capacity of five megawatts or less and provide background information on state-of-the-art run-of-river plants and plants using reservoirs.

The maximum cost to the Board shall not exceed \$15,000. The anticipated period of performance is 12 weeks, commencing May 1, 1979.

Complete copies of the Request for Proposals may be obtained by contacting:

Environmental Quality Board
Power Plant Siting Staff
Capitol Square Building, Room 100
550 Cedar Street
St. Paul, Minnesota 55101
ATTN: Nancy Onkka
(612) 296-9030

Proposers may be invited in for an interview on April 18, 1979 if necessary for clarifications in proposals.

Proposals shall be sent via certified U.S. mail, received no later than April 16, 1979.

Housing Finance Agency

Notice of Intent to Enter into a Contract for Auditing and Accounting Services

Notice is hereby given that the Minnesota Housing Finance Agency intends to engage the services of a certified

public accounting firm for its annual audit. The estimated amount of the contract is \$20,000. Any inquiries should be addressed to Alan L. Hans, Director of Finance, Minnesota Housing Finance Agency, 333 Sibley Street, St. Paul, Minnesota 55101, on or before April 2, 1979.

Housing Finance Agency

Notice of Availability of Funds for the Urban Indian Housing Program

Notice is hereby given that \$613,000 in funds are available for the Urban Indian Housing Program. The funds are available for programs to be operated within the city of Duluth and Region 11 outside the city of Minneapolis. The Urban Indian Housing Program is governed by 12 MCAR §§ 3.150 to 3.157. The Agency will select administrators for the program. Applications shall be accepted by the Agency for 20 days following the publishing of this notice.

General inquiries and applications should be directed to:

Ms. May Hutchinson
Minnesota Housing Finance Agency
Suite 200, Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
(612) 296-8840

Department of Natural Resources Bureau of Engineering

Notice of Request for Proposals for Study of Sewage Treatment System

Notice is hereby given that the Department of Natural Resources is requesting proposals for the study of an existing sewage treatment system located at Itasca State Park. The sewage treatment system is a 25.8 acre single cell stabilization pond installed in 1965. The pond has a previous bottom which allows wastewater to "seep" through the bottom of the pond.

The purpose of the report is to provide the state with a study of the:

1. Impact of the wastewater seepage on adjacent ground and surface waters.
2. Percentage of the total wastewater generated that is lost by seepage.
3. Adequacy of the existing treatment system at abating surface and ground water pollution.

The department has estimated that the cost of this project should not exceed \$25,000.00 for professional services and expenses:

Proposals must be submitted by 3:00 p.m., April 16, 1979, to Eugene R. Gere, Administrator of the Bureau of Engineering, Department of Natural Resources, Box 29, 4th Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Mr. Gere may be contacted at (612) 296-2119.

OFFICIAL NOTICES

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

either orally or in writing.

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

Department of Commerce Insurance Division

Notice of Intent to Solicit Outside Information on Proposed Rules Governing Minimum Anticipated Loss Ratios

Notice is hereby given that the Department of Commerce, Insurance Division has begun consideration of proposed permanent rules governing minimum anticipated loss ratios mandated by Minn. Stat. § 62A.02, subd. 3 (1977). In order to adequately determine the nature and utility of such rules, the Commerce Department, Insurance Division, hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

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

Mr. John T. Ingrassia
Supervisor, Life and Health Section
Insurance Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101.

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-2202 and in person at the above address.

The proposed rules, if adopted, would require insurers issuing accident and sickness insurance policies to meet certain filing requirements. Each new policy form and each rate revision filing applicable to previously approved policy forms shall include an actuarial certification that the benefits provided are reasonable in relation to the premium charged and shall clearly indicate the anticipated loss ratio. Benefits are presumed unreasonable in relation to the premium charged if the anticipated loss ratio does not equal or exceed certain standards as adopted in the temporary rules pub-

lished at *State Register* at 3 S.R. 1078, *et seq.* (amended by 3 S.R. 1204 and 3 S.R. 1430, *et seq.*).

Michael D. Markman
Commissioner of Insurance

Department of Commerce Insurance Division

Notice of Meeting

Board of Directors
Minnesota Comprehensive Health Association
Tuesday, April 3, 1979
11:00 a.m.
Northwestern National Life Insurance Company
20 Washington Avenue South
Minneapolis, Minnesota

Department of Education Instruction Division

Notice of Intent to Solicit Outside Opinion Regarding Pre-School Screening Rules Change

The Department of Education is proposing revisions in Pre-School Health and Developmental Screening, 5 MCAR §§ 1.0720-1.0725, in an effort to strengthen the Pre-School Screening Program for local school districts. Minn. Stat. § 123.703 permits the State Board of Education to promulgate rules regarding the administration of the Pre-School Screening Program.

