

## State of Minnesota Department of Education

In the Matter of the Proposed  
Amendments to Rules Governing  
Rights of Students with Disabilities,  
State Board of Education Rules  
3525.0200, Subp. 11a and  
3525.2900, Subp. 3.

### Statement of Needs and Reasonableness

#### I. INTRODUCTION

The proposed rule revisions will: 1) continue the educational due process rights of parents of students with disabilities after the student arrives at the age of majority, and 2) specifically include in rule certain federally mandated evaluation procedures and schedules.

This statement of need and reasonableness can be made available in other formats, including Braille, large print, and audio tape. TDD: (612) 297-2094 or (800) 422-1098.

#### II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to amend the rules is set forth in Minnesota Statutes, section 121.11, subdivision 7b,

"**Administrative rules.** The state board may adopt new rules and amend them or amend any of its existing rules only under specific authority. The state board may repeal any of its existing rules. Notwithstanding the provisions of section 14.05, subdivision 4, the state board may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or school management. This subdivision shall not prohibit the state board from making technical changes or corrections to its rules."

and is supported in this instance by the *Laws of 1993*, article 43, Sec. 35, Subd. 5.

"[**Administrative rules.**] To accommodate the task force's review of the state's special education rules, and notwithstanding Minnesota's Statutes, section 121.11, subdivision 12 [sic], or any other law to the contrary, the State Board of Education shall not adopt, amend, or repeal a special education rule until June 1, 1994, unless compelled by a newly enacted or adopted federal requirement.

### III. STATEMENT OF NEED

The conditional approval of Minnesota's State Plan, on which hinges the release to Minnesota of over forty million dollars annually, reads in part (where "MDE" represents the Minnesota Department of Education, and "OSEP" represents the federal Office of Special Education Programs):

"Our conditional approval of your State Plan is based on our review and acceptance of the following documents. . .

(2) The letters submitted on July 19, 1993 and August 10, 1993 from MDE to OSEP, in which MDE assures that as soon as possible, but no later than July 1, 1994, it will complete all of the changes set forth in OSEP's June 4, 1993 communication to MDE, including amending, . . .

(3) Minnesota Rule (M.R.) 3525.2900 Subp. 3 to comply with the terms of 34 CFR §300.346 (a)(5); (4) M.R. 3525.0200 Subp. 11a. to comply with the parental rights requirements under the terms of 34 CFR §§300.502 and 300.562- 300.573. . ."

The first portion of this citation mandates the specific inclusion of evaluation procedures and schedules in Minnesota Rule. The second portion requires that parent rights not be denied or limited upon the students coming to the age of majority.

### IV. STATEMENT OF REASONABLENESS

The OSEP communication of July 4, 1993 to MDE cited above specifically states:

Minnesota regulations at 3525.0200 Subp. 11a. state that "'parent' or 'parents' means the mother, father, guardian, conservator, or surrogate parent who has been appointed in accordance with parts 3525.2430 to 3525.2455 for a pupil under age 18. for a pupil over age 18, it means the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator. . ."

MDE must amend its regulations to ensure that the parent's rights under Part B are not denied or limited when a student with a disability attains the age of 18.

The proposed amendment addresses this concern in the most economical manner by altering the definition of parent so as to include both the student who is of age and the party or parties previously considered parents within the same definition. To maintain the existing definition while ensuring both the student's and the parents' rights would entail an extensive rewrite of existing due process legislation and magnify the confusion surrounding an already complex piece of legislation.

The OSEP communication of July 4, 1993 to MDE cited above additionally states:

Minnesota regulations at 3525.2900 Subp. 3E (page 26) addresses the IEP content requirement at §300.346(a)(5) regarding appropriate objective criteria, but omits the requirements for evaluation procedures and schedules.

MDE must amend its regulations to make them consistent with the Federal regulations regarding this requirement.

The Minnesota legislature, during its 1993 session, formed a TASK FORCE ON EDUCATION FOR CHILDREN WITH DISABILITIES. One of the primary missions of that TASK FORCE was to recommend changes in rule to reduce redundancy and add clarity. The TASK FORCE recommended a total rewrite of the IEP rule.

The language in the proposed amendment has been excerpted from the *Final Report* of the TASK FORCE, which adequately addresses the Federal concern. It is the opinion of staff that the use of this language is an efficient and effective phrasing, and allows the State to profit from the breadth and depth of the TASK FORCE membership and deliberations.


#### V. STATEMENT OF COSTS TO PUBLIC BODIES

Both of these amendments are "technical" amendments, and should result in only minimal change in prevailing practice. It is not anticipated, therefore, that any substantial costs would be incurred by public bodies as a result of these changes.

#### VI. CONCLUSION

Based on the foregoing, the proposed Minnesota State Board of Education Revisions to Rules 3525.0200, Subp. 3 and 3525.2900, Subp. 11a are both needed and reasonable.

Dated: 3/28/94

  
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Linda Powell  
Commissioner of Education