

STATEMENT OF NEED AND REASONABLENESS
PERMANENT RULES RELATING TO FINANCIAL AID

as administered by

the Minnesota Higher Education Services Office

**In the Matter of the Proposed Adoption of Rules
Governing Definitions for Higher Education Programs and
Definitions for Satisfactory Academic Progress**

October 25, 1995

STATE OF MINNESOTA
Minnesota Higher Education Services Office

In the Matter of the Proposed Rule
Governing Definitions for Higher Education
Programs (Minn. Rule 4830.0100) and
Definitions for Satisfactory Academic
Progress (Minn. Rule 4830.0110).

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The rule entitled *Definitions for Higher Education Programs* provides definitions of terms used in agency rules applicable to various financial aid programs administered by the Higher Education Services Office. The proposed amendments to the rule containing these *Definitions* are made to reflect statutory changes made during the 1995 legislative session, to delete unnecessary or obsolete language from various definitions contained in this rule, or to address operational concerns related to the application of a definition.

The rule entitled *Definitions for Satisfactory Academic Progress* is a new rule pertaining to terminology used in the statutory definition of "satisfactory academic progress." The statutory definition was modified in the 1995 legislative session. Since some of the terms used in the statute are open to interpretation which could result in the inequitable treatment of students, the Minnesota Higher Education Services Office felt it necessary to clarify the meaning of these terms as they are to be applied for purposes of state financial aid programs affected by the satisfactory academic progress requirement.

The proposed rules relating to *Definitions for Higher Education Programs* and *Definitions for Satisfactory Academic Progress* were reviewed by agency legal counsel; members of the agency's financial aid advisory committee, which typically meets monthly to provide input to the Higher Education Services Office on post-secondary financial aid matters relating to program policy and program operations. Financial aid administrators representing the following Minnesota institutions: the University of Minnesota system, State Universities, Community Colleges, Technical Colleges, Private Colleges, and Private Proprietary Schools are members of the Minnesota Higher Education Services Office financial aid advisory committee. The Notice of Solicitation of Outside Information or Opinions was published in the *State Register* on August 7, 1995 to secure additional public comment or opinions prior to preparation of the proposed rule for publication in the *State Register* with the Notice of Intent to Adopt these permanent rules.

II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

The authority of the Minnesota Higher Education Services Office to adopt rules is set forth in *Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 9, which provides:

136A.01, Subd. 2(8): [The higher education services office is responsible for:] prescribing policies, procedures, and rules under chapter 14 necessary to administer the programs under its supervision.

III. STATEMENT OF NEED

Minnesota Statutes Chapter 14 requires the Office 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 Office 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 Office is appropriate. The need for the rule amendments is discussed below.

DEFINITIONS FOR HIGHER EDUCATION PROGRAMS

DEFINITIONS FOR SATISFACTORY ACADEMIC PROGRESS.

During the 1995 legislative session, several changes were made to *Minnesota Statutes* 136A.101 which affect the current permanent rule governing Definitions for Higher Education Programs. The basis upon which "financial need" is determined was modified [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 19]; the definition of "resident student" as it pertains to an independent student was modified [*Laws of Minnesota for 1995*, 212, Article 3, Section 20]; and the requirements for meeting "satisfactory academic progress" standards were also modified [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 21]. The portions of the rule pertaining to these issues must be amended to reflect these statutory changes. In addition, the statutory language relating to this agency and its responsibilities was changed during the 1995 legislative session [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Sections 17 and 18]. Since other rule changes were being pursued at this time, references in rule to the agency and executive staff are also included in this rulemaking process rather than waiting for the Revisor of Statutes to make such changes with the next publication of agency rules to avoid confusion by individuals referencing these agency rules routinely. Lastly, some minor grammatical changes are needed for clarity and accuracy.

IV. STATEMENT OF REASONABLENESS

The Office 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 Office's proposed action. The reasonableness of the proposed rules is discussed below.

