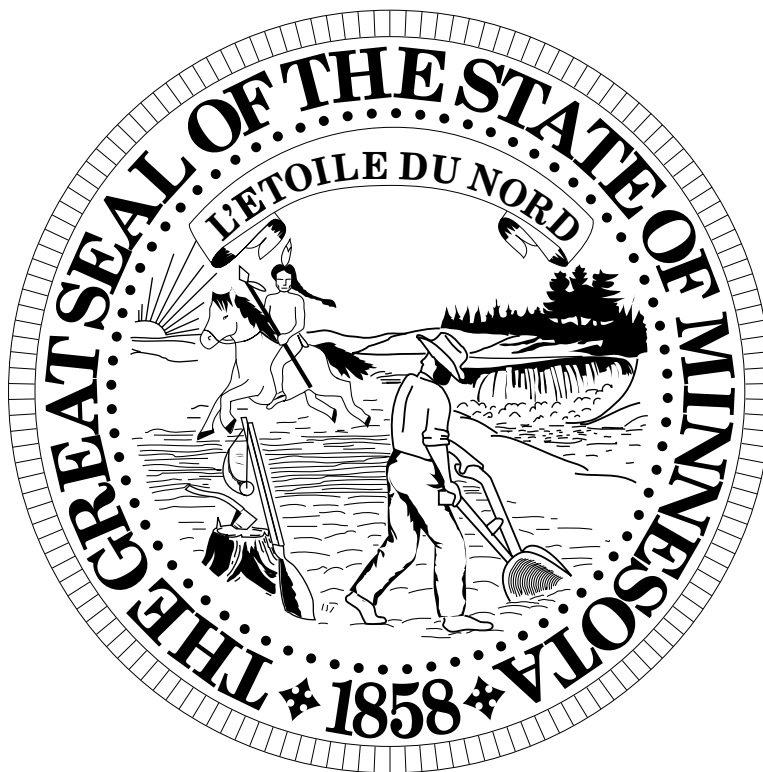


State of Minnesota

State Register

Rules and Official Notices Edition



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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- proposed, adopted, exempt, expedited emergency and withdrawn rules
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- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
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#17	Monday 25 October	Noon Wednesday 13 October	Noon Tuesday 19 October
#18	Monday 1 November	Noon Wednesday 20 October	Noon Tuesday 26 October
#19	Monday 8 November	Noon Wednesday 27 October	Noon Tuesday 2 November
#20	Monday 15 November	Noon Wednesday 3 November	4:30 P.M. MONDAY 8 NOVEMBER

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PUBLISHING NOTICES IN THE *State Register*: Submit TWO COPIES of your notice, typed double-spaced. State agency submissions must include a "State Register Printing Order" form, and a "Certification/Internal Contract Negotiation" form with contracts for professional, technical and consulting services. Non-State Agencies should submit TWO COPIES, with a letter on your letterhead stationery requesting publication and date to be published. FAXED submissions to 651-297-8260 are received to meet deadline requirements, but must be followed by originals and applicable forms or letters to be accepted. The charge is \$115.00 per page, billed in tenths of a page (columns are seven inches wide). About 2-1/2 pages typed double-spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Contact the editor if you have questions.

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Contact: Senate Public Information Office (651) 296-0504
Room 231 State Capitol, St. Paul, MN 55155

Contact: House Information Office (651) 296-2146
Room 175 State Office Building, St. Paul, MN 55155

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Individual copies and subscriptions are available through
 Minnesota's Bookstore, (651) 297-3000, or 1-800-657-3757.

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1997 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issue 52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (651) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Board of Chiropractic Examiners

Proposed Permanent Rules Relating to Emeritus Status

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Rules Governing Emeritus License Status, *Minnesota Statutes* 148.08, Subd. 3

Introduction. The Board of Chiropractic Examiners intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Larry Spicer, D.C. at Minnesota Board of Chiropractic Examiners, 2829 University Ave. #300, Mpls, MN 55414, Voice: 612-617-2222 FAX: 612-617-2224 and email address: Larry.Spicer@state.mn.us.

Subject of Rules and Statutory Authority. The proposed rules are about creating an emeritus license status for retired licensees. The statutory authority to adopt the rules is *Minnesota Statutes*, section 148.08, subd.3. A copy of the proposed rules is published in the *State Register*. A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on Monday, November 29, 1999, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 18, 1999. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

Proposed Rules

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Larry A. Spicer
Executive Director

2500.2115 APPLICATION.

Any doctor of chiropractic licensed to practice in the state pursuant to *Minnesota Statutes*, sections 148.01 to 148.105, who declares to be retired in all jurisdictions from the active practice of chiropractic may apply to the board for doctor of chiropractic emeritus registration. The chiropractor may do so by indicating on the annual registration form or by petitioning the board if the chiropractor is completely retired and has not been the subject of disciplinary action resulting in the suspension, revocation, qualification, condition, or restriction of the chiropractor's license to practice chiropractic. There is no charge for the application, certificate, or modification of the license designation to emeritus status.

2500.2120 STATUS OF REGISTRANT.

The emeritus registration is not a license to engage in the practice of chiropractic as defined in *Minnesota Statutes*, chapter 148, or in the rules of the board and the registrant shall not engage in the practice of chiropractic.

2500.2125 CONTINUING EDUCATION REQUIREMENTS.

The continuing education requirements of parts 2500.1200 to 2500.2000 are not applicable to emeritus registration.

2500.2130 CHANGE TO ACTIVE STATUS.

Subpart 1. **Within three years.** A registrant who desires to change to active status, within three years from the date emeritus status was effective, may do so by doing the following, pending approval by the board:

A. completing a form prepared by the board that includes name, basic chiropractic education, chiropractic license number, duration of chiropractic licensure, date of emeritus registration, information on the applicant's physical and mental health, and information on any disciplinary action taken against the chiropractor in regards to chiropractic practice;

B. complying with the continuing chiropractic education requirements for the time period in which the chiropractor's license was in voluntarily retired status and under the emeritus registration pursuant to parts 2500.1200 to 2500.2000. This requirement must be fulfilled prior to submission of the application; and

C. surrendering the emeritus certificate to the board.

Subp. 2. **After three years.** After three years from the date emeritus status was effective, a registrant who desires to change to active status may do so, pending approval of the board, by providing the material listed in subpart 1 and passing the Special Purpose Examination in Chiropractic within the year preceding the reapplication for active status.

2500.2135 RENEWAL CYCLE FEES.

Being registered as emeritus will not subject a person to the annual renewal cycle fees.

Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

Exempt Rules

An exempt rule adopted under *Minnesota Statutes* §§ 14.386 or 14.388 is effective upon its publication in the *State Register*.

Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

Department of Health Department of Agriculture

Adopted Permanent Rules Relating to Certification of Food Managers

The rules proposed and published at *State Register*, Volume 23, Number 52, pages 2393-2399, June 28, 1999 (23 SR 2393), are adopted with the following modifications:

4626.2000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4626.2000 to ~~4626.2030~~ 4626.2025 have the meanings given them in this part and in part 4626.0020.

4626.2005 SCOPE.

Parts 4626.2000 to ~~4626.2030~~ 4626.2025 apply to:

4626.2010 CERTIFIED FOOD MANAGER REQUIREMENTS FOR FOOD ESTABLISHMENTS.

Subp. 2. **Satellite or catered feeding location.**

A. A satellite or catered feeding location is a separate location where food is only reheated and served or served cold. A satellite or catered feeding location must be under the direct management authority of the owner or operator of a food establishment.

Subp. 4. **Exemptions.** The following food establishments are not required to have a certified food manager:

B. the following establishments if food is prepared for 18 or fewer persons per mealtime: a boarding establishment as defined in *Minnesota Statutes*, section 157.15, subdivision 4; a bed and breakfast, a child care facility, or an adult day care center ~~if the food establishment prepares food for 18 or fewer persons per mealtime;~~

Subp. 5. **Duties of certified food manager.** An owner or operator, through the certified food manager, is responsible for ensuring that ~~the certified food manager~~

A. ~~identifies~~ hazards in the day-to-day operation of the food establishment are identified;

B. ~~develops and implements~~ policies and procedures to prevent foodborne illness are developed and implemented;

C. ~~trains other~~ employees are trained to ensure that there is at least one trained individual present at all times food preparation activities are conducted who can demonstrate the knowledge required in the Code;

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

Adopted Rules

D. ~~directs~~ food preparation activities are directed and ~~takes~~ corrective action is taken, as needed, to protect the health of the consumer; and

E. ~~conducts~~ in-house self-inspections of daily operations are conducted on a periodic basis to ensure that food safety policies and procedures are followed.

Subp. 6. **New establishments and employee transition.** An owner or operator of a food establishment that commences operation on or after July 1, 2000, or a food establishment that ceases to employ a certified food manager must, within 45 days:

B. designate an existing employee who is enrolled in a training course ~~under part 4626.2020~~ according to part 4626.2015; or

C. hire a new employee who is enrolled in a training course ~~under part 4626.2020~~ according to part 4626.2015.

The designated employee in training under item B or C must ~~receive~~ apply for certification as a food manager within 90 days of the date that the food establishment commenced operation or ceased to employ its certified food manager, as applicable. If, for any reason, the designated employee does not receive certification, the owner or operator of the food establishment must employ a certified food manager within 30 days of determining that the employee in training will not be certified.

4626.2015 CERTIFIED FOOD MANAGER QUALIFICATIONS AND APPLICATION.

Subpart 1. **Training.**

A. ~~Effective July 1, 2001,~~ An applicant for certification as a food manager must complete a training course ~~permitted under part 4626.2020~~. ~~The training course must be completed within the 36 months directly preceding submittal of the application.~~

B. ~~Before July 1, 2001,~~ an applicant for certification as a food manager must complete a training course that addresses safe food preparation and handling, sanitation, and the prevention of foodborne illness. The course must cover improper holding temperatures, inadequate cooking, contaminated equipment, food from unsafe source, and poor personal hygiene.

Subp. 2. **Examination.** An applicant for certification as a food manager must pass a written examination recognized under part ~~4626.2025~~ 4626.2020 on the date taken. The examination must have been taken within 36 months directly preceding the application for certification under subpart 3.

Subp. 7. **Continuing education.** A continuing education course must:

E. be presented by knowledgeable persons who have reviewed developments in the subject being covered in the program within the last two years. The instructors' qualifications must be in one of the following: specialized training in the subject matter; or experience teaching the subject matter; ~~or experience working in the subject areas.~~

~~4626.2020 PERMITS FOR TRAINING COURSES.~~

~~Subpart 1. **Applicability.** Effective July 1, 2001, the requirements of this part apply to all training courses that are intended to qualify trainees for certification under part 4626.2015, subpart 1, item A.~~

~~Subp. 2. **Requirements.**~~

~~A. A food manager training course must:~~

~~(1) possess a permit issued under this part;~~

~~(2) teach the provisions of the code identified as critical items by part 4626.0020, subpart 20, and the duties specified in part 4626.2010, subpart 5; and~~

~~(3) meet the Conference for Food Protection standards for food manager certification training program course content as published under section 3.5 in the Standards for Training, Testing, and Certification of Food Managers in the Proceedings of the Conference for Food Protection Meeting, April 10-15, 1996, pages 75 to 79. The standards are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system.~~

~~B. A food manager training course must be a minimum of 12 hours in length.~~

~~Subp. 3. **Contents of application.** An application for a food manager certification training course must include:~~

~~A. a completed application on a form provided by the commissioner;~~

~~B. a course outline and agenda;~~

~~C. a copy of all training materials;~~

~~D. a copy of any slides, overheads, videos, or other teaching aids; and~~

~~E. a copy of the proof of completion issued to the student upon successful completion.~~

~~Subp. 4. **Commissioner approval.** The commissioner shall review and approve an application or notify the applicant of any deficiencies within 90 days of receipt. The commissioner shall reject a deficient application 60 days after notification of deficiency.~~

cies unless the applicant corrects the deficiencies. Additional grounds for the commissioner to deny an application are provided in *Minnesota Statutes*, section 144.99, subdivision 8, paragraphs (a) and (b).