The Department invites interested persons or groups to provide information, comment and advice on the subject, in writing or orally to Dr. Gerald Kleve, Assistant Commissioner for the Division of Instruction, 657 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101, or Tom Lombard, 630 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

Written statements will be made part of the public hearing record.

All materials to be considered in the original draft should be submitted by May 1, 1979.

Ethical Practices Board Notice of Regular Meeting

The next regular meeting of the Ethical Practices Board will be held Friday, March 30, 1979 at 9:00 a.m., Room 51, State Office Building, St. Paul, MN.

Preliminary Agenda

1. Minutes (March 2, 1979)
2. Chairman's Report
3. Legal Counsel Report
4. Lobbyist Rules
5. Campaign Finance Rules
6. Economic Interest Rules
7. Executive Directors Report
 - a. Financial Report
 - b. Legislative Program
 - d. Historical Society
8. Other Business
9. Executive Session pursuant to Minn. Stat. § 10A.02, subd. 11

Outside Opinions Solicited on Permanent Campaign Financing Rules

The Ethical Practices Board solicits the opinions of individuals or groups regarding permanent campaign finance rules. Opinions may be written or individuals desiring to be heard may appear before the Board. The next meeting at which proposed rules will be considered will be March 30, 1979.

Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155
(612) 296-5148

Board Finding of Second Complaint Against Representative Douglas Carlson

On February 5, 1979, a second complaint was filed against Representative Douglas Carlson by Roy Carlson alleging Representative Carlson's failure to file a Conflict of Interest notice as required by Minn. Stat. § 10A.07. An addendum to the February 5th complaint was delivered to the Board at its meeting on March 2, 1979.

The Ethical Practices Board on March 2, 1979, unanimously concluded that, based on his testimony and informa-

tion contained in the public record, Representative Douglas Carlson was not in a conflict of interest situation at the time he voted for the Omnibus School Aids Appropriation during the 1977-78 session; that there is no probable cause to believe that a violation of Minn. Stat. § 10A.07 has occurred; that the complaint, together with its addendum, is frivolous and without merit and ordered it dismissed.

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

Department of Health

Notice of Intent to Solicit Nominations for Membership on Occupational Advisory Council to the Commissioner of Health

Notice is hereby given that nominations are being solicited for appointments by the Commissioner of Health to the Emergency Medical Technicians Advisory Council and the Environmental Health Specialists/Sanitarian Advisory Council. Nominations shall be accepted by the Commissioner of Health for 15 days following the publication of this notice.

The Emergency Medical Technician Advisory Council shall consist of seven members appointed by the Commissioner as follows:

1. Two public members as defined by Minn. Stat. § 214.02 (1976, as amended);
2. One EMT representative of ambulance personnel, fire, police or rescue squad members, who provides emergency care services for at least 1,560 hours per year for remuneration;
3. One EMT representative of ambulance personnel, fire, police or rescue squad members, who provides emergency care services for less than 1,560 hours a year with or without remuneration.
4. Two physicians who are knowledgeable in the national, regional and local development in the area of EMT training. One shall be from a metropolitan hospital and the other from an out-state hospital;
5. One full-time registered nurse employed in an emergency department of a hospital.

OFFICIAL NOTICES

At least one of those persons referenced in 4. and 5. shall be actively involved in the education of EMT's.

The Environmental Health Specialists/Sanitarian Advisory Council shall consist of seven members appointed by the Commissioner as follows:

1. Two public members as defined in Minn. Stat. § 214.02 (1976, as amended);
2. One representative from a regulated industry for which Environmental Health Specialists/Sanitaricians are charged with enforcement of the regulation;
3. Four Environmental Health Specialists/Sanitaricians representative of county, municipal and state agencies which reflect the distribution of Environmental Health Specialists/Sanitaricians among these employers at the time of appointment.

Nominations with biographical data should be directed to:

George R. Pettersen, M.D.
Commissioner of Health
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Office of the Secretary of State Administration Division

Open Appointment Process: Notice of Openings on State Agencies — Application Procedures

Pursuant to Laws of 1978, ch. 592, the legislature has implemented an Open Appointment process by which the public is informed of openings on state multi-member agencies (boards, commissions, councils) created by statute and having statewide jurisdiction.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information. **Application deadline is Friday, April 13, 1979.**

American Indian Language and Culture Education Task Force: Two vacancies, open immediately. Prefer one member represent American Indian Alternative Schools and one member to represent the St. Paul area. Applicants should be knowledgeable about American Indian Language and Culture Education, able to meet monthly, and willing to read and critique competitive proposals. Members are reimbursed for expenses only. The State Board of Education is the Appointing Authority.

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