

STATEMENT OF NEED AND REASONABLENESS
PERMANENT RULES RELATING TO FINANCIAL AID

as administered by

the Minnesota Higher Education Coordinating Board

In the Matter of the Proposed Adoption of Rules
Governing State Grants, and Nursing Home and
Intermediate Care Facility Nurses Education Account

February 22, 1994

STATE OF MINNESOTA
MINNESOTA HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Rules
Governing State Grants and Nursing
Home and Intermediate Care Facility
Nurses Education Account (Minn. Rules
Parts 4830.0700 and 4812.0160)

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The State Grant Program provides financial assistance to Minnesota residents pursuing undergraduate post-secondary education at eligible Minnesota institutions. The proposed modification to the current rule pertains to the calculation of student refunds to the State Grant Program when a student withdraws, or reduces enrollment. The financial aid officer at the post-secondary institution is responsible for calculating such program refunds.

The Nursing Home and Intermediate Primary Care Facility Nurses Education Account is a loan forgiveness program for nurses who agree to practice nursing in a Minnesota nursing home or intermediate care facility for persons with mental retardation or related conditions. The proposed modification to the current rule pertains to the frequency in which service status verification forms are sent to program participants.

The proposed rule language pertaining to these two financial aid programs administered by the Minnesota Higher Education Coordinating Board was reviewed by agency legal counsel and the Minnesota Higher Education Coordinating Board financial aid advisory committee, which meets monthly to provide input to the Board on matters relating to program policy and operations. Comments and concerns were encouraged. Representatives from the University of Minnesota system, State University system, Community College system, Technical College system, Private Colleges, and Private Proprietary Schools are members of the MHECB financial aid advisory committee.

II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Minnesota Higher Education Coordinating Board's authority to adopt the rules is set forth in Minnesota Statutes 1992, 136A.04, Subd. 1(8) and 136A.16, Subd. 2, which provide:

136A.04, Subd. 1(8): [The higher education coordinating board shall:] prescribe policies,

procedures, and rules necessary to administer the programs under its supervision.

136A.16, Subd. 2: The board shall adopt policies and prescribe appropriate rules to carry out the purposes of sections 136A.15 to 136A.1702. The policies and rules except as they relate to loans under section 136A.1701 must be compatible with the provisions of the National Vocational Student Loan Insurance Act of 1965 and the provisions of title IV of the Higher Education Act of 1965, and any amendments thereof.

III. STATEMENT OF NEED

Minnesota Statutes chapter 14 requires the Board to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Board must set forth the reasons for its proposal, 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 rules is discussed below.

State Grant Program

The proposed change to the State Grant agency rules is due to amendments made in 1992 to the federal Reauthorization of the Higher Education Act of 1965 pertaining to requirements for Title IV program refunds. The federal provisions in this Act require post-secondary institutions to allocate tuition refunds for students receiving Title IV funds to applicable federal programs *before* any state financial aid program refunds. Prior to the change in the Reauthorization Act, refunds were applied proportionately. For example, if 50% of a student's financial aid package came from federal Title IV program funds, 50% of the applicable tuition refund was allocated to federal Title IV programs. Current agency rules governing refunds to the State Grant program specify that a proportional share of a student's tuition refund must be returned to the State Grant program. This language is problematical as a result of the change in the Reauthorization Act.

Given the new Reauthorization Act language pertaining to the refund policy and the agency's current rules governing State Grant refunds, a post-secondary institution must repay federal Title IV programs first if a student receiving such aid is eligible for a tuition refund, and is required to repay the State Grant program its proportionate share of the refund amount--*even if no refund monies remained after repaying the federal programs*. The Higher Education Coordinating Board does not feel that institutions should be responsible for State Grant refunds for individual students if no monies remain from the student's refund amount after making the federal refunds, which are required by the new Reauthorization Act language. The proposed language in the State Grant rules attempts to rectify this situation by changing the manner in which State Grant refunds are calculated. Under the proposed language

change, if monies remain after the institution makes the applicable federal Title IV program refunds, the State Grant program would be refunded its proportionate share of the student's aid. This change does not affect students. It merely affects the manner in which post-secondary institutions distribute tuition refunds for students receiving federal and state financial aid.

Nursing Home and Intermediate Care Facility Nurses Education Account

The proposed change to agency rules governing the Nursing Home and Intermediate Care Facility Nurses Education Account is an attempt to improve the efficiency and effectiveness of program operations. Under this program, program participants designate eligible loans for the MHECB to make payments on. Payments cannot exceed \$3,000 per year for a maximum of two years. During the period in which the MHECB is making payments on these loans, the participant must be working as a nurse in a nursing home or intermediate care facility for persons with mental retardation or related conditions. Should the participant not work in such a facility while payments are being made, the participant must repay applicable program monies plus interest according to *MN Statutes 270.75*.

The current agency rules specify that the MHECB will send a service status verification form to program participants for their completion *annually*. In order to reduce the likelihood of having to collect program monies plus interest from participants who quit working in eligible facilities while the MHECB is making payments on the participant's loans, and to reduce the likelihood of having to use skip-tracing methods to locate program participants who quit working in eligible facilities, the modified rule language proposes to send service verification forms for completion by participants *semi-annually*. This change should reduce collection activities of the Board, which are time-consuming and an additional financial burden to program participants. Since program participants enter the program throughout the year, language was added to explain when status forms are sent to participants and when the forms are due back to the MHECB. This language should clarify reporting requirements for participants.

