

AUG 04 1994

**State of Minnesota
Department of Education**

M. Hulby

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 120.17, subdivisions 3 and 3a,

Subd. 3. **Rules of the state board.** (a) The state board shall promulgate rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules it deems necessary for instruction of children with a disability. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b.

(b) The state's regulatory scheme should support schools by assuring that all state special education rules adopted by the state board of education result in one or more of the following outcomes:

(2) consistent and uniform access to effective education programs for students with disabilities throughout the state;

(5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;

(7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.

Subd. 3a. **School district obligations.** Every district shall ensure that:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. The student's needs and the special education instruction and services to be provided shall be agreed upon through the development of an individual education plan.

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

Part I

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.

Part II

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 language in the proposed amendment represents the minimum change necessary to comply with federal regulations. It is the opinion of staff that the use of this language is an efficient and effective way of addressing the present need.

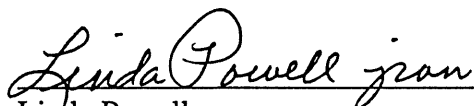
V. STATEMENT OF COSTS TO PUBLIC BODIES

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: 8/3/94


Linda Powell
Commissioner of Education