~~Subp. 5. **Expiration and renewal.** A permit is valid for three years. To renew a permit, the training course provider must reapply under this part.~~

~~Subp. 6. **Auditing.** The commissioner may audit a training course at no cost to ensure compliance with the approved curriculum.~~

~~Subp. 7. **Training course list.** After July 1, 2001, the commissioner shall maintain a list of permitted training courses for food managers.~~

~~Subp. 8. **Rescission of training permit.** The commissioner shall rescind the permit of a training course if the commissioner determines that the training course fails to comply with all applicable requirements in this part. Additional grounds for the commissioner to rescind a permit are provided in *Minnesota Statutes*, section 144.99, subdivision 9. The commissioner shall provide notice of rescission under the provisions of *Minnesota Statutes*, section 144.99, subdivision 10.~~

~~Subp. 9. **Consultation with the department of agriculture.** The commissioner shall consult with the commissioner of agriculture when approving or denying permits under subpart 4 and when rescinding permits under subpart 8.~~

4626.2025 4626.2020 RECOGNIZED EXAMINATIONS.

After the Conference for Food Protection (110 Tecumseh Trail, Frankfort, Kentucky 40601) publishes its list of recognized food protection managers certification examinations, the commissioner shall accept only examinations that are recognized by the Conference for Food Protection. The following examinations are recognized up to the date of publication of the Conference for Food Protection list of recognized examinations:

- A. the ServSafe© Examination of the Educational Foundation of the National Restaurant Association (~~1993 or later version~~);
- B. the Certified Professional Food Managers Examination of the Experior Assessments LLC (formerly National Assessment Institute) (~~1993 or later version~~);
- C. the Food Safety Manager Certification Examination of Professional Testing, Inc. (~~1993 or later version~~);
- D. the Food Protection Certification Examination of the Chauncey Group International (~~1995 or later version~~); and
- E. the Certified Food Protection Professional Sanitation and Safety Examination of the Certifying Board for Dietary Managers (~~October 1996 or later version~~).

4626.2030 4626.2025 VARIANCE.

A variance to parts 4626.2000 to ~~4626.2025~~ 4626.2020 may be requested under parts 4626.1690 to 4626.1715.

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Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (Minnesota Statutes 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the State Register. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of Minnesota Statutes, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with Minnesota Statutes 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the State Register. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only.

The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

Department of Children, Families & Learning Division of Special Education

Exempt Permanent Rules Relating to Special Education

NOTICE OF INTENT TO ADOPT RULES

Proposed Exempt Permanent Rules Relating to Special Education, *Minnesota Rules*, chapter 3525

Introduction. The Department of Children, Families & Learning intends to adopt rules following the expedited rulemaking procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, section 14.389. You have 30 days to submit written comments on the proposed rules.

Agency Contact Person. Comments or questions on the rules must be submitted to the agency contact person. The agency contact person is: Laura Nehl-Trueman at the Department of Children, Families & Learning, 1500 Highway 36 West, Roseville, Minnesota 55113-4266, (651) 582-8628, FAX: (651) 582-8725, e-mail: laura.nehl-trueman@state.mn.us. TTY users may call the department at (651) 582-8201.

Subject of Rules and Statutory Authority. The statutory authority to adopt the rules is *Minnesota Laws 1999*, Ch. 123, Sec. 19. Section 19 provides the following: "Beginning no later than July 1, 1999, the commissioner shall amend *Minnesota Rules*, chapter 3525, for special education using the expedited process under *Minnesota Statutes 1998*, section 14.389. In addition, to technical changes, corrections, clarifications, and similarly needed revisions, specific rules shall be modified or repealed as indicated..." Section 19 then lists specific mandates by the legislature which direct the commissioner to amend and repeal specific rule parts in chapter 3525.

Based upon the legislative mandate, the agency is now proposing amendments or repeals to the following rule parts in chapter 3525: definitions; identification of children with disabilities; providing special education to shared-time pupils; state aid for special education personnel; autism, deaf-blindness, hearing impairment, other health impaired, physically impaired, specific learning disability, speech or language impairments, and visually impaired criteria; early childhood: special education; team override on eligibility decisions; exit procedures; early childhood program services, alternatives, and settings; case loads; directors; variance; notice before assessment; periodic reviews; requirements for a high school diploma; formal notice to parents; notice of performance or refusal to perform assessment; when a hearing must be held; notice of a hearing; hearing officers; prehearing review by the hearing officer; hearing rights of respective parties; hearing procedures; effective date of action and appeals; final decision; and new provisions regarding expedited hearings.

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, November 24, 1999, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules should also be made during this comment period.

Notice of Public Meeting. A public meeting conducted by the Department will be held at the Department of Children, Families & Learning, Conference Center Room 13, 1500 Highway 36 West, Roseville, Minnesota, 55113-4266, on Monday, November 8, 1999. There will be two meeting sessions on Monday, November 8, 1999. The first session will start at 10 a.m. and continue until 1:00 p.m. The second meeting session will start at 6:00 p.m. and continue until 8 p.m. You and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to comment. Questions about procedures for the meeting may be directed to the agency contact person.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The department may modify a proposed rule if the modifications do not result in a substantially different rule, as defined in section 14.05, subdivision 2, paragraphs (b) and (c). If the final rule is identical to the rule originally published in the *State Register*, the department will publish a notice of adoption in the *State Register*. If the final rule is different from the rule originally published in the *State Register*, the agency must publish a copy of the changes in the *State Register*. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Adoption and Review of Rules. The agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 18 October 1999

Christine Jax, Commissioner

3525.0200 DEFINITIONS FOR SPECIAL EDUCATION.

[For text of subs 1 to 1b, see M.R.]

Subp. 1c. ~~Assessment Evaluation~~ or ~~reassessment~~ re-evaluation. “~~Assessment Evaluation~~” or “~~reassessment~~ re-evaluation” means an appropriate individual educational evaluation of a pupil’s performance or development conducted by appropriately licensed personnel according to recognized professional standards and parts 3525.2550 to 3525.2750.

[For text of subs 1d to 2c, see M.R.]

Subp. 3a. **Functional skills** ~~assessment~~ evaluation. “Functional skills ~~assessment~~ evaluation” means the use of test instruments and ~~assessment~~ evaluation procedures to determine current levels of skill development and factors relevant to:

[For text of items A to C, see M.R.]

[For text of subp 4a, see M.R.]

Subp. 6a. [See repealer.]

Subp. 7a. **Initial formal** ~~assessment~~ evaluation. “Initial formal ~~assessment~~ evaluation” means the first formal ~~assessment~~ evaluation by the district that addresses the specific problems as outlined on the notice to assess in accordance with parts 3525.2650 and 3525.3500.

[For text of subs 8a to 10a, see M.R.]

Subp. 11a. [See repealer.]

[For text of subs 15a to 19a, see M.R.]

Subp. 19b. **Significant change in program or placement.** “Significant change in program or placement” means:

- A. the IEP goals have been completed or require modification based on a ~~periodic review~~ progress report;
- B. there is a need to add or delete a service based on a ~~periodic review~~ progress report or ~~assessment~~ evaluation;

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Exempt Rules

[For text of items C to F, see M.R.]

[For text of subps 20a to 24, see M.R.]

Subp. 25. **Technically adequate instrument.** “Technically adequate instrument” means tests and ~~assessment~~ evaluation procedures for which recognized professional standards about construction, validity, reliability, and use have been met.

[For text of subps 25a and 25b, see M.R.]

Subp. 26. **Vocational ~~assessment~~ evaluation.** “Vocational ~~assessment~~ evaluation” means an ongoing, comprehensive process used to assist the pupil and the team to determine the pupil’s strengths, interests, abilities, and needed support to be successful in a vocational setting. A vocational ~~assessment~~ evaluation is one component of the ongoing special education multidisciplinary ~~assessment~~ evaluation described in parts 3525.2550 to 3525.2750.

3525.0750 IDENTIFICATION OF CHILDREN WITH DISABILITIES.

School districts shall develop systems designed to identify persons with disabilities beginning at birth, ~~students~~ pupils with disabilities attending public and nonpublic school, and persons with disabilities who are of school age and are not attending any school.

The district’s identification system shall be developed in accordance with the requirement of nondiscrimination and included in the district’s total special education system plan.

3525.1310 STATE AID FOR SPECIAL EDUCATION PERSONNEL.

Salaries for essential personnel who are teachers, related services, and support services staff members are reimbursable for the following activities:

[For text of items A and B, see M.R.]

C. ~~assessment~~ evaluation, progress reporting, and IEP planning for individual pupils;

[For text of items D to F, see M.R.]

G. other related services provided in conjunction with the instructional program as outlined in the pupil’s IEP; ~~and~~

H. paraprofessional services provided under the direction of a regular or special education teacher or a related services provider. The services must be:

(1) to enhance the instruction provided by the teacher or related services staff; and

(2) to supplement instructional activities or to provide extended practice in instances in which the paraprofessional has had training and ongoing support from a special education teacher or related services staff;

I. program coordination; and

J. due process facilitation, not including suit preparation.

Ongoing services for at-risk students such as truancy, suicide prevention, child abuse, or protection are not reimbursable.

3525.1325 AUTISM SPECTRUM DISORDERS (ASD).

Subpart 1. **Definition.** “Autism spectrum disorders (ASD)” ~~is a lifelong developmental disability with onset usually in the first three years of life. It is a behaviorally defined syndrome characterized by an uneven developmental profile and disturbances in interaction, communication, and perceptual organization. Autism occurs on a continuum from mild to severe. It occurs by itself or in association with other disorders such as mental retardation or fragile X syndrome. It may include the diagnosis of pervasive developmental disorder. Because of the low incidence and complexity of this disability, professionals with experience and expertise in the area of autism need to be included on the team determining the disability and educational program.~~ means a range of pervasive developmental disorders that adversely affect a pupil’s functioning and result in the need for special education instruction and related services. ASD is a behaviorally defined disability category characterized by an uneven developmental profile and a pattern of qualitative impairments in social interaction, communication, and restricted repetitive and stereotyped patterns of behavior, interests, and activities, with onset in childhood. Characteristics can present themselves in a wide variety of combinations from mild to severe, as well as in the number of symptoms present, for example Autistic Disorder, Pervasive Developmental Disorder:Not Otherwise Specified, Asperger’s Disorder, or other related pervasive developmental disorders.

[Subp. 2. See repealer.]

Subp. 3. **Criteria.** The multidisciplinary team shall determine that a pupil is eligible and in need of special education instruction and related services if the pupil demonstrates patterns of behavior consistent with those in item A and fulfills the requirements in item B.

Exempt Rules

A. Educational evaluation information collected from multiple settings and sources must include documented evidence of specific patterns of behaviors in at least two of the three core features among ASD listed in subitem (1), (2), or (3).

Behavioral indicators of these core features must be atypical for the pupil's developmental level. Documentation of behavioral indicators must include the use of at least two of these methods: structured interviews with parents, autism checklists, communication and developmental rating scales, functional behavior assessments, application of diagnostic criteria from the current Diagnostic and Statistical Manual (DSM), informal and standardized evaluation instruments, or intellectual testing.

(1) Qualitative impairment of social interaction, as documented by two or more behavioral indicators, such as: limited joint attention and limited use of facial expressions directed toward others; does not show or bring things to others to indicate an interest in the activity; demonstrates difficulties in relating to people, objects, and events; a gross impairment in ability to make and keep friends; significant vulnerability and safety issues due to social naivete; may appear to prefer isolated or solitary activities; misinterprets others' behaviors and social cues.

(2) Qualitative impairment in communication, as documented by two or more behavioral indicators, such as: not using finger to point or request; using others' hand or body as a tool; showing lack of spontaneous imitations or lack of varied imaginative play; absence or delay of spoken language; limited understanding and use of nonverbal communication skills such as gestures, facial expressions, or voice tone; odd production of speech; repetitive or idiosyncratic language when speech is present.

(3) Restricted, repetitive, or stereotyped patterns of behavior, interest, and activities, as documented by two or more behavioral indicators, such as: insistence on following routines or rituals; demonstrating distress or resistance to changes in activity; repetitive hand or finger mannerism; lack of true imaginative play versus reenactment; overreaction or under-reaction to sensory stimuli; rigid or rule-bound thinking; an intense, focused preoccupation with a limited range of play, interests, or conversation topics.

B. The team shall verify that an ASD adversely affects a pupil's present level of performance and that the pupil is in need of special education instruction and related services. This verification is completed through the multidisciplinary team evaluation and summarized in the pupil's evaluation report. Documentation must be supported by data from each of the following components:

(1) The evaluation must include present levels of performance in each of the three core features identified in item A, subitems (1), (2), and (3), that are specific to this disability category. The evaluation must also identify the educational needs that are present in at least two of these three core features. In addition, the evaluation process must give consideration to all other areas of educational concern consistent with the IEP process.