IV. STATEMENT OF REASONABLENESS

The Board is required by Minnesota Statutes chapter 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed 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.

A. Reasonableness of the Rules as a Whole

State Grant Program

The current refund policy specified in agency rules no longer makes sense given the new federal Title IV program refund requirements in the Higher Education Act of 1965, as amended. If a student receiving financial assistance from any federal Title IV program and the State Grant Program is eligible for a tuition refund due to changes in his/her enrollment status, current agency rules specify that the institution must refund a proportionate share of the student's refund to the State Grant Program. The revised federal Title IV refund policy, however, requires institutions to refund Title IV program funds first, before any other program refunds. This could result in the student's entire tuition refund amount being refunded to federal Title IV programs, leaving no monies to refund to the State Grant Program. Refunds cannot be forwarded to State Grant Program if no monies remain to do so. Therefore, the modifications to the State Grant refund calculation exclude federal Title IV program monies from the refund calculation, which makes sense given the new federal law changes.

Nursing Home and Intermediate Care Facility Nurses Education Account

Under the provisions of this program, the Coordinating Board makes payments up to \$3,000 annually on each participant's educational loans during the period when he or she is practicing as nurses in Minnesota nursing homes or intermediate care facility. It is necessary that the Board verify that the program participant is continuing to fulfill the service requirements of this program during the period that the Board is making payments on such educational loans. The proposed rule language would require that program participants complete and return the one-page status verification form *semi-annually*. This will reduce the risk of the Board making payments for possibly eleven months on participants' loans who have ceased nursing service in eligible facilities-- currently the service verification form is sent out *annually*. The form verifies the program participant's home address, work address, and date upon which he/she began nursing service at that location. An appropriate official of the employing facility signs and dates the form, verifying the program participant's current employment. This change should reduce the likelihood of the Board making payments for participants during periods when they are not employed in eligible facilities, and will reduce the need for the Board to incur collection costs to recoup payments plus applicable interest from program participants not serving in eligible facilities.

Since program participants receive status forms at various times throughout the year-- depending upon when the participant enters the program-- language is added in an attempt to clarify when the forms will be sent to program participants and when the completed forms are due back to the MHECB. This addition is for clarity and to avoid misunderstandings in regard to status reporting requirements for participants.

B. Reasonableness of Individual Rules

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

State Grant Program

4830.0700 METHOD OF PAYMENT

Subp. 2. Refunds. Language in this subpart is changed to exclude the federal refund portion from the refund calculation for the State Grant program. Language is added to specify that the proportionate percentage that the State Grant award represents of the student's total award package is applied only to tuition refund monies remaining after the federal Title IV programs have been repaid.

Item A: Language is added to specify a calculation must be performed to arrive at the percentage. Language is added to specify that the calculation must exclude federal financial aid monies received by the student. These changes are for clarity and to avoid confusion in calculating the correct percentage to be used in the refund calculation.

Item B: Language is added to specify what methodology must be used by the institution in calculating the student's total tuition refund amount. This change is to incorporate the new federal refund calculation option included in the Reauthorization Act language. The additional language is for clarity and completeness in explaining the options an institution has in calculating the total refund amount. This change is to ensure equitable treatment of all student tuition refund calculations performed by the institution.

Item C: Language is added to explain that the federal refund amount must be subtracted from the total refund amount. This language is added for clarity and to avoid confusion and errors by the institution in calculating the State Grant refund amount.

Item D: Language is modified to specify that the proportional refund percentage for the State Grant program is only applied to available refund monies remaining after federal aid programs have been repaid. These language changes are meant to clarify the calculation as a result of the change in the federal aid program refund requirements. This change will prevent institution's from having to provide institutional funds to pay State Grant refund amounts for individual students receiving assistance under the State Grant program.

Nursing Home and Intermediate Care Facility Nurses Education Account

4812.0160 PARTICIPANT RESPONSIBILITIES

Subpart 1. Service Status verification. Language in this subpart is changed to specify that the MHECB will send service status verification forms to program participants semi-annually

rather than annually, and to clarify the deadline for such reporting requirements.

Language has been added/deleted to indicate that participant service status verification forms will be sent semi-annually rather than annually. This change is to assist the MHECB staff in the timely monitoring of program participants. This change is an attempt to avoid having to bill program participants for monies paid by the MHECB on their eligible loans during periods when they are not serving as nurses in eligible nursing homes or intermediate care facilities. If a program participant discontinues working in eligible locations and the MHECB is notified more quickly of this situation, payment on participant loans can be discontinued more quickly, thus reducing the amount a participant will have to repay to the Board. More timely notice of this change in participant status should also assist in keeping collection costs down, ensure efficient program operations, and improve timely Board notification of participants' changes in service status. Since the form is very brief and concise, it should take the program participant and his/her employer only a few minutes to complete their appropriate sections of the form.

Language is added to more clearly specify when the status verification forms will be sent to participants and when such forms are due back to the MHECB. This language is an attempt to clarify reporting procedures, and to avoid confusion. It should also assist in more efficient and effective program operations.

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, the proposed Minnesota Rules pts. 4812.0160 and 4830.0700 are both needed and reasonable.

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Executive Director