

State



STATE OF
MINNESOTA

Register

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EXECUTIVE ORDERS

Executive Order No. 136

Providing for a Referendum to Determine Inclusion of Members of the Minneapolis Teachers Retirement Fund Association in the State Social Security Agreement

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Minnesota Legislature, pursuant to Laws of 1976, Chapter 238, Section 3, has determined it necessary to conduct a referendum to decide whether members of the Minneapolis Teachers Retirement Fund Association be excluded from or included in the State Social Security Agreement, and,

WHEREAS, the Minnesota Legislature, pursuant to the above referenced act, provides for the Governor to designate an agency or individual to supervise said referendum to be held after May 1, 1977;

NOW, THEREFORE, I order that:

1. The Commissioner of Personnel supervise the referendum specified by Laws of 1976, Chapter 238, Section 3, in the manner required by said act.
2. The referendum shall be held on May 27, 1977.
3. Upon completion of the referendum, the Commissioner of Personnel shall certify to me the results thereof and shall also certify to me, if it be a fact, that the referendum was conducted in full compliance with all conditions and requirements of Section 218 (d) (6) (C) of the Social Security Act as amended.

This Order shall be effective on the date of publication in the *State Register*.

IN TESTIMONY WHEREOF, I hereunto set my hand this 19th day of January, 1977.



Executive Order No. 137

Writ of Special Election to Fill Vacancy in the Office of Representative in Congress from District 7 within the Counties of Aitkin, Becker, Beltrami, Cass, Clay, Clearwater, Crow Wing, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnommen, Marshall, Morrison, Norman,

EXECUTIVE ORDERS

Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Swift, Todd, Traverse, Wadena and Wilkin, State of Minnesota, and of Special Primary Election to Nominate Candidates for Said Office

To the People of the State of Minnesota and particularly of Congressional District 7 within the Counties of Aitkin, Becker, Beltrami, Cass, Clay, Clearwater, Crow Wing, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnommen, Marshall, Morrison, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Swift, Todd, Traverse, Wadena and Wilkin; to the Secretary of the State of Minnesota; to the County Auditors of the above-named counties; to all Election Officials of said District 7; and to all others who may be concerned — Greetings:

WHEREAS, a vacancy now exists in the office of Representative in Congress from District 7 of the State of Minnesota, caused by the resignation of the Representative, the Honorable Bob Bergland; and,

WHEREAS, a special election to fill said vacancy is necessary;

NOW, THEREFORE, I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, acting under the authority and direction of Minnesota Constitution Art. I, Sec. 2, and Minn. Stat. §§ 202A.61 to 202A.72 (1976), and other relevant statutes do hereby direct:

1. That a special election to fill the vacancy be held in Congressional District 7 on Tuesday, the 22nd day of February, 1977;
2. That a special primary election for the nomination of candidates for the office be there held on Tuesday, the 8th day of February, 1977;
3. That affidavits of candidacy must be duly filed on or before Tuesday, the 1st day of February, 1977;
4. That the notices of this special election and special primary election be given, that the nomination and election of candidates and the conduct of these elections be had and all things pertaining thereto be done as provided by Minn. Stat. §§ 202A.61 to 202A.72 (1976), and other applicable provisions of law.

IN WITNESS WHEREOF, I have hereunto caused the Great Seal of the State to be affixed and have hereunto set my hand at the Capitol in the City of St. Paul, Minnesota this 25 day of January, 1977.



RULES

Department of Health Merit System Procedures

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in *State Register* Vol. 1, No. 11, September 21, 1976 (1 S.R. 416-432) and are published here by reference only as provided in RGSTR 5.

New rule numbers have been assigned subsequent to the printing of these rules.

MHD 200 (new number **264**) **Definitions A. 1-14, 16-44.**
MHD 201 (new number **265**) **Statement of Policy and Means of Effecting Policy— Political Activity**
MHD 204 (new number **268**) **Compensation Plan**
MHD 215 (new number **279**) **Leaves of Absence**
MHD 230 (new number **294**) **Salary Adjustments and Increases**
MHD 250 (new number **314**) **Compensation Plan**
MHD 251 (new number **315**) **Public Health Salary Schedule — Standard Table**

Rules Adopted with Amendments

The following rules are adopted and have been amended from their proposed form as published in *State Register* Vol. 1, No. 11, September 21, 1976 (1 S.R. 418).

MHD 200 (new number **264**) **Definitions A. 15. “Exclusive Representative” [means an employee union, association or group which has been certified by the State Bureau of Mediation] has the meaning given in Minn. Stat. § 179.63, subd. 6.**

Renumeration

Due to the implementation of new Health Department rules, the numbers designating the remainder of the Minnesota Health Department rules as they pertain to the Minnesota Merit System have also been changed as follows:

MHD 202 is now **MHD 266**

MHD 203 is now **MHD 267**

MHD 205 is now **MHD 269**

MHD 206 is now **MHD 270**

MHD 207 is now **MHD 271**

MHD 208 is now **MHD 272**

MHD 209 is now **MHD 273**

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MHD 211 is now **MHD 275**

MHD 212 is now **MHD 276**

MHD 213 is now **MHD 277**

MHD 214 is now **MHD 278**

MHD 216 is now **MHD 280**

MHD 217 is now **MHD 281**

MHD 218 is now **MHD 282**

MHD 219 is now **MHD 283**

MHD 220 is now **MHD 284**

MHD 221 is now **MHD 285**

MHD 222 through 229 reserved for future use is now **MHD 286** through **293** reserved for future use.

MHD 231 is now **MHD 295**

MHD 232 is now **MHD 296**

MHD 233 is now **MHD 297**

MHD 234 through 239 reserved for future use is now **MHD 298** through **303** reserved for future use.

MHD 240 is now **MHD 304**

MHD 241 is now **MHD 305**

MHD 242 is now **MHD 306**

MHD 243 is now **MHD 307**

MHD 244 through **249** reserved for future use is now **MHD 308** through **313** reserved for future use.

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Department of Education State Board of Education Special Classes and Services for Handicapped Children

Chapter Seven: Standards and Procedures for the Provision of Special Education Instruction and Services for Children and Youth Who Are Handicapped

EDU 120 Policies and definitions. [Application. Each year special application shall be filed with the commissioner of education by the administrative officer of the school district for the establishment or continuance of each type of special service or instruction coming within the provisions of Minn Stat. §§ 120.03, 120.17, 124.32, with the exception of classes to be held in hospitals, sanatoriums, or homes, which the district may wish to maintain. Applications for these later exceptions will be given consideration at any time in the order of filing.]

A. Policies.

1. **Provision of full services.** All children and youth who are handicapped and who are eligible for special education services shall have access to free appropriate public education, as that term is defined by applicable law, suited to each child's individual needs including the special education appropriate to his or her development. All school districts shall provide for such education suitable to students' individual needs regardless of the severity of the child's mental, physical or emotional disability, or other impairment or handicap. The responsibility of the school district is not diminished by the availability of nonpublic schools or other services which may be located within the district.

2. **Least restrictive alternative.** To the extent that there are no detrimental effects, children who are handicapped shall be educated with children who do not have handicaps and shall attend regular classes. A handicapped person shall be removed from a regular educational program only when the nature or severity of the handicap is such that education in a regular educational program cannot be accomplished satisfactorily. Furthermore, there must be an indication that the person will be better served outside of the regular program. The educational needs of the person shall determine the type and amount of services needed.

3. **Individualized programs.** All children who are handicapped must be afforded special education services based on an individual educational plan. Such programs need to include an assessment of the student's performance utilizing ~~[[certified]]~~ licensed personnel, a determination of the student's needs in a team process, an identification of appropriate goals and objectives, a selection of teaching strategies designed to enhance learning, delivery of services in an environment which is conducive to learning, and periodic review and evaluation of the performance of the student.

4. **Procedural safeguards.** When a change in the educational placement or special education service of a child is ~~[[anticipated]]~~ proposed, including the assessment and program planning processes, procedural safeguards must be assured by the school district. Parents and guardians, and students when appropriate, have the right to be informed of all significant educational decisions. When a child's parents or legal guardians are not available, the school district shall ~~[[assure the appointment of a surrogate parent]]~~ contact the local county welfare department and request the public welfare system intervene on behalf of the child.

5. **Parental involvement.** Parents of handicapped children have a right to be involved by the school district in the education decision making process. Only by consistent and direct involvement of parents will the school receive sufficient input to design and implement an effective program for the handicapped student. Parents and schools are encouraged to cooperate in an open and objective manner, utilizing periodic conferences when possible so that formal hearings are necessary only when substantive disagreements exist between the parties.

6. **Accountability for instruction and services.** As provided in Minn. Stat. § 120.17, subd. 2, the district of residence is responsible for maintaining an appropriate program for all eligible handicapped persons regardless of the method or location of instruction utilized. However, if the handicapped person lives outside of his district of residence under the provisions of Minn. Stat. § 120.17, subds. 6, 7, the district where the child lives is responsible for providing an appropriate program for the child as set forth in state statutes and these regulations including the notice and hearing provisions. In such cases the district of residence is responsible for assuming the cost of the educational program. If the districts do not agree on the tuition rate, either district may appeal to the commissioner as provided in Minn. Stat. § 120.17, subd. 4. The district shall not purchase

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special educational services for a child from a public or private agency when such service is available or can be made available and can be more appropriately provided as the least restrictive alternative within the district. Whenever it is appropriate for a district to purchase special education service for children who are handicapped and who reside in the district, it continues to be the responsibility of the school district, consistent with the provisions of Minnesota Statutes and these [[regulations]] rules, to assure and ascertain that such children and youth receive the education and related services and rights to which they are entitled.

7. Exclusion and expulsion from school. If it is determined in a pupil fair dismissal act proceeding (Minn. Stat. § 127.26) that the child, by reason of an emotional disturbance or a special behavior problem needs special instruction and services as defined in Minn. Stat. § 120.03, subd. 3, these [[regulations]] rules shall apply.

8. Physical facilities. Physical aspects and specification of schools, classrooms, and other facilities [[for, or likely to]] which will be used by handicapped children, shall be designed to meet their special, physical, educational and emotional needs. To this end, responsible school districts constructing, renovating, or repairing facilities which are intended for or are likely to be used by handicapped children, shall plan, locate, design, construct, equip, and maintain them with due regard for the special capabilities, handicaps, and requirements of the handicapped children to be accommodated therein.

B. Definitions. The following terms used throughout these [[Regulations]] rules shall have the following meanings ascribed to them.

1. "Education" includes the terms "educational service", "educational program", "special education services", and "regular educational program" as they are defined and used herein, and means any appropriate training, instruction, and aids and services designed to further the intellectual, academic, verbal, physical, emotional, cultural, adaptive behavior, sensory, or social development of the student.

2. "Regular education program" means the normal elementary or secondary education environment, including the instruction, training, aids, and services in the classroom or other appropriate places.