(2) The pupil's need for instruction and services must be documented and supported by evaluation and observations in two different settings, on two different days.

(3) A developmental history which summarizes developmental information and behavior patterns.

Subp. 4. **Team membership.** At least one professional with experience and expertise in the area of ASD must be included on the team determining eligibility and educational programming, due to the complexity of this disability and the specialized intervention methods. The team must include a school professional knowledgeable of the range of possible special education eligibility criteria.

Subp. 5. **Implementation.** Students with various educational profiles and related clinical diagnoses may be included as eligible if they meet the criteria of ASD. However, a clinical or medical diagnosis is not required to be eligible for special education services. Due to the wide variation in characteristics and needs, pupils with different educational profiles or a specific clinical diagnosis must also be determined as eligible following the criteria in subpart 3. Following this eligibility determination process is essential to identify and document individual strengths and weaknesses and the pupil's unique educational needs so that an effective individual educational program may be planned and implemented.

3525.1327 ~~DEAF-BLINDNESS~~ DEAF-BLIND.

Subpart 1. **Definition and criteria.** "~~Deaf-blindness~~ Deaf-blind" means medically verified visual ~~impairment~~ loss coupled with medically verified hearing ~~impairment~~ loss that, together, interfere with acquiring information or interacting in environment. Both conditions need to be present simultaneously and must meet the criteria for both ~~vision~~ blind, visually impaired, and ~~hearing~~ ~~impairments~~ deaf and hard of hearing.

Subp. 2. **Pupils at risk.** Pupils at risk ~~for deaf-blindness~~ of being deaf-blind include, ~~but are not limited to~~ pupils who:

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Exempt Rules

- A. ~~those that~~ are already identified as ~~hearing or vision impaired and deaf or hard of hearing or blind/visually impaired but~~ have not yet had medical or functional assessment evaluation of the other sense (vision or hearing);
- B. have an identified syndrome condition, such as Usher Syndrome or ~~Rubella Syndrome~~ Optic Atrophy, that includes a potential deterioration of vision or hearing in the future;
- C. ~~those that~~ have a medically or functionally identified hearing impairment loss and a verified deficit in vision determined by a functional assessment evaluation in the learning environment; ~~and~~
- D. ~~those that~~ have a medically or functionally identified vision impairment and verified ~~deficit in~~ hearing loss determined by a functional assessment evaluation in the learning environment; or
- E. have an identified syndrome or condition such as Charge Syndrome that includes hearing and vision loss in combination with multiple disabilities.

3525.1331 HEARING IMPAIRMENT DEAF AND HARD OF HEARING.

Subpart 1. **Definition.** ~~“Hearing impairment” “Deaf and hard of hearing”~~ means a diminished sensitivity to sound, or hearing loss, that is expressed in terms of standard audiological measures.

Hearing impairment loss has the potential to affect educational, communicative, or social functioning that may result in the need for special education instruction and related services.

Subp. 2. **Criteria.** ~~The team shall determine that~~ A pupil who has a hearing impairment is deaf or hard of hearing is eligible for special education instruction and related services if the pupil meets one of the criteria in item A and one of the criteria in item B, C, or D.

- A. There is audiological documentation provided by a certified audiologist that ~~verifies a pupil has~~ one of the following:

[For text of subitems (1) to (4), see M.R.]

- B. The pupil’s hearing impairment loss affects educational performance as demonstrated by:

[For text of subitem (1), see M.R.]

(2) an achievement deficit in ~~one or more of the following~~ basic reading skills, reading comprehension, written language, or general knowledge that is at the 15th percentile or 1.0 standard ~~deviations~~ deviation or more below the mean on a technically adequate norm-referenced achievement test that is individually administered by a licensed professional;

~~(a) basic reading skills;~~

~~(b) reading comprehension; or~~

~~(c) written language.~~

- C. The pupil’s hearing impairment loss affects the use ~~and~~ or understanding of spoken English as documented by one or both of the following:

[For text of subitem (1), see M.R.]

(2) the pupil uses American Sign Language or one or more alternative or augmentative systems of communication alone or in combination with ~~spoken English oral language~~ a documented by parent or teacher reports and language sampling conducted by a knowledgeable professional with knowledge in the area of communication with persons who are deaf or hard of hearing.

- D. The pupil’s hearing impairment loss affects the adaptive behavior required for age-appropriate social functioning as supported by:

[For text of subitems (1) and (2), see M.R.]

3525.1335 OTHER HEALTH IMPAIRED.

Subpart 1. **Definition.** ~~“Other health impaired” means a broad range of medically diagnosed chronic or acute health condition that may adversely affect academic functioning and result in the need for special education instruction and related services. The decision that a specific health condition qualifies as other health impaired will be determined by the impact of the condition on academic functioning rather than by the diagnostic label given the condition. or acute health conditions which may be accompanied by limited strength, endurance, and alertness, including heightened or diminished alertness to environmental stimuli that adversely affect educational performance to the extent special education and related services may be needed. Eligibility is determined by both a medical diagnosis and special educational evaluation. A medical diagnosis alone is insufficient to determine special education eligibility.~~

In the educational setting, “chronic” is defined as an ongoing, long-term health condition; “acute” is defined as medical episodes associated with an ongoing physical health condition.

Exempt Rules

Subp. 2. **Criteria.** ~~The team shall determine that a pupil is eligible and in need of special education instruction and services if the pupil meets the criterion in item A and one of the criteria in item B. A pupil is eligible as having an “other health impairment” and in need of special education instruction if the pupil meets the criteria in items A, B, C, and D, and E or F.~~

~~A. There is documentation by a licensed physician of a medically diagnosed health impairment chronic or acute health condition. The written documentation must be within the previous 12 months and signed by a licensed physician.~~

~~B. The team verifies that the lack of academic achievement is not primarily a result of a motor, vision, hearing, cognitive, emotional, or behavioral disability.~~

~~B. The pupil’s:~~

~~(1) need for special education instruction and service is supported by evidence of inadequate academic progress attributable to excessive absenteeism as verified by attendance records, or impaired organizational and independent work skills as assessed by functional and other appropriate assessment procedures due to limited strength, endurance, alertness, or intrusive health procedures as verified by a minimum of two or more documented, systematic observations or structured interviews in daily routine settings, one of which is to be completed by a special education teacher; or~~

~~(2) need for special education instruction and service is supported by evidence of an inability to manage or complete classroom tasks within routine timelines due to excessive absenteeism as verified by attendance records, or limited strength, endurance, alertness, intrusive health procedures, or medications that affect cognitive functioning as verified by a minimum of two or more documented, systematic observations or structured interviews in daily routine settings, one of which is completed by a special education teacher; or~~

~~(3) health impairment interferes with educational performance as shown by an achievement deficit of 1.5 standard or more below the mean on an individually administered reliable, valid, and adequately normed achievement test.~~

~~C. Inadequate academic performance in comparison to peers as documented by a minimum of three of the following: curriculum-based measurements, report cards, teacher reports, work samples from day-to-day curriculum, academic checklists, documented systematic observation, or interviews with parents, pupils, and other knowledgeable individuals.~~

~~D. The chronic or acute health condition adversely affect the pupil’s ability to complete educational tasks within routine timelines due to at least three of the following conditions:~~

~~(1) excessive absenteeism linked to medical appointments, hospitalizations, medical treatments, surgeries or illnesses, as a result of the chronic or acute health condition;~~

~~(2) medications that adversely affect learning and functioning in terms of comprehension, memory, attention, or fatigue;~~

~~(3) specialized health care procedures that are necessary during the day to enable the pupil to attend school. Examples of these procedures include tube feedings, catheterization, oxygen, respirator, ostomy care, tracheotomy care, postural drainage;~~

~~(4) heightened or diminished alertness resulting in impaired ability to prioritize environmental stimuli, maintain focus, or sustain effort and accuracy;~~

~~(5) limited physical strength resulting in decreased capacity to perform school activities;~~

~~(6) limited endurance resulting in decreased stamina and decreased ability to maintain effort;~~

~~(7) impaired ability to manage materials and complete classroom assignments within time requirements; or~~

~~(8) impaired ability to self-initiate, follow directions, or stay on task.~~

~~E. For chronic health conditions there is documentation of a lack of educational progress associated with the medical diagnosis as shown by an achievement discrepancy of 1.0 standard deviation or more below the pupil’s cognitive ability as measured by individually administered, reliable, valid, and adequately normed cognitive and achievement tests.~~

~~F. For acute health conditions there is documentation the acute episodes of the health condition interfere with educational performance due to the need for intense and ongoing specialized health care interventions within the educational setting.~~

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Exempt Rules

3525.1337 PHYSICALLY IMPAIRED.

[For text of subpart 1, see M.R.]

Subp. 2. **Criteria.** ~~The team shall determine that~~ A pupil is eligible and in need of special education instruction and services if the pupil meets the criterion in item A and one of the criteria in item B.

A. There ~~is~~ must be documentation of a medically diagnosed physical impairment.

B. The pupil's:

(1) need for special education instruction and service is supported by a lack of functional level ~~of in~~ organizational or independent work skills as verified by a minimum of two or more documented, systematic observations in daily routine settings, one of which is completed by a ~~special education~~ physical and health disabilities teacher;

(2) need for special education instruction and service is supported by an inability to manage or complete motoric portions of classroom tasks within time constraints as verified by a minimum of two or more ~~documented~~, systematic in daily routine settings, one of which is completed by a ~~special education~~ physical and health disabilities teacher; or

(3) physical impairment interferes with educational performance as shown by an achievement deficit of 1.0 standard ~~deviations~~ deviation or more below the mean on an individually administered reliable, valid, and adequately normed achievement test.

3525.1341 SPECIFIC LEARNING DISABILITY.

Subpart 1. **Definition.** "Specific learning disability" means a condition within the individual affecting learning, relative to potential- and is:

~~A specific learning disability is~~ A. manifested by interference with the acquisition, organization, storage, retrieval, manipulation, or expression of information so that the individual does not learn at an adequate rate when provided with the usual developmental opportunities and instruction from a regular school environment;

~~A specific learning disability is~~ B. demonstrated by a significant discrepancy between a pupil's general intellectual ability and academic achievement in one or more of the following areas: oral expression, listening comprehension, mathematical calculation or mathematics reasoning, basic reading skills, reading comprehension, and written expression; and

~~A specific learning disability is~~ C. demonstrated primarily in academic functioning, but may also affect self-esteem, career development, and life adjustment skills. A specific learning disability may occur with, but cannot be primarily the result of: visual, hearing, or motor impairment; ~~mental~~ cognitive impairment; emotional disorders; or environmental, cultural, economic influences, or a history of an inconsistent education program.

Subp. 2. **Criteria.** ~~The team shall determine that~~ A pupil has a specific learning disability and is in need of special education and related services when the pupil meets the criteria ~~described in items A through B, and C.~~ Information about each item must be sought from the parent and included as part of the assessment evaluation data. The assessment evaluation data must confirm that the disabling effects of the pupil's disability occur in a variety of settings.

A. The pupil must demonstrate severe underachievement in response to usual classroom instruction. The performance measures used to verify this finding must be both representative of the pupil's curriculum and useful for developing instructional goals and objectives. The following assessment evaluation procedures are required at a minimum to verify this finding:

(1) evidence of low achievement from sources such as cumulative record reviews, classwork samples, ~~anecdotal~~ anecdotal teacher records, formal and informal tests, curriculum based assessment evaluation results, and results from instructional support programs such as Chapter 1 and Assurance of Mastery; and

[For text of subitem (2), see M.R.]

B. The pupil must demonstrate a severe discrepancy between general intellectual ability and achievement in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematical calculation, or mathematical reasoning. The demonstration of a severe discrepancy shall not be based solely on the use of standardized tests. The team shall consider these standardized test results as only one component of the eligibility criteria. ~~(4)~~ The instruments used to assess the pupil's general intellectual ability and achievement must be individually administered and interpreted by an appropriately licensed person using standardized procedures. ~~(2)~~ For initial placement, the severe discrepancy must be equal to or greater than 1.75 standard deviations below the mean of the distribution of difference scores for the general population of individuals at the pupil's chronological age level.

C. The team must agree that ~~is it~~ it has sufficient assessment evaluation data that verify the following conclusions:

(1) the pupil has an information processing condition that is manifested by behaviors such as: inadequate or lack of expected acquisition of information, lack of organizational skills ~~(such as in following written and oral directions, written and oral; spatial arrangements; correct use of developmental order in relating events; transfer of information onto paper); memory~~ ~~(; visual~~

and auditory), ~~expression~~ (memory; verbal and nonverbal); expression; and motor control for written tasks such as pencil and paper assignments, drawing, and copying;

[For text of subitem (2), see M.R.]

