

STATE OF MINNESOTA  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED  
ADOPTION OF RULES OF THE STATE  
DEPARTMENT OF HUMAN SERVICES  
RELATING TO GENERAL ASSISTANCE  
LITERACY TRAINING REQUIREMENTS,  
PARTS 9500.1206, 9500.1232, 9500.1257,  
9500.1262 AND 9500.1266.

STATEMENT OF NEED AND  
REASONABLENESS

INTRODUCTION

The above-entitled rule is authorized by Minnesota Statutes, sections 256D.05, subdivision 1, paragraph (a), clause (15) and 256D.052. It was initially adopted as an emergency rule in January of 1988. The emergency rule was developed in consultation with an advisory committee composed of representatives of county agencies, literacy training providers and legal advocacy organizations. The committee also included Rosemarie Park, a member of the faculty of the University of Minnesota and a recognized expert on literacy training and education.

The emergency rule has been in effect since January 13, 1988. Since that time the department has not received any complaints concerning the operation of the emergency rule. Moreover, no appeals have been filed as a consequence of the emergency rule. This record of success in addition to the substantial public and expert input into the development of the emergency rule indicate that no changes are necessary or advisable in proposing the emergency rule as a permanent rule. Therefore, the proposed permanent rule is identical to the adopted emergency rule.

RULE PROVISIONS

9500.1206 PROGRAM DEFINITIONS

Subpart 24a. Occupational or vocational literacy program.

Minnesota Statutes, section 256D.05, subdivision 1, clause (15) requires general assistance (GA) recipients to comply with literacy training requirements set by the agency under section 256D.052. Minnesota Statutes 1987 Supplement, section 256D.052 requires local agencies to assign recipients to "occupational and vocational literacy programs." The above-captioned rule incorporates this requirement. This definition is necessary because the term "occupational or vocational literacy program" does not have a common everyday meaning. The definition in this subpart is reasonable because it incorporates the description of this term in state statute. See Minn. Stat. §256D.052 subd. 1 (Supp. 1987).

Subpart 25a. Part    pation in an literacy program.

State statute requires local agencies to provide general assistance (GA) to individuals eligible on the basis of functional illiteracy if they "participate in a literacy program . . ." Minn. Stat. §256D.052 subd. 4 (1) (Supp. 1987). Participation in a literacy program is defined in statute as attending regular classes, completing assignments, and making progress toward literacy goals. Minn. Stat. §256D.052 subd. 4 (1) (Supp. 1987).

The rule's definition of participation in a literacy program uses the phrase "receiving instruction . . . in accordance with the schedule or plan established by the literacy training program provider" in place of the phrase "attend regular classes" used in statute. The change is necessary because some literacy training programs may involve instruction in nonclassroom settings. The language used in the rule is reasonable in that it requires instruction as a component of participation consistent with state statute while allowing some flexibility in the mode of instruction to accommodate differences among programs.

Minnesota Statutes, section 256D.052, subdivision 4, clause (1) includes progress toward literacy goals as part of the definition of participation. This does not make sense when read in conjunction with clause (2) of the same subdivision of the statute. Clause (2) requires the provision of GA to a person who fails to progress in an assigned literacy program "despite participation for . . . six months or more." This contradicts clause (1) by assuming that a person can "participate" in a literacy program without progressing toward literacy goals. Removing progress toward goals from the definition of participation in the rule is necessary to give effect to the entire literacy training statute, including clauses (1) and (2). It is reasonable in that it is consistent with laws of statutory construction. These laws permit the interpretation of statutes by presuming that the legislature does not intend an absurd result and that the legislature intends the entire statute to be effective and certain. Minn. Stat. §645.17 (1986).

Subpart 27. Qualified provider.

This subpart remains the same as it is in the current permanent GA rules except for the way the items are numbered. The changes were initiated by the Revisor of Statutes and are necessary to bring the provision into conformity with the Revisor's rules of nomenclature.

Subpart 32a. Suitable recipient.

Minnesota Statutes, section 256D.052, subdivision 2, clause (2) requires local agencies to assign suitable recipients to openings in literacy programs. The term "suitable recipient" is not defined in statute. Moreover, the term does not have a commonly recognized definition. Therefore, it is necessary to define the term in rule.