3. "Special education services" means any specially designed instruction to meet the unique needs of a handicapped person, including classroom instruction or instruction in the home, hospital, institution, residential facility or other public or private facility providing special instruction and services pursuant to Minn. Stat. §§ 120.17 and 124.32. This term includes, but not by

way of limitation, the education, instruction, training, aids and services and/or ancillary or supplementary and supportive aids and services necessary for the education of handicapped persons. This term also includes, but not by way of limitation, related services such as transportation, and developmental, corrective, and other supportive services including medical and counseling services, except that such medical services shall be for diagnostic or assessment purposes only, as may be required to assist a handicapped person to benefit from special education services. For purposes of this [[regulation]] rule the term also means and includes a "primary placement in a special education program" as that term is defined and used herein; and "special instruction and services", "supplementary services", and "special education program" as those terms are defined and used in Minn. Stat. § 120.17.

4. "Primary placement in a regular education program" means an educational program wherein a regular classroom teacher(s) has the primary responsibility for the student's daily program planning, for parent conferences, and for curriculum content; and where special education staff member(s) play no daily role in the education of the student or where they are providing part-time supporting instruction or services for the student.

5. "Primary placement in a special education program" means an educational program wherein a special education staff member(s) has the primary responsibility for the student's daily program planning, for parent conferences, and for curriculum content; and where regular classroom teacher(s) play no role in the education of the student or where they are providing part-time supporting instruction or services for the student.

6. "Providing school district" means a school district as that term is defined and used under Minn. Stat. § 120.02 which maintains an educational program for the handicapped person.

7. "Resident school district" means the district where the handicapped person's parent or guardian resides or the district designated by the commissioner as provided in Minn. Stat. § 120.17, subds. 8, 8a.

8. "Special education facility" means a school or any portion thereof, supplemental facility, or any other building or structure or part thereof, intended for use of or likely to be used in meeting the educational and related needs of handicapped children.

9. "Handicapped persons" includes the term "student," and "child" or "person" and means those "handicapped children" as defined by Minn. Stat. § 120.03 and amendments or supplements thereto. De-

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termination of a handicapping condition shall be made by qualified personnel in accordance with recognized professional standards and consistent with the provisions of EDU 124 and 125. These [[regulations]] rules shall not apply to [[pregnant girls]] persons receiving home or hospital instruction unless they have a present-ing handicapping condition as described above.

10. "School age" means the age of four to twenty-one years for persons who are deaf, blind, crippled, or have speech defects and the ages of five to twenty-one years for other handicapped persons, in accordance with Minn. Stat. § 120.17, subd. 1 and amendments or supplements thereto. As of August 15, 1977 school age shall mean ages four to twenty-one years for all handicapped persons.

11. "Least restrictive alternative" means the principle that to the maximum extent appropriate, handi-capped persons, including those in public or private in-stitutions or other care facilities, are educated with per-sons who are not handicapped, and that special classes, separate schooling, or other removal of handicapped persons from the regular educational environment shall occur only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of special education services cannot be achieved satisfactorily. Furthermore, there must be an indication that the person will be better served out-side of the regular program. For the purposes set forth therein this principle shall include the following "Con-tinuum of Placement Model";

"Continuum of Placement Model"

Level 1. Students in regular classrooms functioning appropriately without any special education services. This level includes assessment services, monitoring, ob-servation and follow-up.

Level 2. Students with handicaps functioning ap-properly in the regular education program with the assistance of special education supportive services being provided to the classroom teacher.

Level 3. Students with handicaps functioning ap-properly in a primary placement in a regular educa-tion program, but needing direct service assistance from special education personnel.

Level 4. Students with handicaps functioning ap-properly with a primary placement in a special educa-tion program.

Level 5. Students with handicaps functioning ap-properly in a primary placement in a special educa-tion program at a nonresidential school for children and youth who are handicapped.

Level 6. Students with handicaps functioning ap-properly in a primary placement in a special educa-tion program at a residential facility for children and youth who are handicapped.

12. "Formal educational assessment," referred to in these [[regulations]] rules also as an "assessment," is defined as an individual evaluation, conducted in ac-cordance with recognized professional standards and the provisions of EDU 124, of a person's performance and/or development for the purpose of determining the need for initiation or change in his or her educational program including special education services.

13. "Parent" or "parents" include a biological mother or father, an adoptive mother or father, a legally appointed guardian, or such agency or other person ap-pointed pursuant to EDU 123. All rights and respon-sibilities as provided herein belong to a person when the person is 18 years of age, unless the person is under legal guardianship.

14. "Recognized professional standards" means reasonable principles and concepts accepted by acknowl-edged experts that bear a direct relation to the particu-lar needs of the student.

15. "Days" and "months" shall be construed to exclude Saturdays, Sundays, and days school is not in session unless otherwise provided herein.

16. Non-discrimination for purposes of this [[regulation]] rule means the requirement that school districts shall:

a. not discriminate in any manner in the full utilization of or benefit from any educational institution of the services rendered thereby because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability and otherwise comply with the provisions of Minn. Stat. ch. 363.

b. provide procedures that insure that in ac-cordance with recognized professional standards, testing and evaluation materials and procedures utilized for the purposes of identification, assessment, classification,

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educational program plan development, educational placement including special education services, program implementation, review and evaluation, notice and hearing are selected and administered so as not to be discriminatory including cultural discrimination. All such procedures and materials shall take into account the special limitations of handicapped persons and the racial or cultural differences presented by persons and must be justified on the basis of their usefulness in making educational program decisions which will serve the individual student.

17. "Proposed action" for purposes of this [[regulation]] rule shall be construed to mean a providing school district's proposed initiation or change or refusal to initiate or change a child's educational placement or special education services as set forth in EDU 125 E. or an educational assessment or reassessment as set forth in EDU 124 B.

18. "Individual educational program plan" referred to in these [[regulations]] rules also as a "program plan," means a written statement for each handicapped person setting forth the person's educational needs and the educational program, including special education services, to be provided to such person. The program plan shall be developed in accordance with and contain the information required by EDU 125.

19. "Public, private or voluntary agencies" for purposes of this [[regulation]] rule includes organizations which provide services to preschool and/or school age children. Public schools are not included in this definition.

EDU 121 Application. [Eligibility and approval. The eligibility of each pupil for special services and instruction shall be determined by the administrative officer of the school district, prior to admission, on the basis of substantial and competent evidence of need for such service or instruction; and final approval of each pupil enrolled in the special education program shall be made by the commissioner of education based on an examination of the record of evidence for each pupil. These records shall be submitted by the school district to the commissioner by such date as he may set.]

A. District special education plan. On or before September 1, 1977, each district shall submit to the commissioner the district's plan for providing special instruction and services for all handicapped pupils as required by Minn. Stat. § 120.17. The plan may represent the plan of a single district or a plan for all of the member districts of a formal special education cooperative. The plan shall be considered as part of the annual school district application for program review, but will not be required to be resubmitted annually. The plan shall include descriptions of:

1. the district's study procedures for the identification and assessment of handicapped pupils.

2. the district's methods of providing the special instruction and services for the identified handicapped pupils.

3. the district's administration and management plan to assure effective and efficient results of 1 and 2 above.

4. procedures to assure compliance with state statutes and [[regulations]] rules relating to the education of handicapped pupils.

B. On or before January 1, 1978, the commissioner shall approve or implement appropriate procedures for modification of the district plan. The commissioner may grant the district a reasonable period of time to make necessary modifications of the plan provided that the commissioner has satisfactory assurances of compliance with standards for the education of handicapped pupils.

C. Annual application for programs and budget.

1. Regular school term. On or before May 1 of each year school districts shall submit to the commissioner an annual application for program and budget approval necessary for determining the special education aids during the next school year. On or before July 1 the commissioner shall approve, disapprove, or modify each application and notify each applying district of his action and the estimated level of education aid to be paid.

2. Summer school term. On or before March 15 districts shall submit separate applications for program and budget approval for summer school. The commissioner shall approve, disapprove, or modify each application and notify the district of his action and the estimated level of special education aid by May 1.

3. Amendment to applications. School districts shall apply to amend applications as needed during the school term to reflect program and budget changes necessary to meet the changing needs of handicapped pupils in the district.

D. A district may request a variance from the standards provided in EDU 122 by submitting supportive rationale in the application. The commissioner shall review this request for variance from standards in accordance with recognized professional standards and shall inform the district of the decision.

EDU 122 [Standards for State Aid] Facilities, staff, and supervision.

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A. Facilities.

1. Housing space. Housing space for each class shall be adequate.

2. Equipment and materials. Each special class and group shall be supplied with the necessary special equipment and instructional materials [[as approved by the Commissioner]].

B. Staff.

1. Teachers. Every teacher who teaches a special class must hold a special class [[Certificate]] license appropriate to the type of handicapped children she or he is teaching.

2. Administrators and supervisors. Every administrator and supervisor of any special education program shall hold appropriate [[certification]] licensure.

3. Other professional or essential personnel. The qualifications of other professional or essential personnel who are not [[certified]] licensed teachers, administrators or supervisors shall [be approved by the commissioner of education based upon a record of qualifications to be submitted by the school district by such date as the commissioner may set.] **be based upon recognized professional standards and documented by the school district in their application as provided for in EDU 121. The commissioner or his designee shall review requests for approval of such personnel assigned to programs for handicapped children.**

4. Special and vocational education. Staff responsible for vocational training of handicapped students shall meet the following criteria if the program is to qualify for special educational approval.

a. Coordinator of special needs.

(1) [[Certification]] Licensure in special education.

(2) [[Certified]] Licensed as a coordinator of special needs in vocational education.

b. Support service manager.

(1) [[Certification]] Licensure in any special education disability area.

(2) [[Certified]] Licensed as a support service manager in vocational education.

c. Vocational instructor of special needs students.

(1) [[Certification]] Licensure in the appropriate disability area of special education or have a plan for working toward [[certification]] licensure.

(2) [[Certified]] Licensed as a vocational instructor of special needs students in vocational education.

d. Teacher/coordinator of work experience.

(1) A special education [[certificate]] license appropriate for the type of handicapped students being taught.

(2) [[Certified]] Licensed as an instructor/coordinator for work experience in vocational education.

e. Teacher/coordinator of vocational education work experience.

(1) **Must be coordinated with a special education director or coordinator/lead teacher [[certified]] licensed for the type of handicapped students being taught.**

(2) Must be working cooperatively with a special education [[certified]] licensed teacher who is responsible for the nonvocational instruction.

(3) [[Certified]] Licensed as an instructor/coordinator for work experience in vocational education.

f. Vocational evaluator.

(1) [[Certified]] Licensed as a vocational evaluator in vocational education.

(2) Working cooperatively with special education [[certified]] licensed personnel to insure that special consideration is related to the students handicapped condition are included in the evaluation and program plan.

g. Vocational technical tutor.

(1) [[Certified]] Licensed as a technical tutor in vocational education.

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(2) Working cooperatively with a special education [[certified]] licensed teacher who is responsible for the nonvocational academic area of instruction.

C. [Instruction] Staff to student ratios.

[(1) The courses, methods of instruction, and size of classes shall be consistent, in the commissioner's judgment, with good educational practices for each type of handicapped children.]

[(2) The most recent curriculum guides for elementary and secondary schools issued by the state department of education shall be used as a basis for materials of instruction insofar as these guides are appropriate and adaptable.]