(3) the pupil's underachievement is not primarily the result of: visual, hearing, or motor impairment; ~~mental~~ cognitive impairment; emotional or behavioral disorders; or environmental, cultural, economic influences, or a history of an inconsistent education program.

3525.1343 SPEECH OR LANGUAGE IMPAIRMENTS.

Subpart 1. **Fluency disorder; definition and criteria.** "Fluency disorder" means the intrusion or repetition of sounds, syllables, and words; prolongations of sounds; avoidance of words; silent blocks; or inappropriate inhalation, exhalation, or phonation patterns. These patterns may also be accompanied by facial and body movements associated with the effort to speak. Fluency patterns that ~~can be~~ are attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language ~~should~~ must not be identified as a disorder.

~~The team shall determine that~~ A pupil has a fluency disorder and is eligible for speech or language special when ~~the pupil meets the criteria in both items A and B;~~

A. the ~~behavior pattern~~ interferes with communication as judged determined by a teacher of communication disorders an educational speech language pathologist and either another adult or the child; and

B. dysfluent behaviors occur during at least five percent of the words spoken on two or more speech samples.

Subp. 2. **Voice disorder; definition and criteria.** "Voice disorder" means the absence of voice or presence of abnormal quality, pitch, resonance, loudness, or duration. Voice patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language ~~should~~ must not be identified as a disorder.

~~The team shall determine that~~ A pupil has a voice disorder and is eligible for speech or language special education when ~~the pupil meets the criteria in both items A and B;~~

A. the ~~behavior pattern~~ interferes with communication as judged determined by a teacher of communication disorders an educational speech language pathologist and either another adult or the child; and

B. achievement of a moderate to severe vocal severity rating is demonstrated on a voice ~~assessment~~ evaluation profile administered on two separate occasions, two weeks apart, at different times of the day.

Subp. 3. **Articulation disorder; definition and criteria.**

A. "Articulation disorder" means the absence of or incorrect production of speech sounds or phonological processes that are developmentally appropriate. For the purposes of this subpart, phonological process means a regularly occurring or deviation in an individual's speech as compared to the adult standard, usually one that simplifies the adult phonological pattern. Articulation patterns that ~~can be~~ are attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language ~~should~~ must not be identified as a disorder.

~~The team shall determine that~~ B. A pupil has an articulation disorder and is eligible for speech or language special education when the pupil meets the criteria in ~~item A and either item B, C, or D~~ subitem (1) and either subitems (2) or (3):

~~A. (1) the behavior pattern~~ interferes with communication as judged determined by a teacher of communication disorders an educational speech language pathologist and either another adult or the child; and

~~B. (2) test performance falls 2.0 standard deviations below the mean on a technically adequate, norm-referenced articulation test; or~~

~~C. performance on a pressure consonant test indicates problems in nasal resonance; or~~

~~D. (3) a pupil is nine years of age or older and a sound is consistently in error as documented by two three-minute conversational speech samples.~~

Subp. 4. **Language disorder; definition and criteria.**

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

A. "Language disorder" means a breakdown in communication as characterized by problems in expressing needs, ideas, or information that may be accompanied by problems in understanding. Language patterns that ~~can be~~ are attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language ~~should~~ must not be identified as a disorder.

B. The team shall determine that a pupil has a language disorder and is eligible for speech or language special education services when ~~the pupil meets the criteria in items A and B and either C or D:~~

~~A. (1) the behavior pattern~~ interferes with communication as judged determined by a teacher of communication disorders an educational speech language pathologist and either another adult or the child; and

~~B. (2) an analysis of a language sample or documented observation of communicative interaction indicates the pupil's language behavior falls below or is different from what would be expected given consideration to chronological age, developmental level, or cognitive level; and~~

~~C. (3) the pupil scores 2.0 standard deviations below the mean on at least two technically adequate, norm-referenced language tests if available; or~~

~~D. (4) if technically adequate, norm-referenced language tests are not available to provide evidence of a deficit of 2.0 standard deviations below the mean in the area of language, two documented measurement procedures indicate a substantial difference from what would be expected given consideration to chronological age, developmental level, or cognitive level. These~~ The documented procedures may include additional language samples, criterion-referenced instruments, observations in natural environments, and parent reports.

3525.1345 VISUALLY IMPAIRED.

[For text of subpart 1, see M.R.]

Subp. 2. **Criteria.** ~~The team shall determine that~~ A pupil is eligible as having a visual disability and in need of special education ~~if when~~ the pupil meets one of the criteria in item A and one of the criteria in item B:

A. ~~There is~~ medical documentation of a diagnosed visual impairment by a licensed eye specialist establishing one or more of the following conditions:

(1) visual acuity of 20/60 or less in the better eye with the best conventional correction; ~~estimation of acuity is acceptable for difficult-to-test learners;~~

~~(a) estimation of acuity is acceptable for difficult-to-test pupils; and~~

~~(b) for pupils not yet enrolled in kindergarten, measured acuity must be significantly deviant from what is developmentally age-appropriate;~~

(2) visual field of 20 degrees or less, or bilateral scotomas; or

(3) a congenital or degenerating eye condition including, ~~but not limited to~~ for example, progressive cataract, glaucoma, or retinitis pigmentosa, ~~albinism, or nystagmus;~~ and

B. ~~A functional assessment~~ evaluation of visual abilities conducted by a licensed teacher of the visually ~~disabled~~ impaired that determines that the pupil:

(1) ~~the pupil~~ has limited ability in visually accessing program-appropriate educational media and materials including, ~~but not limited to~~ for example, textbooks, photocopies, ditto copies, chalkboards, computers, or environmental signs, without modification;

(2) ~~the pupil~~ has limited ability to visually access the full range of program-appropriate educational materials and media without accommodating actions including, ~~but not limited to~~ for example, changes in posture, body movement, focal distance, or squinting;

(3) ~~the pupil~~ demonstrates variable visual ability due to environmental factors including, ~~but not limited to,~~ lighting for example, contrast, weather, color, or movement, that cannot be controlled; ~~and or~~

(4) ~~the pupil~~ experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition.

3525.1350 EARLY CHILDHOOD: SPECIAL EDUCATION.

[For text of subpart 1, see M.R.]

Subp. 2. **Criteria for birth through two years of age.** The team shall determine that a child from birth through the age of two years and 11 months is eligible for early childhood special education if:

A. the child meets the criteria of one of the disability categories; or

B. the child meets one of the criteria ~~for developmental delay~~ in subitem (1) ~~in addition to~~ and the criteria in subitems (2) and (3):

(1) the child:

[For text of unit (a), see M.R.]

(b) has a delay in overall development demonstrated by a composite score of 1.5 standard deviations or more below the mean on an ~~assessment~~ evaluation using at least one technically adequate, norm-referenced instrument that has been individually administered by an appropriately trained professional; or

(c) is less than 18 months of age and has a delay in motor development demonstrated by a composite score of 2.0 standard deviations or more below the mean on an ~~assessment~~ evaluation using technically adequate, norm-referenced instruments. These instruments must be individually administered by an appropriately trained professional;

[For text of subitem (2), see M.R.]

(3) corroboration of the ~~development or medical assessment~~ developmental evaluation or the medical diagnosis with a developmental history and at least one other ~~assessment~~ evaluation procedure that is conducted on a different day than the medical or norm-referenced ~~assessment~~ evaluation. Other procedures may include parent report, language sample, criterion-referenced instruments, or developmental checklists.

Subp. 3. **Criteria for three through six years of age.** The team shall determine that a child from the age of three years through the age of six years and 11 months is eligible for early childhood special education when:

A. the child meets the criteria of one of the ~~disability categories~~ categorical disabilities; or

B. the child meets one of the criteria ~~for developmental delay~~ in subitem (1) ~~in addition to and the~~ criteria in subitems (2) and (3); Local school districts have the option of implementing these criteria for developmental delay. If a district chooses to implement these criteria, it may not modify them.

(1) the child:

[For text of unit (a), see M.R.]

(b) has a delay in each of two or more areas of development that is verified by an ~~assessment~~ evaluation using technically adequate, norm-referenced instruments. Subtests of instruments are not acceptable. The instruments must be individually administered by appropriately trained professionals and the scores must be at least 1.5 standard deviations below the mean in each area;

[For text of subitem (2), see M.R.]

(3) corroboration of the developmental evaluation or the medical ~~assessment~~ diagnosis with a developmental history and at least one other ~~assessment~~ evaluation procedure in each area that is conducted on a different day than the medical or norm-referenced ~~assessment~~ evaluation.

Other procedures ~~may~~ which may be used here include parent report, language sample, criterion-referenced instruments, or developmental checklists.

3525.1354 TEAM OVERRIDE ON ELIGIBILITY DECISIONS.

Subpart 1. **Documentation required.** ~~If the team determines~~ The team may determine that a pupil is eligible for special instruction and related services because the pupil has a disability and needs special instruction even though the pupil does not meet the specific requirement in parts 3525.1325 to 3525.1345 and 3525.2335;. The team must include the documentation in the pupil's special education record ~~listed~~ in accordance with items A ~~to~~, B, C, and D.

A. The pupil's record must contain documents that explain why the standards and procedures, ~~that are~~ used with the majority of pupils, resulted in invalid findings for this pupil.

B. The record must indicate what objective data were used to conclude that the pupil has a disability and is in need of specialized instruction. These data ~~may~~ include, for example, test scores, work products, self-reports, teacher comments, medical data, previous testings, observational data, ecological assessments, and other developmental data.

[For text of item C, see M.R.]

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D. The team override decision must ~~include a sign-off~~ be signed by the team members agreeing to the override decision. For those team members who disagree with the override decision, a statement of why they disagree and their signature must be included.

[Subp. 2. See repealer.]

3525.2335 EARLY CHILDHOOD PROGRAM SERVICES, ALTERNATIVES, AND SETTINGS.

Subp. 2. **Program services, alternatives, and settings.** Appropriate program alternatives to meet the special education needs, goals, and objectives of the pupil must be determined on an individual basis. Choice of specific program alternatives must be based on the pupil's current levels of performance, pupil special education needs, goals, and objectives, and written in the IEP. Program alternatives are comprised of type of services, setting in which services occur, and amount of time and frequency in which special education services occur. A pupil may receive special education services in more than one alternative based on the IEP or IFSP.

[For text of item A, see M.R.]

B. There are three types of settings: home, district early childhood special education (ECSE) classroom, and community-based programs.

(1) Home includes the home of the pupil and parent or relative, or ~~legal licensed~~ family ~~day child~~ care setting in which the pupil is placed by the parent.

[For text of subitem (2), see M.R.]

(3) Community-based programs include licensed public or private nonsectarian child care programs other than a family ~~day child~~ care setting, licensed public or private nonsectarian early education programs, community cultural centers, Head Start programs, and hospitals. A school district ~~may~~ must provide direct or indirect special education services by district special education staff to a pupil attending a community-based program.

~~C. For pupils who are not yet five years old on September 1, the amount of time and frequency of special education services must be determined individually and written in the pupil's IEP or IFSP. For pupils who are five years old as of September 1, requirements for amount of time and frequency of special education services must be determined individually, written on the pupil's IEP or IFSP. Direct or indirect special education services must be provided a minimum of an average of one hour every week unless the parents request or the team recommends an alternative.~~

3525.2340 CASE LOADS.

Subp. 4. **Case loads for school-age educational service alternatives.** ~~Items A and B set~~

~~A.~~ A. The maximum number of school-age pupils that may be assigned to a teacher. ~~Item C deals with caseloads of pupils who receive special education less than 50 percent of the instructional day.~~

~~A.~~ (1) for pupils who receive direct instruction from a teacher 50 percent or more of the instructional day, but less than a full day:

- ~~(+)~~ (a) deaf/blind, autistic, or severely multiply impaired, three pupils;
- ~~(+)~~ (b) deaf/blind, autistic, or severely multiply impaired with one program support assistant, six pupils;
- ~~(+)~~ (c) mild-moderate mentally impaired or specific learning disabled, 12 pupils;
- ~~(+)~~ (d) mild-moderate mentally impaired or specific learning disabled with one program support assistant, 15 pupils;
- ~~(+)~~ (e) all other disabilities with one program support assistant, ten pupils; and
- ~~(+)~~ (f) all other disabilities with two program support assistants, 12 pupils; and

~~B.~~ (2) for pupils who receive special education for a full day:

- ~~(+)~~ (a) deaf/blind, autistic, or severely multiply impaired with one program support assistant, four pupils;
- ~~(+)~~ (b) deaf/blind, autistic, or severely multiply impaired with two program support assistants, six pupils; and
- ~~(+)~~ (c) all other disabilities with one program support assistant, eight pupils.

