

LCRAR



**Legislative Commission to
Review Administrative Rules**

Representative Peter Rodosovich
Chair

Maryanne V. Hruby
Director

April 10, 1991

John Allen, Supervisor
Minnesota Department of Education
718 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Dear Mr. Allen:

I write to request a copy of the Department of Education's Statement of Need and Reasonableness (SONAR) for recently published rules relating to education; repealing certain veterans education requirements.

As you may know, Minnesota Statutes, sections 14.131 and 14.23 now require state agencies to provide copies of SONAR's to the LCRAR when they become available for public review.

If you have not already done so, please send a copy of the SONAR for these proposed rules to:

The Legislative Commission to Review Administrative Rules
Maryanne Hruby, Director
55 State Office Building
St. Paul, Minnesota 55155

Please contact me at 296-1143 if you have any questions.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Michele Swanson".

Michele Swanson
Commission Secretary

✓

STATE OF MINNESOTA
STATE BOARD OF EDUCATION

In the Matter of the Proposed
Repeal of Rules Governing
Veterans' Education, Minn.
Rules Parts 3530.6300 and
3530.6400

STATEMENT OF NEED AND
REASONABLENESS

I. INTRODUCTION

Rule 3530.6300

Minnesota State Board of Education Rule #640 (currently codified as Minn. Rules pt. 3530.6300) titled "Teacher Certification" was adopted in 1972. The rule states that "Teachers of courses approved on an accredited basis under the provisions of United States Code, Title 38, Chapter 36, Section 1775 must be certified by the Minnesota State Department of Education." This included vocational or academic certification. A "grandfather" clause exemption for teachers employed prior to December 28, 1971 is also included in the rule.

The intent of the original rule was to equalize the treatment accorded public and private vocational schools approved on an accredited basis for purposes of participation in the veterans' education program. Minnesota's 30 state technical institutes (now called technical colleges) required all teachers of approved programs to be properly certified by the Department of Education. EDU #640 made the requirement no less at an approved private vocational institution.

Rule 3530.6400

The Minnesota State Board of Education adopted EDU #642 (now codified as Minn. Rules pt. 3530.6400) in 1972. That rule, titled "Employability Requirement," mandates that non-college degree courses approved for veterans' education meet a specific placement requirement. The rule states that approved institutions offering non-college degree courses ". . . demonstrate that at least 51

The Legislative Commission to
Review Administrative Rules

APR 15 1991



percent of the graduates . . . over the preceding two-year period were employed in bonafide positions in the occupation for which they were trained . . ."

EDU #642 further describes methodology used in calculating the percentage of graduates placed from a given program of study.

Subsequent to the implementation of EDU #642, the United States Congress enacted Public Law 93-508 (effective date of December 3, 1974). That legislation dictated that approved courses with a vocational objective must demonstrate a 51 percent placement rate. In effect, the federal law mirrored the requirements of the 1972 Minnesota State Board of Education rule.

Both the state rule and federal law remained in effect until 1984, when Congress repealed the placement provisions of Public Law 93-508. The reason behind the recision action was the expanded placement requirements placed on schools by other state, regional, and federal regulatory agencies.

II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to repeal the rules is set forth in Minn. Stat. § 124.625 (1990), which provides:

124.625 VETERANS TRAINING

The state board of education shall continue the veterans training program. All receipts to the veterans training revolving fund for the veterans training program are appropriated to the state board to pay the necessary expenses of operation of the program. The state board shall act as the state agency for approving educational institutions for purposes of United States Code, title 38, chapter 36, relating to educational benefits for veterans and other persons. The state board may adopt rules to fulfill its obligations as the state approving agency. All federal money received for purposes of the veterans training program shall be deposited in the veterans training revolving fund and is appropriated to the state board for those purposes.

Under this statute the Board has the necessary statutory authority to repeal the proposed rules.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1990) requires the Board to make an affirmative presentation of facts establishing the need for and reasonableness repeal of the

rules in question. In general terms, this means that the Board must set forth the reasons for the repeal and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Board is appropriate. The need for the repeal of the rules is discussed below.

Minn. Rules pt. 3530.6300

Inasmuch as each private vocational institution operating in Minnesota must have its teachers approved by the Private Vocational Schools Unit in the Department of Education, Minn. Rules pt. 3530.6300 has created a dual standard for some schools approved for veterans' education.

In addition, the Department of Education, which is the state approving agency for Veterans' Education, has received numerous applications for approval of vocational programs at collegiate institutions in Minnesota. Strict enforcement of Minn. Rules pt. 3530.6300 would preclude approval of such programs because college and university faculty are rarely, if ever, required to be licensed by the State Department of Education. These programs, like the ones offered at non-collegiate institutions, provide quality educational opportunities for Minnesota's veteran population, even without the licensure now required.

Minn. Rules pt. 3530.6400

Minn. Rules pt. 3530.6400 is no longer needed and, in fact, it creates a dual (and often confusing) standard for approved institutions offering non-college degree programs to veterans.

The following examples illustrate the point: 1) the Minnesota State Board of Vocational Technical Education requires all state technical colleges to demonstrate a placement rate of at least 50 percent for each of its approved programs; 2) the Private Vocational Schools Unit in the Minnesota Department

of Education requires licensed private schools having placement services to publish placement statistics (though no minimum percentage rate is required); and 3) nationally recognized accrediting bodies for vocational schools (i.e., National Association of Trade and Technical Schools) require the maintenance and submission of placement data. Given these three separate requirements, the requirement contained in 3530.6400 is simply not needed.

IV. STATEMENT OF REASONABLENESS

The Board is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of repeal of rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Board's proposed action. The reasonableness of the proposed rules is discussed below.

B. Reasonableness of Repeal of the Individual Rules

The following discussion addresses the specific provisions of the proposed rules section by section.

Minn. Rules pt. 3530.6300

Repeal of Minn. Rules pt. 3530.6300 will eliminate the dual requirement placed on private vocational schools and the exclusion from veterans' approval of vocational programs at collegiate institutions. It will also make it possible for college instructors to teach veterans' vocational courses.

Minn. Rules pt. 3530.6400

The overlapping and often divergent placement requirements have created an unnecessary burden for many approved schools offering non-college degree programs for veterans. Repeal of Minn. Rules pt. 3530.6400 will eliminate the unnecessary and repetitive requirement, and help streamline the approval process. At the same time, the consumers of the program will still be protected by the other requirements in place.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

It has been determined that there will be no impact on small business.

VI. CONCLUSION

Based on the foregoing, repeal of Minn. Rules pts. 3530.6300 and 3530.6400 is both needed and reasonable.

Dated: March 22, 1991.

Thomas Lindquist
(authorized person)

MIDE

MINNESOTA DEPARTMENT OF
EDUCATION

Capitol Square 550 Cedar Street
Saint Paul, Minnesota 55101 612/296-6104

April 12, 1991

The Legislative Commission to Review
Administrative Rules
Maryanne Hruby, Director
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

In compliance with MS 14.131 and 14.23, please find enclosed the Department of Education's Statement of Need and Reasonableness for recently published rules relating to education (repealing certain Veterans' Education requirements).

If you have any questions, please contact me at 296-7998.

Sincerely,



John W. Allen
State Supervisor
Veterans' Education Unit

JWA/lc

Enclosure