1. When persons are in need of special education services in level 5 or 6 of the "Continuum of Placement" model where the primary placement is in a special education program such as a full time class, special station, special school or residential school, the staff to student ratio shall not exceed:

a. one teacher for each 8 handicapped persons for all categories except as provided in b.

b. one teacher for 6 handicapped persons who are autistic or who are deaf/blind providing that two management aids are employed to assist the teacher.

2. When persons are in need of special education services in level 4 of the "Continuum of Placement" model where the primary placement is in a special education program such as a resource room or part-time special class the staff to student ratio shall not exceed:

a. one teacher for every 15 handicapped persons for all categories except as provided in b.

b. one teacher for every 8 handicapped persons who are trainable mentally retarded or visually impaired.

3. When persons are in need of special education services in level 3 of the "Continuum of Placement" model where the primary placement is in a regular education program, such as a resource room or special class, the staff to student ratio shall not exceed:

a. one teacher for every 15 persons for all categories except as provided in b.

Each person must receive special education service for a minimum of one hour per day. When the needs of the student warrants such action, persons may receive less than one hour per day during the initial or phase out stages.

b. one teacher for every 40 persons who are speech and/or language impaired.

4. When persons are in need of special education services in level 1 or 2 of the "Continuum of Placement" model where the student is full time in a regular education program and the special education teacher provides consultation and indirect service to the regular classroom teacher and/or assessment, monitoring or follow-up of the student, the staff to student ratio shall not exceed:

a. one teacher for every 30 persons who are handicapped except as provided in b.

b. one teacher for every 60 persons who are speech impaired.

5. Whenever a professional is serving children representing a range of severity of problems, is providing more than one level of service, or is providing service at more than one site, the staff to student ratios shall be adjusted accordingly.

6. When persons are receiving services from vocational staff involved in "special and vocational" programs except as provided in EDU 122 B. 4. d, the staff to student ratios of the "Continuum of Placement" model do not apply to that staff.

D. Supervision. Supervision consistent with the commissioner's recommendations and meeting the following standards shall be provided for each type of special education program.

1. Overall supervision.

a. Full time supervision. The school board in every district with an enrollment of 15,000 or more pupils, and in every district in which 20 or more full time professional personnel are employed in the special education program, shall employ or designate a qualified person, under an appropriate title, to devote full time to directing the special education program.

b. Part time supervision. The school board shall employ or designate a qualified person to devote part time to directing the special education program when

(1) the enrollment in the school district is 7,500 or more pupils but less than 15,000 pupils; or

(2) the number of full time personnel employed in the special education program is at least 10 but less than 20.

This position shall be reimbursable when the person direct-

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ing the program on a part time basis spends the remainder of his time in some area of special education.

School authorities of districts that are required to meet the standard for part time supervision shall consult periodically with the special education section in regard to full time supervision.

c. Other. School boards of districts not required to have full time or part time supervision as outlined above shall study the feasibility of cooperative interdistrict sharing of special education supervisory personnel or some other approach aimed at providing direction to the program. See item 4 following.

2. Individual program supervision.

a. For the following disability categories or areas:

(1) deaf and hard of hearing,

(2) crippled,

(3) visually impaired,

(4) emotional[ly disturbed] **disturbance, learning disability, or special behavior problems.**

The board of every school district in which 15 or more full time professional personnel are employed in any one of the above disability areas shall employ or designate a full time person to supervise the program in that area.

The board of every school district in which less than 15 but 5 or more professional personnel are employed in any one of the above disability areas shall consult with the special education section and make provisions for supervision of the program in that area.

b. For the mentally retarded.

The school board in every district in which 30 or more full time professional personnel are employed in the above disability area shall employ or designate a full time supervisor of the program in that area.

The school board in every district in which less than 30 but 10 or more professional personnel are employed in the above disability areas shall consult with the special education section and make provisions for supervisions of the program.

c. The school board in every district in which speech therapists are employed in the special education program shall submit a plan which will describe and provide appropriate amounts of time for program development, program coordination, program evaluation, in-service training, and individual supervision.

d. For the following service areas: school social work, and school psychology:

(1) The school board in every district in which Level 1 personnel in either the social work or psychology program are employed for special education programs shall submit a plan which will describe and provide appropriate amounts of time for each Level 1 person for individual observation, performance evaluation, consultation, and in-service training by a [[certified]] **licensed** Level 2 person from the respective field.

(2) The school board in every school district in which Level 2 personnel in either the social work or psychology area are employed in the special education program shall submit a plan which will describe and provide appropriate amounts of time for program development, program coordination, program evaluation, in-service training, and individual supervision.

e. The school boards of two or more districts may cooperatively employ and share supervisory personnel. See item 4 following.

f. Supervision of programs in any of the aforementioned disability areas shall be provided at both the elementary and secondary level.

3. Cooperative inter-district agreements.

a. Two or more school districts may enter into an agreement to provide supervision of programs for handicapped children, provided that none of the participating districts is required, as outlined in items (1) and (2) above, to employ such supervisory personnel on a full time basis.

b. When a group of districts enter into such cooperative agreement, one of the participating districts shall serve as the employing unit.

Each participating district shall pay to the employing district a prorata amount of the net costs of providing such supervisory services. The net cost to be prorated shall be the actual cost less state reimbursement.

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State reimbursement for the cost of such services shall be paid to the employing district.

4. The school board of any district unable to comply with the above [[regulations]] **rules** shall consult with the special education section.

[(e) Extent of services. The extent of services provided by special education personnel shall be determined by the kind and severity of the handicaps of the pupils, and shall be consistent with the commissioner's recommendations for each type of handicapped children.]

[(f) Records and reports. A complete pupil record of each child consistent with the commissioner's recommendations shall be kept in the office of the administrative officer of the school. This information shall be available for interpretation to the professional school personnel, to the state supervisory staff, and to the parents or guardian of the pupil.]

[(g) Parent consultation. Provision shall be made for offering early parent consultation in all cases of handicapped children requiring any evaluation which goes beyond the routine individual intelligence test and group surveys and screening procedures. Extreme care is to be exercised in the selection and use of instruments and procedures.]

E. [(h)] School day. Deviations from the normal school day for any type of handicapped children shall be approved by the commissioner of education.

EDU 123 [State Aid or Reimbursement]

(a) State aid or reimbursement to school districts which have established special classes in accordance with required standards shall be paid in accordance with the applicable provisions of Minn. Stat. § 124.32, and all claims submitted shall be postmarked no later than June 30 after the close of the school term in order to qualify for payment at the regular time.

(b) Reimbursement shall be granted only for approved items of equipment and supplies needed in classes or programs for handicapped children.

(c) Summer programs for handicapped children for which reimbursement aid is to be claimed shall meet the approval of the commissioner of education.]

Surrogate parents. When a child is the ward of the commissioner of public welfare, when the parent or guardian is unknown or unavailable, or when parental rights have been terminated, the district shall insure that the rights of the child to a free and appropriate education are protected by contacting the local county

welfare department and requesting that the public welfare system intervene on behalf of the child. The district shall suggest to the local county welfare system that a contact with the county attorneys office be made to determine whether a guardian ad litem should be appointed.

EDU 124 Identification and assessment procedures.

A. Identification of handicapped children.

1. School districts shall develop systems for locating all children residing within their jurisdiction who may be handicapped. Those systems shall be designed to identify:

a. preschool age handicapped children;

b. handicapped persons attending school;

c. handicapped persons of school age who are not attending any school.

2. The districts identification system shall be developed in accordance with the requirement of non-discrimination.

B. Formal educational assessment.

1. An assessment:

a. must be conducted when because of a person's performance in the present educational placement or presenting handicapping conditions, he or she is thought by the school district to be in need of possible initiation or change in the student's educational placement or program or special education services as set forth in EDU 125 E which will provide an educational program, including special education services appropriately suited to the person's needs.

b. must be conducted at least every two years as required by EDU 126 B.

c. may be conducted if the parent requests.

2. Prior to conducting an assessment the district shall:

a. review the screening, referral or other data about the person and select [[certified]] **licensed** special education personnel and others as appropriate to conduct the assessment.

b. include on the assessment team [[certified]] **licensed** special education personnel and others who may

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have the responsibility for implementing the educational program for the person.

c. conduct the educational assessment preferably at the school which the person attends. When the district determines that the assessment or a portion of the assessment cannot be performed utilizing the personnel resources of the district, the district shall make arrangements elsewhere for that portion of the assessment and shall assume all costs for such assessment.

d. conduct the assessment within a reasonable period of time not to exceed 30 days after the need for an assessment is determined by the district unless a conciliation conference or hearing is requested by the parent.

4. The assessment must reflect the person's current level of performance and shall:

a. be appropriate to the presenting problem and may include observation, evaluation, and testing of the persons intellectual, academic, verbal, emotional, adaptive behavior, sensory, physical, and social development.

b. include a review of the person's learning environment and learning modes. When the team determines it to be necessary because of racial, cultural, or other differences presented by the person or due to the nature of the student's presenting handicapping condition they shall make reasonable efforts to obtain information from the parents relating to the student's functioning in his or her total environment.

c. be provided and administered in the person's primary language or mode of communication unless it clearly is not feasible to do so.

d. be performed in accordance with recognized professional standards which include recognition or accommodation for persons whose differences or conditions cause standardized instruments to be invalid and otherwise in accordance with the requirements of non-discrimination.

5. Notice before assessment:

a. must be provided in accordance with the provisions of 127 B. prior to conducting a formal educational assessment or reassessment or when the district refuses a parents request to conduct a formal educational assessment or reassessment. In case of refusal the notice shall be served within ten days after the refusal.

b. is not required for actions which are components of the districts identification system including large group screening, individual student observation within the regular classroom, informal inventories, and consultation between regular and special education personnel.

EDU 125 Team determination and program needs determination. Development and content of the individual education program plan.

A. Team and program needs determination. Following the assessment, in order to determine if the person is in need of special education services, the district shall:

1. designate a team of persons responsible for determining the educational needs of the student which, at a minimum, shall include a school administrator or designee, the student's regular classroom teacher, appropriate special education personnel, other support personnel, the parent, and when appropriate, the student.

2. organize the assessment data and other relevant information and reports, including information supplied by the parents, review that data and determine the student's educational needs.

3. interpret the data consistent with the requirement of non-discrimination.

4. upon request of the parent, determine whether it is appropriate to involve additional staff or other persons on the team including someone who is a member of the same minority, as that term is defined in Minn. Stat. § 126.021, or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student.

5. schedule the student staffing at a time and place that is mutually acceptable to the school and parents; the district shall proceed if the parents do not respond to the request to participate.

B. Development and content of the individual education program plan. The development of the program plan must:

1. be prepared, in writing, by the providing district for each person in need of special education services. When the providing district is not the resident district, a copy of the program plan shall be sent to the resident district.

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2. be developed in accordance with the requirement of non-discrimination, the principle of the least restrictive alternative, and recognized professional standards.

3. be based on the assessment data and other relevant reports and information.

4. be prepared, in writing, by the resident district when contracting for special education services from a public, private or voluntary agency.

C. Content of the individual educational program plan. The program plan must be based on the assessment data and other information and be consistent with the requirement of non-discrimination and the principle of least restrictive alternative and must include:

1. a description of the special education service needs of the student as determined by the staffing team and the names of the persons on the team.