~~C.~~ B. For pupils who receive special education less than 50 percent of the instructional day, caseloads are to be determined by the local district's policy based on the amount of time and services required by pupils' IEP plans.

Subp. 5. **Case loads for early childhood program alternatives.** ~~A teacher's case load must be adjusted downward based on pupils' severity of disability or delay, travel time necessary to serve pupils in more than one program alternative, and if the pupils on the teacher's case loads are receiving services in more than one program alternative or the pupils are involved with other agencies. The maximum number of pupils that can be assigned to a teacher in any early childhood program alternative is:~~

- A. ~~birth through two years: 12 pupils per teacher;~~
- B. ~~three through six years: 16 pupils per teacher; and~~
- C. ~~birth through six years: 14 pupils per teacher.~~

~~District early childhood special education (ECSE) classes must have at least one paraprofessional employed while pupils are in attendance. The maximum number of pupils in an ECSE classroom at any one time with a teacher and a program support assistant is eight. The maximum number of pupils in an ECSE classroom at any one time with an early childhood team is 16.~~

A. The maximum number of full-time equivalency (FTE) pupils assigned to a teacher in any of the following early childhood program settings is:

- (1) home-based: 12 FTE pupils per teacher;
- (2) district center-based classroom: 16 FTE pupils per teacher;
- (3) community-based: 16 FTE pupils per teacher; or
- (4) any combination of the above: 14 FTE pupils per teacher.

B. For the purposes of this subpart, a FTE pupil means one or more pupils whose total number of direct or indirect service hours is at least 231 hours per year. "Year" means the school year ending on and including June 30 in each calendar year.

C. The following factors shall be considered in determining the number of FTE pupils on a teacher's caseload: age of pupils; severity of disability or delay; coordination of IEPs/IFSPs across program alternatives and agencies; pupils receiving indirect services only and their frequency; pupils receiving direct services and their frequency; staff travel time; and other factors used to determine the provision of services delineated in the pupil's IEP/IFSP.

D. A district center-based ECSE classroom must have at least one paraprofessional present while pupils are in attendance. The maximum number of pupils in an ECSE center-based classroom at any one time with a teacher and paraprofessional is eight. The maximum number of pupils in an ECSE classroom at any one time with an early childhood team is 16.

3525.3800 WHEN A HEARING MUST BE HELD.

~~A hearing regarding a proposed action under parts 3525.2550 to 3525.2750 or 3525.2900 pursuant to *Minnesota Statutes*, section 125A.09 or *United States Code*, title 20, section 1415(b)(6) and (k) shall be held whenever: (a) the district receives the parents' request for a hearing; (b) a parent refuses to provide written permission for the initial formal assessment or the initial placement and provision of special education services, within ten days after the receipt of the notice and response form, provided the district has made at least one offer to enter into conciliation in an attempt to obtain this written consent; and (c) when the district refuses to conduct a reassessment requested by a parent, as defined in *Code of Federal Regulations*, title 34, section 300.20, or district requests a hearing.~~

3525.3900 NOTICE OF A HEARING.

Written notice of the time, date, and place of hearings shall be given to all parties by the district hearing officer at least ten days in advance of the hearings; and the hearing shall be held at a time, date, and place ~~mutually convenient to all parties~~ determined by the hearing officer that is reasonably convenient to the parents and child involved.

~~Within five days of~~ Upon receipt of the parent's written request for a hearing, the district shall serve the parent with a written notice of rights and procedures relative to the hearing that informs the parent:

A. ~~That the hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent. If the school board and parent cannot agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. If the parties have not agreed upon a hearing officer, and the board has not requested that a hearing officer be appointed by the commissioner within four business days after the receipt of the request, the commissioner shall appoint a hearing officer upon the request of either party.~~

[For text of item B, see M.R.]

C. ~~Inform the parents:-~~

~~(4) Of their right to receive a list of persons who will testify on behalf of the district concerning the proposed action within five days of the date the district receives their written request for the list of persons testifying.~~

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~~(2) D.~~ Of their responsibility, within five days after written request by the school district, to provide to the district a list of persons who will testify on the parent's behalf concerning the proposed action.

~~(3) E.~~ ~~Of their right, at least five days before the hearing, to receive from the district, a brief resume of additional material allegations referring to conduct, situations, or conditions which are discovered to be relevant and which were not contained in the original notice or memorandum; any party to a hearing has the right to~~ Consistent with *Code of Federal Regulations*, title 34, section 300.509, the hearing officer may prohibit evidence not disclosed five business days before a hearing.

~~D. F.~~ That at the hearing the burden of proof is on the district to show that the proposed action is justified on the basis of the person's educational needs or the person's current educational performance, or presenting disabilities taking into account the presumption that placement in a regular public school class with special education services is preferable to removal from the regular classroom.

~~E. G.~~ That the hearing officer will make a written decision based only on evidence received and introduced into the record at the hearing not more than 45 days from the receipt of the request for the hearing and that the proposed action will be upheld only upon showing by the school district by a preponderance of the evidence. A proposed action that would result in the pupil being removed from regular education program may be sustained only when, and to the extent the nature or severity of the disability is such that a regular education program would not be satisfactory and the pupil would be better served in an alternative program. Consideration of alternative educational programs must also be given.

~~F. H.~~ That the decision of the hearing officer is binding on all parties unless appealed to the commissioner by the parent or the district, except as provided in *Code of Federal Regulations*, title 34, section 300.514.

~~G. I.~~ That unless the district and parents agree otherwise, the student pupil shall not be denied initial admission to school and ~~that the student's education program shall not be changed, as long as the parents object to the proposed action in the manner prescribed by parts 3525.0200 to 3525.4700 in conformance with *United State Code*, title 20, section 1415(j).~~

3525.4000 HEARING OFFICERS.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parents. ~~If the school board and the parents cannot agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. If the parties have not agreed upon a hearing officer, and the board has not requested that a hearing officer be appointed by the commissioner within four business days after the receipt of the request, the commissioner shall appoint a hearing officer upon the request of either party.~~ The hearing officer shall not be a school board member or employee of the school district where the student pupil or child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child or regular education student pupil, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If a hearing officer requests an independent educational assessment evaluation of a child or regular education student pupil, the cost of the assessment evaluation shall be at district expense.

3525.4100 PREHEARING REVIEW BY THE HEARING OFFICER.

Subpart 1. **Information received before the hearing.** Five business days before the hearing, the person conducting the hearing shall receive copies of:

A. the district's notices and memorandum prepared pursuant to part 3525.3700, subpart 2, to the parents;

B. written information concerning the district's educational assessment evaluation or reassessment re-evaluation and copies of any parties' tests, evaluations, or other admissible reports or written information relating to the assessment evaluation or reassessment re-evaluation, or the proposed action;

[For text of items C and D, see M.R.]

Subp. 2. **Duties of hearing officers after receipt of the information.** Upon receipt of the information in subpart 1, the hearing officer:

[For text of items A to C, see M.R.]

D. may require the district to perform an additional educational assessment evaluation or reassessment re-evaluation;

[For text of items E to H, see M.R.]

I. may grant specific extensions of time beyond the 45-day period established in part 3525.3900, item E, at the request of either party for good cause shown on the record.

3525.4200 HEARING RIGHTS OF RESPECTIVE PARTIES.

The hearing shall be closed unless the parents request an open hearing. The parties shall have the right to representatives of their own choosing, including legal counsel.

At a ~~reasonable time~~ least five business days before the hearing, the parties or their representatives shall be given access to the providing and resident school districts' records and such other records pertaining to the child that are authorized by law to be disclosed, including but not limited to all tests, evaluations, assessments, reports, and other written information concerning the educational ~~assessment~~ evaluation or reassessment, ~~conducted pursuant to parts 3525.2550 to 3525.2750~~, upon which the proposed action may be based.

At least five days before the hearing, the parents shall receive from the school districts, who are parties of the hearing, a brief resume of additional material allegations referring to conduct, situations, or conditions which are discovered and found to be relevant to the issues to be contested at the hearing and which are not contained in the original notice or memorandum provided pursuant to parts 3525.3200 to 3525.3600 or 3525.3700, subpart 2. Any party to the hearing may prohibit the introduction of any evidence that has not been disclosed to that party at least five business days before the hearing. Within five days after the written request is received, any party shall receive from the other parties a list of witnesses who may be called to testify at the hearing. The list must be filed with the person conducting the hearing. The lists may be modified at any time but each party should be notified immediately if possible. The parties or their representatives have the right to compel the attendance of any employee of the school district, or any other person who may have evidence relating to the proposed action, and to confront, and to cross examine any witness. Any request must be made to the appropriate school district or to the person whose attendance is compelled at least five days in advance of the hearing. The written requests shall also be filed with the person conducting the hearing at the time of hearing.

If the person conducting the hearing determines at the conclusion of the hearing that there remain disputes of fact which, in the interest of fairness and the child's educational needs, require the testimony of additional witnesses, or if the hearing officer concludes that alternative educational programs and opportunities have not been sufficiently considered, the hearing officer may continue the hearing for not more than ten days, for the purpose of obtaining the attendance of witnesses or considering alternative programs and opportunities. The parties' right to cross examination and confrontation and other applicable rights and procedures shall continue and be given full force and effect.

3525.4300 HEARING PROCEDURES.

The hearing officer shall preside over and conduct the hearing and shall rule on procedural and evidentiary matters, and the hearing officer's decision shall be based solely upon the evidence introduced and received into the record. The district shall bear the burden of proof as to all facts and as to grounds for the proposed action. One purpose of the hearing is to develop evidence of specific facts concerning the educational needs, current educational performance, or apparent disabilities of the person as it relates to the need for the proposed action. Consistent with the rights and procedures in parts 3525.3300 to ~~3525.4700~~ 3525.4770, nothing in parts 3525.0200 to ~~3525.4700~~ 3525.4770 limits the right of the hearing officer to question witnesses or request information.

A tape recording, stenographic record, or other record of the hearing shall be made, and if an appeal is filed under parts 3525.4600 and 3525.4700, the hearing must be transcribed by the district and must be accessible to the parties involved within five days of the filing of the appeal.

3525.4600 EFFECTIVE DATE OF ACTION AND APPEALS.

The decision of the hearing officer is binding on all parties unless appealed to the hearing review officer by the parent or the district, ~~and shall become effective 15 days after service of the decision unless the decision is appealed~~ except as provided in Code of Federal Regulations, title 34, section 300.514(c). The hearing officer's decision issued under part 3525.4400, subpart 2, 3, or 4, may be appealed by the parent or the district to the hearing review officer within 30 days of receipt of that written decision in the following manner: the appeal decision shall be based on a review of the local decision and the entire record; notices of appeal shall be on the appeal form or otherwise in writing and shall be sent by mail to all parties to the hearing when the appeal is filed.

The school board shall be a party to any appeal. The hearing review officer shall issue a final decision based on a review of the local decision and the entire records within 30 calendar days after the filing of the appeal. A written transcript of the hearing shall be made by the district; the transcript and entire record shall be accessible to the parties and provided to the hearing review officer within five calendar days after the filing of the appeal. If the transcript and record are not provided to the hearing review officer

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within five days of the filing of the appeal, the district shall request an extension of the time beyond the 30-day period equal to the number of days which exceeded the five-day period for filing the transcript and entire record. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument. A hearing held to seek additional evidence must be an impartial due process hearing but is not a contested case hearing. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

3525.4700 FINAL DECISION.

The hearing review officer's final decision must be in writing, include findings and conclusions, and be based on the standards in *Minnesota Statutes*, section 125A.08, and the standards, requirements, and principles in parts 3525.4400, subparts 2 and 3, and 3525.0200 to 3525.4700.

The decision of the hearing review officer is final ~~unless appealed by the parent or the school board to the district court of the county in which the school district, in whole or in part, is located. The scope of judicial review shall be as provided in *Minnesota Statutes*, chapter 14 and effective upon issuance. Any party aggrieved by the findings and decisions made by a hearing review officer shall have the right to bring a civil action regarding the complaint and decision in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.~~

If the district fails to implement the hearing officer's or hearing review officer's decision, the parent shall have the right to bring the failure to the attention of the commissioner. In accordance with *Minnesota Statutes*, section 127A.42, the commissioner of Children, Families, and Learning shall impose sanctions necessary to correct any failure.