The definition is reasonable because it is based on the recommendation of Rosemarie Park, a recognized expert in literacy training. The only logical basis for determining suitability for literacy training is the likelihood of improvement in the trainee's literacy level. According to Ms. Park, the only conditions that could prevent improvement in a person's literacy level



are mental retardation, mental illness, and learning disabilities. However, these conditions do not necessarily preclude improvement in literacy. Therefore, the definition of suitable recipient was drafted to include all individuals except for those with a poor prospect of improvement due to one or more of the three conditions identified by Ms. Park.

#### 9500.1232 STATE PARTICIPATION

Subpart 2. State participation for monthly general assistance payments made based on a reduced state assistance standard.

This amendment corrects a typographical error in a rule citation contained in the current permanent rule. The amendment does not change the meaning or applicability of the rule as adopted.

Subpart 5. State participation for costs of providing transportation to recipients assigned to literacy training.

Minnesota Statutes, section 256D.052, subdivision 7 requires the state to reimburse local agencies for the entire cost of providing transportation associated with literacy training. Generally, the state's contribution for GA costs is 25 to 50%. Therefore, because 100% participation by the state is unusual it is necessary to incorporate the requirement into the rule. Inclusion of requirement is a reasonable means of preventing confusion that could result from the differences in state contribution requirements.

#### 9500.1257 LITERACY TRAINING FOR RECIPIENTS.

Subpart 1. Occupational and vocational literacy programs.

Minnesota Statutes, section 256D.052, subdivision 1 requires local agencies to "work with local educational institutions and job training programs in the identification, development and utilization of occupational and vocational literacy programs for general assistance recipients."

The rule requires local agencies to inform local educational institutions and job training programs of the number of recipients who need occupational and vocational literacy training and recommend the development of the needed programs. As such, the rule incorporates the statutory requirement. This is necessary to ensure its implementation. The rule adds specificity to the statute's requirement by requiring local agencies to provide local institutions with information and recommendations on the need for occupational and vocational literacy programs. The added specificity is needed to give local agencies some guidance in implementing the vague requirement in statute that local agencies "work with" local institutions and programs.

The rule provision is reasonable because it requires local agencies to work with local institutions in some specific ways consistent with statute. The duties imposed on counties will not be an undue burden. Indeed, both county and noncounty membership on the emergency rule advisory committee supported these requirements. No comments recommending removal of these requirements were received during the public comment period for the emergency rule.

## Subpart 2 Assessme

Minnesota Statutes, section 256D.052, subdivision, clause (1) requires local agencies to assess the existing reading level, learning disabilities, reading potential and vocational or occupational interests of recipients eligible on the basis of functional illiteracy. The rule incorporates this requirement. This is a necessary and reasonable means of ensuring implementation of the statute.

The rule also requires that the results of these assessments be given to the literacy training provider. This requirement was recommended by members of the emergency rule advisory committee; it is necessary to ensure that literacy training providers have the information needed to provide effective literacy instruction. The requirement is reasonable because information on reading level, learning disabilities, reading potential and occupational interests is important to effective literacy training. The reference in this subpart to the data practices act is necessary to ensure that the subpart is not interpreted as authority to exchange assessment information without adhering to the data privacy requirements of the act.

## Subpart 3. Assignment.

Minnesota Statutes, section 256D.052, subdivision 2, clause (2) requires local agencies to "assign suitable recipients to openings in occupational and vocational literacy programs." Clause (3) of the same subdivision requires assignment to "other accessible literacy programs" if "no openings are available in accessible occupational or vocational literacy programs."

Subpart 3 of the rule incorporates these statutory requirements. This is necessary and reasonable as a means of ensuring compliance with the statute. The rule clarifies the statute by defining program accessibility. This clarification is necessary because the statute limits assignment to programs that are "accessible" but does not define the term. The rule defines an accessible program as one within the recipient's local labor market as defined in part 9500.1206, subpart 19a. The local labor market is defined in the current GA rule as the geographic area within which a person can reasonably be expected to search for employment limited to an area within two hours round trip of a person's residence. It is reasonable to expect a person to attend literacy training within the geographic area in which the person is expected to search for employment. Literacy training for a functionally illiterate individual is at least as critical to obtaining employment as searching for a job. The burden of traveling to attend literacy training is certainly no greater than traveling to look for employment.

## Subpart 4. Reassignment.

Under Minnesota Statutes, section 256D.052, subdivision 2, clause (4), a recipient who does not complete an assigned program and who wishes to try another program must be reassigned to another accessible literacy program. This subpart incorporates and clarifies the statutory reassignment requirement.