2. a statement of annual goals and periodic review objectives for the special education services including the criteria for attainment.

3. the plan for, location of, and frequency of periodic review of the progress in reaching the prescribed educational goals and objectives.

4. the reasons for the type of education placement and program including type of special education services to be provided, the location, amount of time, starting date, anticipated special education service duration, names and school telephone numbers of those personnel responsible for providing the special education services. In accordance with the principle of least restrictive alternatives, substantiate why the proposed action is the most appropriate in terms of the persons educational needs.

5. the changes in staffing, transportation, facilities, curriculum, methods, materials, and equipment and other educational services that will be made to permit successful accommodation and education of the student in the least restrictive alternative.

6. a description of the educational activities in which the student will participate in environments which include non-handicapped students. This provision must be included in the plan only when the student's primary placement will be in a special education program.

D. At the request of the parent, the district shall schedule an individual conference with a knowledgeable school employee for the purpose of receiving interpretations of the assessment or reassessment data or proce-

dures or for the purpose of explaining the individual educational plan or its development.

E. Notice to parents after completion of the program plan and prior to placement. Notice in accordance with the provisions of EDU 127 C. is required whenever the providing school district proposes to initiate or change or refuses to initiate or change the level of educational placement [[or]] as defined in the Continuum of Placement Model, or proposes to initiate or significantly change or refuses to initiate or significantly change the special education services for the child. For the purposes of this [[regulation]] rule the terms initiate or change shall be construed to include the proposals set forth in Minn. Stat. § 120.17, subd. 3b (c) (2), (3), (4), and (5). The notice shall be served prior to the initiation or change or refusal to initiate or change the educational placement or special education services for the child. The notice shall be served within ten days after completion of the program plan and/or the refusal to initiate or change.

EDU 126 Periodic reviews, reassessment and follow-up.

A. Periodic reviews.

1. The providing school district shall conduct periodic reviews of the program plan and shall determine:

a. the degree to which the periodic review objectives as identified in the educational program plan are being achieved.

b. the appropriateness of the educational program plan as it relates to the student's current needs.

c. what modifications, if any, need to be made in the program plan.

2. The initial review shall be made at the time specified in the program plan, but at least twice a year following placement.

3. These periodic reviews shall be made by those persons directly responsible for implementing the educational program and by other school district agents as may be needed to insure an informed and adequate review.

4. The results of such periodic reviews shall be included in the student's school records and a copy sent to the parent and to the resident district if different from the providing district. This copy shall inform the parents or the resident district that they may request a conference to review the student's program plan at any time and the procedure to do so.

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5. The reviews shall be made in accordance with the requirements for non-discrimination and recognized professional standards.

B. Requirements for reassessment. When a student is continued in his or her primary placement in a special education program, the providing district shall conduct an educational reassessment according to the procedures specified in EDU 124 B., at least once every two years.

C. Requirements for follow-up review. The responsible school district shall conduct a follow-up review of the student's current performance no later than twelve calendar months after special education services are discontinued to determine if progress is satisfactory.

EDU 127 Formal notice to parents.

A. General notice provisions.

1. The notice shall be in writing and shall be served on the parent.

2. Every effort shall be made by the providing school district to assure that no person's rights are denied for lack of a parent, or surrogate parent, or duly appointed guardian.

3. The notice shall be written in the primary language of the home and in English, and the district shall make reasonable provisions for such notice to non-readers and non-English speaking persons necessary to insure that the information contained in the notice is understood.

4. For parents who are handicapped persons because of a hearing, speech, or other communication disorder, or because of the inability to speak or comprehend the English language as provided in Minn. Stat. § 546.42 the school district shall cause all pertinent proceedings, including but not limited to the conciliation conference, the pre-hearing review, the hearing, and any appeal to be interpreted in a language the handicapped person understands by a qualified interpreter as provided in Minn. Stat. § 546.42.

5. The notice must be sufficiently detailed and precise to constitute adequate notice for hearing of the proposed action.

6. The resident school district, if different from the providing school district, shall receive notice of and may

be a party to any hearings or appeals provided herein if the district notifies the parent and the providing school district of its intention to be a party within seven days of receipt of notice of the hearing from the providing school district.

B. Prior to the performance of or refusal to perform a formal education assessment or reassessment as provided for in EDU 124 B., the providing school district shall prepare and serve a notice which shall:

1. Include the reasons for assessment or the refusal to assess and how the results may be used;

2. Include a general description of the procedures to be used;

3. State where and by whom the assessment will be conducted;

4. Inform the parents of their right to review and receive copies of all records or other written information [[related to the assessment;]] regarding their child in the school's possessions;

5. Inform the parents of their right and the procedure and time for them to participate as a team member in developing and determining their child's educational program, including special education services and/or to provide information relative to his or her assessment and the development of the program plan;

6. Inform the parents of their right and the procedure and time to receive interpretations of assessment or reassessment procedures, instruments and data or results and of the program plan from a knowledgeable school [[district]] employee and for that conference to be held in private;

7. Inform the parents of their right and the procedure and time to have included on the team that interprets the assessment data and/or develops the individual program plans, such person(s) described in EDU 125 A including a person who is a member of the same minority (as defined in Minn. Stat. 126.021) or cultural background or who is knowledgeable concerning the racial, cultural, or handicapping differences of the student;

8. Inform the parents that they may obtain an independent assessment at their own expense.

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9. Inform the parents that the district will proceed with the proposed action unless the parent objects on the enclosed "response form" or otherwise in writing within ten days after receipt of the notice;

10. Inform the parents that if they object to the proposed action in writing a conciliation conference will be held at a mutually convenient time and place, but that if the parent refuses to attend the conference the school district will proceed with the proposed action;

11. Inform the parents that if the parent still objects to the proposed action after the final conciliation conference they have a right to voice that objection at an informal due process hearing.

12. Inform the parents that they have the right to be represented by counsel or another person of their choosing at the conciliation conference or the informal due process hearing.

13. A statement assuring that their child's educational program will not be changed as long as the parent objects to the proposed action, in the manner prescribed by these [[regulations]] rules.

14. [[(13)]] Include a "response form" on which the parent may indicate their approval of or objection to the proposed action and identify the district employee to whom the "response form" should be mailed or given and to whom questions may be directed;

C. Prior to the initiation or change or the refusal to initiate or change a child's educational placement or special education services, as set forth in EDU 125 E. the providing school districts shall prepare and serve a notice which shall:

1. Include a copy of the individual educational program plan as described in EDU 125 C.;

2. Inform the parents of their right and time and procedure to request and to receive interpretations of assessment or reassessment procedures, instruments and data and of the program plan from a knowledgeable school district employee and for that conference to be held in private;

3. Inform the parents that they may obtain an independent educational assessment at their own expense.

4. Inform the parents that the school district will proceed with the proposed action unless the parent objects in writing on the enclosed "response form" or otherwise to the proposed action within ten days after receipt of the notice;

5. Inform the parents that if they object to the proposed action, a conciliation conference will be held at a mutually convenient time and place but that if the parent refuses to attend the conciliation conference the school district will proceed with the proposed action;

6. Inform the parents that if they still object to the proposed action after the final conciliation conference that they have a right to voice that objection at an informal due process hearing.

7. Include a statement assuring that the student's educational program will not be changed as long as the parents object to the proposed action in the manner prescribed by these [[regulations]] rules;

8. Include a "response form" on which the parent may indicate their approval of or objection to the proposed action and identify the district employee to whom the "response form" should be mailed or given and to whom questions may be directed.

EDU 128 Conciliation conference.

A. When a conciliation conference must occur. If the parent does not object in writing, to a proposed action as set forth in EDU 124 B. or EDU 125 E., within ten days after receipt of the notice, the proposed action shall take place. If such written objection is made, the providing school district shall arrange for a conference with the parent for the purpose of reviewing the reasons for the proposed action and conciliating the matter. The conference shall be held at a time and place mutually convenient to the parent and the school district representatives and shall be held within ten days after receipt of the written objection. There may be more than one such conference and the parent may not request a hearing under EDU 129 A. until at least one conciliation conference has been held.

B. Memorandum. Within seven days of the final conciliation conference the providing district shall serve the parent with a written memorandum which shall inform the parent:

1. of the school districts proposed action following the conference;

2. that if they continue to object to the proposed action they have a right to object to the proposed action at an informal due process hearing and the procedure and time in which to do so, including a "request form" on which the parent may request the hearing, and the identification of the district employee to whom the written request form or other written request for hearing should be mailed, and to whom questions and legal

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documents or requests relating to the hearing may be directed;

3. that if they do not request a hearing on the written "request form" or otherwise in writing pursuant to EDU 129 A. within seven days after receipt of the notice, the district will proceed with the proposed action;

4. that if they request a hearing on the written "request form" or otherwise in writing that they will receive a notice describing the rights and procedures available to them relative to the hearing;

C. If no such written request is made after the final conciliation meeting, the proposed action shall take place.

EDU 129 The hearing.

A. When a hearing must be held. A hearing regarding a proposed action as set forth in EDU 124 B., or EDU 125 E. shall be held not later than thirty (30) days, unless continued pursuant to the mutual agreement of the parent and school district(s) after the providing district receives the parents' request for a hearing. This request must be in writing and must be made within seven days after the parents' receipt of the written memorandum pursuant to EDU 128 B. Provided however, that no parent shall have a right to request a hearing unless at least one conciliation conference has been held pursuant to EDU 128 A.

B. Notice.

1. Written notice of the time, date and place of all hearings shall be given to all parties by the providing district at least ten days in advance of such hearings; and the hearing shall be held at a time, date, and place mutually convenient to all parties.

2. Within five days of receipt of the parent's written request for a hearing the providing school district shall serve the parent with a written notice of rights and procedures relative to the hearing which shall inform the parent:

a. that at the option of the school board, the hearing shall take place: (1) before the school board or its designee; (2) a person mutually agreed to by the school board and the parent; or (3) a person appointed by the commissioner;

b. that they will receive notice of the time, date

and place of the hearing at least ten days in advance of the hearing which will be held within thirty days after the written request;

c. inform the parent of their right or responsibility:

(1) to be represented in preparation of and at the hearing by legal counsel or other representative of their choice.