3525.4750 EXPEDITED HEARINGS, WHO MAY REQUEST.

Subpart 1. Parent request for a hearing. A parent of a pupil with a disability may request an expedited due process hearing if the pupil's parent disagrees:

A. with the determination that the pupil's behavior subject to disciplinary action was not a manifestation of the pupil's disability;

B. with any decision regarding a change of the pupil's placement to an interim alternative educational setting for a weapon, controlled substance, or drug violation; or

C. with any decision regarding a change of the pupil's placement that is based upon a district contention that the move is for disciplinary or safety reasons.

Subp. 2. Local education agency request for a hearing. The local education agency may request an expedited hearing if school personnel maintain that the current placement of the pupil is substantially likely to result in injury to the pupil or to others.

Subp. 3. Continued placement. When a district proposes that an interim alternative placement should continue beyond 45 days, it must provide parents with a written statement of the reasons for this proposal.

3525.4770 EXPEDITED HEARINGS, TIMELINES.

Subpart 1. When parents request hearing. When requesting an expedited hearing the parents shall provide the district with:

A. the address of the residence of the pupil;

B. the name of the school the pupil is attending;

C. a description of the nature of the problem of the pupil relating to the manifestation determination, interim placement, or proposed interim placement; and

D. a proposed resolution of the problem to the extent known and available to the parents at the time.

The district may not deny or delay a parent's right to an expedited hearing for failure to provide the notice required here.

Immediately upon receipt of the request for an expedited hearing, or upon initiating an expedited hearing, the district shall serve the parents with a written notice of right and procedures relative to the hearing, including the availability of free or low-cost legal and other relevant legal services.

Subp. 2. When district requests hearing. When the district requests an expedited hearing it shall provide the parents with a written notice of:

A. a description of the nature of the problem including the behavior for which the change of placement is requested;

B. a description of the interim placement or proposed interim placement; and

C. a proposed resolution of the problem to the extent known at the time.

Subp. 3. Hearing officer appointment. The district shall send a copy of the hearing request to the commissioner by facsimile by the end of the business day following receipt of the parent's notice or initiation of an expedited hearing. Upon receipt of the

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notice, the commissioner shall appoint a hearing officer from the roster maintained by the department for that purpose. The parties may agree to a hearing officer other than the one appointed by the commissioner in which case the district shall send, by facsimile, notice of the hearing officer requested. If the agreed upon hearing officer is from the roster maintained by the department, the department shall appoint the hearing officer, if available, and assign a hearing number. If the hearing officer is unavailable, the department shall inform both parties of that fact and the parties may mutually agree to another hearing officer by the end of the following business day. If the parties are unable to reach agreement, either party may inform the department of that fact and request the immediate appointment of the next available hearing officer. If the agreed upon hearing officer is not from the department's roster, the department shall inform the parties of the case number so that it can maintain a record of all hearing proceedings.

Subp. 4. **Strikes.** In an expedited hearing, a party may not strike the appointment of a hearing officer as of right, but a party may remove on an affirmative showing of prejudice under *Minnesota Statutes*, section 125A.09. A hearing officer must meet the qualifications under *Minnesota Statutes*, section 125A.09, subdivision 11.

Subp. 5. **Disclosure of data.** At least two business days prior to an expedited hearing, or longer, if ordered by the hearing officer, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party who fails to comply with this subpart from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Subp. 6. **Prehearing conference.** Within two days of appointment, the hearing officer shall hold a prehearing conference, which may be by telephone. At that conference, or later, the hearing officer may take any appropriate action a court may take under Rule 16 of Minnesota Rules of Civil Procedure including, but not limited to, scheduling, jurisdiction, and listing witnesses, including expert witnesses. Specific pleadings including statements of objection under *Minnesota Statutes*, section 125A.09, subdivision 6, clause (5), and the statement of material allegations under part 3525.4200 be required, however the timelines for their exchange shall be established by the hearing officer. Issues not pled with specificity in an expedited due process hearing are not waived in subsequent proceedings. The exchange of witness lists, evidence, and any other information deemed necessary by the hearing officer shall be exchanged based on the timeline ordered by the hearing officer as required to allow the hearing officer to render a written decision within 15 business days of the request for the hearing. At the prehearing conference, and subsequently, the hearing officer may order either party to submit educational records, assessments, and any other information to the hearing officer for pre-hearing review.

Subp. 7. **Appeal.** The final decision of a hearing officer in an expedited hearing may be appealed to a hearing review officer in the same manner as set forth in *United States Code*, title 20, section 1415, and *Minnesota Rules* except that the appeal must be made within five business days of receipt of the hearing officer's final decision. The hearing review officer's decision must be issued within ten business days of appointment and receipt of the hearing records.

Subp. 8. **Decision.** A written decision for an expedited hearing shall be rendered by the hearing officer in 15 business days. An extension of up to five days may be granted by the hearing officer for good cause shown on the record. The decision is effective upon issuance consistent with *Code of Federal Regulations*, title 34, section 300.514.

REPEALER. *Minnesota Rules*, parts 3525.0200, subparts 6a and 11a; 3525.1150; 3525.1325, subpart 2; 3525.1354, subpart 2; 3525.1356; 3525.2405, subparts 2 and 3; 3525.2420; 3525.2650; 3525.3000; 3525.3150; 3525.3200; and 3525.3500, are repealed.

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

Pursuant to Minnesota Statutes §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Department of Administration

State Designer Selection Board (SDSB)

Notice of Meeting Dates, Times, and Agenda Items

Pursuant to SDSB *Minnesota Rule* 3200.0400, below is the schedule of State Designer Selection Board meeting dates, times and agenda items as of October 15, 1999:

• **November 9, 9:00 a.m.**

1. Shortlisting: Project 7-99 Department of Transportation 13 Light Rail Transit Stations & 13 Traction Power Substation Enclosures
2. Shortlisting: Project 8-99 University of Minnesota Selection of an Architect for the Microbial and Plant Genomics Building

• **November 16, 9:00 a.m.**

1. Shortlisting: Project 9-99 Department of Public Safety/Bureau of Criminal Apprehension Construction of a New Office and Forensic Science Laboratory Facility in Bemidji

• **November 23** (for the start time of this meeting contact Lisa Blue at 651-297-5526)

1. Interview/Selection: Project 7-99 Department of Transportation 13 Light Rail Transit Stations & 13 Traction Power Substation Enclosures
2. Interview/Selection: : Project 8-99 University of Minnesota Selection of an Architect for the Microbial and Plant Genomics Building

• **November 30, 9:00 a.m.**

2. Interview/Selection: Project 9-99 Department of Public Safety/Bureau of Criminal Apprehension Construction of a New Office and Forensic Science Laboratory Facility in Bemidji

Unless otherwise stated, all meetings are held in the Administration Building, 50 Sherburne Avenue, St. Paul, Room G-10/Conference Room A. Other matters may come before the Board and be added to the agenda as needed. For additional information, contact Lisa Blue at 651-297-5526.

Minnesota Department of Agriculture

REQUEST FOR COMMENTS on Planned Repeal of Rules Governing Pesticide Control, Food Standards, and Agriculture Marketing and Bargaining: *Minnesota Rules*, parts 1500.3300, subp. 3, 1500.3700; 1500.3800; 1505.0840 through 1505.0950; 1505.0970; 1505.0990 through 1505.1020; 1505.1040 through 1505.1070; 1505.1110; 1505.1130 through 1505.1230; 1505.1270; 1505.1280; 1555.2340 through 1555.2390; and 1555.4240 through 4240 through 1555.6320

Subject of the Rule. The Minnesota Department of Agriculture requests comments on its planned repeal of rules governing pesticide control, definitions of specific foods, and dispute supervision for agricultural marketing and bargaining.

Persons Affected. The rules would likely affect pesticide applicators; food processors and wholesale produce dealers. The department does contemplate appointing an advisory committee to comment on the planned rules.

Statutory Authority. *Minnesota Statutes*, section 17.701 requires the commissioner to adopt rules necessary to administer the Agriculture Marketing and Bargaining Act, section 18B.39 requires that pesticide rules in effect on July 1 1987 remain in effect until superseded by new rules, section 31.101 requires that state food rules conform to federal rules when practicable.

Public Comment. Interested persons or groups may submit comments or information on the planned rules in writing or orally until 4:30 p.m. on December 27, 1999. The department has prepared a draft of the planned repeal. Written or oral comments, ques-

tions, requests to receive a draft of proposed rules, and requests for more information on the planned rules should be addressed to: Carol Milligan, Minnesota Department of Agriculture, 90 W. Plato Blvd., St. Paul, MN 55107; Phone 651-296-6906, FAX 651-297-5522. TTY users may contact the Department of Agriculture through Minnesota Relay Service at 800-627-3529.

Comments submitted in response to this notice will not be included in the formal rulemaking record when a proceeding to adopt a rule is started.

Dated: 15 October 1999

Tom Masso
Assistant Commissioner

Minnesota Higher Education Services Office

REQUEST FOR COMMENTS on Planned Rules Governing the Minnesota College Savings Plan [Minnesota EdVest]

Subject of Rules. The Minnesota Higher Education Services Office [MHESO] requests comments on its planned rules governing the Minnesota College Savings Plan. Under the Minnesota College Savings Plan, individuals will be able to contribute to state managed savings accounts to save for future post-secondary school attendance. The MHESO is considering rules that cover the compatibility of the Minnesota College Savings Plan with Internal Revenue Code 529, which governs college savings plans and prepaid tuition plans for post-secondary education; who is an eligible account holder; who is an eligible account beneficiary; an explanation of the process to open and contribute to a Minnesota College Savings Plan; penalties applicable to earnings on non-qualified distributions; eligibility for and operation of the matching grant provisions; and operation of account distributions.

Persons Affected. The rules would likely affect participants in the Minnesota College Savings Plan as account holders or beneficiaries.

Statutory Authority. *Minnesota Statutes*, section 136A.243, Subd. 1(a) authorizes the Minnesota Higher Education Services Office to establish rules necessary to administer the program.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing until 4:30 p.m. on December 27, 1999. The Minnesota Higher Education Services Office does not contemplate an advisory committee to comment on the planned rules.

Rules Drafts. The Minnesota Higher Education Services Office has prepared a draft of the proposed rules.

Agency Contact Person. Written comments, questions requests to receive a draft of the rules, and requests for more information on these planned rules should be addressed to: Jack Rayburn, Minnesota Higher Education Services Office, 1450 Energy Park Drive, Suite 350, St. Paul, MN 55108, phone 651-642-0593, FAX 651-642-0675.

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 14 October 1999

K. Poch, Director
Minnesota Higher Education Services Office

Official Notices

Department of Labor and Industry

Labor Standards Unit

Notice of Prevailing Wage Determinations for Highway/Heavy Projects

On October 25, 1999, the commissioner determined and certified prevailing wage rates for Highway/Heavy construction projects in each of 10 regions statewide.

Copies may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306 or by calling (651) 296-6452. The charges for the cost of copying and mailing are \$.65 for the first page and \$.50 for any additional pages. Please note that the cost per region varies according to the number of pages per region.

Gretchen Maglich
Commissioner

Minnesota Partnership for Action Against Tobacco

Board Opening Announcement

Board Opening

The Minnesota Partnership for Action Against Tobacco (MPAAT) is seeking qualified candidates to submit applications to serve on its 21-member board of directors.

Organization

MPAAT is a unique organization in the United States. Born out of Minnesota's tobacco trial, it is an independent non-profit organization entrusted with \$202 million over a 25-year period to help reduce the harm tobacco causes Minnesotans. MPAAT will offer grant programs beginning in January 2000 in the areas of tobacco cessation and tobacco research.

Accountability

MPAAT operates under the jurisdiction and supervision of the District Court of Ramsey County, and is subject to audit by Minnesota's Legislative Auditor, and oversight by the Attorney General.

Board Member: Terms and Qualifications

Under the terms prescribed by the Ramsey District Court, the appointee will serve on the board until the term expires on September 29, 2002. Board service is completely voluntary. Candidates will be chosen by the full MPAAT board of directors.