This subpart clarifies the statute's reassignment requirement by limiting reassignment to recipients who have good cause for failing to complete the originally assigned program. This clarification is necessary to ensure implementation of the entire literacy training statute.

The literacy training statute requires recipients who are eligible for GA on the basis of functional illiteracy to participate in literacy training as a condition of GA eligibility. Minn. Stat. §256D.05 Subd. 1 (15) (Supp. 1987). The statute then identifies three conditions which permit these recipients to receive benefits without participating in literacy training. These are (1) good cause for not participating; (2) absence of available and accessible programs; and (3) failure to progress after six months of participation in a program. Minn. Stat. §256D.052 subd. 4 (Supp. 1987). Automatic reassignment of a recipient who does not meet these conditions would allow the recipient to avoid sanction without meeting the statutory exemption criteria. Indeed, many counties do not have more than one literacy program. As such, a recipient could fail to complete the assigned literacy program without good cause and then continue to receive GA without participating in literacy training since there would be no other available and accessible literacy programs to which the recipient could be reassigned. The legislature could not have intended this result.

This subpart also provides for disqualification when a recipient refuses reassignment without good cause. This language was recommended by Anoka County in comments submitted during the public comment period for the proposed emergency rule. The language is necessary to prevent a recipient from permanently evading the literacy training requirement by exploiting the reassignment requirement. The language prevents a recipient who fails to complete the originally assigned program and expresses a desire to participate in an alternative program, from refusing reassignment to the other program. The apparent purpose of the reassignment provision is to offer recipients an alternative training program if circumstances make participation in the initial program unreasonable. If participation in the initial program would be unreasonable, the recipient would have good cause for not participating. See Minn. Rules, part 9500.1206, subp. 15. Circumstances that make participation in the initial program unreasonable will not, however, necessarily apply to participation in another program. Therefore, it is reasonable to require an independent showing of good cause to justify a recipient's failure to participate in the second literacy program.

#### Subpart 5. Child care and transportation.

Minnesota Statutes, section 256D.052, subdivision 3 requires local agencies to provide child care and transportation to facilitate participation in literacy training. This subpart incorporates this statutory requirement. The incorporation is necessary to ensure compliance with statute and ensure that recipients receive the services necessary to participate in literacy training. This subpart is reasonable because it is consistent with state statute.

#### Subpart 6. Payments to nonparticipating recipients.

This subpart incorporates the three bases for nonparticipation in literacy training set forth in Minnesota Statutes, section 256D.052, subdivision 4. Incorporation of these criteria is a necessary and reasonable means of ensuring compliance with state statute.



#### Subpart 7. Voluntary participation in work readiness.

This subpart incorporates Minnesota Statutes, section 256D.052, subdivision 5, paragraph (b) which permits local agencies to refer a recipient for voluntary work readiness services when (1) the recipient's literacy level reaches a point that may allow successful participation and (2) participation in job training would not interfere with the recipient's participation in literacy training. Incorporation of this statutory requirement is a necessary and reasonable means of ensuring compliance with the requirement.

#### Subpart 8. Reassessment.

This subpart incorporates Minnesota Statutes, section 256D.052, subdivision 5, paragraph (a) which requires local agencies to reassess a recipient's categorical eligibility when, after finding the recipient eligible on the basis of functional illiteracy, the local agency (1) determines that the recipient is no longer functionally illiterate, or (2) disqualifies the recipient from GA for failure to comply with literacy training requirements. Incorporation of this statutory requirement is a necessary and reasonable means of ensuring compliance with the requirement.

#### Subpart 9. Referral to work readiness program.

This subpart incorporates Minnesota Statutes, section 256D.052, subdivision 5, paragraph (a) which requires local agencies to refer recipients to the work readiness program if they are ineligible for general assistance. Incorporation of this statutory requirement is a necessary and reasonable means of ensuring compliance with the requirement. This subpart clarifies the statute's referral requirement by requiring local agencies to determine a recipient's eligibility for work readiness under the appropriate rule part. The clarification is reasonable because it is consistent with current practice in the general assistance program. Current practice is to determine a person's eligibility for work readiness when that person loses his or her categorical eligibility for GA.

#### Subpart 10. Explanation of rights and duties.

This subpart incorporates Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (15) which requires local agencies to provide an oral explanation to recipients eligible on the basis of functional illiteracy of their rights and responsibilities under the literacy training requirements. Incorporation of this statutory requirement is a necessary and reasonable means of ensuring compliance with the requirement.