(2) in accordance with laws relating to confidentiality to examine and receive copies of the child's school records before the hearing, including tests, assessments, reports, or other information concerning the educational assessment or reassessment upon which the proposed action may be based;

(3) to call their own witnesses and to present evidence, including expert medical, psychological, and educational testimony and relevant records, tests, assessments, reports, or other information;

(4) to request the attendance of any official or employee of the providing or resident school district or any other person, who may have evidence relating to the proposed action and the manner and time in which to do so;

(5) to cross examine any employee of the school district(s) or other persons who present evidence at the hearing;

(6) within five days after written request to receive from either the school district(s) a list of persons who will testify on behalf of the district concerning the proposed action;

(7) within five days after written request by the school district(s) to provide to the district(s) a list of persons who will testify on the parent's behalf concerning the proposed action;

(8) at least [[3]] five days prior to the hearing, to receive from the providing or resident school 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; and that if such material allegations [[may not be considered at the hearing if they]] are not so disclosed, it shall be left to the discretion of the person conducting the hearing to de-

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termine if those material allegations may be introduced or considered.

d. that at the hearing the burden of proof is on the school district to show that the proposed action is justified on the basis of the child's educational needs or his or her current educational performance, or presenting handicapping conditions 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. that a record will be kept of the hearing and will be made available at cost to the parent if the decision is appealed by the parent;

f. that the person conducting the hearing will make a written decision based only on evidence received and introduced into the record at the hearing within five days following 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 child being removed from regular education program may be sustained only when, and to the extent the nature or severity of the handicap is such that a regular education program would not be satisfactory and the child would be better served in an alternative program. Consideration of alternative educational programs must also be given.

g. that the decision of the person conducting the hearing may be reviewed by the school board, at its option, within ten days following [[the hearing;]] the hearing officer's decision;

h. that the written review decision of the school board must occur within five days of the review and must be based on the standards set forth in d. and f.;

i. that the decision of the hearing officer may be appealed to the commissioner;

j. that the student's education program will not be changed, as long as the parents object to the proposed action in the manner prescribed by these [[regulations]] rules, or until after the decision is finally made at the hearing; or an appeal.

C. Hearing officers. At the option of the school board, the hearing shall take place either before the school board; or (1) its designee, (2) a person mutually agreed to by the school board and the parents; or (3) a person appointed by the commissioner. The school board shall exercise its option and a person to conduct the hearing must be selected at least [[five (5) days]] ten days prior to the hearing. The parties by agreement may continue the time and date of the hearing for not more

than ten days for the purpose of mutually agreeing to a person to conduct the hearing. All expenses of the hearing, except for the parents' and resident school district's attorney's fees or other expenses incidental to the parents or resident school district participation in the hearing, shall be paid by the providing school district.

D. Prehearing review by the hearing officer.

1. Five days prior to the hearing, the person(s) conducting the hearing shall receive copies of:

a. the providing school district's notice(s) and memorandum prepared pursuant to EDU 128 B. to the parents;

b. written information concerning the providing school district's educational assessment or reassessment and copies of any parties' tests, evaluations, or other admissible reports or written information relating to such assessment or reassessment, or the proposed action;

c. a copy of the student's current and proposed individual educational program plan; and

d. such other information from the school district(s) or parent as the hearing officer may have requested at a prior date provided that a copy of such information is provided to all parties, and further provided that such information is made a part of the hearing record.

e. the provisions of b. and c. need not apply when the hearing concerns a proposed action as set forth in EDU 124 B.

2. Upon receipt of the information set forth in 1 above, the person conducting the hearing;

a. shall review the same for compliance with these [[regulations]] rules;

b. may at his or her discretion, meet with the parties together prior to the hearing;

c. may require the providing school district to perform an additional educational assessment or reassessment;

d. may require the providing school district to propose an alternative individual educational program plan;

e. may require the providing school district to send additional notice to the parents;

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f. may do such additional things necessary to achieve compliance with these ~~[[regulations]]~~ rules;

g. may postpone the hearing for up to 15 days to achieve the purposes of this paragraph.

E. Hearing rights of the respective parties.

1. The hearing shall be closed unless the parent requests an open hearing or if the hearing takes place before the school board.

2. The parties shall have the right to representatives of their own choosing, including legal counsel.

3. At a reasonable time prior to the hearing, the parent or their representative(s), as the case may be, shall be given access to all of 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 or reassessment, conducted pursuant to EDU 124 B. upon which the proposed action may be based.

4. At least ~~[[three (3)]]~~ five days prior to 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 EDU 127 B. or C. or 128 B. ~~[[. Any]]~~ and that if such material allegation or information relating thereto~~[[, which is]]~~ are not so disclosed, ~~[[shall not be introduced or considered at the hearing.]]~~ it shall be left to the person conducting the hearing to determine if those material allegations may be introduced or considered.

5. Within five days after written request any party shall receive from the other parties a list of witnesses whom may be called to testify at the hearing. Such list must be filed with the person(s) conducting the hearing. Such lists may be modified at any time but each party should be notified immediately if possible.

6. All parties or their representatives, as the case may be, shall have the right to request the attendance of any employee of the school district(s), or any other person who may have evidence relating to the proposed

action, and to confront, and to cross examine any such witness. Any such request must be made to the appropriate school district or to the person whose attendance is requested at least ~~[[three (3)]]~~ five days in advance of the hearing. Such written requests shall also be filed with the person(s) conducting the hearing at the time of hearing.

7. Evidentiary standards~~[[, rules and regulations]]~~ regarding contested cases as specified pursuant to Minn. Stat. ch. 15 shall apply.

8. 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, he or she may continue the hearing for not more than ten days, for the purpose of obtaining the attendance of such witnesses or considering such alternative programs and opportunities. The parties' right to cross examination and confrontation and other applicable rights and procedures set forth herein shall continue and be given full force and effect.

F. Hearing procedures.

1. The person conducting the hearing shall preside over and conduct the hearing and shall rule on procedural and evidentiary matters, and his or her decision shall be based solely upon the evidence introduced and received into the record.

2. The school district(s) shall bear the burden of proof as to all facts and as to grounds for the proposed action.

3. One purpose of the hearing is to develop evidence of specific facts concerning the educational needs, current educational performance, or presenting handicapping conditions of the person as it relates to the need for the proposed action. Consistent with the rights and procedures set forth herein, nothing in these ~~[[regulations]]~~ rules shall limit the right of the person conducting the hearing to question witnesses or request information.

4. A ~~[[verbatim stenographic]]~~ tape recording, stenographic record, or other record of the hearing shall be made, and if an appeal is filed pursuant to EDU 129

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while ~~[[double brackets]]~~ indicate matter stricken from proposed rules. Existing material is printed in standard type face.

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H., the hearing shall be transcribed by the providing school district and shall be accessible to the parties involved within five days of the filing of the appeal. Provided however, for appeals of local decisions issued by school boards or their designees concerning proposed actions as set forth in EDU 129 H. 2. a, no written transcript shall be made if the parent requests a chapter 15 due process hearing pursuant to EDU 129 H. The record or transcription, as the case may be shall, upon request, be made available to the parent or their representative.

G. The local decision. Within five days after the hearing, the person(s) conducting the hearing shall prepare a written decision. Such decision shall address itself to the following:

1. Decisions regarding assessment or reassessment.

a. The person conducting the hearing may sustain a proposed assessment or reassessment of the person as set forth in EDU 124 B. upon a showing by the school district(s) by a preponderance of the evidence which demonstrates that there are facts, relating to the person's performance in his or her present education placement or presenting handicapping conditions, which indicate reasonable grounds to believe that the educational assessment or reassessment procedures are justified, as a step toward the possible initiation of or change in the person's educational placement or program, including special education services, which will provide an educational program, including special education services, appropriately suited to the person's needs.

b. Consistent with the standards, requirements, and principles set forth in statute and these [[regulations]] rules, the person conducting the hearing shall have the authority, based on all the evidence received at the hearing, to modify the proposed assessment or reassessment instruments or procedures in order to insure compliance with the requirement of non-discrimination.

2. Decisions regarding educational placement.

a. Based on an application of the standards, requirements and principles set forth in Minn. Stat. § 120.17, subd. 3a, and in these [[regulations]] rules, the proposed action regarding the person's educational placement or special education services as set forth in EDU 125 C. shall be sustained in whole or in part by the person conducting the hearing only upon a showing of need by the school district(s) by a preponderance of the evidence.

b. In deciding if the proposed action is to be sustained, in whole or part, the educational needs of the

child shall be determinative. However, there shall be a presumption that among alternative programs of education, that to the maximum extent appropriate, a primary placement in a regular public school class and program with appropriate special education services, is preferable to removal from the regular classroom.

c. The person(s) conducting the hearing may sustain a proposed action that would result in the child being removed from a regular education program only when, and to the extent that the nature or severity of the handicap is such that education in the program with the use of special education services cannot be accomplished satisfactorily, and there is indication that the child will be better served with an alternative program or services. This decision shall be made in accordance with the principle of least restrictive alternatives.

d. The person conducting the hearing shall also determine whether the school district(s) sufficiently considered alternative educational programs including special education services and opportunities and at the hearing, may receive any additional evidence presented by any interested party or person as to the availability and suitability of reasonable and viable educational alternatives. If the person conducting the hearing concludes that there are no reasonable or viable educational alternatives the findings shall so state.

3. Except when the hearing is conducted by the school board, the local decision of the person conducting the hearing may be reviewed by the school board at its option within ten days after receipt of the proposed decision. Within five days of the review the school board shall issue a local written decision.

4. All local decisions shall:

a. contain written findings of fact, and conclusions of law, including a statement of the controlling facts upon which the decision is made in sufficient detail to appraise the parties and the commissioner of the basis and reason for the decision;

b. state whether the special education services appropriate to the child's needs can be reasonably provided within the resources available to the providing district;

c. state the amount and source of any additional district expenditures necessary to implement the decision; and

d. be based on the standards and principles set forth in Minn. Stat. § 120.17, subd. 3a, and EDU 129 G. 1. and 2.

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5. All decisions shall be filed with the commissioner of education and shall be sent by mail to the parties. The decision of the person conducting the hearing shall not be served until after expiration of the time for school board review. The decision(s) shall also include information detailing the right to appeal the decision, the procedure and time in which to do so, and an appeal form on which the parent may identify which appeal option, as set forth in EDU 129 H. 2., they request.

H. Effective date of the action and appeals.

1. The decision of the person(s) conducting the hearing, or in case of school board review, the board's decision, shall be binding on all parties and shall become effective 15 days after service of the decision unless the decision is appealed.

2. The binding local decision issued pursuant to EDU 129 G. 1., 2., or 3., may be appealed by the parent to the commissioner of education within 15 days of receipt of that written decision(s) in the following manner:

a. If the parent is appealing a local decision of the school board or their designee regarding a proposed education assessment or reassessment as set forth in EDU 124 B; or a proposed action regarding the placement of their child in, transfer to, or the proposed provision or addition of special education program or services as set forth in Minn. Stat. § 120.17, subd. 3b (c) (2) and (4) the appeal decision, at the option of the parent may:

(1) be based on a review of the local decision(s) and the entire record) or

(2) be based, after a new due process hearing conducted pursuant to the provisions of Minn. Stat. ch. 15 on the report of the impartial hearing examiner, and not on the local decision(s) or record. Provided however, if the parent wants a chapter 15 due process hearing, the parent must make this request as part of the written appeal notice, or the appeal decision will be based solely on a review of the local decision(s) and the entire record.

b. If the parent is appealing any other local decision(s) the appeal decision shall be based on a review of the local decision(s) and the entire record.

c. All notices of appeal shall be on the appeal form or otherwise in writing and shall be sent by the parent by mail to all parties to the hearing at the time the appeal is filed.

3. The school board shall be a party to any appeal. The commissioner shall issue a final decision based on a review of the local decision(s) and the entire records within 30 days after receipt of the local decision(s) and the transcript. However, in appeals of local decisions wherein the parent has properly requested a chapter 15 due process hearing, the commissioner shall issue a final decision within 30 days after that hearing and the final decision shall be based on the report of the hearing examiner.