DEFINITIONS FOR HIGHER EDUCATION PROGRAMS

A. Reasonableness of the Rules as a Whole

During the 1995 legislative session, several statutory changes were made to the *Definitions [Laws of Minnesota for 1995, Chapter 212, Article 3, Sections 17--21]*. Portions of the current permanent rule are not consistent with the revised statutory language. The agency rule affected by the statutory changes should be amended for consistency and correctness. Also, the identity and responsibilities of the agency were changed during the 1995 legislative session. The Office felt it appropriate to also amend the rule to reflect statutory changes in references to this agency with the other rule amendments being pursued at this time for consistency, completeness and to avoid confusion. Finally, some amendments to the rule have been made to clarify current program procedures and for grammatical accuracy.

B. Reasonableness of Individual Rules

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

4830.0100 DEFINITIONS FOR HIGHER EDUCATION PROGRAMS.

Subpart 1a. Academic year. The language in item B was deleted because this provision is no longer applicable. The period of time applicable to this provision has past. The deletion in item C is made because item B is deleted and the provisions specified in item C are applicable. These amendments are for clarity and for grammatical correctness.

Subp. 2. Board. Office. The deletion of the word "board" and the addition of the word "office" reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995, Chapter 212, Article 3, Section 9*]. The change is for correctness and consistency with the statutory language.

Subp. 2a. Certificate program. The deletion in this subpart is made for clarity. The deleted language is no longer necessary. The change is for conciseness and accuracy.

Subp. 6. Executive Director. The deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 18]. This change is for correctness and consistency with the statutory language.

Subp. 8. Financial need analysis. The deletion of the word “board” and the addition of the word “office” reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 9]. The change is for correctness and consistency with the statutory language.

Subp. 10. Minnesota resident. The addition in item B of this subpart reflects the 1995 statutory change [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 20] relating to the definition of a “Minnesota resident”(independent student). The statutory change adds language specifying the maximum number of credits per term an independent student can enroll in while he/she is attempting to establish Minnesota residency by residing in the state for a 12 month period. The amended subpart is for accuracy and completeness.

The add/delete language in item C of this subpart reflects current statutory language relating to the definition of a “Minnesota resident”[*Minnesota Statutes* 136A.101, Subd. 8(3)]. The amendments to the language in items B and C are for consistency and accuracy.

The addition of item E to this subpart is to address the situation when a student initially meets the eligibility requirement for a Minnesota resident as a dependent student as defined in item A of this subpart, but subsequently is considered an independent student for purposes of financial aid (i.e., 24 years old or older). This addition is for consistency in the application of residency requirements for state financial aid programs, to ensure that all individuals applying for state aid are treated equitably, and to reflect current program operations.

Subp. 11. Audit requirements. The deletion of the word “board” and the addition of the word “office” reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 9]. The change is for correctness and consistency with the statutory language.

Subp. 12. Returning student. This subpart is repealed because it is no longer needed. The financial aid program that necessitated the definition of this term is no longer operational. The deletion is for conciseness.

DEFINITIONS FOR SATISFACTORY ACADEMIC PROGRESS

A. Reasonableness of the Rules as a Whole

Statutory changes to the definition of "satisfactory academic progress" [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 21] includes some terminology that can be interpreted in various ways. The Higher Education Services Office feels that it is important for purposes of determining "satisfactory academic progress," as it affects students for state financial aid program eligibility, that all post-secondary institutions use the same standards. Different types of eligible post-secondary institutions may have different understandings of the terms used in the statutory definition. The Office felt it important to define these terms so that all students would be treated equitably for purposes of determining satisfactory academic progress no matter which institution the student attends.

B. Reasonableness of Individual Rules

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

4830.0110 DEFINITIONS FOR SATISFACTORY ACADEMIC PROGRESS.

Subpart 1. Scope. This subpart specifies the programs affected by the terms defined below as used in the statutory definition of satisfactory academic progress. The subpart is for clarity and to avoid misunderstanding.

Subp. 2. Academic standing consistent with the institution's graduation requirements. The statutory definition of "satisfactory academic progress" specifies that *at a point between a student's first and second academic year of attendance*, the student must, in general, have either a "C" average or its equivalent or have academic standing consistent with the requirement for graduation. If a school does not use letter grades, a school's satisfactory progress policy should define "the equivalent of a 'C' average." Also, if a school permits less than a "C" average, it must be able to document that the average it uses is consistent with graduation requirements.