Applicants Must:

- **Be employed by, or represent, city, county, or other local Minnesota government.**
- Have a demonstrated history of activities directed at, or expertise related to, reducing the human and economic consequences of tobacco use.
- Have had no affiliation with the tobacco industry or related trade associations within the last ten years.
- Take no part in any vote or decision on any matter concerning an organization with which the director is affiliated, and
- Not be present during discussion of any matter concerning an organization with which the director is affiliated.

Interested candidates should submit a resume and brief statement of interest and qualifications to: Christine Rice, Chair Nominating Committee, MPAAT, 400 Park Street, Saint Paul, MN 55103, postmarked no later than **November 25, 1999**.

Pollution Control Agency

Policy and Planning Division

REQUEST FOR COMMENTS on Planned Amendments to Rules Governing Aboveground Storage of Liquid Substances *Minnesota Rules* Chapter 7151; Permits and Certification, *Minnesota Rules* Chapter 7001; and the Standards of Performance for Underground Storage Tanks, *Minnesota Rules* Chapter 7150

Subject of Rule: The Minnesota Pollution Control Agency (MPCA) requests comments on its planned amendments to rules governing the aboveground storage of liquid substances and the standards of performance for underground storage tanks. The MPCA is considering rule amendments that would clarify the existing rules and provide additional guidance on technical issues.

Subject Matter:

Aboveground Storage of Liquid Substances: On November 2, 1998, the MPCA adopted rules governing the aboveground storage of liquid substances, *Minnesota Rules* Chapter 7151. Following the adoption of the rules, several regulated parties requested interpretation of various rule parts and clarification of certain terms used in the rules. As a result, the MPCA has determined there is a need to add clarifying language to certain rule parts and to provide additional definitions of terms used in the rules.

Permits and Certification: The MPCA intends to clarify existing rules in *Minnesota Rules* Chapter 7001. Specifically, the MPCA is proposing to (1) combine 7001.0020, item G and 7001.0020, item J, both of which address the permit requirements for construction or operation of liquid storage facilities; (2) revise the heading of 7001.4215 to reflect the content of the rule; and (3) clarify existing recordkeeping requirements for major facilities in 7001.4230.

Performance Standards for Underground Storage Tanks - On July 1, 1991, the MPCA adopted rules governing the performance standards for underground storage tanks, *Minnesota Rules* Chapter 7150. These rules were to mirror the U.S. Environmental Protection Agency's (EPA) underground storage tank rules (40 CFR Parts 280 and 281) adopted on September 23, 1988. As a result of amendments to the federal rules, the MPCA is proposing to amend its hazardous substances list to be the equivalent of the federal rule.

Persons Affected: The amendments to the rules would likely affect owners or operators as defined in *Minnesota Rules* Chapter 7151 of an aboveground storage tank system, or an owner or operator as defined in *Minnesota Rules* Chapter 7150 of an underground storage tank system.

Statutory Authority: *Minnesota Statutes*, section 115.03, subdivision 1(e)(3), authorizes the MPCA to adopt rules for storage of liquid substances to assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state. *Minnesota Statutes*, section 116.49, subdivision 1, mandates the MPCA to adopt rules applicable to all owners and operators of underground storage tanks establishing safeguards necessary to protect human health and the environment.

Public Comment: Interested persons or groups may submit comments or information on this rule in writing or orally until 4:30 p.m. on November 24, 1999. The MPCA has not yet prepared a draft of the planned rule. Written comments, requests to receive a draft of the rule when it has been prepared, and requests for more information on this planned rule should be addressed to:

Pat Matuseski
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

The MPCA will receive oral statements and questions during regular business hours over the telephone at (651) 297-8602 and in person at the above address.

Advisory Work Group: The MPCA does not intend to form an advisory work group to assist with the rule amendments.

NOTE: Comments submitted in response to this notice will be considered in drafting the rule, but will not be included in the formal rulemaking record when a proceeding to adopt a rule is started.

Karen A. Studders
Commissioner

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Natural Resources

Division of Waters

Minnesota Stream Protection and Improvement Loan Program

In 1999, the Minnesota Legislature passed and Governor Ventura signed a law (*Minnesota Statutes* 103G.705) establishing the new **Minnesota Stream Protection and Improvement Loan Program**. The law allows the DNR to provide 0% interest loans to local governments. The loans may be for up to 10- years and cover up to 90% of the cost of a project that will protect or improve a stream.

The law also sets up a revolving fund allowing the DNR to reloan the money as the first interest-free loans are paid off. An initial appropriation of \$1.1 million was made to start the program in fiscal year 2000 (7/1/1999 to 6/30/2000).

The program came about, in part, due to threats to metro area trout streams being caused by new development. Projects had been planned that would protect these streams from the nearby development, but for financial reasons the projects could not be constructed until the development was completed. This loan program will provide funds to local governments to protect these streams in advance of threatening activities or to improve degraded stream conditions.

In considering applications for these loans, the DNR will rate the applications based on the potential for prevention of immediate harm to the stream, the relative need for maintenance and improvements, the date of the application for the loan, and available funding. All proposals must be consistent with all local water management plans. If the project is not specifically mentioned in such local plans, the applicant must submit a statement of support from the primary local water planning authority (usually a Watershed District or County). The priorities and some examples follow (number 1 being highest rated):

1. Projects designed to protect designated trout streams from the adverse effects of development. Examples of specific work projects include installation of storm water systems that mitigate warm water runoff, diversion of warm water ditches, development of infiltration areas, and any other innovative method of protecting the stream.
2. Projects to improve designated trout streams, which have been approved by DNR's Section of Fisheries. Examples would include planting of cover to shade the stream and restoring meanders to previously straightened sections of stream.
3. Projects to protect or improve the water quality of warm-water streams. Examples include routing of stormwater to treatment ponds and establishment of buffer areas along the banks of the stream.
4. Projects to prevent or repair streambank erosion. An example is the use of bioengineering methods to stabilize eroded banks.
5. Projects that protect or improve streams in other ways.

Applications for loans will be taken on a continuous basis from any political subdivision, but decisions on applications for loans from the initial appropriation will be made by December 31, 1999. Local governments must apply by November 30, 1999 to be considered in the initial round of loan allocations. Applications must include a detailed explanation of how the project will protect or improve the stream. To apply, send an application form and supporting documentation, including location maps, project plans, detailed description of project costs, and statements of support to: Mel Sinn, DNR Waters, 500 Lafayette Road, St. Paul, MN 55155-4032. Contact Mel Sinn for application forms and further information: phone: 651-296-4806; FAX: 651-296-0445; email: mel.sinn@dnr.state.mn.us

Professional, Technical & Consulting Contracts

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 to 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. Certain quasi-state agencies are exempted from some of the provisions of this statute. In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting proposals are prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (651) 296-2600 or [TTY (651) 297-5353 and ask for 296-2600].

Colleges and Universities, Minnesota State (MnSCU)

St. Paul Technical College

Request for Proposal for Consultant Services to Update College Master Plan

The St. Paul Technical College (SPTC) requests proposals for a consultant to update the SPTC Master Plan. The vendor will compile and analyze previous plans and space studies with relevant policies and procedures, which lead to the development and implementation of a total facilities master plan, including future budget requests.

Call Dick Swenson at (651) 228-2947 for the complete request for proposal, other documents and MnSCU's General Proposal/Bid Conditions.

Bid close date: November 1, 1999, 3:00 p.m.

Send proposals to:

St. Paul Technical College
Attn: Business Office
235 Marshall Avenue
St. Paul, MN 55102

Colleges and Universities, Minnesota State (MnSCU)

Request for Proposals for Academic Search Firm

NOTICE IS HEREBY GIVEN that proposals are being solicited to select academic search firms to provide assistance to the Minnesota State Colleges and Universities in its search for qualified candidates for president at two- and four-year colleges and universities as vacancies occur and the need for assistance from an academic search consultant is established.

Applicants must have significant experience with presidential searches at institutions of higher education. For further information or to request a copy of the full Request for Proposal, please contact:

Linda Skallman, Associate Vice Chancellor
Minnesota State Colleges & Universities/Personnel
500 World Trade Center, 30 East Seventh Street
St. Paul, MN 55101
Telephone: 651-297-8263
FAX: 651-297-3145

Proposals are due by November 1, 1999, no later than 5:00 p.m.

This request for proposal does not obligate the state to complete the proposed project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Professional, Technical & Consulting Contracts

Minnesota Historical Society

Notice of Request for Bids for Printing/Custom Binding Services

The Minnesota Historical Society (Society) is seeking bids from printer(s)/custom binder(s) to prepare materials for a Teacher's Binder component for a curriculum kit. The printed pages will be on standard stock. Sixteen of the pages will be laminated; eight of those will be oversized. Tabs must be printed, and all pages must be collated and inserted into the binder. The binder will require a four-cassette mold on the inside front cover and a 5/8-inch gusseted pocket in the back cover.

The Request for Bids is available by calling or writing Chris Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, Saint Paul, MN 55102. Telephone (651) 297-5863 or e-mail chris.bonnell@mnhs.org

Bids must be submitted in the format provided for in the Request for Bids. Bids must be received no later than 2:00 P. M., Central Time, Monday, November 15, 1999. No late bids will be accepted.

Minnesota Historical Society

Notice of Request for Bids for Printing Services to Produce Historic Site Brochures

The Minnesota Historical Society (Society) is seeking bids from qualified firms and individuals to produce Minnesota Historical Society Site Brochures. The work will generally consist of color production of brochures per specifications, with delivery prior to January 3, 2000.

The Request for Bids is available by calling or writing Chris Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, Saint Paul, MN 55102. Telephone (651) 297-5863 or e-mail chris.bonnell@mnhs.org.

Bids must be submitted in the format provided for in the Request for Bids. Bids must be received no later than 2:00 P. M., Central Time, Tuesday, November 16, 1999. No late bids will be accepted.

Minnesota Historical Society

Notice of Request for Bids for Printing Services for *Telling African American Stories in Minnesota*

The Minnesota Historical Society (Society) is seeking bids from qualified firms and individuals for Printing Services, including but not limited to, making plates, printing and binding of the Society's Education Department's edition of *Telling African American Stories in Minnesota*.

The Request for Bids is available by calling or writing Chris Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, Saint Paul, MN 55102. Telephone (651) 297-5863 or e-mail chris.bonnell@mnhs.org.

Bids must be submitted in the format provided for in the Request for Bids. Bids must be received no later than 2:00 P. M., Central Time, Wednesday, November 17, 1999. No late bids will be accepted.

Minnesota Historical Society

Request for Proposals for a Human Resources Information System

The Minnesota Historical Society (Society) intends to procure the use of an information processing system to automate and support their Human Resources Administration, Time and Attendance Reporting, and Payroll Processing activities. The Society is seeking a solution that provides both **outsourced payroll processing** and **full data integration** among Time and Attendance, Human Resources, and Payroll Processing modules. We invite you to offer a proposal to provide these services by responding to the Request for Proposal.

Prospective vendors who respond to this Request for Proposals should also be prepared to participate in Vendor Demonstrations, tentatively scheduled for December 13-22, 1999.

Professional, Technical & Consulting Contracts

The Request for Proposals is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102. Telephone is (651) 297-5863 (*chris.bonnell@mnhs.org*.)

A **mandatory** pre-proposal meeting will take place on **Monday, November 8, 1999 from 10:30 a.m. to 12:00 noon** at the Minnesota State Historical Society's History Center.

All proposals must be received by Chris M. Bonnell, Contracting Officer, or an authorized agent, at the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102 by **Monday, November 22, 1999 at 2:00 p.m.** Late proposals will not be accepted.

Complete specifications and details concerning submission requirements are included in the Request for Proposals.

Minnesota Historical Society

Notice of Request for Sealed Bids for Historic Fort Snelling Project Involving Parking Lot and Trail Construction

County Projects - Bid Close November 8, 1999, History Center, St. Paul, Minnesota

NOTICE TO CONTRACTORS — Sealed proposals will be RECEIVED until 2:00 p.m., November 8, 1999, by Chris M. Bonnell, Contracting Officer, Finance & Administration Division, Minnesota Historical Society, 4th Floor, History Center, 345 Kellogg Boulevard West, St. Paul, Minnesota 55102 on behalf of the Commissioner of Transportation as agent for said Agency for the construction of the county project(s) listed below. Proposals will be opened and read publicly by the Commissioner of Transportation or his representative at the History Center, St. Paul, Minnesota, immediately after the hour set for receiving bids.

Minimum wage rates to be paid by the Contractors have been predetermined and are subject to the Work Hours Act of 1962, P.L. 87-581 and implementing regulations.