4. The commissioner's final decision shall:

a. be in writing;

b. include findings and conclusions; and

c. be based on the standards set forth in Minn. Stat. § 120.17, subd. 3a and the standards, requirements, and principles set forth in EDU 129 G. 1. and 2. and these [[regulations]] rules.

5. The decision of the commissioner shall be final unless appealed by the parent or the school board to the district court of the county in which the providing school districts, in whole or part, is located. The scope of judicial review shall be as provided in chapter 15.

6. Except in case of school board decision pursuant to EDU 129 E. if the providing school district fails to implement the person conducting the hearing's local decision, the parent shall have the right to bring such failure to the attention of the commissioner. In accordance with the provisions of Minn. Stat. § 124.15, the state board of education may impose such sanctions necessary to correct any such failure.

Department of Public Safety Emergency Services Division Merit System Procedures

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in *State Register*

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

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Vol. 1, No. 11, September 21, 1976, (1 S.R. 432-444), and are published here by reference only as provided in RGSTR 5.

DES 90 Definitions A. 1-15, 17-44.

DES 91 Statement of Policy and Means of Effecting Policy — Political Activity

DES 94 Compensation Plan

DES 140 Compensation Plan — Official Salary Schedule

DES 141 Emergency Services Salary Schedules

Special Note: The initial publication of the rules in the *State Register*, September 21, 1976, indicated that DES 104 was being revised when in fact there is no DES 104. Provisions in Rules DES 91 B. 2. and B. 3. allow that Rule DPW 104 apply to emergency services employees. Therefore, the reference to DES 104 is in error and should be stricken in its entirety.

Rules Adopted with Amendments

The following rules are adopted and have been amended from their proposed form as published in *State Register* Vol. 1, No. 11, September 21, 1976 (1 S.R. 434).

DES 90 Definitions A. 16. **“Exclusive Representative” [means an employee union, association or group which has been certified by the State Bureau of Mediation] has the meaning given in Minn. Stat. § 179.63, subd. 6.**

Department of Public Welfare

Merit System Procedures

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in *State Register* Vol. 1 No. 11, September 21, 1976 (1 S.R. 444-447) and are published here by reference only as provided in RGSTR 5.

DPW 90 Definitions, Sect. A., 1 to 15, 17 to 42.

DPW 91 Statement of Policy and Means of Effecting — Political Activity

DPW 94 Compensation Plan

DPW 104 Leaves of Absence

DPW 116 Salary Adjustments and Increases

DPW 117 Salary Computation Provisions

DPW 126 C. Social Service Supervisor —

DPW 128 B. Financial Worker I

DPW 128 C. Financial Worker II

DPW 128 E. Homemaker I

DPW 128 F. Homemaker II

DPW 128 T. Case Aide

DPW 128 U. Senior Case Aide

DPW 128 V. Housekeeper

DPW 140 Compensation Plan all adopted as proposed except Personnel Officer II, Step 10, Professional Plan A, B and C.

DPW 141 Public Welfare Salary Schedules

Rules Adopted with Amendments

The following Rules are adopted and have been amended from their proposed form as published in *State Register* Vol. 1, No. 11, September 21, 1976 (1 S.R. 444-477).

DPW 90 A. 16. **“Exclusive Representative” [means an employee union, association or group which has been certified by the State Bureau of Mediation] has the meaning given in Minn. Stat. § 179.63, subd. 6.**

DPW 125 A. 2. Welfare Director I words added to “Examples of work” **Implements and evaluates the Department Affirmative Action Plan.**

DPW 125 B. 2. Welfare Director II words added to “Examples of work” **Implements and evaluates the Department Affirmative Action Plan.**

DPW 125 C. 2. Welfare Director III words added to “Examples of work” **Implements and evaluates the Department Affirmative Action Plan.**

DPW 126 B. 2. Social Services Supervisor I **Assists in selecting adequate personnel for the division, taking into account the Department’s Affirmative Action Plan.**

DPW 126 T. 2. Homemaker Coordinator I **Recruits homemakers, housekeepers, and/or chore service workers, taking into account the Department’s Affirmative Action Plan. DQP 126 T. 3.b. Ability to understand and relate to many different lifestyles and ethnic backgrounds.**

DPW 127 C. 2. Social Worker I [identifies] **With the client assists in defining emotional, physical, social and cultural problems; in [analyzes] analyzing their causes; and in [develops] developing [treatment] service plans.**

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Provides information and referral services and, where appropriate, coordinates such services to clients on an inter and intra-agency basis.

DPW 127 D. 2. Social Worker II [identifies] **with the client assists in defining** emotional, physical **social and cultural** problems; **in** [analyzes] **analyzing** their causes; and **in** [develops] **developing** [treatment] service plans. **Provides information and referral services and, where appropriate, coordinates such services to clients on an inter and intra-agency basis.**

DPW 140 Compensation Plan A Professional

Personnel Officer II 1203 1261 1319 1377 1440
1503 1572 1646 1720 1799

DPW 140 Compensation Plan B Professional

Personnel Officer II 1261 1319 1377 1440 1503
1572 1646 1720 1799 1878

DPW 140 Compensation Plan C Professional

Personnel Officer II 1319 1377 1440 1503 1572
1646 1720 1799 1878 1968

Rule Adopted as Proposed

The following rule is adopted and is identical in every respect to its proposed form as published in *State Register* Vol. 1, No. 14, October 12, 1976 (1 S.R. 583-586) and is published here by reference only as provided in RGSTR 5.

DPW 59 Pilot dental care programs for senior citizens.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

OFFICIAL NOTICES

Board of Psychology

Notice of Intent to Solicit Outside Opinion on Proposed Rules Governing the Code of Ethics for Psychologists

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412 subd. 6 (Supp. 1975) that the Minnesota Board of Psychology will propose the amendment and revision of existing rules concerning ethical conduct of licensed consulting psychologists and licensed psychologists licensed by the Board of Psychology.

All interested parties desiring to submit data or views relating to the proposed amendment or revision of the rules of the Board of Psychology relating to ethics should address their comments (either written or oral) to the Minnesota Board of Psychology, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, by writing or calling Ms. Harriette Hartung. Evidence submitted for consideration should be pertinent to the matter at hand. Written material received by the Board of Psychology will become a part of the hearing record.

Any materials submitted shall be reviewed and considered by the Board of Psychology during the preparation of the proposed amendments and revisions to existing rules. Notice of the public hearing on the proposed amendments and revision of existing rules shall be published in the *State Register* and given to all interested parties who have registered with the Secretary of State's office in accordance with the provisions of the administrative procedure act.

Under the provisions of Minn. Stat. § 10A.01 subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules and amendments, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at Room 401, State Office Building, St. Paul, Minnesota 55155.

Loring W. McAllister, Ph.D.
Chairman

Department of Public Welfare Chemical Dependency Division Effectiveness of Drug Abuse Prevention Media

Request for Proposals

A Request For Proposals has been issued by the Chemical Dependency Program Division, Department of Public Welfare (State Alcohol and Drug Authority) on January 24, 1977, for the purpose of researching media prevention messages upon drug-using behavior in adolescents. A grant, not exceeding \$25,000 will be awarded to examine the effectiveness and efficiency of various types of messages relating to preventing drug problems. Proposals must be received by February 24, 1977. Persons or organizations wishing to receive this RFP should communicate with Terri Kurzman, Chemical Dependency Program Division, 4th floor, Centennial Office Building, St. Paul, MN 55155. Telephone: (612) 296-4614.

Department of Transportation Allocation of Funds for Installation of Railroad Crossing Signals

Notice of Contested Case Hearings

The Department of Transportation, having completed a survey of the Burlington Northern, Inc. mainline grade crossings with public streets and highways between East Grand Forks, Minnesota to Duluth, Minnesota via Grand Rapids, Minnesota and having determined that the crossings listed herein are dangerous to life and property, proposes, on its own motion, to install or cause to be installed advance warning signs at the grade crossings listed below, to be financed with 90% federal funds and 10% funds from the Highway Safety Accounts; said signs to be thereafter maintained by the appropriate road authority:

Duluth to E. Grand Forks, via Grand Rapids

County	State Crossing No.	Road Authority	State Road Designation
St. Louis	69-304	County of St. Louis	C.R. 884
	69-306	Floodwood Twp.	Twp. 372
	69-307	Floodwood Twp.	Twp. 371
	69-313	County of St. Louis	C.R. 186

OFFICIAL NOTICES

Duluth to E. Grand Forks, via Grand Rapids

County	State Crossing No.	Road Authority	State Road Designation
Itasca	31-04	City of Warba	Bridge St.
	31-12	Blackberry Twp.	Twp. 273
	31-15	Grand Rapids Twp.	Twp. 292
	31-19	City of Grand Rapids	5th Ave. N.E.
	31-20	City of Grand Rapids	3rd Ave. N.E.
	31-26	City of Grand Rapids	M.S.A.S. 102 (4th Ave. N.W.)
	31-28	City of Grand Rapids	M.S.A.S. 113 (3rd St. N.W.)
	31-37	Bass Brook Twp.	Twp. 1
	31-39	County of Itasca	C.R. 258
	31-40	County of Itasca	C.R. 234
	31-42	City of Deer River	4th Street
	31-48	County of Itasca	C.R. 139
	31-49	Morse Twp.	Twp. 615
	31-50	Morse Twp.	Twp. 556
	31-51	Morse Twp.	Twp. 555
	31-52	County of Itasca	C.S.A.H. 18
	Cass	11-23	County of Cass
11-24		County of Cass	N.F.D. 127 (County)
11-26		County of Cass	N.F.D. (County)
11-27		County of Cass	Prim. Rd. (County)
11-28		County of Cass	N.F.D. 131 (County)
11-30		County of Cass	N.F.D. 728 (County)
11-30A		County of Cass	Prim. Rd. 790 (County)
11-33		County of Cass	N.F.D. 794 (County)
11-34		County of Cass	N.F.D. 794 (County)
11-36		County of Cass	N.F.D. 171 (County)
11-37	City of Cass Lake	E. Corp. Limits	
Hubbard	29-38	Farden Twp.	Twp. 218
	29-39	Farden Twp.	Twp. 217
	29-42	County of Hubbard	C.S.A.H. 45
	29-43	Farden Twp.	Twp. 151
Beltrami	04-102	County of Beltrami	C.R. 404
	04-103	City of Bemidji	Roosevelt St.
	04-105	City of Bemidji	Street
	04-107	City of Bemidji	Park Ave.
	04-114	Eckles Twp.	Twp. 284
	04-115	Lammers Twp.	Twp. 124
	04-116	Lammers Twp.	Twp. 123
	04-118A	City of Solway	E. Corp. Limits
	04-119	County of Beltrami	C.R. 503
04-120	County of Beltrami	C.R. 501	
Clearwater	15-101	Shevlin Twp.	Twp. 87
	15-102	Shevlin Twp.	Twp. 92
	15-103	County of Clearwater	C.S.A.H. 2
	15-104	City of Shevlin	Main St.
	15-105	County of Clearwater	C.R. 110
	15-106	Shevlin Twp.	Twp. 239
	15-107	County of Clearwater	C.R. 96
	15-108	County of Clearwater	C.R. 91
	15-108A	Copley Twp.	Twp. (Airport Road)
Mahnomen	44-101	Island Lake Twp.	Twp. 9
Polk	60-04A	Rose Bud Twp.	Twp. 549
	60-09	City of Fosston	Mark Ave.