This allows schools to use a graduated grade point requirement rather than a single fixed standard. For example, using a graduated grade point requirement, a school might set a minimum grade point average of 1.85 for a freshman or sophomore even though the school requires at least a 2.0 average for graduation.

This language is consistent with the federal financial aid program regulations relating to satisfactory academic progress. The language is for clarity and to avoid misunderstanding of the grade point average standards a student must meet in order to satisfy the statutory requirements for satisfactory academic progress.

Subp. 3. Academic year. The term, "academic year," is defined in *Minnesota Rules* 4830.0100, Subp. 1a, as the period of time in which it takes a full-time student to complete three quarters or two semesters (i.e., the standard nine month academic year). The definition in that subpart applies to the calculation and adjustments to grant awards. The definition in this subpart ensures that all institutions monitor a student's progress based on grade level (freshman, sophomore, junior, senior) as opposed to the standard nine month academic year. For example, if a student were enrolled for only 3 credits during fall, winter and spring quarters for a total of 9 credits during the standard nine month academic year, the student would not advance to the next grade level. This subpart is for clarity, consistency, and accuracy in the application of this requirement as it relates to satisfactory academic progress for applicable state funded programs.

Subp. 4. Advisor. This subpart permits other qualified individuals employed by an institution to advise students on academic matters for purposes of *Minnesota Statutes* 136A.101, Subd. 10 even though that individual does not hold the title of "advisor." This allows faculty members and other similar types of individuals who know the student well to advise him/her regarding academic progress. This subpart is to avoid misinterpretation of who may advise students for purposes of this rule.

Subp. 5. A point between a student's first and second academic year of attendance at an institution.

This subpart reflects the statutory language change to satisfactory academic progress as specified in *Laws of Minnesota for 1995*, Article 3, Section 21. The language is for clarity and completeness, and to ensure that all students participating in state financial aid programs affected by the satisfactory academic progress requirement are treated equitably no matter which institution the student attends.

Subp. 6. Certify. The language in this subpart specifies the type of documentation needed to fulfill the certification requirement for purposes of satisfactory academic progress. This subpart is included to assist institutions in fulfilling the certification requirement by clearly specifying what such action entails.

Subp. 7. General education requirements. The language in this subpart is meant to clarify what "general education requirements" entail. This subpart is included for clarity, consistency and completeness.

Subp. 8. Reviewed. The language in this subpart provides a broad interpretation of the meaning of "reviewed" as it applies to the student in the statutory definition of satisfactory academic progress. The wording of this subpart allows a student to communicate with his/her advisor concerning knowledge of the general education requirements via a telephone call, written communication, or e-mail message rather than meeting personally with the advisor. The language is for clarity, flexibility, and to avoid misunderstandings about how this requirement must be fulfilled.

Subp. 9. Satisfactory progress. For purposes of fulfilling the satisfactory academic progress statutory requirement, the student will be required to complete a certain percentage of general education requirements within established time frames. This subpart requires each school to have a written policy regarding the percentage of general education requirements which must be completed within these established time frames. The inclusion of this subpart is for clarity, completeness, and to ensure that students have the information they need to meet satisfactory academic progress standards for purposes of applicable state financial aid programs.

IV. COSTS TO LOCAL BODIES

It has been determined that *Minnesota Statute* 14.11 is not applicable because there will be no impact or cost to local bodies related to the adoption of this rule. These definitions relate to the administration of post-secondary financial aid programs assisting Minnesota residents attending eligible Minnesota post-secondary institutions. No expenditure of public money by local public bodies is pertinent to this rule.

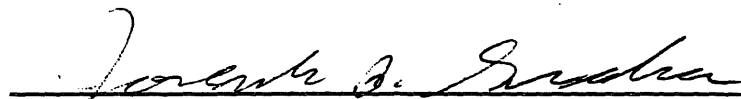
V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

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

VI. CONCLUSION

Based on the foregoing, the proposed Minnesota Rule pt. 4830.0100 and Minnesota Rule pt. 4830.0110 are both needed and reasonable.

Dated: Oct. 25, 1995



JOSEPH P. GRABA
Interim Director