READ CAREFULLY THE WAGE SCALES AND DIVISION A OF THE SPECIAL PROVISIONS AS THEY AFFECT THIS PROJECT(S).

The Minnesota Department of Transportation hereby notifies all bidders:

- in accordance with Title VI of the Civil Rights Act of 1964 (Act), as amended and Title 49, *Code of Federal Regulations*, Subtitle A Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded maximum opportunity to participate and/or to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color, disability, age, religion, sex or national origin in consideration for an award; in accordance with Title VI of the Civil Rights Act of 1964 as amended, and Title 23, *Code of Federal Regulations*, Part 230 Subpart A-Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (including supportive services), it will affirmatively assure increased participation of minority groups and disadvantaged persons and women in all phases of the highway construction industry, and that on any project constructed pursuant to this advertisement equal employment opportunity will be provided to all persons without regard to their race, color, disability, age, religion, sex or national origin;
- in accordance with the Minnesota Human Rights Act, *Minnesota Statute* 363.03 Unfair discriminatory Practices, it will affirmatively assure that on any project constructed pursuant to this advertisement equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age;
- in accordance with the Minnesota Human Rights Act, *Minnesota Statute* 363.073 Certificates of Compliance for Public Contracts, and 363.074 Rules for Certificates of Compliance, it will assure that appropriate parties to any contract entered into pursuant to this advertisement possess valid Certificates of Compliance.

If you are not a current holder of a compliance certificate issued by the Minnesota Department of Human Rights and intend to bid on any job in this advertisement you must contact the Department of Human Rights immediately for assistance in obtaining a certificate.

The following notice from the Minnesota Department of Human Rights applies to all contractors:

"It is hereby agreed between the parties that *Minnesota Statute*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 are incorporated into any contract between these parties based on this specification or any modification of it. A copy of *Minnesota Statute* 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 is available upon request from the contracting agency."

Professional, Technical & Consulting Contracts

"It is hereby agreed between the parties that this agency will require affirmative action requirements be met by contractors in relation to *Minnesota Statute* 363.073 and *Minnesota Rules* 5000.3600. Failure by a contractor to implement an affirmative action plan or make a good faith effort shall result in revocation of its certificate or revocation of the contract (*Minnesota Statute* 363.073, Subd. 2 and 3)."

Parking Lot and Trail Construction - Grade, Aggregate Base, Bituminous Surface, Modular Block Retaining Wall, Pipe Culvert, Pipe Sewer, Concrete Walk, Concrete Curb & Gutter, Revise Lighting System, Chain Link Fence, Pavement Markings, Landscaping and Turf Establishment

S.P. 94-100-17 (Fort Snelling), Minnesota Project No. TEAF 2797(029), located at Historic Fort Snelling. The major items of work are 9913 m³ of Common Excavation, 1563 m³ of Aggregate Base, 501 t of Type 41 Wearing Course Mixture, 481 t of Type 41 Binder Course Mixture, 295 m² of Modular Block Retaining Wall, 37.9 m of 560 and 725 mm Span Reinforced Concrete Pipe Arch Culvert, 95.3 m of 430 mm Span Corrugated Steel Pipe Arch Culvert, 233 m of 300, 375 and 600 mm Reinforced Concrete Pipe Sewer, 21 m of Construct Drainage Structures, 147 m³ of Random Riprap, 662 m² of Special Concrete Walk, 1537 m of Concrete Curb & Gutter, 37 each Information Signs, Revise Lighting System, Relocate Utility Facilities (Lump Sum), 162 m of Chain Link Fence, 1326 m of Pavement Markings - Paint, 220 m² of Pavement Marking - Epoxy, 14 Trees, 100 Shrubs, 513 m of Silt Fence, and 1.6 ha of Turf Establishment.

NOTICE TO BIDDERS: A Pre-Letting Conference will be held at the Project Site on October 27, 1999, At 1:00 p.m. All interested parties are invited to attend. Any questions regarding this Project should be directed to Deb Bartels at (651) 222-5754.

Item	Counter Price
Plans and 1 Proposal	\$29.75
Proposals only, per copy	\$12.00

Proposals, plans and specifications may be examined and secured in Room B-9 of the Minnesota Department of Transportation Building, St. Paul, Minnesota 55155. The Contracting Officer of the Minnesota Historical Society, St. Paul, Minnesota will have copies of the above for examination only.

REQUESTS FOR PLANS AND PROPOSALS MAY BE SUBMITTED ON CONSTRUCTION FORM NO. 21120, ACCOMPANIED BY CHECK, DRAFT OR MONEY ORDER, PAYABLE TO THE COMMISSIONER OF TRANSPORTATION. ALL MAIL ORDERS SHOULD BE ADDRESSED TO PLANS AND PROPOSALS, 395 JOHN IRELAND BOULEVARD, MAIL STOP 694, ST. PAUL, MN. 55155

Bids must be accompanied by a certified check made payable to the Commissioner of Transportation, or a corporate surety bond made in favor of the State of Minnesota in an amount as designated on the proposal form.

PLEASE NOTE:

7% MINNESOTA SALES TAX MUST BE INCLUDED ON ALL COUNTER PURCHASES MAIL ORDERS WITHIN ST. PAUL. 6.5% SALES TAX MUST BE INCLUDED ON ALL ORDERS SHIPPED TO POINTS IN MINNESOTA. COUNTER PURCHASES MAY BE MADE BETWEEN 7:30 AM AND 4:00 PM. VISA AND MASTERCARD ARE NOW ACCEPTED.

Elwyn Tinklenberg
Commissioner of Transportation

Department of Human Services

Assistance Payment Division

Notice of Availability of Contracts for Services to Help Minnesota Public Assistance Clients Apply for Supplemental Security Income

The Department of Human Services seeks qualified providers to help General Assistance, Group Residential Housing, and Minnesota Supplemental Aid applicants and recipients apply to the Social Security Administration for Supplemental Security Income (SSI). A qualified provider must be:

- A nonprofit legal assistance organization; or
- An agency that employs
 - licensed practitioners, or
 - accredited counseling staff, or
 - staff with a master’s degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy; or
- A private attorney at law; or
- Another organization or person determined by the State to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits; and
- Able to assist clients through the entire SSI application process, from initial application through approval or final denial; a non-attorney, at a step requiring an attorney, must arrange legal representation through county or state contracted legal services or other legal services knowledgeable about the SSI process; and
- Able to provide services to clients in a multi-county area of no less than two counties.

The Department will pay contracted providers up to \$75 per hour for services plus actual reasonable out-of-pocket expenses for clients approved for SSI and for whom interim assistance reimbursement has been received. An additional incentive payment will be made if funds are available. The maximum payment is limited to 100% of the interim assistance reimbursement for each client.

This is an open solicitation and proposals may be submitted beginning November 8, 1999, up to November 1, 2003.

For a copy of the Request for Proposal, contact:

Suzana Cobic-Ivkovic, DHS/SSI Coordinator
Adult Supports Division
Minnesota Department of Human Services
444 Lafayette Road North
St. Paul, MN 55155-3837
Phone: 651-296-1476

Iron Range Resources and Rehabilitation Board

Advertisement for Bids for Construction of Progress Park Site Grading – Bid Phase I

NOTICE IS HEREBY GIVEN that sealed bids will be received by the State of Minnesota acting by and through its Office of the Commissioner of Iron Range Resources and Rehabilitation (IRRRB) at the IRRRB office in Eveleth until 10:00 a.m., November 5, 1999, for the furnishing of all labor and material for the construction of the following described local improvement:

Progress Park Site Grading - Bid Phase I

Immediately following the expiration of time of receiving bids, the bids will be publicly opened and read out loud in the presence of the IRRRB staff or their designated representatives. All bids received and opened will be referred to the Engineer for tabulation and will be presented to the IRRRB staff for action at a special meeting at 4:00 on the same day, November 5, 1999. The IRRRB staff may or may not take action at that time.

The following are approximate major quantities for the Project:

Clearing and grubbing	4 Acres
Common Excavation	4000 CY

Professional, Technical & Consulting Contracts

Select Granular borrow CV	100 CY
Rock Excavation, CV	100 CY
Aggregate Base, Class 5, CV	200 CY

Bids shall be on the forms provided for that purpose and according to the Contract Documents prepared by SEH•RCM, 15 NE 5th Street, Grand Rapids, Minnesota, dated October 26, 1999. Bid forms and Contract Documents may be viewed at the IRRRB office in Eveleth, and at the office of the above-named Engineers. Contractors desiring a copy of the Bid Forms and Contract Documents may obtain them from the office of the above-named Engineers in accord with the Instructions to Bidders upon payment of \$40/set. Checks should be made out to SEH•RCM. No Refunds will be provided.

Bid security in the amount of 5% of the bid in the form of a cash receipt, certified check or bidders bond must accompany each bid in accord with the Instructions to Bidders.

Bids shall be directed to the attention of Shirley Robinson of the IRRRB, securely sealed and endorsed upon the outside wrapper, 1) name of bidder; 2) bid opening time and date; and 3) the words "BID FOR PROGRESS PARK GRADING - BID PHASE I".

The IRRRB reserves the right to reject any and all bids, to waive irregularities and informalities therein and to award the Contract in the best interests of the State of Minnesota. No bidder may withdraw their bid for a period of 30 days. Bids shall be submitted to:

IRRRB
ATTN. Shirley Robinson
1006 Highway 53 South
Eveleth, MN 55734

Dated: 26 October 1999

Office of Secretary of State

Elections Division

Presidential Preference Request for Proposal

The Minnesota Secretary of State is seeking partners from the private and public sectors to participate in a groundbreaking election event. For the first time in Minnesota history the Secretary of State has been authorized by the legislature to accumulate the results of a presidential preference vote. The preference vote will allow Minnesota's voice to be heard as the major parties determine their nominees for president.

The preference vote will be conducted as a part of the major party state wide precinct caucuses on the night of March 7, 2000. For Minnesota to meaningfully participate in this national event the results of the preference vote must be quickly and accurately accumulated and reported to the public and media. The Secretary of State will set up a means for the parties to use in reporting the results of the vote, and provide live updates of those results to the world through the Secretary of State web site, (www.sos.state.mn.us). The opportunity for private and public firms to participate in this critical event lies in assisting the Secretary of State in building a network for accumulating and reporting the results of the preference vote. Technical details of the Secretary of State's plan for this project are contained in the Request for Proposal.

The nature of the project will provide a chance for participants to demonstrate their skills and strengths in communication and database management in a very public forum. Both local and national media will be following the story of the presidential preference vote. The innovative way in which the results of the vote are reported will be a big part of that story. Partners in this event will have an opportunity to raise the profile of their organization by participating in news conferences called by the Secretary to publicize and promote the preference vote. An organization's commitment to public service will be demonstrated, and acknowledged, by helping to report this key step in the process of electing the next President of the United States.

For a copy of the Presidential Preference Request for Proposal, please contact:

Sue Swanson
State Office Building
100 Constitution Ave.
St. Paul, MN 55155
(651) 297-8250 - voice
(651) 296-0127 - fax
E-mail: Susan.K.Swanson@state.mn.us

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Council

Invitation for Bid for Computer Equipment – IBM RS 6000 Server

Sealed bids for one (1) IBM RS 6000 Model F50 Server will be received at the offices of the Metropolitan Council, Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101, on November 8, 1999 at 2:00 P.M., at which time and place they will be publicly read.

Copies of specifications and bid instructions may be obtained from the offices of the Metropolitan Council or by calling 651-602-1499 or via FAX request at 651-602-1083. All bids must be submitted on Metropolitan Council approved forms.

The Metropolitan Council shall consider all bids received and intends to award a contract(s) to the responsive and responsible bidder submitting the lowest total cost to the Council, by the due date and time. The Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions in any bid, to obtain new bids, or to proceed to do the work otherwise.

Metropolitan Council

Invitation for Bid for Lab Equipment – Auto Sampler with Accessories

Sealed bids for one (1) auto sampler with accessories will be received at the offices of the Metropolitan Council, Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101, on November 8, 1999 at 3:00 P.M., at which time and place they will be publicly read.

Copies of specifications and bid instructions may be obtained from the offices of the Metropolitan Council or by calling 651-602-1499 or via FAX request at 651-602-1083. All bids must be submitted on Metropolitan Council approved forms.

The Metropolitan Council shall consider all bids received and intends to award a contract(s) to the responsive and responsible bidder submitting the lowest total cost to the Council, by the due date and time. The Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions in any bid, to obtain new bids, or to proceed to do the work otherwise.

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call the BIS Coordinator at 612-625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.



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