OFFICIAL NOTICES

Duluth to E. Grand Forks, via Grand Rapids

County	State Crossing No.	Road Authority	State Road Designation
	60-13	Brandsvold Twp.	Twp. 572
	60-14	King Twp.	Twp. 751
	60-16	King Twp.	Twp. 762
	60-21	King Twp.	Twp. 770
	60-22	Knute Twp.	Twp. 776
	60-23	Knute Twp.	Twp. 781
	60-25	City of Erskine	N. Corp. Limits
	60-26	Badger Twp.	Twp. 798
	60-30	Grove Park Twp.	Twp. 806
	60-31	Grove Park Twp.	Twp. 809
	60-35	City of Mentor	W. Corp. Limits
	60-36	Grove Park Twp.	Twp. 502
	60-38	Grove Park Twp.	Twp. 503
	60-42	Tilden Twp.	Twp. 34
	60-55	Fairfax Twp.	Twp. 227
	60-56	Fairfax Twp.	Twp. 221
	60-60	Fairfax Twp.	Twp. 213
	60-92	Lowell Twp.	Twp. 202
	60-93	Lowell Twp.	Twp. 201
	60-94	Lowell Twp.	Twp. 189
	60-95	Lowell Twp.	Twp. 181
	60-96	Lowell Twp.	Twp. 179
	60-98	Fisher Twp.	Twp. 169
	60-99	Fisher Twp.	Twp. 168
	60-103	Fisher Twp.	Twp. 121
	60-105	Fisher Twp.	Twp. 135
	60-106	Fisher Twp.	Twp. 121
	60-107	Nesbit Twp.	Twp. 135
	60-108	Huntsville Twp.	Twp. 181
	60-109	Huntsville Twp.	Twp. 412
	60-111	Huntsville Twp.	Twp. 280
	60-114	Huntsville Twp.	Twp. 291
	60-118	City of E. Grand Forks	M.S.A.S. 112 (4th Ave. S.E.)
	60-119	City of Grand Forks	3rd St.

NOW THEREFORE, that the matter herein involved may be heard on its merits:

IT IS HEREBY ORDERED, and notice is hereby given that a hearing concerning the above-entitled matter will be held on February 24, 1977, at 10:00 A.M. in the City Council Chambers, Bemidji, Minnesota.

The hearing will be held before Mr. Leonard A. Nelson, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8119) a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or questions concerning the issues raised in this Order may be directed to John R. Murphy, Assistant Attorney General, 5th Floor, Transportation Building, Saint Paul, Minnesota 55155, (Telephone: 612-296-3213).

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for February 24, 1977, at 10:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. **SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE.** The local road authority will by their failure to appear agree as to the need for the addition of advance warning signs and obligate themselves to future maintenance of the signs.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

OFFICIAL NOTICES

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

The Department of Transportation, having completed a survey of the Burlington Northern, Inc. mainline grade crossings with public streets and highways between Staples, Minnesota to Wrenshall, Minnesota via Aitkin, Minnesota and the Burlington Northern, Inc. mainline grade crossings between Little Falls, Minnesota and Brainerd, Minnesota, via Ft. Ripley and having determined that the crossings listed herein are dangerous to life and property, proposes, on its own motion, to install or cause to be installed advance warning signs at the grade crossings listed below, to be financed with 90% federal funds and 10% funds from the Highway Safety Accounts; said signs to be thereafter maintained by the appropriate road authority:

Wrenshall to Staples, via Aitkin

County	State Crossing No.	Road Authority	State Road Designation	
Carlton	09-10A	Twin Lakes Twp.	Twp. 1	
	09-11	Twin Lakes Twp.	Twp. 337	
	09-12B	Atkinson Twp.	Twp. 1	
	09-13	Atkinson Twp.	Twp. 307	
	09-14	Atkinson Twp.	Twp. 305	
	09-15	Atkinson Twp.	Twp. 113	
	09-18	Atkinson Twp.	Twp. 285	
	09-19	County of Carlton	Twp. 264	
	09-20	City of Cromwell	East of Island Lake	
	09-21	City of Cromwell	Burnett St.	
	09-23	County of Carlton	C.R. 121	
	09-24	County of Carlton	Twp. 1	
	Aitkin	01-03	Clark Twp.	Twp. 524
		01-05A	McGregor Twp.	Twp. 1
01-09		Jevne Twp.	Twp. 241	
01-10		Kimberly Twp.	Twp. 186	
01-11		County of Aitkin	C.S.A.H. 5	
01-13		Kimberly Twp.	Twp. 250	
01-14		Kimberly Twp.	Twp. 252	
01-16		Spencer Twp.	Twp. 289	
01-17		Spencer Twp.	Twp. 147	
01-18		Spencer Twp.	Twp. 146	
01-19		County of Aitkin	C.R. 83	
01-33		City of Aitkin	5th Ave. N.W.	
01-37		Aitken Twp.	Twp. 587	
01-38		County of Aitkin	C.S.A.H. 28	
01-40		Aitken Twp.	Twp. 589	
01-41		Aitken Twp.	Twp. 599	
01-42		Aitken Twp.	Twp. 1000	
01-43		Aitken Twp.	Twp. 793	
01-44		Aitken Twp.	Twp. 795	
Crow Wing	18-04	City of Deerwood	Street	
	18-06	Irondale Twp.	Twp. 373	
	18-07	Irondale Twp.	Twp. 428	
	18-09	Nokay Lake Twp.	Twp. 431	
	18-10	Nokay Lake Twp.	Twp. 428	
	18-11	Oaklawn Twp.	Twp. 430	
	18-23	City of Brainerd	M.S.A.S. 16 (Cemetery St.)	
	18-32A	City of Baxter	W. Corp. Limits	
Cass	11-102	Sylvan Twp.	Twp. 191	
	11-103	Sylvan Twp.	Twp. 2004	
	11-104	Sylvan Twp.	Twp. 200	
	11-106	Sylvan Twp.	Twp. 220	

OFFICIAL NOTICES

Wrenshall to Staples, via Aitkin

County	State Crossing No.	Road Authority	State Road Designation
	11-107	Sylvan Twp.	Twp. 1016
	11-107A	Sylvan Twp.	Twp. 1016
	11-108	Sylvan Twp.	Twp. 208
	11-111	Sylvan Twp.	Twp. 1
Todd	77-112	Villard Twp.	Twp. 1
	77-113	Villard Twp.	Twp. 25
	77-115	Villard Twp.	Twp. 312
	77-116	Villard Twp.	Twp. 56

Little Falls to Brainerd, via Ft. Ripley

County	State Crossing No.	Road Authority	State Road Designation
Morrison	49-70A	City of Little Falls	3rd St. N.E.
	49-71	City of Little Falls	M.S.A.S. 101 (4th St. N.E.)
	49-82	County of Morrison	C.R. 259 (7th Ave. N.E.)
	49-83	City of Little Falls	8th Ave. N.E.
	49-84	City of Little Falls	9th Ave. N.E.
	49-85	City of Little Falls	13th Ave. N.E.
	49-89	Bell Prairie Twp.	Twp. 373
	49-90	Bell Prairie Twp.	Twp. 381
	49-95	Ripley Twp.	Twp. 387
	49-97	Ripley Twp.	Twp. 410
	49-98	Ripley Twp.	Twp. 407
	49-100	Ripley Twp.	Twp. 407
Crow Wing	18-36	City of Ft. Ripley	Street
	18-37	City of Ft. Ripley	N. Corp. Limits
	18-38	County of Crow Wing	C.S.A.H. 2
	18-39	Fort Ripley Twp.	Twp. 389
	18-41	Fort Ripley Twp.	Twp. 392
	18-42	Fort Ripley Twp.	Twp. 389
	18-44	Crow Wing Twp.	Twp. 403
	18-45	Crow Wing Twp.	Twp. 59
	18-46	Crow Wing Twp.	Twp. 400
	18-48	County of Crow Wing	C.S.A.H. 21
	18-51B	City of Brainerd	Wright St.
	18-52	City of Brainerd	M.S.A.S. 101 (Brook St.)
	18-53	City of Brainerd	M.S.A.S. 124 (Willow St.)
	18-56	City of Brainerd	Norwood St.

NOW THEREFORE, that the matter herein involved may be heard on its merits:

IT IS HEREBY ORDERED, and notice is hereby given that a hearing concerning the above-entitled matter will be held on February 22, 1977, at 10:30 A.M. in the City Council Chambers, Brainerd, Minnesota.

The hearing will be held before Mr. Leonard A. Nelson, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8119) a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal

counsel or any other representative of their choice throughout the proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or questions concerning the issues raised in this Order may be directed to John R. Murphy, Assistant Attorney General, 5th Floor, Transportation Building, Saint Paul, Minnesota 55155, (Telephone: 612-296-3213).

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for February 22, 1977, at

OFFICIAL NOTICES

10:30 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. **SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE.** The local road authority will by their failure to appear agree as to the need for the addition of advance warning signs and obligate themselves to future maintenance of the signs.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reasons for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

The Department of Transportation, having completed a survey of the Burlington Northern, Inc. mainline grade crossings with public streets and highways between Glyndon, Minnesota to Noyes, Minnesota via Crookston, Minnesota; and the Burlington Northern, Inc. mainline grade crossings between Moorhead, Minnesota to Crookston, Minnesota via Halstad, Minnesota, and having determined that the crossings listed herein are dangerous to life and property, proposes — on its own motion — to install or cause to be installed advance warning signs at the grade crossings listed below, to be financed with 90% federal funds and 10% funds from the Highway Safety Accounts; said signs to be thereafter maintained by the appropriate road authority:

Glyndon to Noyes, via Crookston

County	State Crossing No.	Road Authority	State Road Designation
Clay	14-073	City of Glyndon	Pleasant St.
	14-075	County of Clay	C.R. 84
	14-076	Moland Twp.	Twp. 129
	14-080	Moland Twp.	Twp. 154
	14-086	Flowing Twp.	Twp. 97
	14-088	Flowing Twp.	Twp. 85
	14-089	County of Clay	C.R. 108
	14-093	Felton Twp.	Twp. 60
	14-095	Felton Twp.	Twp. 55
	14-096	Felton Twp.	Twp. 48
Norman	54-001	Winchester Twp.	Twp. 177
	54-005	County of Norman	C.S.A.H. 33
	54-006	Winchester Twp.	Twp. 148
	54-012	City of Ada	7th Ave. N.
	54-016	County of Norman	C.S.A.H. 19
	54-020	Lockhart Twp.	Twp. 3
	54-021	County of Norman	C.S.A.H. 22
54-023	Lockhart Twp.	Twp. 60	
Polk	60-061	Reis Twp.	Twp. 6
	60-065	City of Beltrami	N. Corp. Limits
	60-068	Reis Twp.	Twp. 66
	60-069	Russia Twp.	Twp. 69
	60-070	Russia Twp.	Twp. 72
	60-071	Russia Twp.	Twp. 58
	60-073	Russia Twp.	Twp. 76
	60-074	Hammond Twp.	Twp. 79
	60-075	Fairfax Twp.	Twp. 84
	60-076	Fairfax Twp.	Twp. 212
	60-079	Fairfax Twp.	Twp. 94
	60-080	Fairfax Twp.	Twp. 204
	60-081	Andover Twp.	Twp. 97
	60-082	Andover Twp.	Twp. 99
	60-083	Andover Twp.	Twp. 204