### 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY

#### Subpart 1. Requirements for continued eligibility for specific categories of ongoing eligibility.

This subpart provides for the disqualification of recipients who fail to comply with the participation requirements associated with certain categories of GA eligibility. The subpart is amended to incorporate Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (15) which requires disqualification for 60 days when a recipient eligible on the basis of functional illiteracy fails to participate in literacy training as required. Incorporation of this statutory requirement is a necessary and reasonable means of ensuring compliance with the requirement.

As currently added, this subpart does not permit a recipient who is disqualified for failure to comply with the participation requirements of one category to circumvent disqualification by obtaining GA eligibility under another category that also has participation requirements associated with it. The proposed language is reasonable in that it treats disqualification for failure to comply with literacy training requirements the same way. This cross-category disqualification is reasonable because it prevents recipients from avoiding participation requirements set forth in statute. Indeed, without cross-category disqualification a recipient could maintain GA eligibility by moving from one category to another without complying with the participation requirements of any of them.

9500.1266 DISQUALIFICATION.

The proposed amendment to this part is necessary to implement Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (15) which requires recipients eligible on the basis of functional illiteracy to participate in literacy training and which mandates a 60 day disqualification period for a recipient who does not participate as required. The proposed language is reasonable because it is consistent with statute and with the manner in which the rule treats disqualification under the other categories of GA eligibility that have participation requirements.

TESTIMONY


If a public hearing is held on this rule, the Department does not expect to present the testimony of any expert witnesses.

CONCLUSION

The foregoing discussion establishes the need for and reasonableness of the proposed rules, parts 9500.1206, 9500.1232, 9500.1257, 9500.1262 and 9500.1266. To a great extent, the need for the proposed rules is established by state statute and the inherent responsibility of the Minnesota Department of Human Services to exercise prudent management of public funds.

DATE

10/9/88

  
SANDRA S. GARDEBRING  
Commissioner

STATE OF MINNESOTA  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION  
OF THE RULE OF THE STATE DEPARTMENT  
OF HUMAN SERVICES GOVERNING LITERACY  
REQUIREMENTS FOR GENERAL ASSISTANCE RECIPIENTS

AFFIDAVIT OF MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 19th day of October, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without A Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who have requested that their names be placed on file with the Department of Human Services for the purpose of receiving notice of hearing by this Department.

Nancy Storelee

Subscribed and sworn to before me

this 19 day of October, 1988

Louise J. Breidel





Department of Human Services

In the Matter of the Proposed  
Adoption of the Rule of  
the State Department of  
Human Services Governing  
Literacy Training Requirements  
for General Assistance  
Recipients.

NOTICE OF INTENT  
TO ADOPT A RULE WITHOUT  
A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 256.05, subdivision 1, paragraph (a), clause (15) and 256D.052.

All persons have 30 days or until 4:30 p.m. on November 23, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Dan Lipschultz  
Minnesota Department of Human Services  
444 Lafayette Rd.  
St. Paul, Minnesota 55155-3832  
Telephone (612) 297-4302

The proposed rule implements the statutory requirement that recipients eligible for general assistance because they are functionally illiterate participate in literacy training programs. It affects general assistance recipients, county human service agencies and literacy training providers.

The rule defines "occupational or vocational literacy program," "participation in a literacy program," and "suitable recipient," adding these definitions to part 9500.1206. The rule also adds failure to participate in an assigned literacy program as a basis for disqualification under part 9500.1262. The rule further amends part 9500.1266 to provide that disqualification of a recipient for failure to participate in literacy training renders the recipient ineligible for general assistance under part 9500.1258, subpart 1, items G, L and P during the period of disqualification.

Part 9500.1257 of the rule sets forth the responsibilities of the department, local agencies and recipients regarding literacy training and identifies the circumstances under which general assistance benefits will be paid to recipients who are eligible for general assistance on the basis of functional illiteracy but who do not participate in literacy training. This rule part also specifies the conditions under which a recipient who is eligible for general assistance on the basis of functional illiteracy may participate voluntarily in work readiness.

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

A free copy of the rule is available upon request from Dan Lipschultz at the address noted above. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.


A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Dan Lipschultz at the address noted above upon request.

Adoption of the rule will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Dan Lipschultz at the address noted above.

Date:

10/7/88

  
SANDRA S. GARDEBRING  
Commissioner