OFFICIAL NOTICES

Glyndon to Noyes, via Crookston

County	State Crossing No.	Road Authority	State Road Designation
	60-122	County of Polk	C.S.A.H. 71
	60-124	Fanny Twp.	Twp. 272
	60-125	Fanny Twp.	Twp. 277
	60-127	Fanny Twp.	Twp. 286
	60-128	Fanny Twp.	Twp. 289
	60-129	Fanny Twp.	Twp. 297
	60-130	Fanny Twp.	Twp. 300
	60-131	Euclid Twp.	Twp. 310
	60-132	Euclid Twp.	Twp. 382
	60-133	Euclid Twp.	Twp. 317
	60-134	Euclid Twp.	Twp. 314
	60-136	Euclid Twp.	Twp. 320
	60-139	Angus Twp.	Twp. 327
	60-140	Angus Twp.	Twp. 332
	60-141	Angus Twp.	Twp. 335
	60-142	County of Polk	C.S.A.H. 23
	60-144	Angus Twp.	Twp. 344
	60-145	Brislet Twp.	Twp. 351
	60-147	Brislet Twp.	Twp. 358
	60-148	Brislet Twp.	Twp. 360
Marshall	45-107	Warrenton Twp.	Twp. 12
	45-108	Warrenton Twp.	Twp. 204
	45-109	County of Marshall	C.R. 104
	45-110	Warrenton Twp.	Twp. 32
	45-111	County of Marshall	C.S.A.H. 20
	45-113	Warrenton Twp.	Twp. 43
	45-115	Middle River Twp.	Twp. 46
	45-117	City of Argyle	So. Corp. Limits
	45-118	City of Argyle	2nd St.
	45-119	County of Marshall	C.S.A.H. 57
	45-120	City of Argyle	5th St.
	45-122	Middle River Twp.	Twp. 60
	45-123	Middle River Twp.	Twp. 69
	45-124	Tamarac Twp.	Twp. 71
	45-125	Tamarac Twp.	Twp. 76
	45-126	Tamarac Twp.	Twp. 79
	45-127	Tamarac Twp.	Twp. 85
	45-128	Tamarac Twp.	Twp. 86
	45-130	City of Stephen	3rd St.
	45-133	Sinnott Twp.	Twp. 100
	45-134	Sinnott Twp.	Twp. 105
	45-136	Sinnott Twp.	Twp. 113
	45-137	Sinnott Twp.	Twp. 117
Kittson	35-06	Davis Twp.	Twp. 144
	35-08	Davis Twp.	Twp. 84
	35-09	City of Kennedy	So. Corp. Limits
	35-12	Skane Twp.	Twp. 83
	35-13	Skane Twp.	Twp. 56
	35-14	Skane Twp.	Twp. 136
	35-15	Skane Twp.	Twp. 133
	35-17	Thompson Twp.	Twp. 103
	35-19	Hallock Twp.	Twp. 309
	35-20	Hallock Twp.	Twp. 41
	35-21	City of Hallock	4th St. So.
	35-23A	City of Hallock	4th St. No.
	35-26	Hallock Twp.	Twp. 330
	35-28	Hampden Twp.	Twp. 122
	35-30	Hampden Twp.	Twp. 212
	35-31	Hampden Twp.	Twp. 62
	35-32	Hampden Twp.	Twp. 118
	35-33	Hampden Twp.	Twp. 117
	35-35	Clow Twp.	Twp. 193

OFFICIAL NOTICES

Glyndon to Noyes, via Crookston

County	State Crossing No.	Road Authority	State Road Designation
	35-36	St. Vincent Twp.	Twp. 91
	35-37	St. Vincent Twp.	Twp. 190
	35-39	St. Vincent Twp.	Twp. 114
	35-40	St. Vincent Twp.	Twp. 181
	35-41	St. Vincent Twp.	Twp. 178
	35-42	St. Vincent Twp.	Twp. 155
	35-43	County of Kittson	C.S.A.H. 12

Moorhead to Crookston, via Halstad

County	State Crossing No.	Road Authority	State Road Designation	
Clay	14-102	Oakport Twp.	Twp. 395	
	14-105	Oakport Twp.	Twp. 100	
	14-107	Oakport Twp.	Twp. 2	
	14-108	County of Clay	C.R. 96	
	14-110	Kragnes Twp.	Twp. 379	
	14-111	Kragnes Twp.	Twp. 379	
	14-112	Kragnes Twp.	Twp. 75	
	14-115	City of Georgetown	Mason St.	
	14-119	Georgetown Twp.	Twp. 405	
	14-120	Georgetown Twp.	Twp. 56	
	14-122	Georgetown Twp.	Twp. 47	
	Norman	54-025	Lee Twp.	Twp. 179
		54-026	City of Perley	3rd St.
54-029		Lee Twp.	Twp. 160	
54-030		Lee Twp.	Twp. 158	
54-033		City of Hendrum	Main St.	
54-036		Hendrum Twp.	Twp. 131	
54-038		Hendrum Twp.	Twp. 100	
54-039		Halstad Twp.	Twp. 99	
54-040		City of Halstad	So. Corp. Limits	
54-042		County of Norman	C.S.A.H. 51 (1st St.)	
54-043		Halstad Twp.	Twp. 10	
54-044		Halstad Twp.	Twp. 313	
54-045		Halstad Twp.	Twp. 42	
54-048		County of Norman	C.R. 119	
54-052	County of Norman	C.R. 109		
54-053	County of Norman	C.R. 101		
54-054	Shelly Twp.	Twp. 29		
Polk	60-152	Hubbard Twp.	Twp. 60	
	60-153	Hubbard Twp.	Twp. 62	
	60-155	Hubbard Twp.	Twp. 64	
	60-156	Vineland Twp.	Twp. 69	
	60-158	City of Climax	2nd St.	
	60-159	Vineland Twp.	Twp. 70	
	50-160	Vineland Twp.	Twp. 75	
	60-161	Vineland Twp.	Twp. 76	
	60-162	Vineland Twp.	Twp. 99	
	60-163	Vineland Twp.	Twp. 80	
	60-166	Roome Twp.	Twp. 88	
	60-168	Roome Twp.	Twp. 171	
	60-169	Roome Twp.	Twp. 78	
	60-170	Andover Twp.	Twp. 94	
	60-171	Andover Twp.	Twp. 183	
	60-172	Andover Twp.	Twp. 97	
	60-173	Andover Twp.	Twp. 188	
60-175	Andover Twp.	Twp. 99		
60-176	Andover Twp.	Twp. 200		
60-177	Andover Twp.	Twp. 105		

OFFICIAL NOTICES

NOW THEREFORE, that the matter herein involved may be heard on its merits:

IT IS HEREBY ORDERED, and notice is hereby given that a hearing concerning the above-entitled matter will be held on February 23, 1977, at 10:00 A.M. in the City Council Chambers, Crookston, Minnesota.

The hearing will be held before Mr. Leonard A. Nelson, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8119) a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or questions concerning the issues raised in this Order may be directed to John R. Murphy, Assistant Attorney General, 5th Floor, Transportation Building, Saint Paul, Minnesota 55155, (Telephone: 612-296-3213).

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for February 23, 1977, at 10:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. **SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE.** The local road authority will by their failure to appear agree as to the need for the addition of advance warning signs and obligate themselves to future maintenance of the signs.

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Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reasons for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Ethical Practices Board Request for Advisory Opinion on Filing Requirements for Prospective Political Candidates and Use of Surplus Funds from a Federally Reporting Account

Minnesota Democratic Farmer Labor Party

730 East 38th Street, Minneapolis, Minnesota 55407 (612)
827-5421

State Central Committee

To: Minnesota State Ethical Practices Board

From: Rick Scott, Minnesota DFL State Chair

Consider the following hypothetical situation:

An individual who has been a candidate for Federal office has surplus funds in a Federally reporting account. The individual is interested in exploring a state office candidacy. The individual is interested in polling the state on issues, candidate image, etc. The individual also wants to travel throughout the state to increase personal name identification, meet the folks, etc.

Question:

1. When does such an individual become a candidate for state office subject to Ethical Practices Board filing requirements?
2. Can such an individual use money from the Federal account to explore a state office candidacy? If so, what are the limits and restrictions on such use?
3. If the individual decides to run for state office, can surplus funds in the Federal account be transferred to a state candidacy account? If so, what are the procedures for such a transfer? What are any restrictions on such transfer?

I await your reply.

Sincerely,

Rick Scott

December 22, 1976

**Advisory Opinion No. 33
Concerning the Definition of
“Lobbyist” According to the
Ethics in Government Act**

James R. Habicht, Attorney

Minnesota Power and Light Company

30 West Superior Street

Duluth, Minnesota 55802

Dear Mr. Habicht:

You have requested an advisory opinion from the Board on the following:

Question

Is a representative of a party to a contested case rate proceeding, held before a State Hearing Examiner and ordered by the State Public Service Commission, wherein the Public Service Commission will make the final determination, a “lobbyist” within the meaning of Section 10A.01, Subdivision 11, of the Ethics In Government Act?

Opinion

Yes, if the individual is engaged for pay or is authorized to spend money and spends more than five hours in any month or more than \$250.00 in a calendar year, not including travel expenses or membership dues, to influence legislative or administrative action by communicating with or urging others to communicate with public officials.

The representative is not exempt under the section of that statute which provides that a party or his representative is not a lobbyist when appearing in a proceeding before a state board, commission or agency unless the board, commission or agency is taking administrative action. It is the opinion of the Board that that exemption is not applicable here, because a contested case rate proceeding constitutes administrative action.

Minn. Stat. § 10A.01 subd. 2 (1974) as amended by Laws of 1976, ch. 470, subd. (1) defines administrative action as follows:

“An action by any official, board, commission or agency of the executive branch to make rules. ‘Administrative action’ does not include the application or administration of those rules, except in cases of rate setting, power plant siting and others specified by the board”

Rate setting by the Public Service Commission clearly falls within the statutory definition of administrative action. Therefore, Communication with public officials in an attempt to influence such rate setting decision constitutes lobbying. The Public Service Commissioners, who make the ultimate rate setting decision, are public officials within the meaning of the Act. Since they base their decision on the record of the contested case hearing, any attempt to influence rate setting through an appearance at the contested case hearing is an attempt to influence their decision and constitutes lobbying.¹

Approved by the Board on January 4, 1977

1. This opinion is consistent with that portion of advisory opinion No. 15, in which the board determined that once the Commissioner of Public Welfare has issued his rate determination the rate setting proceeding has ended. If the rate determination is appealed, any attempt to influence that *appeals* proceeding is not lobbying. The situation you present does not involve an appeals proceeding but the proceeding held for purpose of initially setting the rate.

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House of Representatives
Attn: Edward Burdick, Chief Clerk
Room 211 Capitol
St. Paul, Minnesota 55155

I